

Class 7

Criminal Law

Assault and Battery – Common Law

► **Battery**

- Harmful or offensive contact (general intent crime; even negligence that causes the contact)

► **Aggravated Battery** (felony version)

► Battery:

- With an intent to kill
- That causes serious harm
- Committed with a Deadly Weapon

Assault and Battery – Common Law (cont.)

➤ **Assault**

- An attempt to commit a battery (specific intent)
- Putting someone in reasonable fear of an immediate battery (general intent)

➤ **Aggravated Assault:** Same basic idea as aggravated battery

➤ **Mayhem**

- Intentional disfigurement or disabling of a person



Assault and Battery – Modern Example – New York

- ▶ **Assault in the 3rd Degree** (misdemeanor)
 - ▶ Causing an injury through intentional or reckless conduct
- OR
- ▶ Negligently causing an injury using a weapon or dangerous instrument

Assault and Battery – Modern Example – New York (cont.)

- ▶ **Assault in the 2nd Degree** (class D felony)
 - ▶ Intentional serious bodily harm
 - OR
 - ▶ Intentional injury caused with a weapon
 - OR
 - ▶ Any injury designed to prevent a police officer or medical worker from doing his or her job
 - OR
 - ▶ Reckless injury caused with a deadly weapon (e.g. a gun)
 - OR
 - ▶ Any injury caused in the course or continuance of committing a dangerous felony
 - OR
 - ▶ Intentionally causing any injury to a small child

Assault and Battery – Modern Example – New York (cont.)

- **Assault in the 1st Degree** (class B felony)
 - Intentional serious physical harm using a deadly weapon
 - OR
 - Intentional permanent disfigurement
 - OR
 - Injury caused by conduct that evinces a “depraved indifference to human life”
 - OR
 - Serious physical injury caused during a felony
- **Menacing:**
 - Intentionally placing another person in reasonable fear of injury (also divided into degrees)

Rape – Common Law

- ▶ Elements:
 1. A man engaging in
 2. sexual intercourse with
 3. a woman,
 4. not his wife,
 5. without her consent
- ▶ Consent:
 - ▶ consent elicited through trickery **is not valid consent**
 - ▶ trick as to the nature of the act voids consent
 - ▶ trick as to the propriety of the act does not void consent

 - ▶ **Minors are incapable of consent**
- ▶ Statutory rape – is a strict liability crime in many jurisdictions

Rape – Modern Example – California

► Rape: Sexual intercourse that is:

- Accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury

OR

- By using a drug to prevent resistance

OR

- Done while the victim was unconscious and the defendant did or reasonably should have known about it

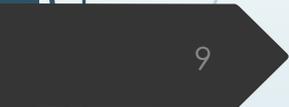
OR

- Done with someone who is incapable of consent because of mental disability and the defendant **did or reasonably should have known about it**

OR

- Done with a **minor** (different levels for different age variations)

- Note: California dispenses with the “not his spouse” requirement, but allows lesser penalties and certain procedural protections in those cases



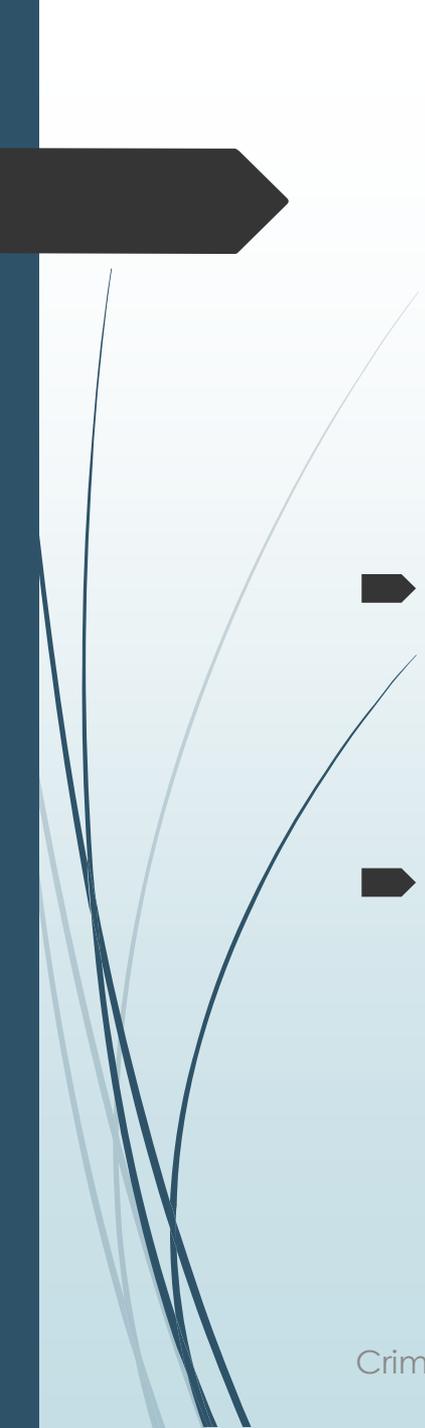
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QUIZ TIME!



Kidnapping and False Imprisonment – Common Law

- ▶ **False Imprisonment** (misdemeanor)
 - ▶ Unlawful confinement of a person in a closed area
- ▶ **Kidnapping** (felony)
 - ▶ Abducting and moving or transporting a person
- ▶ **Aggravated Kidnapping**
 - ▶ Kidnapping a person and either injuring that person or holding that person for ransom



Kidnapping and False Imprisonment – Modern Example - Texas

- ▶ **Unlawful Restraint** (misdemeanor)
 - ▶ Any intentional or knowing **restraint** of another person (general intent crime)
- ▶ **Kidnapping** (felony)
 - ▶ Any intentional or knowing **abduction** of another person (general intent crime)

Kidnapping and False Imprisonment – Modern Example – Texas (cont.)

➤ **Aggravated Kidnapping**

➤ Abduction...

- With the intent to hold for ransom

- OR

- With intent to use as a shield or hostage

- OR

- With intent to facilitate the commission of a felony

- OR

- With intent to harm or sexually abuse the victim

- OR

- With intent to terrorize the victim or someone else

- OR

- With intent to interfere with a government function



Kidnapping and False Imprisonment – Modern Example – Texas (cont.)

➤ **Aggravated Kidnapping**

- first degree felony or second degree if the victim was safely released
- Affirmative defense that defendant is a relative of the “victim” who is a child