

**“JUST  
THE  
FACTS”**



MTIBRS Training  
& Technical  
Assistance

Disorderly Conduct, Resisting Arrest, or Assault  
on Peace Officer?

- Why is this a topic today? Well, as us data geeks like to say, bad data in, bad data out. We want Montana statutes to be used as they were intended and these particular statutes have proven to be a little fuzzy over the years. Our goal is to ensure that the data that you provide to us paints an accurate picture of an incident – without inflating our assault numbers to the FBI!

## Assault Victim Data - No Injury & Weapon/Force Type

Injury Type	Type of Weapon/Force Involved	Offense	2017	2018	2019	2020	2021	2022	Totals
None	Asphyxiation	Aggravated Assault	10	10	14	11	7	8	60
	Blunt Object	Aggravated Assault	75	68	75	90	85	84	477
	Bodily fluids	Simple Assault	0	0	0	0	1	5	6
	Drugs/Narcotics/Sleeping Pills	Aggravated Assault	9	5	8	4	3	7	36
	Explosives	Aggravated Assault	0	0	4	3	7	0	14
	Fire/Incendiary Device	Aggravated Assault	5	1	4	21	14	17	62
	Firearm	Aggravated Assault	68	80	131	136	163	185	763
	Handgun	Aggravated Assault	253	250	226	358	467	449	2003
	Knife/Cutting Instrument	Aggravated Assault	203	172	192	237	285	273	1362
	Motor Vehicle/Vessel	Aggravated Assault	331	254	301	352	346	309	1893
	None (Mutually Exclusive)	Aggravated Assault	117	225	215	204	191	180	1132
		Simple Assault	837	957	1033	885	874	938	5524
	Other	Aggravated Assault	130	100	142	156	125	142	795
		Simple Assault	394	316	400	486	458	453	2507
	Other Firearm	Aggravated Assault	8	14	19	34	41	21	137
	Personal Weapons	Aggravated Assault	191	188	195	207	206	178	1165
		Simple Assault	2210	2046	1932	1987	1971	1714	11860
	Poison	Aggravated Assault	2	0	1	2	1	3	9
	Rifle	Aggravated Assault	62	35	49	71	63	65	345
	Shotgun	Aggravated Assault	21	31	18	35	14	38	157
Unknown	Aggravated Assault	41	27	19	19	30	46	182	
	Simple Assault	85	62	47	68	88	96	446	
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- While our main focus today is differentiating between Disorderly Conduct, Resisting Arrest and Assault on a Peace Officer, this data table shows the number of aggravated and simple assaults reported to us without not only a weapon/force type, but without an injury type as well. As you can see here, 6,656 assault victims were reported with zero injury without a weapon/force type. “None” as the injury type is allowed by the FBI in some situations, like Criminal Endangerment, and will not error out, however it will give a warning.
- With that being said, under the flat file system, Reasonable Apprehension was mapped to the FBI’s 13C Intimidation, which did not require a weapon/force – so many of these numbers are reflective of that prior mapping. Under the XML mapping, reasonable apprehension is mapped to the FBI’s 13B, which is Simple Assault, allowing for personal weapons, but that is a topic for another day!
- Also, some of this data likely include PFMA strangulation cases - in XML, there are now strangulation injury types, as many of those injuries are in fact major but would error out in the past with PFMA being mapped to a 13B under flat file.
- Our attempts, as always, are to allow law enforcement to utilize the statutes as they were written. In order to do this successfully, we map Montana’s laws to the FBI’s UCR codes to the best of our ability but often, they get pigeonholed with those codes and do not always paint as correct a picture as we’d like.

## Disorderly Conduct 45-8-101

- ▶ The person knowingly disturbs the peace by:
  - (i) quarreling, challenging to fight, or fighting;
  - (ii) making loud or unusual noises;
  - (iii) using threatening, profane, or abusive language;
  - (iv) rendering vehicular or pedestrian traffic impassable;
  - (v) rendering the free ingress or egress to public or private places impassable;
  - (vi) disturbing or disrupting any lawful assembly or public meeting;
  - (vii) transmitting a false report or warning of a fire or other catastrophe in a place where its occurrence would endanger human life;
  - (viii) creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; or
  - (ix) transmitting a false report or warning of an impending explosion in a place where its occurrence would endanger human life; or
- (b) in the course of engaging in any of the conduct prohibited by subsections (1)(a)(i) through (1)(a)(vi), *a peace officer recognizes the person's conduct creates an articulable public safety risk*

*All subsections mapped to the FBI's Disorderly Conduct*

- Our Disorderly Conduct statute truly is a catch all offense – it includes everything from quarreling to using profane language to blocking the roadway.
- Since our Disorderly Conduct statute is mapped to the FBI's Disorderly Conduct, weapon/force or injury is not a mandatory field

## Disorderly Conduct Cont.

UCR	MCA	XML UCR	Offense Description
13B	45-8-101		DEACTIVATE -- Disorderly conduct (a) physical contact
90C	45-8-101	90C	Disorderly conduct

MTIBRS Code	MCA Code	2018	2019	2020	2021	2022	Totals
841	45-8-101-Z - Disorderly conduct, physical contact	234	217	154	191	43	839
<b>Totals</b>		<b>234</b>	<b>217</b>	<b>154</b>	<b>191</b>	<b>43</b>	<b>839</b>

*All Disorderly Conduct subsections are currently mapped to the FBI's Disorderly Conduct*

- Under the flat file system, Disorderly Conduct had a “physical contact” option, which had been mapped to a 13B, which is the FBI’s Simple Assault. But agencies were subsequently receiving errors due to not entering a weapon/force and/or injury type.
- This particular option was added many years ago during injury discussions between the FBI and SAC = We have since moved away from this and now Disorderly Conduct is simply mapped to the FBI’s Disorderly Conduct UCR code, which is more reflective of the Montana statute
- As you can see from the data table above, from 2018-2022, the physical contact option within Disorderly Conduct was not being utilized much by officers. Again, we want our statutes to be utilized as they are written and physical contact is not listed within the statute.

## Resisting Arrest 45-7-301

- ▶ (1) A person commits the offense of resisting arrest if the person knowingly prevents or attempts to prevent a peace officer from effecting an arrest by:
  - (a) using or threatening to use physical force or violence against the peace officer or another; or
  - (b) using any other means that creates a risk of causing physical injury to the peace officer or another.

***Both subsections mapped to the FBI's Disorderly Conduct***

- Since Resisting is also mapped to Disorderly Conduct, weapon/force is not allowed, nor is injury
- This particular statute is more straight forward, but has often been reported with weapon/force and/or injuries

### Assault on a Peace Officer 45-5-201

▶ A person commits the offense of assault on a peace officer or judicial officer if the person *purposely or knowingly* causes:

- (a) bodily injury to a peace officer or judicial officer;
- (b) reasonable apprehension of serious bodily injury in a peace officer or judicial officer by use of:
  - (i) a weapon; or
  - (ii) what reasonably appears to be a weapon;
- (c) bodily injury to a peace officer or judicial officer with a weapon; or
- (d) serious bodily injury to a peace officer or judicial officer.

***All subsections mapped to the FBI's Aggravated Assault***

- Assault on a Peace Officer is mapped to the FBI's aggravated assault so weapon/force, along with injury, are required
- Purposely or Knowingly are the key words here. Our law enforcement officers are professionals. And I trust our officers' judgement. But we have, on occasion, received data where no weapon was used and/or zero injury reported under this statute. While we all know that intoxication is NOT a defense in the State of Montana, if an intoxicated arrestee accidentally steps on your foot, I don't think it prudent to charge them with Assault on a Peace Officer.

## Disorderly Conduct, Resisting Arrest, or Assault?



- While this little tree includes regular assault, I thought it handy to include as each incident can be so unique, but with that being said, it can often muddy the waters.
- It should be noted that we continue to dissect Montana statutes, making sure that they map correctly to the FBI, as best as they can be. We plan on having an open discussion regarding our statutes later this year, as we all know that this landscape is a fluid one and we can only be successful when our LEO partners are involved.

## Scenarios

1. Officers discover several parties challenging one another to fight & utilizing threatening language:
  - ▶ *Disorderly Conduct*
  - ▶ *Potentially Simple Assault* if any party “felt reasonable apprehension of bodily injury” from another
2. Officers respond to a bar fight & discover two parties, one visibly injured. As they arrest the offender, the offender stumbles on the arresting officer’s foot.
  - ▶ *Simple Assault* due to the visible injury
  - ▶ *Disorderly Conduct* could apply here as well due to fighting in public
  - ▶ NOT Assault on a Peace Officer as there was no bodily injury to the officer’s foot
3. Officers discover an intoxicated male standing in the middle of the street & yelling obscenities at passerbys. As officers make contact with the male, he continues his behavior & physically strikes one of the officers in the face, breaking their nose. As the officers place him into custody, the male physically resists:
  - ▶ *Assault on a Peace Officer*
  - ▶ *Resisting Arrest*
  - ▶ *Disorderly Conduct* - Yelling obscenities **AND** blocking the street!



## Upcoming Training

- ▶ June 7<sup>th</sup>, 2023 - Elements of Identity Theft
- ▶ June 21, 2023 - Bond Books and MTIBRS
- ▶ July 19, 2023 - Intimidation Assault PFMA Issues

▶ <https://mbcc.mt.gov/Data/MTIBRS-Training>

*Do you have suggestions for future session topics? We'd love to hear them! Please email your ideas to*

[MBCcdata@mt.gov](mailto:MBCcdata@mt.gov)

## MBCC Contact Information



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