

# REVISED ARIZONA JURY INSTRUCTIONS (CRIMINAL)

**Sixth Edition, 2022**

(Cite as RAJI (CRIMINAL) 6th)



Copyright © 1989, 1996, 2000, 2008, 2010–2019, 2022

**Third Edition – 2008**

2010 Supplement – April 2010  
2011 Cumulative Supplement – June 2011  
2012 Cumulative Supplement – June 2012

**Third Edition –December 2013**

**Fourth Edition – December 2016**

2017 Update – March 2017  
2018 Update – July 2018

**Fifth Edition – September 2019**

2020 Update – June 2020

**Sixth Edition – September 2022**

State Bar of Arizona  
All Rights Reserved.

Library of Congress Number Applied for.

Printed in the United States of America

RAJI (CRIMINAL) 5TH has been prepared by the Criminal Jury Instructions Committee of the State Bar of Arizona. The State Bar Board of Governors has approved these instructions and authorized their publication and sale.

These instructions are recommended for use in all criminal trials in Arizona courts. But court and counsel should satisfy themselves in each case—from original and fully current authority—that the instructions being given in a case are both appropriate and correct for the case.

With regard to the use of these instructions, please refer to the **Important Notice** immediately following.

## PREFACE

This Sixth Edition, and prior editions, of REVISED CRIMINAL JURY INSTRUCTIONS (RAJI CRIMINAL) is the product of thousands of hours of work by the State Bar of Arizona Criminal Jury Instruction Committee. This project would not have been accomplished without the dedicated work of the members of the Criminal Jury Instruction Committee. RAJI CRIMINAL, 5TH EDITION represents a collaborative effort by defense attorneys, prosecutors and judicial officers.

The First Edition of RAJI CRIMINAL was published in 1989 as RECOMMENDED ARIZONA JURY INSTRUCTIONS. Those jury instructions were approved in advance of publication by the Arizona Supreme Court. Subsequently, the Arizona Supreme Court stopped approving jury instructions except in the context of appellate cases. Accordingly, the user is advised that these instructions have not been approved by the Arizona Supreme Court.

The Second Edition of RAJI CRIMINAL was published in 1996 under the renamed title REVISED ARIZONA JURY INSTRUCTIONS (CRIMINAL), 2nd Edition. After publication of the 1996 RAJIs, the Criminal Jury Instruction Committee was assigned the task of revising the instructions. A supplement was published in 2000. From 1997 to 2005, the Committee completed the Standard Instructions, eight chapters in Title 13, Title 28 instructions and non-capital case aggravation phase instructions. Work on the capital case instructions started in 2002 following the United State Supreme Court's decision in *Ring v. Arizona*. Since 2005, the Committee completed over twenty-five chapters in Title 13 and four non-Title 13 chapters, revamped Title 28 (predominantly DUI instructions) and drafted the capital case instructions, amounting to over 400 individual instructions and verdict forms. A large bulk of these instructions, including all the capital case instructions, did not even exist in the 1996 RAJI CRIMINAL, 2nd Edition.

The Third Edition, published in 2008, represented a comprehensive revision to RAJI CRIMINAL, 2nd Edition and its supplements. Subsequent editions include revisions based on yearly legislative amendments to the Arizona Criminal Code.

Many of the jury instructions are accompanied by Use Notes and Comments. The Criminal Jury Instruction Committee not only wants RAJI CRIMINAL, 5th Edition to be a comprehensive set of accurate jury instructions, but also a resource for the user wishing to do additional research about issues related to criminal jury instructions.

We thank the past and present members of the Committee for their hard work in bringing the third edition to fruition. We also thank Ilona Kukan from the State Bar staff for her assistance and encouragement. The instructions remain a work in progress, so any suggestions for revisions or for new instructions are always appreciated. The State Bar is committed to keeping *RAJI Criminal* up-to-date with periodic supplements reflecting legislative changes and the always evolving case law.

Hon. Patricia Starr, Chair  
June 2022



**State Bar of Arizona**  
**Criminal Jury Instructions Committee Members**  
**1999-2022**

Hon. Gary E. Donahoe, Chair (04-11)  
Antonio R. Zúñiga, Chair (02-03)  
Hon. James H. Keppel, Chair (98-02)  
Hon. Paul J. McMurdie, Chair (11-13)  
Hon. Sam J. Myers, Chair (15-19)  
Hon. Patricia A. Starr (19-22)

Lisa M. Aubuchon (00-10)	Hon. Sally Schneider Duncan (04-13)
Hon. Jay R. Adleman (12-15)	David J. Euchner (10-22)
W. Jamiel Allen (19-21)	Jillian B. Francis (21-22)
Jennifer S. Bedier (05-06)	Hon. John M. Gaylord (02-03)
James P. Beene (03-18)	Stacey F. Gottlieb (97-01)
Matthew H. Binford (12-18)	Kush Govani (20-22)
Hon. Elizabeth T. Bingert (16-22)	Robert K. Gundacker (11-17)
Hon. James G. Blake (96-01)	Hon. Philip Hall (99)
Michael V. Black (11-13)	Paul W. Hawkins (16-21)
Jocquese L. Blackwell (08-11)	Hon. Ruth Hilliard (99)
Lawrence H. Blieden (08-14)	Melissa Ho (07-13)
Michael A. Breeze (18-21)	Hon. Jason R. Holmberg (18-21)
Hon. Maria C. Brewer (12-20)	Robb P. Holmes (05-20)
Brandon M. Brown (14-17)	Hon. Stephen M. Hopkins (19-21)
Sean H. Bruner (98-02)	Jeremy D. Horn (14-17)
Hon. Douglas R. Camacho (15-20)	Hon. Jeffrey A. Hotham (98-01)
Theodore Campagnolo (99-13)	Joan N. Huls (98-01)
Flynn P. Carey (11-13)	Patience Huntwork (99)
C. Daniel Carrion (96-22)	Hon. Brian K. Ishikawa (98-01)
Kent E. Cattani (06-12)	Shawn A. Jensvold (10-13)
Bruce H. Chalk (09-22)	Alice M. Jones (18-19)
Joel Chorny 915-1	Monica B. Klapper (10-13)
James P. Cleary (00-03)	Hon. Roger Kaufman (97-00)
Edwin M. Cook (99-01)	Karen E. Komrada (19-22)
Sylvina D. Cotto (99-01)	Hon. John N. Lamb (05-17)
Ellen M. Dahl (20-22)	Todd C. Lawson (11-22)
William B. DeMars, Jr. (04-10)	Vikki M. Liles (13-16)
David G. Derickson (13-14)	Jennifer K. Linn (16-22)
Hon. Gary E. Donahoe (02-08)	Hon. Danelle B. Liwski (18-22)
	Comm. Steven P. Lynch (03-12)

Hon. Julie A. Mata (18-19)  
Sarah L. Mayhew (18-22)  
Joseph T. Maziarz (00-03)  
Hon. Steve W. McCarthy (15-22)  
Hon. Crane McClennen (98-03)  
Jane E. McLaughlin (07)  
Hon. Paul J. McMurdie (05-11)  
Hon. Colleen McNally (99-03)  
Michael A. Minicozzi (21-22)  
Alicia M. Morrison Skupin (07-16)  
Janet McNaughton (98-03)  
Comm. Richard L. Nothwehr (06-12)  
Ed Novak (99)  
Victoria A. Otto (15-18)  
Hon. Jose S. Padilla (00-16)  
Hon. James E. Padish (98-01)  
Richard T. Platt (09-10)  
Sigmund G. Popko (96-01)  
Hon. Peter Reinstein (99)  
Leonardo L. Ruiz (13-21)  
Jon Sands (96-01)

Jeffrey Sandler (99)  
Louis F. Stalzer (96-16)  
Hon. Alicia M. Skupin (16-19)  
Shawn L. Steinberg (18-22)  
Mikel P. Steinfeld (13-22)  
Patricia L. Stevens (06-11)  
Joseph P. St. Louis (03-06)  
Hon. Paul E. Tang (04-16)  
Roberta L. Tepper (04-07)  
Charles M. Thomas (04-13)  
Anna M. Unterberger (99-12)  
Kenneth N. Vick (13-19)  
Greta M. Vietor (20-22)  
William S. Wallace (18-22)  
Hon. Michael Wilkinson (99)  
Hon. Gerald A. Williams (16-19)  
Antonio R. Zúñiga (98-19)

## IMPORTANT NOTICE

The following jury instructions have been prepared by the Criminal Jury Instruction Committee of the State Bar of Arizona. The State Bar Board of Governors has authorized the publication and distribution of these instructions for use where appropriate.

In the past, the Arizona Supreme Court expressed qualified approval for various jury instructions, which were then published as RECOMMENDED ARIZONA JURY INSTRUCTIONS. However, before the last RAJI (Criminal) publication, the Arizona Supreme Court decided not to issue or qualify approvals for any jury instructions. Due to the action by the Court, members of the Board of Governors established guidelines for future RAJIs and decided that this disclaimer should be included for all RAJIs. Accordingly, the instructions have also been renamed REVISED ARIZONA JURY INSTRUCTIONS—CRIMINAL (RAJI-CRIMINAL), 5<sup>TH</sup>.

## STATEMENT OF PURPOSE AND APPROACH

RAJI instructions are designed to be neutral, brief, and simply worded. They should be selected and edited to be case specific and non-RAJI instructions being added only to the extent needed.

The Committee periodically adds new RAJI instructions. Nonetheless, certain omissions are deliberate and are expected to be permanent. The Committee has intentionally left out routinely requested argumentative instructions and those which explore overly detailed rules of law.

The volume of instructions given to each jury should be held to a reasonable minimum. Schwarzer, *Communication with Juries: Problems and Remedies*, 69 CAL. L. REV. (1981). We believe that juries function better when not overloaded with unfamiliar and unnecessary information.

In most trials, the ordinary principles of law that apply to the facts provide both necessary and sufficient bases for all jury instructions. Requested jury instructions selectively quoting from appellate court opinions seldom are helpful, nor do they generally reflect the kind of language best adapted to jury instructions. Such requests often use language and concern subjects addressed to trial court judges and lawyers rather than to jurors. *Petefish v. Dave*, 137 Ariz. 570, 672 P.2d 914 (1983).

In *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993), the Arizona Supreme Court stated that every reasonable precaution should be taken to avoid instructions which jurors might think reflect the judge's weighing of the evidence. *Rosen* also overruled the giving of "sudden appearance" and "unusual event" instructions, giving reasons for rejecting proposed jury instructions which fit nearly argumentative, narrow, and particularized statements of law, whether they favor plaintiffs or defendants. RAJI instructions are designed to follow the principles stated in *Rosen*.





## TABLE OF CONTENTS

### PRELIMINARY CRIMINAL INSTRUCTIONS

1	Importance of Jury Service .....	1
2	Duty of Jurors.....	1
3	Evidence .....	2
4	Direct and Circumstantial Evidence.....	2
5	Stipulations .....	2
6	Evidence, Statements of Lawyers and Rulings .....	3
7	Rulings of the Court .....	3
8	Exclusion of Witnesses.....	4
9	Bench Conferences and Recesses .....	4
10	Credibility of Witnesses.....	5
11	Expert Witness.....	5
12	No Transcript Available to Jury; Taking Notes.....	6
13	Admonition .....	6
14	Media Coverage .....	8
15	Presence of a Deputy.....	8
16	Questions by Jurors .....	9
17	Alternate Jurors.....	9
18	Constitutional Right Not to Testify.....	10
19	Statements of Defendant .....	10
20	Presumption of Innocence and Burden of Proof.....	10
21	Jury to Be Guided by Official English Translation/Interpretation (Short Version) .....	11
21	Jury to Be Guided by Official English Translation/Interpretation (Long Version) .....	12
21.1	Interpreter for the Defendant .....	12
21.2	Citizenship/Nationality Instruction .....	12
22	The Charged Offense .....	13
23	Scheduling During Trial .....	13
24	Order of Trial.....	13

### STANDARD CRIMINAL INSTRUCTIONS

1	Duty of Jury.....	15
2	Indictment/Information Is Not Evidence.....	15
3	Presumption of Innocence .....	15
4(a)	Burden of Proof .....	16
4(b)	Standards for the Burden of Proof.....	17
5	Jury Not to Consider Penalty .....	17

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

6	Defendant’s Right to Represent Himself/Herself .....	18
7	Defendant Absent at Trial.....	18
8	Evidence to Be Considered.....	18
9	Defendant Need Not Produce Evidence .....	19
10	Lawyers’ Comments Are Not Evidence .....	19
11	Stipulations .....	19
12	Judicial Notice of Adjudicative Facts .....	20
13	Redacted Exhibits.....	20
14	Direct and Circumstantial Evidence.....	20
15	Credibility [Believability] of Witnesses .....	21
16	Testimony of Law Enforcement Officers .....	21
17	Expert Witness.....	21
18(a)	Defendant Need Not Testify.....	22
18(b)	Defendant’s Testimony .....	22
19	Voluntariness of Defendant’s Statements) .....	22
20	Reserved.....	22
21	Defendant Witness (Prior Conviction) .....	22
22	Witness (Prior Conviction) .....	23
23	Evidence for Limited Purpose .....	23
24	Other Acts .....	24
25	Character Evidence in Sexual Misconduct Cases .....	24
26	Character and Reputation of the Defendant.....	25
27	Facility Dog.....	25
28	Absence of Other Participant.....	25
29	Consider Evidence Separately .....	26
30	Separate Counts .....	26
31	Dismissal/Severance of Some Charges Against Defendant.....	26
32	Disposition of Charge Against Defendant .....	27
33	Multiple Acts .....	27
34	Reserved.....	27
35	Voluntary Act.....	28
36	Lesser-Included Offense .....	28
37	Possession Defined .....	29
38	Deliberate Ignorance.....	29
39	Involuntary Intoxication.....	31
40	Flight or Concealment .....	31
41	Threats by Defendant.....	32
42	Lost, Destroyed, or Unpreserved Evidence .....	32
43	Mere Presence.....	33
44	Motive .....	34
45	Identification .....	34

## TABLE OF CONTENTS

46	Alibi or Non-Presence of the Defendant .....	34
47	Third Party Culpability .....	35
48	Reserved.....	35
49	Reserved.....	35
50	Reserved.....	35
51	Jury Foreperson .....	35
52	Closing Instruction.....	36
53	Impasse Instruction .....	37
54	Reconstituting the Jury .....	38
55	Jury Polling.....	39

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 1

1.052	Act Defined.....	41
1.053	Benefit Defined .....	41
1.054	Calendar Year Defined .....	41
1.056	Conduct Defined.....	41
1.057	Crime Defined .....	41
1.058	Criminal Street Gang Defined.....	41
1.059	Criminal Street Gang Member Defined.....	41
1.0510(a)(1)	Intentionally or With Intent To Defined.....	42
1.0510(a)(2)	Intent – Inference .....	42
1.0510(b)	Knowingly Defined .....	42
1.0510(c)	Recklessly (Reckless Disregard) Defined .....	43
1.0510(d)	Criminal Negligence .....	43
1.0510.01	Included Mental State – Knowingly.....	44
1.0510.02	Included Mental State – Recklessly .....	44
1.0510.03	Included Mental State – Criminal Negligence .....	44
1.0512	Dangerous Instrument Defined.....	45
1.0513	Dangerous Offense Defined .....	45
1.0514	Deadly Physical Force Defined .....	45
1.0515	Deadly Weapon Defined .....	45
1.0516	Economic Loss Defined .....	45
1.0517	Enterprise Defined.....	46
1.0518	Felony Defined .....	46
1.0519	Firearm Defined .....	46
1.0523	Human Smuggling Organization Defined - Deleted .....	46
1.0524	Intoxication Defined.....	46
1.0528	Omission Defined.....	46
1.0529	Peace Officer Defined.....	47
1.0530	Person Defined.....	47

## REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

1.0532	Physical Force Defined.....	47
1.0533	Physical Injury Defined .....	47
1.0534	Possess Defined.....	47
1.0535	Possession Defined .....	47
1.0537	Property Defined.....	47
1.0538	Public Servant Defined .....	47
1.0539	Serious Physical Injury Defined .....	48
1.0540	Unlawful Defined.....	48
1.0541	Vehicle Defined .....	48
1.0542	Voluntary Act Defined.....	48
1.0543	Voluntary Intoxication Defined.....	49

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 2

2.024	Transferred Intent .....	51
2.025	Affirmative Defense.....	51
2.03	Causation Instruction – Intervening Event.....	52
2.03.02	Causation Instruction – Pre-existing Physical Condition .....	53
2.03.03	Causation (Multiple Actors).....	53
2.04.01(A)	Causation Ignorance of Fact.....	53
2.04.02(B)	Causation Ignorance of Law.....	53
2.06	Entrapment .....	54

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 3

3.01	Accomplice .....	55
3.03B	Accomplice Liability Based on Result.....	55
3.05	Enterprise Liability.....	56
3.06	Personal Liability for Conduct of an Enterprise.....	56

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 4

4.02	Justification Defense in Execution of Public Duty.....	57
4.03	Justification: Use of Physical Force .....	58
4.04	Justification for Self-Defense.....	59
4.04-1	Non-Justification for Threat or Use of Physical Force .....	61
4.05	Justification for Self-Defense Physical Force.....	62
4.06	Justification for Defense of a Third Person.....	64
4.07	Justification in Defense of Premises.....	65
4.08	Justification in Defense of Property.....	66
4.09	Justification for Use of Physical Force in Law Enforcement.....	67
4.10(1)	Justification for Threatened Deadly Physical Force in Law Enforcement.....	68

## TABLE OF CONTENTS

4.10(2)	Justification for Using Deadly Physical Force in Law Enforcement by a Non-Peace Officer.....	69
4.10(3a)	Justification for Using Deadly Physical Force in Law Enforcement by a Peace Officer.....	71
4.10(3b)	Justification for Using Deadly Physical Force in Law Enforcement by a Peace Officer.....	72
4.10(4)	Justification for Threatening Deadly Physical Force in Law Enforcement by a Peace Officer.....	73
4.11	Use of Force in Crime Prevention.....	74
4.12	Duress .....	76
4.14	Justification for Correctional Officer to Use Reasonable and Necessary Means .....	77
4.15	Justification – Domestic Violence .....	77
4.16	Justification for Security Officer to Use Reasonable and Necessary Means.....	77
4.16(1)	Security Officer Defined .....	78
4.16(2)	Private Contractor Defined .....	78
4.17	Necessity Defense .....	78
4.18	Justification for Using Force in Defense of Residential Structure or Occupied Vehicles.....	79
4.19	Justification: Presumption and Exceptions .....	80
4.21	Justification: Defensive Display of a Firearm .....	81

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 5 INSTRUCTIONS

5.02	Insanity (Not Guilty by Reason of Insanity) (for offenses committed prior to January 2, 1994).....	83
5.02-1	Insanity (Guilty Except Insane) (for offenses committed on or after January 2, 1994) .....	83
5.02-2	Insanity (Not Guilty by Reason of Insanity) (for offenses committed prior to January 2, 1994).....	85
5.03-1a	Effect of Non-Prescribed Alcohol or Drug Use or Abuse of Prescribed Medication (Non-Insanity Case).....	86
5.03-1b	Effect of Non-Prescribed Alcohol or Drug Use or Abuse of Prescribed Medication (Insanity Case).....	87
5.03-2a	Effect of Non-Abusive Use of Prescribed Medication (Non-Insanity Case) .....	87
5.03-2b	Effect of Non-Abusive Use of Prescribed Medication (Insanity Case).....	88

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 7 INSTRUCTIONS

7.03A	Not Committed on Same Occasion But Consolidated for Purposes of Trial ...	91
7.04	Dangerous Offense Defined .....	91
7.05	Dangerous Crime Against a Child .....	92
7.05	Verdict Form.....	93

**REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH**

7.08-C	Release Status .....	93
7.08-C	Verdict Form.....	96
7.08-D	Release Status .....	96
7.08-D	Verdict Form.....	98

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 10 INSTRUCTIONS**

10.01	Attempt.....	99
10.02	Solicitation .....	100
10.031	Elements of Conspiracy .....	100
10.032	Relationship Among Multiple Co-Conspirators (Deleted) .....	101
10.033	Liability for a Single Conspiracy to Commit Multiple Offenses .....	101
10.034	Verdict Form Deleted with Explanatory Note.....	101
10.035	Liability for Other Conspirator’s Acts Deleted with Explanatory Note.....	101
10.036	Mere Association Not Sufficient for Conspiracy .....	102
10.037	Scope of Proof of Conspiracy .....	102
10.038	Proof of Membership in Conspiracy.....	103
10.039	Acts and Statements of Co-Conspirators .....	103
10.0310	Consideration of Evidence of Success of Conspiracy .....	104
10.0312	“Overt Act” for Conspiracy.....	104
10.0313	Conspiracy – Guilt of Substantive Offense.....	105
10.04	Facilitation .....	105

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 11 INSTRUCTIONS**

11.02	Negligent Homicide .....	107
11.03A1	Manslaughter .....	108
11.03A2	Manslaughter by Sudden Quarrel or Heat of Passion .....	109
11.03A3	Manslaughter by Aiding Suicide .....	110
11.03A4	Manslaughter by Coercion .....	110
11.03A5	Manslaughter of Unborn Child .....	110
11.03B	Manslaughter by Advising or Encouraging Suicide of Minor .....	111
11.04	Second-Degree Murder .....	112
11.04A	Second-Degree Murder (Mother and Unborn Child).....	113
11.04B	Attempted Second-Degree Murder .....	115
11.05	First-Degree Premeditated Murder.....	115
11.05A1	First-Degree Murder of an Unborn Child.....	116
11.05A3	First Degree Murder of a Law Enforcement Officer .....	117
11.052	First Degree Felony Murder .....	117
	Sample Instruction with Lesser-Included Offenses Instruction and Verdict Form.....	118
	Sample Instruction with Lesser Included Offenses of First-Degree Murder and Verdict Form.....	119
11.99	“Modified LeBlanc” Instruction for Felony Murder .....	123

## TABLE OF CONTENTS

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 12

12.01	Endangerment .....	125
12.02	Threatening or Intimidating.....	125
12.03	Assault.....	126
12.04	Aggravated Assault – General.....	126
12.04B	Aggravated Assault – Domestic Violence .....	128
12.048	Aggravated Assault Upon Teacher or School Employee.....	129
12.04.09A	Aggravated Assault – Control of Officer’s Firearm .....	129
12.04.09B	Aggravated Assault – Control of Officer’s Weapon Other Than a Firearm ...	130
12.04.09C	Aggravated Assault – Control of Officer’s Implement Other Than a Firearm.....	131
12.04.10	Aggravated Assault – Defendant in Custody.....	131
12.05	Unlawfully Administering Intoxicating Liquors or Drug.....	132
12.06	Dangerous or Deadly Assault by a Prisoner .....	132
12.07	Prisoners [Committing Assault with Intent to Incite to Riot/Participate in a Riot].....	133
12.08	Assault: Vicious Animals.....	133
12.09	Drive-By Shooting .....	133
12.11	Discharging Firearm at a Structure.....	134
12.12	Prisoner Assault with Bodily Fluids .....	134
12.14	Unlawful Mutilation.....	135

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 13

13.01	Restrain Defined.....	137
13.02	Custodial Interference .....	137
13.02	Verdict Form– Custodial Interference.....	138
13.02C	Defense to Custodial Interference.....	139
13.031	Unlawful Imprisonment.....	140
13.032	Unlawful Imprisonment – Defense .....	140
13.04	Kidnapping.....	141
13.05	Access Interference.....	142
13.06	Unlawfully Obtaining Labor or Services .....	142
13.07.01	Sex Trafficking.....	142
13.07.02	Sex Trafficking of a Minor.....	144
13.07.A	Sex Trafficking (Victim Eighteen Years of Age or Older) .....	145
13.07.B	Sex Trafficking (Victim Under Eighteen Years of Age).....	145
13.08	Trafficking of Persons for Forced Labor or Services.....	146
13.10	Abduction of a Child from a State Agency .....	147

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 14

14.01.01	Oral Sexual Contact Defined.....	149
14.01.02	Position of Trust Defined.....	147
14.01.03	Sexual Contact Defined.....	150
14.01.04	Sexual Intercourse Defined.....	150
14.01.05	Spouse Defined.....	150
14.01.06	Teacher Defined.....	150
14.01.07	Without Consent Defined.....	150
14.02	Indecent Exposure.....	151
14.03	Public Sexual Indecency to a Minor.....	152
14.03.A.1	Public Sexual Indecency.....	152
14.04.01	Sexual Abuse (victim 15 or Older) (No Position of Trust).....	153
14.04.02	Sexual Abuse (Victim 15, 16 or 17) (Position of Trust).....	153
14.04.03	Sexual Abuse (Victim Under 15).....	154
14.05.01	Sexual Conduct with a Minor.....	154
14.05.02	Sexual Conduct with a Minor – Special Relationship.....	155
14.06.01	Sexual Assault.....	156
14.06.02	Sexual Assault – Aggravation Instruction if Use of Drugs Alleged.....	157
14.06.03	Sexual Assault – Aggravation Instruction for the Allegation of Serious Physical Injury.....	158
14.07.01	Defense to Sexual Abuse.....	159
14.07.02	Defense to Sexual Conduct with a Minor.....	159
14.07.03	Emergency Occurrence Defense to Indecent Exposure, Sexual Abuse, Sexual Conduct with a Minor, or Sexual Assault.....	160
14.07.04	Lack of Sexual Interest Defense to Sexual Abuse and Molestation of Child.....	160
14.07.05	Defense Based on Age to Sexual Conduct with a Minor or Aggravated Luring a Minor for Sexual Exploitation.....	161
14.09	Unlawful Sexual Conduct by Probation Department Employees.....	161
14.10	Molestation of a Child.....	162
14.11.01	Bestiality.....	162
14.11.02	Bestiality.....	163
14.17	Continuous Sexual Abuse of a Child.....	163
14.18	Sexual Misconduct by a Licensed Behavioral Health Professional.....	164
14.19.1	Unlawful Sexual Conduct by a Correctional Employee.....	165
14.23	Violent Sexual Assault.....	166
14.24.01	Voyeurism.....	168
14.24.02	Voyeurism.....	168
14.25.01	Unlawful Distribution of Recognizable Images.....	169
14.28	Sexual Extortion.....	170



## TABLE OF CONTENTS

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 15

15.01(1)	Critical Public Service Facility Defined.....	173
15.01(2)	Enter or Remain Unlawfully Defined .....	173
15.01(3)	Entry Defined.....	173
15.01(4)	Fenced Commercial Yard Defined.....	173
15.01(6)	Fenced Residential Yard Defined .....	174
15.01(7)	In the Course of Committing Defined .....	174
15.01(8)	Manipulation Key Defined .....	174
15.01(9)	Master Key Defined.....	174
15.01(10)	Nonresidential Structure Defined.....	174
15.01(11)	Residential Structure Defined.....	174
15.01(12)	Structure Defined.....	174
15.01(13)	Vending Machine Defined.....	174
15.04	Criminal Trespass in the First Degree.....	175
15.05A1	Possession of Burglary Tools .....	175
15.05A2.1	Possession of Master Key .....	176
15.05A2.2	Possession of Manipulation Keys .....	176
15.05A2.3	Possession of a Manipulation Key.....	176
15.06	Burglary in the Third Degree.....	177
15.07	Burglary in the Second Degree.....	177
15.08	First Degree Burglary.....	178

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 16

16.006	Tampering with Utility Property Defined .....	181
16.011	Damaging or Damage Defined .....	181
16.012	Defacing Defined .....	181
16.013	Litter Defined .....	181
16.014	Property of Another Defined.....	182
16.015	Tamper Defined .....	182
16.016	Utility Defined .....	182
16.02	Criminal Damage.....	182
16.021	Criminal Damage to a Utility.....	183
16.022	Criminal Damage to a Utility – Verdict Form .....	183
16.023	Criminal Damage – Verdict Form .....	184
16.04	Aggravated Criminal Damage.....	184
16.041	Aggravated Criminal Damage – Form of Verdict.....	185
16.05	Aggregation of Amounts for Criminal Damage.....	186

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 17

17.01(1)	Damage Defined.....	187
17.01(2)	Occupied Structure Defined.....	187
17.01(3)	Property Defined.....	187
17.01(4)	Structure Defined.....	187
17.01(5)	Wildland Defined.....	187
17.02	Reckless Burning.....	187
17.03	Arson of a Structure or Property.....	188
17.04	Arson of an Occupied Structure.....	189
17.05	Arson of an Occupied Jail or Prison Facility.....	189

STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 18

18.01(1)	Check Defined.....	191
18.01(2)	Control or Exercise Control Defined.....	191
18.01(3)	Credit Defined.....	191
18.01(4)	Deprive Defined.....	191
18.01(5)	Draw Defined.....	191
18.01(6)	Funds Defined.....	191
18.01(7)	Issue Defined.....	191
18.01(8)	Material Misrepresentation Defined.....	192
18.09(9)	Means of Transportation Defined.....	192
18.01(10)	Obtain Defined.....	192
18.01(11)	Pass Defined.....	192
18.01(12)	Property Defined.....	192
18.01(13)	Property of Another Defined.....	192
18.01(14)	Services Defined.....	192
18.01(15)	Value Defined.....	193
18.01(15).01	Value of Ferrous or Nonferrous Metal Defined.....	193
18.01(16)	Drawee Defined.....	193
18.01(17)	Drawer Defined.....	193
18.02.01	Theft.....	194
18.02.02	Theft (Vulnerable Adult).....	195
18.02.02A	Inference Relating to theft from Vulnerable Adult (for Offenses Committed On or After September 30, 2009.....	197
18.02.02B	Affirmative Defense to Theft from a Vulnerable Adult (for Offenses Committed On or After September 30, 2009.....	198
18.02.03	Inference Relating to actions for Theft of Ferrous and Nonferrous Metal.....	199
18.02.04	Inference Relating to Actions for Theft of Ferrous or Nonferrous Metal.....	199
18.027	Definition of Value in Theft Cases.....	200

## TABLE OF CONTENTS

18.028	Verdict Form Instruction for Chapter 18 Offenses.....	201
18.03	Unlawful Use of Means of Transportation .....	201
18.04.01	Theft by Extortion.....	202
18.04.02	Affirmative Defense to Theft by Extortion under A.R.S. § 13-1804(A)(5) or (7).....	203
18.05(1)	Continuing Criminal Episode Defined .....	204
18.05.01	Shoplifting .....	204
18.05.02A	Shoplifting (With an Artifice or Prior Convictions) (for Offenses Committed Prior to September 19, 2007) .....	206
18.05.03B	Inference Relating to Shoplifting (for Offenses Committed On or After September 19, 2007) .....	207
18.06.B	Unlawful Failure to Return Rented or Leased Property.....	208
18.07.01	Issuing a Bad Check.....	209
18.07.02	Affirmative Defense to Theft by Issuing a Bad Check .....	209
18.08.01	Inferences Relating to Issuing a Bad Check.....	211
18.08.02	Inferences Relating to Theft of Property or Services by Issuing a Bad Check.....	212
18.13	Unlawful Failure to Return a Motor Vehicle Subject to a Security Interest....	213
18.13.01	Affirmative Defense to Unlawful Failure to Return a Motor Vehicle Subject to a Security Interest .....	214
18.14	Theft of Means of Transportation.....	215
18.15	Unlawful Use of Power of Attorney .....	216
18.16(1)	Merchant Defined .....	216
18.16.01	Unlawful Manufacture or Sale of a Theft Detection Shielding Device .....	217
18.16.02	Unlawful Possession of a Theft Detection Shielding Device.....	217
18.16.03	Unlawful Possession of a Theft Detection Device Remover.....	218
18.16.04	Unlawful Removal of a Theft Detection Shielding Device .....	218
18.17	Unlawful Possession, Use or Alteration of a Retail Sales Receipt or Universal Product Code Label .....	218
18.18	Misappropriation of Charter School Monies .....	219
18.19	Organized Retail Theft .....	219
18.20	Theft of Trade Secrets.....	219
18A1	Verdict Form (Theft & Unlawful Use of Power of Attorney) –For All Offenses Occurring Prior to September 21, 2006.....	221
18A2	Verdict Form (Theft & Unlawful Use of Power of Attorney) – For All Offenses Occurring After September 21, 2006.....	223
18B1	Verdict Form (Shoplifting) – For All Offenses Occurring Prior to September 21, 2006.....	225
18B2	Verdict Form (Shoplifting) – For All Offenses Occurring On or After September 21, 2006 and Prior to September 19, 2007 .....	226
18B3	Verdict Form (Shoplifting) – For All Offenses Occurring On or After September 19, 2007.....	227

**REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH**

18C Verdict Form (Misappropriation of Charter School Monies) ..... 229

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 19**

19.02 Robbery..... 231  
19.03 Aggravated Robbery..... 231  
19.04 Armed Robbery ..... 232

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 20**

20.02 Forgery ..... 235  
20.02.C Forgery in Connection With a Drop House – Deleted..... 236  
20.03 Criminal Possession of a Forgery Device..... 236  
20.04 Criminal Simulation..... 236  
20.06 Criminal Impersonation ..... 237  
20.08 Taking the Identity of a Person or Entity..... 237  
20.08.A Taking the Identity of a Person or Entity..... 237  
20.08.B Knowingly Accepting the Identity of Another Person..... 239  
20.09.A Aggravated Taking the Identity of a Person or Entity..... 239  
20.09.B Knowingly Accepting the Identity of Another Person..... 241  
20.10 Trafficking in the Identity of Another Person or Entity..... 242

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 21**

21.01.01 Cancelled or Revoked Credit Card Defined..... 245  
21.01.02 Cardholder Defined ..... 245  
21.01.03 Credit Card Defined..... 246  
21.01.04 Expired Credit Card Defined ..... 246  
21.01.05 Incomplete Credit Card Defined ..... 247  
21.01.06 Issuer Defined..... 247  
21.01.07 Merchant Defined ..... 247  
21.01.08 Participating Party Defined..... 248  
21.01.09 Receives or Receiving Defined..... 248  
21.01.10 Reencoder Defined ..... 249  
21.01.11 Scanning Device Defined..... 249  
21.02 Theft of a Credit Card or Obtaining a Credit Card by Fraudulent Means ..... 249  
21.02-1 Affirmative Defense to Theft of a Credit Card or Obtaining a Credit  
Card by Fraudulent Means..... 251  
21.03 Receipt of Anything of Value Obtained by Fraudulent Use of a Credit  
Card ..... 251  
21.04 Forgery of Credit Card ..... 253  
21.05 Fraudulent Use of a Credit Card..... 254  
21.06 Possession of Machinery, Plate or Other Contrivance..... 255  
21.07 False Statement as to Financial Condition or Identity..... 256

## TABLE OF CONTENTS

21.08	Fraud by a Person Authorized to Provide Goods or Services .....	257
21.09-1	Credit Card Transaction Record Theft (Defendant-Merchant) .....	258
21.09-2	Credit Card Transaction Record Theft (Defendant Not a Merchant) .....	258
21.10-1	Unlawful Use of Scanning Device or Reencoder .....	259
21.10-2	Unlawful Possession of Scanning Device or Reencoder .....	260
21.03A	Verdict Form – Receipt of Anything of Value by Fraudulent Use of a Credit Card .....	260
21.05A	Verdict Form – Fraudulent Use of a Credit Card .....	262
21.09A	Verdict Form – Credit Card Transaction Record Theft – No Scheme or Course of Conduct Alleged .....	263

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 22

22.04	Defrauding Secured Creditors .....	265
22.05	Defrauding Judgment Creditors .....	265
22.06	Fraud in Insolvency .....	266
22.07	Receiving Deposits in an Insolvent Financial Institution .....	266

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 23

23.01.A.01	Collect an Extension of Credit Defined .....	269
23.01.A.02	Creditor Defined .....	269
23.01.A.03	Debtor Defined .....	269
23.01.A.04	Extend Credit Defined .....	269
23.01.A.05	Extortionate Extension of Credit Defined .....	269
23.01.A.06	Extortionate Means Defined .....	269
23.01.A.07	Repayment of Any Extension of Credit Defined .....	270
23.01.B.01	Dealer in Property Defined .....	270
23.01.B.02	Stolen Property Defined .....	270
23.01.B.03	Traffic Defined .....	270
23.01.C.01	Animal Activity Defined .....	270
23.01.C.02	Animal Facility Defined .....	271
23.01.C.03	Animal or Ecological Terrorism Defined .....	271
23.01.C.04	Biological Agent Defined .....	271
23.01.C.05	Combination Defined .....	271
23.01.C.06	Communication Service Provider Defined .....	271
23.01.C.07	Criminal Syndicate Defined .....	272
23.01.C.08	Explosive Agent Defined .....	272
23.01.C.09	Material Support or Resources Defined .....	272
23.01.C.10	Public Establishment Defined .....	272
23.01.C.11	Research Facility Defined .....	272
23.01.C.12	Terrorism Defined .....	272

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

23.01.C.13	Toxin Defined.....	273
23.01.C.14	Vector Defined.....	273
23.01.C.15	Weapon of Mass Destruction Defined.....	273
23.01.D.01	Control Defined.....	274
23.01.D.02	Enterprise Defined.....	274
23.01.D.03	Financial Institution Defined.....	274
23.01.D.04	Racketeering Defined.....	274
23.01.D.05	Records Defined.....	276
23.01.E.01	Access Defined.....	276
23.01.E.02	Access Device Defined.....	276
23.01.E.03	Computer Defined.....	276
23.01.E.04	Computer Contaminant Defined.....	276
23.01.E.05	Computer Program Defined.....	277
23.01.E.06	Computer Software Defined.....	277
23.01.E.07	Computer System Defined.....	277
23.01.E.08	Critical Infrastructure Resource Defined.....	277
23.01.E.09	False or Fraudulent Pretense Defined.....	277
23.01.E.10	Financial Instrument Defined.....	277
23.01.E.11	Network Defined.....	278
23.01.E.12	Property Defined.....	278
23.01.E.13	Proprietary or Confidential Computer Security Information Defined.....	278
23.01.E.14	Services Defined.....	278
23.05	Permissible Inferences Relating to Theft under A.R.S. §§ 13-802(A)(5) and 13-1814(A)(5).....	278
23.06	Possession of Altered Property.....	280
23.07.01	Trafficking in Stolen Property in the Second Degree.....	280
23.07.02	Trafficking in Stolen Property in the First Degree.....	280
23.08.A	Participating in a Criminal Syndicate.....	281
23.08.A.5	Involving a Minor in Participating in a Criminal Syndicate.....	282
23.08.C	Assisting a Criminal Syndicate.....	284
23.08.01	Terrorism.....	284
23.08.01.A.4	Terrorism.....	287
23.08.02.A	Making a Terrorist Threat.....	287
23.08.02.B	False Reporting of Terrorism.....	288
23.08.03	Unlawful Use of Infectious Biological Substance or Radiological Agent.....	288
23.09	Bribery of a Sports Participant.....	290
23.10	Fraudulent Schemes and Artifices.....	290
23.11	Willful Concealment.....	291
23.12A	Illegal Control of an Enterprise.....	292
23.12B	Illegally Conducting an Enterprise.....	292
23.12C(1)	Illegal Control of an Enterprise Utilizing a Minor.....	293

## TABLE OF CONTENTS

23.12C(2)	Illegally Conducting an Enterprise Utilizing a Minor .....	293
23.16.A.1	Computer Tampering .....	294
23.16.A.2	Computer Tampering .....	295
23.16.A.3	Computer Tampering .....	295
23.16.A.4	Computer Tampering .....	296
23.16.A.5	Computer Tampering .....	297
23.16.A.7	Computer Tampering .....	298
23.16.A.8	Computer Tampering .....	299
23.16.E	Critical Infrastructure Instruction.....	299
23.16.01	Unlawful Possession of an Access Device .....	300
23.16.01(B)	Permissible Inference.....	301
23.16.02	Unauthorized Release of Proprietary or Confidential Computer Security Information .....	302
23.16.02.D	Critical Infrastructure Instruction.....	303
23.17.A	Money Laundering in the First Degree.....	304
23.17.B	Money Laundering in the Second Degree .....	305
23.17.C	Money Laundering in the Third Degree .....	306
23.19.01	Smuggling of Human Beings – Deleted .....	307
23.19.02	Additional Finding Regarding Human Smuggling (with Table of Consanguinity) – Deleted.....	307
23.20.01	Residential Mortgage Fraud .....	307
23.20.02	Pattern of Residential Mortgage Fraud .....	308
23.21.A	Participating in a Criminal Street Gang.....	309
23.21.B	Assisting a Criminal Street Gang .....	310
23.22	Unlawful Transaction Involving Drop Houses – Deleted.....	310

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 24

24.01	Dissemination of Personal Information on the World Wide Web .....	311
24.05	Compounding .....	312
24.06	Impersonating a Public Servant .....	312
24.07	Tampering with a Public Record .....	312
24.08	Securing the Proceeds of an Offense .....	313
24.09	Obstructing Criminal Investigations or Prosecutions .....	313
24.11	Impersonating a Peace Officer.....	314

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 25

25.01.1	Contraband Defined .....	315
25.01.2	Correctional Facility Defined .....	315
25.01.3	Custody Defined.....	315
25.01.4	Escape Defined.....	315
25.02	Escape in the Third Degree .....	316

**REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH**

25.03	Escape in the Second Degree .....	316
25.04	Escape in the First Degree.....	317
25.05	Promoting Prison Contraband .....	317
25.07	Failure to Appear in the First Degree .....	318
25.08	Resisting Arrest.....	318
25.08(A)(3)	Resisting Arrest (Passive Resistance).....	319
25.081	Defense to Resisting Arrest .....	320
25.12	Hindering Prosecution in the First Degree .....	320
25.14	Promoting Secure Care Facility Contraband.....	321

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 26**

26.01(1)	Employee Defined .....	323
26.01(2)	Employer Defined.....	323
26.01(3)	Party Officer Defined .....	323
26.02	Bribery of a Public Servant or Party Officer.....	323
26.03	Trading in Public Office.....	324
26.05	Commercial Bribery Defined.....	324
26.05	Commercial Bribery – Form of Verdict .....	325
26.06	Offer to Exert Improper Influence on Public Officer or Employee for Consideration .....	325

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 27**

27.01(1)	Material Defined .....	327
27.01(2)	Statement Defined.....	327
27.01(3)	Sworn Statement Defined .....	327
27.02(A)	Perjury .....	327
27.02(B)	Perjury by Inconsistent Statements.....	327
27.03	False Swearing.....	328
27.06	Limitation on Defenses .....	329

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 28**

28.01(1)	Juror Defined .....	331
28.01(2)	Official Proceeding Defined .....	331
28.01(3)	Physical Evidence Defined .....	331
28.01(4)	Testimony Defined.....	331
28.01(5)	Threat Defined.....	331
28.02	Influencing a Witness.....	332
28.03	Receiving a Bribe by a Witness.....	332
28.04	Tampering with a Witness.....	333
28.05	Influencing a Juror .....	333



## TABLE OF CONTENTS

28.06	Receiving a Bribe by a Juror .....	334
28.07	Jury Tampering.....	334
28.08	Misconduct by a Juror .....	334
28.09	Tampering with Physical Evidence.....	335
28.10	Interfering with Judicial Proceedings .....	335

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 29

29.03	Riot .....	337
29.04	Disorderly Conduct.....	337
29.07	False Reporting.....	338
29.10	Cruelty to Animals .....	339
29.10.01	Animal Fighting.....	340
29.10.02	Presence at Animal Fight .....	341
29.10.03	Cockfighting.....	341
29.10.06	Defense to Cruelty to Animals and Bird Fighting.....	341
29.11	Interference with or Disruption of an Educational Institution.....	342
29.12	Unlawful Introduction of Disease or Parasite .....	343
29.21B	Harassment of a Public Officer or Employee .....	343
29.21.01	Aggravated Harassment.....	344
29.22A	Unlawful Interference with Emergency Public Safety Land Mobile Radio Frequency Transmissions.....	345
29.23	Stalking.....	346
29.25	Hoax .....	347
29.26	Abandonment or Concealment of a Dead Body.....	348

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 30

30.05.A	Interception of Communications; Installation of Pen Register or Trap and Trace Device.....	349
30.05.B	Installation of a Pen Register or Trap and Trace Device.....	349
30.06	Divulging Communication Service Information .....	350
30.08	Possession of Interception Device .....	351
30.19.A.	Surreptitious Recording.....	352
30.19.B.	Disclosure of Surreptitious Recording.....	352

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 31

31.01.01	Deadly Weapon Defined.....	355
31.01.02	Deface Defined.....	355
31.01.03	Explosive Defined.....	355
31.01.04	Firearm Defined .....	355
31.01.05	Improvised Explosive Device Defined.....	355
31.01.06	Occupied Structure Defined.....	355

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

31.01.07	Prohibited Possessor Defined .....	355
31.01.08	Prohibited Weapon Defined.....	356
31.01.09	Trafficking Defined.....	360
31.02.01	Public Establishment Defined.....	360
31.02.02	Public Event Defined .....	360
31.02.03	School Defined .....	360
31.02.04	School Grounds Defined .....	361
31.07	Unlawful Discharge of Firearms .....	361
31.07.01	Municipality Defined .....	362
31.07.02	Properly Supervised Range Defined.....	362
31.16.01	Body Armor Defined.....	362
31.17.01	Authorized Remote Stun Gun Defined.....	362
31.17.02	Remote Stun Gun Defined .....	363
31.023	Misconduct Involving Weapons (Prohibited Weapon).....	363
31.023-A	Misconduct Involving Weapons (Prohibited Weapon).....	365
31.023-B	Misconduct Involving Weapons (Prohibited Weapon Involving Dry Ice) .....	367
31.024	Misconduct Involving Weapons (Prohibited Possessor) .....	368
31.025	Misconduct Involving Weapons (Selling or Transferring Deadly Weapon to Prohibited Possessor).....	370
31.026	Misconduct Involving Weapons (Defacing a Deadly Weapon).....	370
31.027	Misconduct Involving Weapons (Possessing a Defaced Deadly Weapon) .....	371
31.028	Misconduct Involving Weapons (Use or Possession of Deadly Weapon During Commission of Drug Offense).....	372
31.029	Misconduct Involving Weapons (Discharging Firearm at Occupied Structure) .....	373
31.0212	Misconduct Involving Weapons (Possessing Deadly Weapon on School Grounds Felony Allegation) .....	373
31.0213	Misconduct Involving Weapons (Carrying Deadly Weapon in Nuclear or Hydroelectric Plant) .....	374
31.0214	Misconduct Involving Weapons (Supplying Firearm to Another Person Who Will Commit Felony).....	375
31.0215	Misconduct Involving Weapons (Using Deadly Weapon in Terrorism Act) .....	375
31.0216	Misconduct Involving Weapons (To Further a Criminal Street Gang) .....	376
31.02(A)(4)	Affirmative Defense to Misconduct Involving Weapons Under A.R.S. § 13-3101(A)(4).....	377
31.02(A)(6)	Affirmative Defense to Misconduct Involving Weapons Under A.R.S. § 13-3101(A)(6)(b).....	377
31.02(A)(7)	Affirmative Defense to Misconduct Involving Weapons Under A.R.S. § 13-3101(A)(7)(a), (b), (c) or (d) .....	378
31.04	Depositing Explosives .....	379
31.07	Unlawful Discharge of Firearms .....	379

## TABLE OF CONTENTS

31.09	Sale or Gift of Firearm to Minor .....	380
31.10	Misconduct Involving Simulated Explosive Devices .....	380
31.10.01	Interference on Placing or Sending a Simulated Explosive Device .....	381
31.11	Minors Prohibited from Carrying or Possessing Firearms .....	382
31.13.01	Possession of Firearm by Adjudicated Delinquent.....	383
31.13.02	Subsequent Possession of Firearm by Adjudicated Delinquent .....	383
31.16	Misconduct Involving Body Armor .....	384
31.17	Misconduct Involving Remote Stun Gun .....	384
31.22	Misconduct Involving Remote Stun Gun .....	385
31.129	Taking Prohibited Articles into Jail or onto Jail Grounds .....	386

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 32 INSTRUCTIONS

32.01	Enticing a Person for Purpose of Prostitution.....	387
32.02	Procurement by False Pretenses for Purposes of Prostitution .....	387
32.03	Placing a Person in Prostitution.....	388
32.04	Receiving Earnings of Prostitute .....	388
32.05	Causing Spouse to Become Prostitute .....	389
32.06	Taking a Child for Purpose of Prostitution.....	390
32.07	Detention of Persons in a House of Prostitution for Debt.....	391
32.08	Maintaining or Operating House of Prostitution.....	391
32.09	Pandering.....	392
32.10	Transporting Persons for Purpose of Prostitution or Other Immoral Purpose .....	393
32.11	Definitions .....	394
32.12A	Child Sex Trafficking.....	395
32.12B	Child Prostitution.....	396
32.14	Prostitution.....	396
32.14A	Prostitution.....	397

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 33 INSTRUCTIONS

33.01.01	Amusement Gambling Defined.....	399
33.01.02	Conducted as a Business Defined.....	400
33.01.03	Crane Game Defined.....	400
33.01.04	Gambling or Gamble Defined .....	400
33.01.05	Player Defined .....	400
33.01.06	Regulated Gambling Defined.....	401
33.01.07	Social Gambling Defined.....	401
33.021	Exclusions.....	402
33.021.1	Tax Exempt Exclusions .....	403
33.03	Promotion of Gambling.....	404

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 34 INSTRUCTIONS

34.021	Possession of Peyote.....	405
34.022	Sale or Transfer of Peyote.....	405
34.023	Offer to Sell or Transfer Peyote.....	406
34.024	Defense to Peyote Offenses .....	406
34.03(A1)	Unlawful Use of Vapor-Releasing Substance.....	406
34.03(A2)	Sale, Transfer, Offer to Sell or Offer to Transfer a Vapor-Releasing Substance .....	407
34.03(A3)	Unauthorized Sale, Transfer, Offer to Sell or Offer to Transfer a Vapor-Releasing Substance.....	407
34.03(B)	Failure to Keep Records of Vapor Releasing Glue.....	408
34.03(C)	Availability of Vapor-Releasing Glue Containing a Toxic Substance .....	409
34.03(D)	Sign Needed for Vapor-Releasing Substance.....	409
34.039	Defense to Vapor-Releasing Substance .....	410
34.03.01	Sale of Delivery of Nitrous Oxide to a Minor .....	410
34.04(A)	Failure to Report the Sale, Transfer or Furnishing of a Precursor or Regulated Chemical.....	410
34.04(C)	Failure to Report the Sale, Transfer or Furnishing of a Precursor or Regulated Chemical.....	412
34.04(D)	Failure to Report the Receipt of a Precursor or Regulated Chemical from Outside the State.....	414
34.04(F)	Failure to Report the Suspicious Sale, Transfer or Furnishing of a Precursor or Regulated Chemical.....	414
34.04(G)	Failure to Report the Theft, Disappearance or Loss of a Precursor or Regulated Chemical.....	415
34.04(H)	Failure to Maintain Records of a Precursor or Regulated Chemical .....	416
34.04.01(A)	Possession or Sale of Precursor Chemicals .....	416
34.04.01(B)	Sale or Transfer or Furnishing of a Precursor Chemical by a Retailer.....	418
34.04.01(C)	Sale of a Precursor Chemical by a Retailer .....	418
34.04.01(D)	Sale or Transfer or Furnishing of Precursor Chemicals by a Wholesaler.....	419
34.04.01(E)	Sale or Transfer or Furnishing of Precursor Chemicals by a Manufacturer.....	419
34.051	Possession or Use of Marijuana .....	420
34.052	Possession of Marijuana for Sale.....	421
34.053	Production of Marijuana .....	422
34.0541	Selling, Transporting, Importing, Transferring of Marijuana for Sale.....	423
34.0542	Offering to Transport, Import or Transfer Marijuana .....	423
34.061	Possession/Use of a [Misbranded] [Prescription-Only] Drug .....	425
34.062	Possession of Prescription-Only Drug for Sale.....	425
34.063	Possession of Equipment and Chemicals to Manufacture Prescription-Only Drug.....	426
34.067(1)	Sale, Transfer, or Importation of a Prescription-Only Drug.....	427

**TABLE OF CONTENTS**

34.067(2)	Offer to Sell, Offer to Transfer, Offer to Import a Prescription-Only Drug .....	427
34.071	Possession of Dangerous Drug.....	428
34.07.01	Manufacturing Methamphetamine Causing Injury to a Person under Fifteen .....	428
34.072	Possession of Dangerous Drug for Sale .....	429
34.076	Obtaining Dangerous Drug by Fraud.....	430
34.0771	Selling, Transporting, Importing, Transferring of Dangerous Drug For Sale .....	430
34.0772	Offering to Transport, Import, or Transfer Dangerous Drugs .....	431
34.081	Possession or Use of a Narcotic Drug.....	431
34.082	Possession of Narcotic Drug for Sale .....	432
34.086	Obtaining Narcotics by Fraud.....	432
34.0871	Transporting or Importing Narcotics for Sale; Selling, Transferring Narcotic Drugs .....	433
34.0872	Offering to Transport, Import, Sell, Transfer Narcotics .....	433
34.091	Involving or Using Minors in Drug Offenses .....	433
34.092	Involving or Using Minors in Drug Offenses .....	434
34.111	Sale or Transfer of Drugs in a Drug Free School Zone.....	434
34.112	Possession or Use of Drugs in a Drug Free School Zone.....	435
34.113	Manufacture of Dangerous Drugs in a Drug Free School Zone.....	436
34.15	Possession of Drug Paraphernalia .....	436
34.17	Use of Wire Communication or Electronic Communication in [Drug Related] [Organized Crime Related] Transaction.....	437
34.21.01	Using Building for Sale, Manufacture or Distribution of Dangerous or Narcotic Drugs .....	439
34.21.02	Fortification of a Building.....	439

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 34.1 INSTRUCTIONS**

34.53	Manufacture or Distribution of Imitation Controlled Substance.....	441
34.54	Manufacture or Distribution of Imitation Prescription-Only Drug.....	441
34.55	Manufacture or Distribution of Imitation Over-the-Counter Drug .....	442

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 35 INSTRUCTIONS**

35.01(1)	Harmful to Minors Defined .....	445
35.01(2)	Item Defined.....	445
35.01(3)	Knowledge of Character Defined.....	446
35.01(4)	Nudity Defined.....	446
35.01(5)	Sadomasochistic Abuse Defined.....	446
35.01(6)	Sexual Activity Defined.....	446
35.01(7)	Sexual Conduct Defined .....	446

**REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH**

35.01(8)	Sexual Excitement Defined.....	447
35.01(9)	Ultimate Sexual Acts Defined.....	447
35.01(10)	Prurient Defined.....	447
35.02	Production, Publication, Sale, Possession, or Presentation of Obscene Items.....	448
35.04	Coercing Acceptance of Obscene Articles or Publications.....	448
35.06	Furnishing Harmful Items to Minors.....	449
35.061	Furnishing Harmful Items to Minors (Internet Activity).....	449
35.07	Public Display of Explicit Sexual Materials.....	449
35.09	Duty to Report.....	450
35.12	Obscene or Indecent Telephone Communications to Minors for Commercial Purposes.....	451
35.13	Sale or Distribution of Material Harmful to Minors through Vending Machines.....	451
35.131	Defenses to Sale or Distribution of Material Harmful to Minors through Vending Machines.....	451

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 35.1 INSTRUCTIONS**

35.51(1)	Advertising Defined.....	455
35.51(2)	Communication Service Provider Defined.....	455
35.51(3)	Computer Defined.....	455
35.51(4)	Computer System Defined.....	455
35.51(5)	Exploitive Exhibition Defined.....	453
35.51(6)	Minor Defined.....	455
35.51(7)	Network Defined.....	455
35.51(8)	Producing Defined.....	456
35.51(9)	Remote Computing Service Defined.....	456
35.51(10)	Sexual Conduct Defined.....	456
35.51(11)	Simulated Defined.....	456
35.51(12)	Visual Depiction Defined.....	456
35.52	Commercial Sexual Exploitation of a Minor.....	456
35.53	Sexual Exploitation of a Minor.....	458
35.54	Luring a Minor for Sexual Exploitation.....	458
35.56	Permissible Inference.....	459
35.58	Admitting Minors to Public Displays of Sexual Conduct.....	459
35.59	Defense to Sexual Exploitation of a Minor.....	460
35.60	Aggravated Luring a Minor for Sexual Exploitation.....	460
35.61	Unlawful Age Misrepresentation.....	462

**STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 36 INSTRUCTIONS**

36.01	Domestic Violence Offense Defined.....	465
-------	--	-----

## TABLE OF CONTENTS

36.01.02	Aggravated Domestic Violence.....	465
36.01.02	Special Verdict Form – Domestic Violence .....	466
36.03.01	Partial-Birth Abortion.....	467
36.06(A)	Bigamy.....	468
36.06(B)	Defenses to Bigamy .....	468
36.07	Marrying the Spouse of Another .....	469
36.08	Incest .....	469
36.09A	Child Bigamy.....	469
36.09B	Defenses to Child Bigamy.....	470
36.13	Contributing to the Delinquency of a Minor.....	470
36.19	Child Neglect .....	471
36.20	Failure to Report .....	471
36.23A	Child Abuse or Vulnerable Adult Abuse.....	472
36.23B	Child Abuse or Vulnerable Adult Abuse.....	473
36.23D	Emotional Abuse of a Vulnerable Adult .....	474
36.23.01	Vulnerable Adult Defined.....	474
36.28.11a	Arizona Medical Marijuana Act – Registered Qualifying Patient .....	475
36.28.11b	Arizona Medical Marijuana Act – Designated Caregiver .....	475
36.28.11c	Arizona Medical Marijuana Act – Authority to Cultivate .....	475
36.28.11d	Arizona Medical Marijuana Act – DUI Affirmative Defense .....	476
36.28.11e	Arizona Medical Marijuana Act – Visiting Qualifying Patient .....	478
36.28.11f	Arizona Medical Marijuana Act – Medical Use .....	479
36.28.11g	Arizona Medical Marijuana Act – Allowable Amount .....	479
36.28.11h	Arizona Medical Marijuana Act – Prohibited Locations.....	480

### **STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 37 INSTRUCTIONS**

37.01(A)(1)	Unlawful Use of Food Stamps .....	483
37.01(A)(2)	Unlawful Use of Counterfeit Food Stamps.....	483
37.01(A)(3)	Unlawful Appropriation of Food Stamps .....	484
37.02(A)(4)	Unlawful Use of Food Stamps .....	484
37.02.01	Unlawful Excavating.....	485
37.04(A)(1)		
& (2)	Adding Poison to Food, Drink or Medicine.....	485
37.04(A)(3)	Adding Harmful Substance to Food, Drink or Medicine .....	485
37.05(A)(1)		
& 2	Unlawful Manufacturing or Distributing of Sounds or Images from Recording Devices .....	486
37.05(A)(3)	Unlawful Manufacturing or Distributing Transferred Sounds & 4 or Images without Name of Manufacturer .....	487
37.05(A)(5)	Unlawful Transferring a Performance .....	487

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

37.05(A)(6)	Unlawful Distributing a Recorded Performance.....	488
37.05(B)	Defense to Offenses Under A.R.S. § 13-3705(A) .....	488
37.05.01	Article Defined.....	489
37.05.02	Distributing Defined.....	489
37.05.04	Manufacturing Defined .....	489
37.05.05	Owner Defined.....	489
37.05.06	Phonorecord Defined.....	489
37.07(A)(1)	Telecommunication Fraud.....	490
37.07(A)(2)	Telecommunication Fraud.....	490
37.07(A)(3)	Telecommunication Fraud.....	491
37.07(A)(4)	Telecommunication Fraud.....	492
37.09	Manufacture, Sale or Distribution of Unauthorized Decoding Device.....	493
37.09(C)	Rebuttable Inference of Intent.....	493
37.13(A)	Consideration for Medical Referral .....	494
37.13(B)	Fraudulently Obtaining Medical or Health Coverage.....	495
37.13(C)	Fraudulently Obtaining Medical or Health-Care Coverage by Use of False Identification.....	495
37.13(D)	Counterfeiting or Altering Identification for the Purposes of Fraudulently Obtaining Medical or Health-Care Coverage.....	496
37.13(E)	Furnishing Identification for the Purposes of Fraudulently Obtaining Medical or Health Care Coverage .....	496
37.14	Aggravated or Multiple Insurance Code Violations.....	497
37.16	Failure to Give Notice of Dangerous-Crimes-Against-Children Conviction .....	497
37.19	Fraudulently Obtaining Wireless Telecommunications Services or Devices; Manufacturing, Distributing and Selling Unauthorized Decoding Devices.....	498
37.19(C)	Rebuttable Inference Regarding A.R.S. § 13-3719 .....	498
37.21(A)(1)	Unlawfully Applying Tattoos, Brands, Scarifications and Piercings to Minors .....	499
37.21(A)(2)	Use of Unsterilized Needle to Tattoo or Pierce .....	499
37.21(A)(3)	Using an Unauthorized Location to Tattoo, Brand, Scarify, Implant, Mutilate or Pierce .....	500
37.21(A)(4)	Administering Anesthesia Without a License .....	500
37.21(B)	Exception.....	500
37.21(C)	Defense .....	501
37.21(E)	Definitions .....	501
37.24	Obtaining Utility Services by Fraud.....	501
37.24(B)	Rebuttable Inference.....	502
37.25	Interference with Monitoring Devices .....	503



## TABLE OF CONTENTS

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 38

38.21	Failure to Register a Sex Offender.....	505
38.22	Failure to Notify of Change of Address or Change of Name.....	505
38.81	Arrest; How Made; Force and Restraint.....	506
38.87	Method of Arrest by Officer by Virtue of a Warrant .....	506
38.88	Method of Arrest by Officer Without a Warrant.....	507

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 43

43.4702	Conducting a Chop Shop .....	509
---------	------------------------------	-----

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 44

44.4802	Possession or Sale of Cloned Cellular or Wireless Telephones .....	511
---------	--	-----

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 45

45.4902	Criminal Trespass on a Commercial Nuclear Generating Facility.....	513
45.4903	Justification Defense Armed Nuclear Security Guard.....	513

### STATUTORY CRIMINAL INSTRUCTIONS – TITLE 13, CHAPTER 46

46.5002	Criminal Trespass on a Military Reservation or Facility.....	517
---------	--	-----

### NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 28

28.622.1	Unlawful Flight from Pursuing Law Enforcement Vehicle .....	519
28.661	Leaving the Scene of an Injury or Fatal Accident.....	519
28.6611	Knowledge of Injury.....	520
28.6612	Leaving the Scene of an Injury or Fatal Accident – Form of Verdict.....	520
28.662	Leaving the Scene of an Accident .....	521
28.663	Driver’s Duty to Give Information and Assistance.....	522
28.675	Causing Death by Use of Vehicle.....	522
28.676	Causing Serious Physical Injury by Use of a Vehicle.....	524
28.8280	Careless or Reckless Aircraft Operation.....	526
28.8282(A)(1)	Prohibited Operation.....	526
28.8282(A)(2)	Prohibited Operation.....	526
28.8282(C)(1)	Prohibited Operation.....	527
28.8282(C)(2)	Prohibited Operation.....	527
28.1321	Refusal to Submit to Test .....	528
28.1381(A)(1)-APC	Actual Physical Control Defined .....	528
28.1381(A)(1)-1	Driving or Actual Physical Control While Under the Influence.....	529

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

28.1381(A)(2)	Driving or Actual Physical Control With an Alcohol Concentration of 0.08 or More Within Two Hours of Driving.....	530
28.1381(A)(3)	Driving or Actual Physical Control While There Is a Drug in the Defendant’s Body .....	531
28.1381(A)(4)	Driving or Actual Physical Control of a Commercial Motor Vehicle With an Alcohol Concentration of 0.04 or More .....	531
28.1381(D)	Affirmative Defense to Driving or Actual Physical Control While There Is a Drug in the Defendant’s Body .....	532
28.1381(G)	Presumptions of Intoxication.....	533
28.1381-MJ	Registered Qualifying Patient (Medical Marijuana).....	534
28.1381-MS	Mental State.....	534
28.1382(A)	Driving or Actual Physical Control While Under the Extreme Influence of Intoxicating Liquor.....	534
28.1383(A)(1)-1	Aggravated Driving or Actual Physical Control While Under the Influence While [License][Privilege to Drive] Was [Suspended][Canceled][Revoked][Refused][Restricted].....	535
28.1383(A)(1)-2	Aggravated Driving or Actual Physical Control While Under the Influence While [License][Privilege to Drive] Was [Suspended][Canceled][Revoked][Refused][Restricted] With Lesser-Included Offense of Driving or Actual Physical Control while Under the Influence.....	537
28.1383(A)(1)-3	Aggravated Driving or Actual Physical Control With an Alcohol Concentration of 0.08 While [License][Privilege to Drive] Was [Suspended][Canceled][Revoked][Refused][Restricted].....	537
28.1383(A)(1)-4	Aggravated Driving or Actual Physical Control While There Is a Drug in the Defendant’s Body While [License to Drive][Privilege to Drive] Was [Suspended][Canceled][Revoked][Refused][Restricted].....	539
28.1383(A)(2)-1	Aggravated Driving or Actual Physical Control While Under the Influence – Two Convictions Within Eighty-Four Months).....	540
28.1383(A)(2)-2	Aggravated Driving or Actual Physical Control With an Alcohol Concentration of 0.08 or More Within Two Hours of Driving – Two Convictions Within Eighty-Four Months.....	541
28.1383(A)(2)-3	Aggravated Driving or Actual Physical Control While There Is a Drug in the Defendant’s Body – Two Convictions Within Eighty-Four Months .....	542
28.1383(A)(3)-1	Aggravated Driving or Actual Physical Control While Under the Influence While There Is a Person Under the Age of Fifteen Years in the Vehicle.....	543
28.1383(A)(3)-2	Aggravated Driving or Actual Physical Control With an Alcohol Concentration of 0.08 or More Within Two Hours of	

## TABLE OF CONTENTS

	Driving While There Is a Person Under the Age of Fifteen Years in the Vehicle .....	544
28.1383(A)(3)-3	Aggravated Driving or Actual Physical Control While There Is a Drug in the Defendant’s Body While There Is a Person Under the Age of Fifteen Years in the Vehicle .....	544
28.1383(A)(4)-1	Aggravated Driving or Actual Physical Control While Subject to an Interlock Device and Under the Influence .....	545
28.1383(A)(4)-2	Aggravated Driving or Actual Physical Control While Subject to an Interlock Device and an Alcohol Concentration of 0.08 or More within Two Hours of Driving .....	545
28.1383(A)(4)-3	Aggravated Driving or Actual Physical Control While Subject to an Interlock Device and There Is a Drug in the Defendant’s Body.....	546
28.1383(A)(4)-4	Aggravated Driving or Actual Physical Control While Under the Extreme Influence of Intoxicating Liquor While Subject to an Interlock Device.....	547
28.1383(A)(5)-1	Aggravated Driving or Actual Physical Control While Driving the Wrong Way on a Highway and Under the Influence.....	547
28.1383(A)(5)-2	Aggravated Driving or Actual Physical Control While Driving the Wrong Way on a Highway and an Alcohol Concentration of 0.08 or More Within Two Hours of Driving.....	548
28.1383(A)(5)-3	Aggravated Driving or Actual Physical Control While Driving the Wrong Way on a Highway and There Is a Drug in the Defendant’s Body.....	549
28.1383(A)(5)-4	Aggravated Driving or Actual Physical Control while Driving the Wrong Way on a Highway and a Commercial Motor Vehicle with an Alcohol Concentration of 0.04 or More .....	549
28.1383(A)(5)-5	Aggravated Driving or Actual Physical Control While Driving the Wrong Way on a Highway Under the Extreme Influence of Intoxicating Liquor .....	550
28.1383(B)	Eighty-Four Month Provision.....	551
28.3318	Presumption of Receipt of Notice .....	551
36.2802(D)	Affirmative Defense of Insufficient Concentration of Marijuana to Cause Impairment.....	552
<b>CRIMINAL STATUTORY INSTRUCTIONS, TITLE 5</b>		
5.395(A)(1)-APC	Actual Physical Control Defined .....	555
5.395(A)(1)	Operating or Actual Physical Control of a Motorized Watercraft While Under the Influence.....	556
5.395(A)(2)	Operating or Actual Physical Control of a Motorized Watercraft With an Alcohol Concentration of 0.08 or More Within Two Hours of Operating .....	558

**REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH**

5.395(A)(3)	Operating or Actual Physical Control of a Motorized Watercraft While There Is a Drug in the Defendant’s Body.....	558
5.395(A)(4)	Operating or Actual Physical Control of a Commercial Motorized Watercraft With an Alcohol Concentration of 0.04 or More .....	556
5.395(C)	Affirming Defense to Operating or Actual Physical Control While There Is a Drug in the Defendant’s Body .....	559
5.395(F)	Presumptions of Intoxication.....	559
5.397(A)(1) & (2)	Operating or Actual Physical Control of a Motorized Watercraft While Under the Extreme Influence of Intoxicating Liquor.....	560
5.396 (A)(1)-1	Aggravated Operating or Actual Physical Control of a Motorized Watercraft While Under the Influence – Three or More Convictions Within Eighty-Four Months .....	560
5.396(A)(1)-2	Aggravated Operating or Actual Physical Control of a Motorized Watercraft With an Alcohol Concentration of 0.08 or More Within Two Hours of Operating – Three Convictions Within Eighty-Four Months.....	560
5.396(A)(1)-3	Aggravated Operating or Actual Physical Control of a Motorized Watercraft While There Is a Drug in the Defendant’s Body – Three or More Convictions Within Eighty-Four Months .....	562
5.396(A)(2)(a)-1	Aggravated Operating or Actual Physical Control of a Motorized Watercraft While Under the Influence While There Is a Person Under the Age of Fifteen Years Aboard the Motorized Watercraft .....	563
5.396(A)(2)(a)-2	Aggravated Operating or Actual Physical Control of a Motorized Watercraft With an Alcohol Concentration of 0.08 or More Within Two Hours of Operating While There Is a Person Under the Age of Fifteen Years Aboard the Motorized Watercraft.....	564
5.396(A)(2)(a)-3	Aggravated Operating or Actual Physical Control of a Motorized Watercraft Under the Influence of Intoxicating Liquor or Drugs While There Is a Person Under Fifteen Aboard The Motorized Watercraft .....	564
5.396(A)(2)(b)-1	Aggravated Operating or Actual Physical Control of a Motorized Watercraft While Under the Influence While There Is a Person Under the Age of Fifteen Years Aboard The Motorized Watercraft With One Prior .....	565

**TABLE OF CONTENTS**

5.396(A)(2)(b)-2	Aggravated Operating or Actual Physical Control of a Motorized Watercraft With an Alcohol Concentration of 0.08 or More Within Two Hours of Operating While There Is a Person Under the Age of Fifteen Years Aboard the Motorized Watercraft With One Prior.....	566
5.396(A)(2)(b)-3	Aggravated Operating or Actual Physical Control of a Motorized Watercraft Under the Influence of Intoxicating Liquor or Drugs While There Is a Person Under Fifteen Aboard – With One Prior.....	566
5.396(A)(2)(c)	Aggravated Operating or Actual Physical Control of a Motorized Watercraft While Under the Extreme Influence While There Is a Person Under the Age of Fifteen Years in the Motorized Watercraft.....	567
36.2802(D)	Affirmative Defense of Insufficient Concentration of Marijuana to Cause Impairment.....	562
<b>NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 14</b>		
14.5101.01	Definition of Incapacitated Person .....	571
<b>NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 25</b>		
25.500(1)	Support Defined.....	573
25.500(2)	Arrearage Defined.....	573
25.511	Failure of Parent to Provide for Child .....	573
<b>NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 35</b>		
35.301	Misuse of Public Monies .....	575
<b>NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 38</b>		
38.101	Officer or Public Officer Defined .....	577
38.421	Stealing, Destroying, Altering or Secreting a Public Record .....	577
<b>NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 39</b>		
39.161	Presentment of False Instrument for Filing.....	579
<b>NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 41</b>		
41.1661	Correctional Officer Defined .....	581
<b>NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 44</b>		
44.1453.B.1	Use of Counterfeit Marks with One Prior Conviction.....	583
44.1453.B.2	Use of Counterfeit Marks.....	584
44.1453.D.1	Use of Counterfeit Marks with Two Prior Convictions.....	585

REVISED ARIZONA JURY INSTRUCTIONS – CRIMINAL, 6TH

44.1453.D.2 Use of Counterfeit Marks..... 586  
44.1453.C Manufacturing or Producing Items or Services with Counterfeit Marks..... 588  
44.1455 Use of Unauthorized Copy of Computer Software ..... 589

**NON-CRIMINAL STATUTORY INSTRUCTIONS, TITLE 46**

46-451.01 Abuse Defined ..... 591  
46-451.02 De Facto Conservator Defined..... 591  
46.451.03 De Facto Guardian Defined ..... 591  
46.451.04 Exploitation Defined ..... 591  
46.45.05 Informed Consent Defined ..... 592  
46.45.06 Neglect Defined..... 592  
46.451.09 Vulnerable Adult Defined..... 592  
46.455 Endangerment of a Vulnerable Adult ..... 593  
46.456.04 Position of Trust and Confidence Defined..... 593

**NON-CAPITAL AGGRAVATING CIRCUMSTANCES INSTRUCTIONS ..... 595**

**CAPITAL CASE SENTENCING INSTRUCTIONS**

Foreword to the Court; Introduction to Capital Case Sentencing Instructions  
(Not to Be Read to the Jury) ..... 599  
Capital Case 1.0 Degree of Participation Instruction (*Enmund/Tison*) ..... 600  
Capital Case 1.0.1 Accomplice Liability ..... 604

**Eligibility Phase**

Capital Case 1.1 Nature of the Hearing – To be used for offenses occurring before  
August 2, 2012 ..... 606  
Capital Case 1.1A Nature of the Hearing – For Offenses Occurring On or After  
August 2, 2012 ..... 607  
Capital Case 1.2 Duties of the Jury ..... 608  
Capital Case 1.3 Evidence ..... 608  
Capital Case 1.4 Burden of Proof ..... 609  
Capital Case 1.5 Definition of Proof Beyond a Reasonable Doubt ..... 609  
Capital Case 1.5.1 Order of Aggravation Phase..... 610  
Capital Case 1.6 Aggravating Circumstances (for offenses occurring after  
August 27, 2019..... 610  
Capital Case 1.6 Aggravating Circumstances (for offenses occurring before  
August 27, 2019..... 611  
Capital Case 1.6(a)(1) Definition of “Serious Offenses” (for offenses occurring on or  
after July 17, 1993) ..... 613  
Capital Case 1.6(b) Definition of “Grave Risk of Death to Another” .....615  
Capital Case 1.6(c) Definition of “Consideration for the Receipt, or in Expectation of  
the Receipt, of Anything of Pecuniary Value” .....617  
Capital Case 1.6(d) Definition of “Especially Cruel, Heinous or Depraved” ..... 619

## TABLE OF CONTENTS

Capital Case 1.6(e)	Definition of “During the Commission of the Offense” .....	624
Capital Case 1.6(f)	Definition of “Cold, Calculated Manner Without Pretense of Moral or Legal Justification .....	625
Capital Case Verdict Form	Aggravating Circumstances – Date of Offense Before August 27, 2019.....	626
Capital Case Verdict Form	Aggravating Circumstances – Date of Offense On or After August 27, 2019 .....	629
<b><u>Penalty Phase</u></b>		
Capital Case 2.1	Nature of Hearing and Duties of Jury .....	632
Capital Case 2.2	Evidence .....	632
Capital Case 2.3	Mitigation .....	633
Capital Case 2.4	Duty to Consult with One Another.....	634
Capital Case 2.5	Victim Impact Information .....	635
Capital Case 2.6	Mitigation Assessment and the Sentence Burden of Proof.....	635
Capital Case 2.7	Order of This Phase .....	637
Capital Case 2.8	Jury Not to Consider Financial Cost of Penalty.....	638
Capital Case 2.9	State’s Evidence.....	638
Capital Case 2.10	Intellectual Disability .....	638
<b><u>Mitigation</u></b>		
Foreword to the Court – Introduction to Statutory Mitigating Circumstance		
Instructions (Not To Be Read To The Jury) .....		640
Capital Case 3.1	Mitigation Evidence.....	641
Capital Case 3.2	Significant Impairment.....	641
Capital Case 3.3	Duress .....	642
Capital Case 3.4	Relatively Minor Participation.....	642
Capital Case 3.5	Death Not Reasonably Foreseeable.....	643
Capital Case 3.6	Age .....	643
Capital Case Verdict Form 2 .....		644