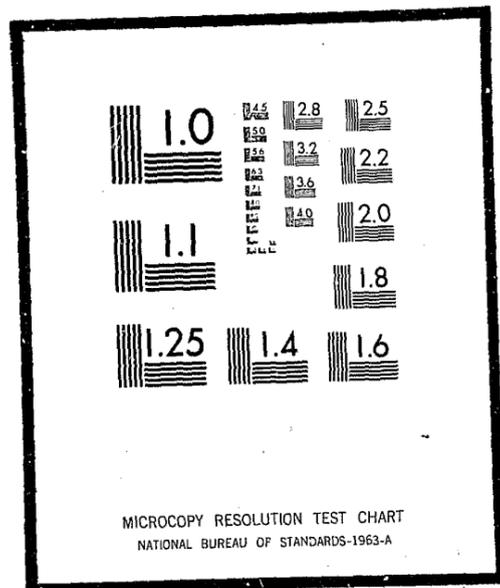


NCJRS

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U.S. Department of Justice.

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

Date filmed

1/28/76

SOUTH CAROLINA LAW ENFORCEMENT ETV TRAINING PROGRAM

1741

BASIC CRIMINAL LAW (Assault and Battery) PART VI STUDY WORKBOOK

prepared by SOUTH CAROLINA LAW ENFORCEMENT DIVISION • in cooperation with SOUTH CAROLINA EDUCATIONAL TELEVISION NETWORK

SOUTH CAROLINA

LAW ENFORCEMENT ETV-TRAINING PROGRAM

FROM CRIME TO COURT

"Basic Criminal Law",

Part VI 6 -

Assault and Battery

Study Workbook

LAW ENFORCEMENT - E.T.V. TRAINING PROGRAM

"Basic Criminal Law"

Part VI

Assault and Battery

By

C. T. Goolsby, Jr.
Assistant Attorney General
(South Carolina)

Sponsored by

South Carolina Law Enforcement Division
in cooperation with
South Carolina Educational Television Network

Endorsed by

South Carolina Governor, Robert E. McNair
South Carolina Sheriffs' Association
South Carolina Law Enforcement Officers' Association
South Carolina Police Chiefs' Executive Association
South Carolina F.B.I. National Academy Associates
South Carolina Southern Police Institute Associates

Program Objectives

This program distinguishes among the following terms: "assault", "battery", and "assault and battery". The elements of "assault" are given and distinctions are made among "simple assault", "assault and battery of a high and aggravated nature", and "assault and battery with intent to kill".

LAW ENFORCEMENT - ETV TRAINING PROGRAM

"Basic Criminal Law", Part VI

Assault and Battery

Review and Study Workbook

INSTRUCTIONS: This review and study workbook is designed to be of use both during the group discussion period, which follows a television program, and by you, at home, on your own.

It should serve as 1) an effective aid to the Group Discussion Leader and to you for engaging in group discussions after you have viewed a TV program; also it should serve as 2) a means for you to privately check and see how well you have learned the material on your own, at home, to be sure that you have gotten all out of the TV program and the group discussion that you want to.

Here is how the Study Workbook is to be used.

FOR THE GROUP DISCUSSION PERIOD

For the group discussion period which follows the television program, the discussion leader will provide you with general and specific instructions. Just be sure that you write the answers he provides you in the space between the dashed lines and not in the blank spaces of the body of the items themselves. You will see what is meant when you get into the workbook proper.

FOR HOME REVIEW AND STUDY

Use the Workbook for review and study on your own as follows:

Before you get to the first item, cover the printed text of the workbook with a blank sheet of paper. Slide the blank paper down until you come to a triple star or asterik (***). Continue reading the printed material, above the stars, until you come to a numbered blank.

Fill in the blank with the word, words, or sentences which is/are missing to make sense out of the sentence so that it will then read correctly.

After you have filled in all of the blanks which are contained in an item, slide the loose sheet of paper down from its position, even with the stars, until it is just far enough down to reveal the numbered correct answer or answers. These will be the answers which you have already filled in during the group discussion period. The numbers on these answers will correspond to the numbered blank or blanks which you have just completed in the body of the item at home.

Next, slide the blank paper down past the printed material of the following item until you come to another set of three stars. Stop the blank paper so as not to reveal the answers. Answer the item by filling in the blanks. Proceed throughout the Workbook as just described.

By using this method, you can both (1) check to see how well you have learned the content of the associated television program and you can (2) find out immediately, item by item, whether the answer you have just given is correct.

Even after the workbook has been filled in, both in the blanks contained in the body of the items and between the dashed lines, it provides an excellent means for review.

An EXAMPLE of how to use this "Study Workbook" at home is as follows:

An assault may be defined as an (1) _____ attempt, coupled with the (2) _____, to commit a violent injury upon the (3) _____ of another.

*** NOTE: Throughout the Workbook, the three stars indicate that, when working at home, you should not slide your blank paper farther down the page until you have given your answer or answers by filling in all of the blanks in the item -- after you have written your answer or answers, slide the blank paper on down to reveal the correct answer.

Answers: (1) unlawful (2) present ability
(3) person + (see footnote at bottom of page)

Note: Although the answer or answers is/are provided on this page of examples, ordinarily this page would not contain the answer or answers until you write it/them in during the group discussion period.

If there are any further questions about how to use the "Study Workbook", either during the group discussion period or at home, please do not hesitate to ask your group discussion leader for additional information.

Now to proceed with your study and review!

+ Note: In some cases there may be other words which mean the same thing as those given you as the answer. When this is true, the important fact is whether you have given the answer which does not differ significantly from the one given as the "correct" answer.

There are two other ways "assault" can be defined: An assault may be defined as an unlawful attempt or (4) _____, with force and violence, to (5) _____ another person under circumstances which, at the time, show an intention to injure the other person; and the aggressor has the present ability to carry out his intention.

Answers: (4) _____ (5) _____

To define assault simply, it is an offer to commit a battery.

A battery is an (6) _____ which has been (7) _____ by the application of violent physical contact with the person of another.

Answers: (6) _____ (7) _____

A battery is an unlawful touching of the person of another.

"Assault" and "battery" are two distinct crimes, although "battery" is most of the time called "assault and battery."

While a battery can include an assault, an assault cannot include a battery.

An assault differs from a battery in that there is not any touching of the victim's person in an (8) _____.

Answer: (8) _____

The victim's person is touched in a battery.

The "elements" of an assault are:

- 1. (9) _____
- 2. (10) _____
- 3. (11) _____
- 4. (12) _____

-
- Answers: (9) _____
- (10) _____
- (11) _____
- (12) _____
-

An unlawful act is an act that's done without either justification or excuse.

In order for there to be an assault, there must be an unlawful offer of violence.

There must be the (13) _____ of an act which, if it is not prevented, will produce a (14) _____.

-
- Answers: (13) _____ (14) _____
-

An attempt or offer is the doing of an act by a person which, if not (15) _____ will result in the striking or touching of another person.

-
- Answer: (15) _____
-

Consider the following case: Standing on a street corner is a pretty, young woman. A rather crude-appearing man approaches her, but at no time touches her or makes an attempt to do so. The man says, "Hey, baby! How 'bout giving me a little bit?" The woman starts screaming, "Rape! Rape!" The man keeps on walking as the woman stands and screams. The incident is/is not (16) _____ an example of an assault.

-
- Answer: (16) _____
-

All that is present in the example above is an indecent offer. The man's proposition to the woman would not have resulted in the touching of her person had it not been interrupted by her screaming. There was no assault committed.

The terms "force" and "violence" mean the same thing. These terms include the application of force. The violence or force which is offered to be applied must be (17) _____ in nature.

-
- Answer: (17) _____
-

Mere words, irrespective how insulting they are, cannot constitute an (18) _____.

-
- Answer: (18) _____
-

For an assault to have been committed, there must be a hostile physical force directed against a person, that is, there must be an overt act to do bodily harm.

The intent to commit a battery must be accompanied by an overt act of violence. There must be some sort of a hostile demonstration.

Consider the following case: A does not like B. A says to himself, "I'm going to knock the devil out of B." A has an intent to do violence, but there is no overt act which accompanies that intent. A is/is not (19) _____ guilty of "assault."

Answer: (19) _____

And consider the case in which A says to himself, "I'm going to knock the devil out of B" and A takes a swing at B and misses. A would/would not (20) _____ be guilty of an assault.

Answer: (20) _____

There has to be a specific intent to commit a battery, which intent must be accompanied by some hostile act or demonstration.

Before there can be an "assault", it is necessary that the defendant should have had, at the time the violent offer is made, the present (21) _____ to commit the harm which he offered.

Answer: (21) _____

There must be a present ability to complete the intended hurt. If it was not possible for the accused to have carried out his violence, then there could be no assault.

Consider the following case:

Scene: A man is talking menacingly into a telephone.

Man: Is that you, John? I'm going to beat you so black and blue that a circus will take you on as one of their freaks.

In this example, the person does/does not (22) _____ lack the present ability to do violence to the other person.

Answer: (22) _____

How about the following case?:

Scene: Two woman face each other. A man stands nearby.

First Woman: I told you to leave my husband alone!

Second Woman: I don't even know your husband!

First Woman: In addition to being a slut, you're a damn liar! I'm going to rip your lying tongue right out of your mouth and stomp on it!

First woman moves towards the second, but before contact is made, the bystander intervenes. The first woman is/is not (23) _____ guilty of assault.

Answer: (23) _____

The first case illustrated a lack of present ability to carry out an intent to do person violence. The man was talking on the telephone. He could not have, then and there, physically contacted the person to whom he was talking. By contrast, the woman in the second scene did have the present ability or opportunity to attack the other woman.

Remember, a battery is an unlawful application of force or violence to the person of another. Or, to define it slightly differently, it is the unlawful touching of the person of another.

Thus, the two elements of a battery are:

- 1. (24) _____
- 2. (25) _____

Answers: (24) _____
 (25) _____

Specific intent is/is not (26) _____ an element of battery.

Answer: (26) _____

A battery can be committed wilfully, recklessly, or wantonly. In most instances, however, as in the case of murder, a specific intent will be present. But a specific intent to harm a particular person is not necessary.

Consider this example: A fires a pistol in the direction of a group of persons. A does not actually intend to injure anyone. However, the bullet strikes a member of the group and wounds that person. Here, the law would say that A acted "wantonly." A would be guilty of a (27) _____.

Answer: (27) _____

In order for there to be a battery, there must be a touching of the person of another without just cause or excuse. The touching may consist of any kind of contact. It can include every touching or laying hold, however slight, of another person in an angry, hostile, rude, to violent manner.

The contact or touching in battery may be direct or (28) _____. The application of the force may be either done by the aggressor himself or by some (29) _____ or by some substance placed in motion by him.

Answers: (28) _____ (29) _____

Touching or contact would include a beating, choking, or striking of another person; or throwing a rock or some other object at another hitting him; or it could be pouring acid on another's person; pushing somebody.

In the following example A, without B knowing it, puts a harmful drug into B's coffee as a joke. A gives B the coffee, and B drinks it. B gets sick as a result. A is/is not (30) _____ guilty of assault and battery.

Answer: (30) _____

While it is essential to a "battery" that there be a touching of the person of another, the touching does not have to come into contact with the other's (31) _____.

Answer: (31) _____

The touching of something which is intimately associated with or attached to one's body will be regarded as his (32) _____.

Answer: (32) _____

Consider that A is walking down the street. B throws a rock at A. The rock hits only A's hat and knocks it off his head. Here, a (33) _____ has been committed.

Answer: (33) _____

When we speak of the term "of the person" we mean to include his actual body or anything either intimately associated with his body or attached to it.

In South Carolina, we are said to have, in number, (34) _____ degrees of assault and battery.

Answer: (34) _____

In South Carolina, the three degrees of "assault and battery" are:

1. (35) _____
2. (36) _____
3. (37) _____

Answers: (35) _____
(36) _____
(37) _____

Simple assault and battery may be defined as an unlawful act of violent injury to another unaccompanied by any circumstances of (38) _____.

Answer: (38) _____

"Simple" assault and battery is a difficult case to determine because it is hard to judge whether the circumstances in a given case are aggravated or not.

"Assault and battery of a high and aggravated nature" is defined as an unlawful act of violent injury to the person of another which is accompanied by circumstances of (39) _____.

Answer: (39) _____

The (40) _____ circumstances, in the case of "assault and battery of a high and aggravated nature", could be (1) the use of a deadly weapon, (2) the infliction of serious bodily injury, (3) the intent to commit a felony, (4) a great disparity between the ages and physical conditions of the parties, (5) a difference in the sexes, (6) indecent liberties or familiarities with a female, (7) the purposeful infliction of shame and disgrace, (8) or resistance to lawful authority.

Answer: (40) _____

The sentence for both "assault and battery of a high and aggravated nature" and for "assault and battery with intent to kill" is the same - (41) _____ years.

Answer: (41) _____

The sentence for "simple assault and battery" is (42) _____
_____ or (43) _____.

Answers: (42) _____
(43) _____

To review some points from a previous program: Murder is the unlawful killing of another human being with malice aforethought, either expressed or implied. Manslaughter is the unlawful killing of another person without malice, either expressed or implied.

The offense of "assault and battery with intent to kill" contains all of the elements of murder except that the person assaulted (44) _____

Answer: (44) _____

If the victim had died and the defendant would have been guilty of murder, then the defendant, where the victim does not die, is guilty of (45) _____

Answer: (45) _____

"Assault and battery with intent to kill" means the unlawful injuring of another person with malice aforethought, either expressed or implied.

"Assault and battery of a high and aggravated nature", on the other hand, contains all of the elements of manslaughter except that the victim (46) _____

Answer: (46) _____

If the defendant would have been guilty of "manslaughter" had the person injured died, then, where the victim does not die, the defendant is guilty of (47) _____

Answer: (47) _____

"Assault and battery of a high and aggravated nature" can be further defined as the unlawful injuring of another person without malice, either expressed or implied.

Since there are degrees to "assault and battery" in the State of South Carolina, it would appear to logically follow that there are degrees to "assault" also. The State Supreme Court says that there are three degrees of "assault and battery."

"Assault" and "battery" are technically two different offenses. If there are three degrees of "battery", then it is reasonable to assume that there are three degrees of "assault", and they would be "simple assault", "aggravated assault" and "assault with intent to kill."

The only difference for the above would be that there was no
(48) _____ with another's person
involved.

Answer: (48) _____

"Basic Criminal Law"

Part VI

Assault and Battery

STUDY WORKBOOK ANSWER KEY

-
- | | |
|---------------------------------------|------------------------------------|
| (1) unlawful | (27) battery |
| (2) present ability | (28) indirect |
| (3) person | (29) agency |
| (4) offer | (30) is |
| (5) injure | (31) body |
| (6) assault | (32) person |
| (7) completed | (33) battery |
| (8) assault | (34) three |
| (9) an unlawful attempt or offer | (35) simple assault and battery |
| (10) force and violence | (36) assault and battery of a high |
| (11) an intent to injury another | and aggravated nature |
| person | (37) assault and battery with |
| (12) present ability to execute | intent to kill |
| that intent | (38) aggravation |
| (any order) | (39) aggravation |
| (13) commencement | (40) aggravating |
| (14) battery | (41) ten |
| (15) interrupted | (42) one-hundred dollars |
| (16) is not | (43) thirty days |
| (17) physical | (either order) |
| (18) assault | (44) does not die |
| (19) is not | (45) assault and battery with |
| (20) would | intent to kill |
| (21) ability | (46) does not die |
| (22) does | (47) assault and battery of a |
| (23) is | high and aggravated nature |
| (24) there must be an unlawful appli- | (48) physical contact |
| cation of force or violence | |
| (25) to the person of another | |
| (26) is not | |

STATEWIDE LAW ENFORCEMENT EDUCATION THROUGH TELEVISION

This training program is made available through the cooperation of the South Carolina Law Enforcement Division, the South Carolina Educational Television Network and the U. S. Department of Justice through funds made available under the Law Enforcement Assistance Act of 1965.

This publication does not necessarily reflect the views of the U. S. Department of Justice.

END