

BASIC COURSE UNIT GUIDE

11

GENERAL CRIMINAL STATUTES

This unit guide covers the following learning goals contained in the POST Basic Course performance objective document:

- 3.22.0 Public Nuisance Law
- 3.23.0 Crimes Against Public Law
- 3.24.0 Deadly Weapons Law
- 3.30.0 Gaming Law

Revised October 1990



THE COMMISSION
ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material in microfilm only has been granted by
California Commission on Peace
Officer Standards and Training

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

This unit of instruction is designed as a *guideline* for Performance Objective-based law enforcement basic training. This unit is part of the POST Basic Course Guidelines system developed by California law enforcement trainers and criminal justice educators for the California Commission on Peace Officer Standards and Training.

This Guide is designed to assist the instructor in developing an appropriate lesson plan to cover the performance objectives, which are required as minimum content of the Basic Course.

Table of Contents

Learning Goals and Performance Objectives	i
Materials/Equipment	ii
Unit Outline	
I. Public Nuisance Law (3.22.0)	11-1
II. Crimes Against Public Peace Law (3.23.0)	11-13
III. Deadly Weapons Law (3.24.0).	11-19
IV. Gaming Law (3.30.0).	11-32
Supporting Materials and References	11-36

Learning Goals and Performance Objectives

3.22.0 PUBLIC NUISANCE LAW

Learning Goal: The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

PERFORMANCE OBJECTIVE(S):

- 3.22.1 Given word-pictures or audio-visual presentations depicting possible disturbances of the peace, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 415)
- 3.22.2 Given word-pictures or audio-visual presentations depicting possible disorderly conduct, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 647(a) through (i), inclusive)
- 3.22.3 Given word-pictures or audio-visual presentations depicting a possible public nuisance, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 370 and 372)
- 3.22.4 Given word-pictures or audio-visual presentations depicting the possible disturbing of a public meeting, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 403)
- 3.22.5 Given word-pictures or audio-visual presentations depicting the possible obstruction of a sidewalk or street, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 647c)

Learning Goals and Performance Objectives

3.23.0 CRIMES AGAINST PUBLIC PEACE LAW

Learning Goal: The student will understand and have a working knowledge of California laws relative to public peace.

- 3.23.1 Given word-pictures or audio-visual presentations depicting possible unlawful assemblies, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 407)
- 3.23.2 Given word-pictures or audio-visual presentations depicting a possible disobedience to a dispersal order, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 409, 410, 416, 726, and 727)
- 3.23.3 Given word-pictures or audio-visual presentations depicting a possible riot participation or incitement to riot, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 404 and 404.6)
- 3.23.4 Given word-pictures or audio-visual presentations depicting possible acts of lynching, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 405a and 405b)
- 3.23.5 Given word-pictures or audio-visual presentations depicting possible routs, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 406)
- 3.23.6 Given word-pictures or audio-visual presentations depicting possible "hate-crimes", the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 422.6, 422.7, 11411, 11412 and 11413)

Learning Goals and Performance Objectives

3.24.0

DEADLY WEAPONS LAW

Learning Goal: The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

- 3.24.1 Given word-pictures or audio-visual presentations depicting possible acts of drawing and/or exhibiting a firearm, or a replica, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 417, 417.1, 417.2, 417.3, and 417.8)
- 3.24.2 Given word-pictures or audio-visual presentations depicting the possible shooting at an inhabited dwelling, occupied building, inhabited house car, inhabited camper, vehicle, or aircraft the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 246, 246.3, and 247)
- 3.24.3 Given word-pictures or audio-visual presentations depicting possible violations of law regarding possession of a switch blade knife, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 653k)
- 3.24.4 Given word-pictures or audio-visual presentations depicting possible possession of any weapons enumerated in P. C. Section 12020, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 12020 and 626.10)
- 3.24.5 Given word-pictures or audio-visual presentations depicting possible possession of a concealable firearm by a felon, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 12021 and 12021.5)

Learning Goals and Performance Objectives

- 3.24.6 Given word-pictures or audio-visual presentations depicting possible carrying of a concealed weapon, the student will determine if the crime is complete and, in any situation where the crime is complete, and exceptions will identify the crime by its common name and crime classification. (Penal Code Sections 12025, 12026, 12026.1, 12026.2, 12027, 467 and 626.9)
- 3.24.7 Given word-pictures or audio-visual presentations depicting possible carrying of a loaded firearm, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 12031 and Health and Safety Code Sections 11550c and 11370.1))
- 3.24.8 Given word-pictures or audio-visual presentations depicting the possible altering of the serial numbers on a firearm, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 12090)

3.30.0

GAMING LAW

Learning Goal: The student will understand and have a working knowledge of California laws relative to gaming.

- 3.30.1 Given word-pictures or audio-visual presentations depicting possible gaming violations, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 330))

Material/Equipment

Each training institution should develop its own list of equipment and materials for each unit. This list is dependent upon the instructional strategies methods/media considerations.

Overhead Projector
16mm Projector
Filmstrip Audio/Visual Projector

Learning Goal 3.22.0: The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>I. PUBLIC NUISANCE LAW (3.22.0)</p> <p>A. 415 P.C.--Disturbing the Peace (Misdemeanor)</p> <p>1. Corpus Delicti--Elements of the crime (P.C. 415)</p> <p>a. Any person who unlawfully fights in a public place, or challenges another person in a public place to fight;</p> <p>b. Any person who maliciously and willfully disturbs another person by loud and unreasonable noise;</p> <p>c. Any person who uses offensive words in a public place which are inherently likely to produce an immediate violent reaction.</p> <p>2. In determining what constitutes a loud and unreasonable noise, the first step should be to decide if it is a communication. Communications are words, shouting, or cheering that are intended to get ideas across. They are protected by the First Amendment, freedom of speech. On the other hand, a loud noise such as a motorcycle revving at 3 a.m. is not communication. Neither is shouting, etc., which is done for purposes of disruption. A family fight at 3 a.m. would also fit in this category. Although it technically involves communication, it is not the important type protected by the First Amendment. If the noise is not a communication and, based on the time, place and manner in which it is made, it is the kind of noise that would disturb a reasonable person, an arrest is justified if someone was disturbed by it.</p> <p>If the noise is a communication, it can still be unreasonable based on time, place or manner in which the ideas are expressed. To justify an arrest in this situation, the person or persons disturbed by the communication must be so angry that violence is about to occur. An example would be a</p>	<p>3.22.1 Given word-pictures or audio-visual presentations depicting possible disturbances of the peace, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 415)</p> <p>Note: This section may not be used as a general justification for the issuing of a dispersal order.</p>

Reference Notes

Cohen v. California, supra, is an illustration. The defendant walked through Los Angeles County Courthouse, in presence of women and children, with "F... the Draft" plainly visible on his jacket. The court held the conduct to be constitutionally protected. Likewise, in Lewis v. City of New Orleans, supra, a woman in a public place, while her husband was getting a ticket, said, "You god damn m.f. police." The court held the ordinance prohibiting cursing or obscene language towards police officers performing their duties was invalid because it was overbroad.

In re: John V., 167 Cal APP 3rd 761 (1985), Words screamed by the defendant, "F..... Bitch", at his neighbor as she drove by were found to be sufficient to violate this statute. (415.3 P.C.)

Callahan 168 Cal APP 3rd 631 (1985) "F..... asshole", directed at peace officer was held insufficient to violate this section.

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>campus disorder where a group of militant students surround the bookstore and yell, "Fire the chancellor" for three hours. If other students were to finally say, "Clear out or we will blow your heads off," arrests would be justified if a reasonable person would experience similar violent anger under the circumstances. The communication will not be unreasonable just because of the type of ideas expressed.</p> <p>3. Subsection 3: "Any person who uses offensive words in a public place which are inherently likely to produce a violent reaction." The utterance must be "likely to produce an immediate violent reaction" based on the circumstances then present. This reaction applies to anyone. It now is necessary for reports to illustrate the existent circumstances in which the utterance was made. Any violent reaction which did not occur as a result of the utterance should be illustrated.</p> <p>a. This statute has lost much of its effectiveness against a defense that the defendant was exercising a right of free speech. The high tolerance of the courts to the right to voice one's opinion reduces this statute to a device available to control disruptive conduct in public, bearing no relationship to the exercise of First Amendment Rights.</p> <p>B. Disorderly Conduct (Misdemeanor) - 647 P.C.</p> <p>1. General information</p> <p>a. The offenses involved in the Disorderly Conduct statutes require a specific act.</p> <p>b. Black's Law Dictionary defines disorderly conduct as "Generally, any behavior that is contrary to law, and more particularly, such as tends to disturb the public peace or decorum,</p>	<p>3.22.2 Given word-pictures or audio-visual presentations depicting possible disorderly conduct, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 647(a) through sub (i) inclusive)</p>

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>scandalize the community, or shock the public sense of morality."</p> <p>c. Before proceeding further, it becomes necessary to discuss the term public place.</p> <p>(1) Public place--Any park, street, building open to the public, movie theaters, department stores, or public offices.</p> <p>(2) Public view--A court decision (People vs. Olson, 96 Cal Rptr. 152-CA.A 2d, July 1971) included "accessibility" into the definition of public place. If a violation occurs in an area that is accessible to the public view, then it qualifies as a public place also.</p> <p>(a) The case involves a person who was arrested in the front yard of a location, on the porch, for 647(f) P.C. During the booking procedure, heroin was discovered. The court held that the arrest was good because where the person was arrested was "<u>accessible</u>" to the public.</p> <p><u>Any area that is accessible to the general public, i.e., newsman, gas person, mail carrier, salesman, etc., is a public place.</u> This would not hold true however, if a yard is fenced, blocked off, or entry is restricted in some way.</p> <p>e. All disorderly conduct violations are misdemeanors.</p> <p>2. Disorderly conduct P.C. 647 (misdemeanor)</p>	<p>Note: Other conduct which had been specifically prohibited must be found to be implied in the new statute, or some other specific Penal Code Sections must be used.</p>

Reference Notes

Pryor vs. Municipal Court (1979) 25 C3d 238

California Supreme Court has held that a lewd act must be committed in a public place.

People vs. Rylaarsdam 130 CA3d Supp 1 (1982)

Officer (decoy) may be the offended party.

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>"Every person who commits any of the following acts shall be guilty of disorderly conduct, a misdemeanor:"</p> <p>a. <u>Subsection (a): Lewd or Dissolute Conduct</u></p> <p>"Who solicits anyone to engage in (or) who engages in lewd (or) dissolute conduct in any public place (or) in any place open to the public (or) exposed to public view."</p> <ol style="list-style-type: none"> (1) Used for male prostitution solicitations (2) Lewd--obscene, lustful or indecent (3) Lust--intense sexual desire (4) Indecent--immodest or obscene (5) Dissolute--loose moral conduct (6) Intent must be proven to establish the crime (7) Conviction no longer requires registration as sex offender under 290 P.C. <p>In re Reed 33 CA3 914 (1983) made 290 P.C. registration unconstitutional for 647a P.C.</p> <ol style="list-style-type: none"> (8) Similar section, P.C. 314 (indecent exposure). This section discussed further on in the lesson. (9) Can apply to private property that is open to public view. <p>b. <u>Subsection (b): Soliciting for agreeing to engage in or engaging in any act of prostitution (misdemeanor).</u> A person agrees to engage in an act of prostitution when, with specific intent</p>	

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution shall constitute a violation of this subdivision unless some act, besides the agreement, be done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.</p> <p>(1) Solicit means to:</p> <ul style="list-style-type: none"> (a) strongly urge (b) to entice or lure especially into evil (c) attempt to seduce (d) to accost (any person) for immoral purpose <p>(2) Related offenses (felonies)</p> <ul style="list-style-type: none"> (a) P.C. 266: Seduction for purposes of prostitution (female under 18) enticing. (b) 266a: Taking a person for prostitution without consent or by false representation. (c) 266h: Pimping - Felony (d) 266i: Pandering - Felony (obtaining another person to be prostitute - felony). 	

Reference Notes

NOTE: There is a constitutional conflict regarding the enforcement of 647(d). In Soto 171 Ca1 APP 3rd 1158 (1985) the court ruled it was unconstitutionally vague, however in Caswell 181 Ca1 APP 3rd 102 (1986) the court upheld the statute.

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>c. <u>Subsection (c): Begging (misdemeanor)</u></p> <p>"Who accosts other persons in any public place or in any place open to the public for the purpose of <u>begging or soliciting alms.</u>"</p> <p>(1) Accost:</p> <p>(a) To approach and speak to first</p> <p>(2) Begging as a business does not have to be established.</p> <p>(3) The asking, soliciting, or begging constitutes the crime.</p> <p>(4) The victim does not have to give to complete the act.</p> <p>(5) Does not apply to registered or approved organizations.</p> <p>(6) Officer can be person solicited.</p> <p>d. <u>Subsection (d): Loitering about a public toilet (misdemeanor)</u></p> <p>"Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or <u>any unlawful act.</u>"</p> <p>(1) Lascivious</p> <p>(a) Wantonness--recklessly disregarding of decency.</p> <p>(b) Lewd, lustful</p> <p>(2) Must be (loitering) for the purpose of an unlawful act.</p> <p>(3) Used mainly for morals violations</p> <p>(4) Related sections:</p>	

Reference Notes

P.C. Section 148.9 - Permits an arrest when suspect falsely identifies himself to a peace officer during a lawful detention or arrest.

3.22.0 Subsection (e)

Kolender vs. Lawson (83) 461 U.S. 352 103 S.C. 1955 declared 647(e) is unconstitutionally vague on its face because it says that a person stopped under the statute must provide a "credible and reliable" I.D. and nobody knows what that means. Justice O'Connor lists four constitutional questions concerning 647(e) but doesn't answer any of those questions. Therefore even though 647(e) is unconstitutional, the subject of carrying and presenting identification is still to be answered. See: 853.6(J)(5) and 25660 B&P.

The court, even though it found 647(e) unconstitutional, did not say officers who had probable cause could not stop a person for investigational purpose; but that stop should be substantiated by independent probable cause.

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>(a) P.C. 314: Indecent exposure (misdemeanor), 314.2 - felony</p> <p>(b) P.C. 288a: Sex perversion (felony)</p> <p>(c) P.C. 243.4 Sexual Battery (felony)</p> <p>(5) Types of acts covered</p> <p>(a) Drawing lewd pictures on toilet walls</p> <p>(b) Drilling peep holes through toilet walls</p> <p>(c) Drilling holes through toilet walls to expose private parts</p> <p>e. <u>Subsection (e): Refusal to identify (misdemeanor)</u></p> <p>NOTE: "Declared unconstitutional by U.S. Supreme Court as being unconstitutionally vague." Cannot be legally enforced.</p> <p>The court, even though it found 647(e) unconstitutional, did not say officers who had probable cause could not stop a person for investigation purposes, but that stop should be substantiated by independent probable cause.</p> <p>(1) Related sections that are enforceable:</p> <p>(a) V.C. 12951(a) - Driving without driver's license; (40302(a), Authority to be taken forthwith)</p> <p>(b) V.C. 31 - Giving false I.D.</p>	<p>Note: Lawson vs. Kolender (1983). Declared unconstitutional by United States Supreme Court.</p> <p>By analogy, U.S. Supreme Court has declared a similar statute in Texas invalid.</p>

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>(c) 148.9 P.C. - False representation to police officer.</p> <p>f. <u>Subsection (f): Drunk (misdemeanor)</u></p> <p>"Who is found in any public place under the influence of intoxicating liquor, or any drug, or the influence of toluene or any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or under the influence of any combination of any intoxicating liquor, drug or toluene or any such poison in such a condition that he is unable to exercise care for his own safety or the safety of others or, by reason of his being under the influence of any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or under the influence of any combination of any intoxicating liquor, drug, toluene or any such poison interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way."</p> <p>(1) Private property</p> <p>(a) Usually cannot arrest, unless public view applies.</p> <p>(2) Field sobriety test not required.</p> <p>(3) If suspect is unconscious, transport to hospital, then to station and, if necessary, book.</p> <p>g. <u>Subsection (ff): civil protective custody for inebriates. (misdemeanor)</u></p> <p>"When a person has violated subdivision (f) of this section, a peace officer, if he is reasonably able to do so, shall place the person, or cause him to be placed, in civil protection custody. Such person shall be taken to</p>	

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind of degree of force which would be lawful were he effecting an arrest for a misdemeanor without a warrant. No person who has been placed in civil protective custody shall thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to such placement."</p> <p>This subdivision shall not apply to the following persons:</p> <ol style="list-style-type: none">(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f) of this section.(3) Any person who a peace officer, in good faith, believes will attempt escape or will be unreasonably difficult for medical personnel to control.(4) The police are not required to take arrested persons to detoxification centers if their jurisdiction doesn't have them available. In addition, counties are not required to establish detoxification centers per People vs. Superior Court, County of Monterey (Colon) - 105 Cal, Rptr. 695 - C.A. 1st, Jan. 1973.	

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>h. <u>Subsection (g): prowling (misdemeanor)</u></p> <p>"Who loiters, prowls or wanders upon the private property of another, at anytime, without visible or lawful business with the owner or occupant thereof."</p> <p>(1) Loiter means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.</p> <p>(2) For the purposes of committing a crime.</p> <p>(3) Must be on private property.</p> <p>(a) Owner <u>does not</u> have to be home.</p>	
<p>i. <u>Subsection (h): "Peeping Tom" (misdemeanor)</u></p> <p>"Who, while loitering, prowling, or wandering upon the private property of another, at anytime, peeks in the door or window of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof."</p> <p>(1) Must meet the corpus for 647(g) in addition to violating these elements.</p> <p>(2) Be alert for related violations such as P.C. 459, 602.5, 211, 488, etc.</p>	
<p>j. <u>Subsection (i): Illegal lodging (misdemeanor)</u></p> <p>"Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the</p>	

Reference Notes

(1) Related sections:

- (a) P.C. 602--Trespassing, generally
- (b) P.C. 602(p)--Refusing to leave a public building of a public agency after hours.
- (c) P.C. 602(n)--Refusing to leave land or real property, etc.
- (d) P.C. 602.5--Unauthorized entering or remaining in non-commercial dwelling house.
- (e) P.C. 626.6--Refusal to leave state college or university property.
- (f) P.C. 626.8--Interfering with peaceful conduct of school activities or refusal to leave premises.
- (g) P.C. 602(r)--Refusing to leave hotel or motel after obtaining accommodations and refusing to pay.
- (h) P.C. 554--Trespassing on private property when posted.

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p style="text-align: center;">owner or person entitled to the possession or in control thereof."</p> <p>C. <u>Public Nuisances (Defined and Maintaining) P.C. 370 and P.C. 372</u></p> <p>1. Public nuisances defined--P.C. 370</p> <p>a. "Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance."</p> <p>2. Maintaining a Public Nuisance P.C. 372 (Misdemeanor)</p> <p>a. "Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor."</p> <p>3. A public nuisance can be a great number of things, from a smelly trash dump to a loud disturbing noise in a neighborhood garage.</p> <p>a. A condition dangerous to health, offensive to community moral standards, or unlawfully obstructing the public in the free use of public property. (Black's Law Dictionary)</p>	<p>3.22.3 Given word-pictures or audio-visual presentations depicting a possible public nuisance, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 370 and 372)</p> <p>3.22.4 Given word-pictures or audio-visual presentations depicting the possible disturbing of a public meeting, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 403)</p>
<p>D. <u>Disturbance of Assembly or Meeting Other Than Religious or Political P.C. 403 (Misdemeanor)</u></p> <p>1. Every person who, without authority of law, willfully disturbs or breaks up any assembly</p>	

Reference Notes

Jennings vs. San Francisco Superior Court 104 CA3d 50 (1980)

Local blocking sidewalk ordinance unconstitutional

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>or meeting, not unlawful in its character, other than such as is mentioned in Section 302 of the Penal Code and Section 29440 of the Election Code, is guilty of a misdemeanor.</p> <p>a. Related sections.</p> <p>(1) P.C. 302, Disturbing Religious Meetings--Every person who willfully disturbs or disquiets any assemblage of people who meet for religious worship, by profane discourse, rude or indecent behavior, or by any unnecessary noise, either within the place where such meeting is held, or so near it as to disturb the order and solemnity of the meeting, is guilty of a misdemeanor.</p> <p>(2) Election Code - 29440 - Disturbing political meetings. (misdemeanor)</p> <p>2. In essence, the Penal Code has used two sections of the code to describe similar violations. The only difference in the two sections is in the types of meetings disturbed.</p> <p>3. Not every interruption of a speaker is a disturbance. The meeting itself must be thrown into such disorder that the business under discussion cannot effectively continue. Thus, the character and nature of the meeting are relevant in determining whether the disturbance is violative of this section. For example, an extemporaneous "soapbox" speaker should expect to be interrupted from time to time. Free speech cannot be used as an excuse to justify converting an orderly meeting into bedlam, but some assemblies can be expected to be somewhat disorderly, e.g., political conventions, etc.</p> <p>E. <u>Obstruction of Thoroughfares and Public Places, PC 647c (Misdemeanor)</u></p>	

Learning Goal 3.22.0 : The student will understand and have a working knowledge of the crime of public nuisance as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>"Every person who willfully and maliciously obstructs the free movement of any person on any street, sidewalk, or other public place or on or in any place open to the public is guilty of a misdemeanor. Nothing in this section affects the power of a county or a city to regulate conduct upon a street, sidewalk, or other public places or on or in a place open to the public."</p>	<p>3.22.5 Given word-pictures or audio-visual presentations depicting the possible obstruction of a sidewalk or street, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 647c)</p>

Learning Goal 3.23.0 : The student will understand and have a working knowledge of California laws relative to public peace.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>II. CRIMES AGAINST PUBLIC PEACE LAW (3.23.0)</p> <p>A. <u>Disturbance of the Public Peace</u></p> <ol style="list-style-type: none"> 1. Accomplished when a group of two or more persons excites terror, alarm, and consternation in the neighborhood. 2. Standard set forth by California State Supreme Court. <ol style="list-style-type: none"> a. Did the acts cause anxiety in the mind of a rational person? <p>B. <u>Unlawful Assembly P.C. 407 (Misdemeanor)</u></p> <ol style="list-style-type: none"> 1. Definition: whenever two or more persons assemble to do an unlawful act, or to do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly. <ol style="list-style-type: none"> a. Punishment is set forth in P.C. 408: Every person who participates in any riot or unlawful assembly is guilty of a misdemeanor. 2. Discussion I <ol style="list-style-type: none"> a. Two or more persons assemble together to do an unlawful act. <ol style="list-style-type: none"> (1) Those assembled must intend to commit an unlawful act. (2) Or assembled to engage in an unlawful purpose. b. Common intent may be proved by circumstantial evidence. 3. Discussion II <ol style="list-style-type: none"> a. Two or more persons assemble together do a lawful act in a violent, boisterous, or tumultuous manner. 	<p>3.23.1 Given word-pictures or audio-visual presentations depicting possible unlawful assemblies, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 407)</p>

Learning Goal 3.23.0 : The student will understand and have a working knowledge of California laws relative to public peace.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>4. No requirement that an overt act be done.</p> <p>a. Even if purpose of assembly is lawful, the crowd can be dispersed. (See P.C. 726)</p> <p>b. Considerations: Hour of meeting, acts done by a group, and a group's demeanor.</p> <p>C. <u>Riot P.C. 404 (Misdemeanor)</u></p> <p>1. Two or more persons acting together:</p> <p>a. With a common intent</p> <p>b. Having used force or violence or threatened to use such force or violence.</p> <p>c. With immediate power to execute such threat, and</p> <p>d. The acts of defendants must disturb the public peace.</p> <p>e. As used in this section, disturbing the public peace may also occur in any place of confinement.</p> <p>Note: The group must be acting together with a common intent. They must at least threaten to use the force or violence which is at their immediate command. Their threats or use of force or violence must disturb the public peace. Disturbing the public peace is accomplished when the actions of the group excite terror, alarm, and consternation in the neighborhood. The standard being: Did acts cause anxiety in the mind of a rational person?</p> <p>The difference between riot and unlawful assembly is that riot, force, or violence takes place or is threatened. In unlawful assembly, there need be no force or violence or threat.</p>	<p>3.23.3 Given word-pictures or audio-visual presentations depicting a possible riot participation or incitement to riot, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 404 and 404.6)</p>

Learning Goal 3.23.0 : The student will understand and have a working knowledge of California laws relative to public peace.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>D. <u>Rout P.C. 406 (Misdemeanor)</u></p> <ol style="list-style-type: none"> 1. Two or more persons 2. Assembled and acting together 3. Make any attempt <u>or</u> advance toward commission of an act 4. Act <u>would be</u> a riot <u>if</u> committed. 	<p>3.23.5</p> <p>Given word-pictures or audio-visual presentations depicting possible routs, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 406)</p>
<p>E. <u>Urging riot, or burning or destroying property P.C. 404.6 (Misdemeanor)</u></p> <ol style="list-style-type: none"> 1. Every person who, with intent to cause a riot, does an act or engages in conduct which urges others to commit acts of force, violence, or the burning or destroying of property, is guilty of a misdemeanor. <ol style="list-style-type: none"> a. Must show a clear and immediate danger that a riot will ensue. 	<p>Simply stated - a rout is an attempted riot.</p>
<p>F. <u>Remaining Present At Place of Riot After Warning to Disperse P.C. 409 (Misdemeanor)</u></p> <ol style="list-style-type: none"> 1. Every person remaining present at the place of any riot, rout or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same is guilty of a misdemeanor. <ol style="list-style-type: none"> a. A conviction under this section is dependent upon the provisions of Section 726 P.C. having been carried out. 2. Magistrates and officers to command rioters to disperse P.C. 726 <ol style="list-style-type: none"> a. Must go among or as near as possible to the persons assembled and command them in the name of the people of the state to immediately disperse. 	<p>3.23.2</p> <p>Given word-pictures or audio-visual presentations depicting a possible disobedience to a dispersal order, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 409, 409.3, 409.5, 410, 416, 726, and 727)</p>

Learning Goal 3.23.0 : The student will understand and have a working knowledge of California laws relative to public peace.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>(1) See P.C. 410; magistrate neglecting or refusing to disperse rioters (misdemeanor).</p> <p>b. Dispersal order:</p> <p>"I am (officer's name and rank), a police officer for the City of (name of city). I hereby declare this to be an unlawful assembly and, in the name of the people of the State of California, command all those assembled at (give specific location) to immediately disperse. If you do not do so, you will be arrested. Section 409 of the Penal Code prohibits remaining present at an unlawful assembly."</p> <p>c. Must be in the form of a general command.</p> <p>(1) Dispersal order must be heard.</p> <p>(2) Should place officer at rear of crowd in order to testify the order was heard.</p> <p>3. To Arrest Rioters If They Do Not Disperse P.C. 727 (Misdemeanor)</p> <p>a. If the persons assembled do not immediately disperse, such magistrates and officers must arrest them, and to that end may command the aid of all persons present or within the county.</p> <p>(1) See refusing to join posse or aid officers in arrest (P.C. 150).</p> <p>4. Informal order to disperse - 416 P.C. (small group unlawful assembly)</p> <p>5. Authority to close disaster area by a peace officer 409.5 P.C.</p> <p>a. Whenever menace to public health or safety exists by accident or other natural disaster, the area may be closed by law enforcement officers.</p>	

Learning Goal 3.23.0 : The student will understand and have a working knowledge of California laws relative to public peace.

Unit Outline & Presentation	Objectives & Instructional Cues
<ul style="list-style-type: none"> b. Areas surrounding any emergency field command post may be closed to the public. c. Any person who willfully and knowingly enters the closed area is guilty of a misdemeanor. d. Nothing in this section shall preclude authorized representatives of any news service from entering closed area. <p>6. When law enforcement and emergency medical technicians are at the scene of an accident, management of the scene is vested in the appropriate law enforcement agency. (409.3 P.C.)</p>	
<p>G. <u>Lynching P.C. 405a (Felony)</u></p> <ul style="list-style-type: none"> 1. The taking by means of a riot of any person from the lawful custody of any peace officer is a lynching. <ul style="list-style-type: none"> a. Punishable as a felony (P.C. 405b) b. Prisoner must be arrested before he can be "lynched" (must be in "lawful" custody). c. The courts have held that the taking of a handcuffed prisoner from the back seat of a radio car while the officer is not present does not constitute the crime of lynching, however, may be rescue (P.C. 4550). d. The offense of lynching is often committed during riot or insurrection. However, as the statute indicates, whenever two or more persons act together (requisites of both a riot and a violation of this section) and take a legally arrested person, or other person in the lawful custody of an officer, they are in violation of this section. 	<p>3.23.4 Given word-pictures or audio-visual presentations depicting possible acts of lynching, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 405(a) and 405(b))</p>

Learning Goal 3.23.0 : The student will understand and have a working knowledge of California laws relative to public peace.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>2. Related Sections:</p> <p>a. <u>Escape</u>: P.C. 4530 through 4536</p> <p>b. <u>Rescue</u>: P.C. 4550</p> <p>H. Definition of Hate Crime/Hate Violence Includes:</p> <p>1. Criminal conduct which is motivated by hatred or prejudice and directed to any person based upon ethnic background, national origin, religious belief, sex, age, disability, or sexual orientation.</p> <p>2. Penal Code Section 422.6 identifies the protected categories of race, color, religion, ancestry, national origin, or sexual orientation.</p> <p>3. Examples of hate crimes reported in California include:</p> <p>(a) An increase in the number of violent assaults against lesbian women and homosexual men;</p> <p>(b) Harassment and property damage perpetrated against African-American, Asian, Latino, Moslem and Southeast Asian families in Alameda, Contra Costa, Fresno, Marin, San Joaquin, and Santa Clara Counties;</p> <p>(c) Vandalism of synagogues in Contra Costa and Los Angeles Counties;</p> <p>(d) Dozens of incidents of racist graffiti, verbal harassment and physical assaults directed against minority students on school, college, and university campuses throughout California</p> <p>I. Specific Hate Crime Laws</p> <p>1. Injury or threat to person or damage to property because of specific beliefs or characteristics. (422.6 of the Penal Code) Elements include:</p>	<p>3.23.6 Given word-pictures or audio-visual presentations depicting possible "hate-crimes", the student will determine if the specific crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 422.6, 422.7, 11411, 11412, and 11413)</p> <p>NOTE: Refer to Penal Code Section 422.6 for specific language.</p> <p>REFERENCE: The <u>Commission on Racial, Ethnic, Religious, and Minority Violence</u>, published by the California Attorney General's Office 1990.</p>

Learning Goal 3.23.0 : The student will understand and have a working knowledge of California laws relative to public peace.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>(a) No person shall by force or threat of force</p> <p>(b) Willfully injure, intimidate, or interfere with, oppress, or threaten</p> <p>(c) Any person in the free exercise or enjoyment of any right secured by the Constitution or laws of this state or by the Constitution or laws of the United States</p> <p>(d) Because of the other person's race, color, religion, ancestry, national origin, or sexual orientation</p> <p>(e) No person shall knowingly deface, damage, or destroy the real or personal property</p> <p>(f) Of any person</p> <p>(g) For the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States</p>	<p>NOTE: Sexual orientation means heterosexuality, homosexuality, or bisexuality (Bane Act)</p>
<p>A violation of these sections is a misdemeanor.</p>	
<p>There may be an inherent conflict between the right of free speech and utterances of people of ethnic, religious, or sexual orientation. Speech alone should not be sufficient to support a case of criminal action. There must be a threat and a reasonable fear that violence will be committed.</p>	
<p>2. Crimes of intimidation of another because of specified beliefs or characteristics (422.7 of the Penal Code). Elements include:</p>	
<p>(a) Any crime committed against the person or property of another</p>	<p>NOTE: Assembly Bill 63 (Bane Act) established civil remedies, including injunctive relief for such acts. The provisions of the Bane Act are located in the California Civil Code starting at section 51.7.</p>

Learning Goal 3.23.0 : The student will understand and have a working knowledge of California laws relative to public peace.

Unit Outline & Presentation	Objectives & Instructional Cues
<ul style="list-style-type: none"> (b) For the purpose of intimidating or interfering with the other person's free exercise or enjoyment of any right secured by the state or federal Constitution (c) Because of the other person's race, color, religion, ancestry, national origin, or sexual orientation (d) Shall so indicate in the accusatory pleading <p>3. Religious terrorism includes:</p> <ul style="list-style-type: none"> (a) Desecration of religious symbols as defined in Penal code Section 11411 (b) Interference with religious worship as defined in Penal Code Section 11412 (c) Explosive devices in or about a religious church, synagogue, temple, or other place of worship. (11413 of the Penal Code) (d) Felony <p>4. Arson against church or synagogue.</p> <p>These acts are covered under:</p> <ul style="list-style-type: none"> (a) Penal Code Section 1170.8 which prohibits certain activity within or against the church and with aggravating circumstances (b) Penal Code Section 1170.75 provides for aggravated circumstances penalty enhancement. 	<p>NOTE: Terrorism involving the destruction of health facilities, abortion clinics, libraries, bookstores, etc. included in Penal Code Section 11413</p>

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>III. DEADLY WEAPONS LAW (3.24.0)</p> <p>A. Drawing, Exhibiting Or Using A Firearm Or Deadly Weapon P.C. 417(a)(1) (Misdemeanor)</p> <ol style="list-style-type: none"> 1. Every person who, except in self defense, in the presence of any other person, draws or exhibits any deadly weapon whatsoever, other than a firearm in a rude, angry or threatening manner, unlawfully uses the same in any fight or quarrel is guilty of a misdemeanor. (417(a)(1)) 2. Corpus Delicti - The elements of the crime are very specific. <ol style="list-style-type: none"> a. In the presence of any other person b. Draws or exhibits <ol style="list-style-type: none"> (1) any deadly weapon other than a firearm, (2) in a rude, angry, or threatening manner, or, (3) unlawfully uses it in a fight or quarrel. 3. Section (417(a)(2) reads: "<u>Every person who, except in self defense, in the presence of another person, draws or exhibits any firearm, loaded or unloaded, whatsoever in a rude, angry or threatening manner, or who in any manner unlawfully uses the same in any fight or quarrel.</u>" 4. Corpus Delicti--The elements of the crime are <u>very specific.</u> <ol style="list-style-type: none"> a. In the presence of any other person, exhibits b. Loaded or unloaded firearms, and <ol style="list-style-type: none"> (1) in a rude, angry, or threatening manner, or (2) uses the same in any fight or quarrel. 	<p>3.24.1 Given word-pictures or audio-visual presentations depicting possible acts of drawing and/or exhibiting a firearm or replica, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 417, 417.1, 417.2, 417.3, 417.8)</p>

Reference Notes

SHOOTING AT AIRCRAFT (247 P.C.) -- which reads the same as 246 P.C., except that the firearm is discharged at an aircraft. It does not matter if the aircraft is parked, in motion, or in flight or if it is occupied or not; also a felony.

OTHER RELATED ASSAULT CASES

Train Wrecking (218 and 219 P.C.)

Dropping Object from a Toll bridge (219.3 P.C.)

Hurling missile at vehicle or watercraft; shooting at trains, etc. (219.2 P.C.)

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>5. This crime is a misdemeanor, and does not require injury or assault.</p> <p>6. P.C. 417b--Exhibiting firearm in presence of peace officer (felony)</p> <p>a. Every person in immediate presence of peace officer</p> <p>(1) As defined in 830.1 P.C., Section 830.2, 830.3(a), and Section 830.5.</p> <p>b. Draws or exhibits any firearm</p> <p>(1) Loaded or unloaded</p> <p>(2) Rude, angry or threatening manner</p> <p>c. Knows or reasonably should know victim is a peace officer</p> <p>(1) Engages in duty and is actually engaged in duty</p> <p>d. Related Section:</p> <p>(1) P.C. 417.1 - Drawing or exhibiting firearm in presence of reserve officers. (felony)</p> <p>(2) P.C. 417.8 - Drawing or exhibiting firearm or deadly weapon with intent to resist detention or arrest. (felony)</p> <p>B. Drawing or exhibiting replica of firearm (P.C. 417.2) (misdemeanor)</p> <p>1. Every person who, except in self defense, draws or exhibits a replica of a firearm in a threatening manner against another in such a way to cause a reasonable person apprehension or fear of bodily harm.</p>	

Reference Notes

Note: P.C. 653k - Constructive possession is insufficient for a violation of this statute.

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>2. As used in this section, "a replica of a firearm," means any device with the apparent capability of expelling a projectile by the force of air or an explosion and which is reasonably perceived by the person against whom the device is drawn or exhibited to be an actual firearm, including starter pistols and air guns.</p> <p>C. Drawing or exhibiting firearm in presence of occupant of motor vehicle proceeding on public street or highway. (P.C. 417.3) (felony)</p> <p>1. Every person who, except in self defense, in the presence of any other person who is an occupant of a motor vehicle proceeding on a street or highway, draws or exhibits any firearm, whether loaded or unloaded in a threatening manner against another person in such a way to cause a reasonable person apprehension or fear of bodily harm is guilty of a felony.</p> <p>D. Discharging firearm from motor vehicle (P.C. 12034)</p> <p>1. Driver or owner permitting others to carry or bring firearms into motor vehicle. (P.C. 12034a) (misdemeanor)</p> <p>2. Driver or owner permitting others to discharge firearms from motor vehicle (P.C. 12034b) (felony/misdemeanor)</p> <p>a. Owner need not be occupying vehicle (12034a & b P.C.)</p> <p>3. Any person who willfully and maliciously discharges a firearm from a motor vehicle at another person other than an occupant of a motor vehicle. (P.C. 12034c) (felony)</p> <p>E. Shooting At Inhabited Dwelling Or Occupied Building or Vehicle P.C. 246 (felony)</p>	

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>1. The section reads: "Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, inhabited house car or inhabited camper" is guilty of a felony.</p> <p>2. Corpus Delicti--The elements of the crime are:</p> <p>a. Maliciously and willfully (intent), and</p> <p>b. Inhabited dwelling house or occupied building as used in this section, "inhabited" means currently being used for dwelling purposes whether occupied or not.</p> <p>c. Must be discharged "at", not within - as specified by the code.</p> <p>3. The intent in this section simply implies a purpose or willingness to commit the act with the intent to commit a wrongful act. It does not require any intent to injure another. Also, no one has to be hit by the bullet.</p> <p>F. Discharge of firearm in grossly negligent manner (felony/misdemeanor)</p> <p>1. Except as otherwise authorized by law, any person who willfully discharges a firearm in a grossly negligent manner which could result in injury or death to a person is guilty of a public offense.</p> <p>G. Shooting at unoccupied aircraft, motor vehicle, or uninhabited building or developing house (PC 247)</p> <p>1. Any person who willfully and maliciously discharges a firearm at an unoccupied aircraft is guilty of a felony.</p> <p>2. Any person who discharges a firearm at an unoccupied motor vehicle or an uninhabited building or developing house is guilty of a public offense punishable by imprisonment in</p>	<p>3.24.2 Given word-pictures or audio-visual presentations depicting the possible shooting at an inhabited dwelling, occupied building, inhabited house car, inhabited camper, vehicle, or aircraft, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 246, 246.3 and 247)</p>

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>the county jail for not more than one year or in the state prison. This subdivision does not apply to shooting at an abandoned vehicle or shooting at an unoccupied vehicle with the permission of the vehicle's owner.</p> <p>H. Carrying, selling, etc., of switchblade knife with a blade over 2" in length P.C. 653k (misdemeanor)</p> <ol style="list-style-type: none"> 1. The section reads: "Every person who possesses in the passenger's or driver's area of any motor vehicle in any public place or place open to the public, carries upon his person, and every person who sells, offers for sale, exposes for sale, loans, transfers or gives to any other person a switchblade knife having a blade over two inches in length, is guilty of a misdemeanor." 2. Definition of a "switchblade knife" for this section is: <ol style="list-style-type: none"> a. A knife having the appearance of a pocket knife. b. Shall include a spring blade knife, snap blade knife, gravity knife, or any other similar type knife. c. The blade or blades must be "<u>two or more inches</u>" long. d. The blade or blades must be able to be released automatically by a flick of a button, pressure on the handle, flip of the wrist, or other mechanical device, or is released by the weight of the blade or by any type of mechanism whatsoever. 3. Corpus Delicti--The key elements of the crime are: <ol style="list-style-type: none"> a. Carried upon the person or in a vehicle b. Person who sells or offers to sell c. Exposes for sale 	<p>3.24.3 Given word-pictures or audio-visual presentations depicting possible violation of law regarding a switchblade knife, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 653k)</p> <p>Note: Conflict exists with blade length specified in the statute</p>

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<ul style="list-style-type: none"> d. Loans e. Transfers f. Or gives to any other person a switchblade knife g. Blade two or more inches in length h. The blade or blades must be able to be released automatically i. Or released by any mechanism whatsoever <p>I. The Unlawful Possession And Carrying Of Concealed Weapons</p> <ul style="list-style-type: none"> 1. Section 12001 - Definitions: <ul style="list-style-type: none"> a. "Pistol," "revolver," and "firearms capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon from which is expelled a projectile by force of an explosion or form of combustion, having a barrel less than 16 inches in length. These terms also include any device which has a barrel of 16" or more in length which is designed to be interchanged with a barrel less than 16" in length. "Pistol," "revolver," and "firearms capable of being concealed upon the person" as used in Sections 12021, 12072, and 12073 include the frame or receiver of any such weapon. b. Includes flare guns, rocket launchers, Tasers, for purposes of P.C. 12025. 2. Section P.C. 12020 (felony) <p>Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, any cane gun, or wallet gun, any plastic firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container ammunition</p> 	<p>3.24.4 Given word-pictures or audio-visual presentations depicting possible possession of any weapons enumerated in P.C. Section 12020, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 12020 and 626.10)</p> <p>Note: Metal knuckles means any device made wholly or partially of metal. Includes studded gloves.</p>

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any short barreled shotgun, any short barreled rifle, any metal knuckles, any buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a <u>blackjack, slungshot, billy nunchaku, sandclub, sap or sandbag</u>, or who carries concealed upon his person any explosive substance (other than fixed ammunition), or who (carries concealed) upon his person any dirk or dagger, is guilty of a felony. (See Section 12020 P.C. for <u>definition of weapons</u> described in this section.)</p> <p>a. Short barreled shotgun/short barreled rifle</p> <p>As used in this section, a "<u>short barreled shotgun</u>" is a shotgun having a barrel or barrels of <u>less than 18 inches</u> or has been modified and the overall length is <u>less than 26 inches</u>. A short barreled rifle is a rifle having a barrel or barrels <u>less than 16 inches</u> or has an overall length <u>less than 26 inches</u>.</p> <p>b. Authorization to carry wooden club or baton P.C. 12002</p> <p>Exceptions: Nothing in this chapter prohibits police officers, special police officers, peace officers, or law enforcement officers from carrying any wooden club, baton, or any equipment authorized for the enforcement of law by ordinance in any city or county.</p> <p>c. Knives carried in sheaths openly suspended from the waist of the wearer are not concealed within the meaning of this section.</p>	<p>PC 12020(c)(1)</p> <p>PC 12020(c)(2)</p> <p>Note: 7539.3 B&P Code requires a private security officer carrying a 'baton' must wear a shoulder patch which identifies him as a "private security officer."</p>

Reference Notes

Section 12028 P.C. -- Destruction of Weapons

Makes a dirk, dagger, switchblade knives, pistol, revolver, or other firearm carried in violation of Deadly Weapons Control Law (D.W.C.L.) a nuisance. Nuisances will be surrendered to a magistrate or head of police department and shall be destroyed annually between the first and tenth of July. If recovered stolen property, not destroyed.

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>3. Section 12021 P.C.</p> <p>This section of the Deadly Weapons Control Law (DWCL) prohibits certain individuals from possessing any firearm capable of being concealed. The section applies to the following individuals:</p> <ul style="list-style-type: none"> a. Convicted felons, exception "self-defense" if life-threatening situation, and b. Persons addicted to a narcotic drug. <p>The foregoing individuals may not own or possess, or have under their custody or control any firearms.</p> <p>Note: See 12021 P.C. regarding the possession of firearms by felons.</p>	<p>3.24.5</p> <p>Given word-pictures or audio-visual presentations depicting possible possession of a concealable firearm by a felon, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 12021 and 120215)</p>
<p>4. Section 12023 P.C. - Prima facie evidence</p> <p>In the trial of a person charged under 12022 P.C., the fact that he was so armed shall be prima facie evidence of his intent to commit the felony of 12022 P.C.</p>	
<p>5. Section 12101 P.C. - A minor may not possess a firearm without written permission from a parent or guardian or unless accompanied by a parent or guardian.</p> <ul style="list-style-type: none"> a. May not possess live ammunition without written permission from parent or guardian or unless accompanied by them. 	<p>3.24.6</p> <p>Given word-pictures or audio-visual presentations depicting possible carrying of a concealed weapon, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 12025, 12026, 12026.1, 12026.2, 12027, 467, and 626.9)</p>
<p>6. Section 12025 P.C. - Carrying Certain Firearms</p> <p>This section deals with carrying firearms without license, as follows: Any person within this state who carries, loaded or unloaded:</p> <ul style="list-style-type: none"> a. Concealed on his person, or b. Concealed in his vehicle which is under his control or direction any pistol, 	

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>revolver, or any firearm capable of being concealed shall be guilty of a misdemeanor and, if he has been convicted previously of any felony, or of any crimes made punishable by this chapter, he is guilty of a felony.</p> <p>c. Related sections:</p> <ul style="list-style-type: none"> (1) P.C. 12320 - Possession armor piercing ammo. (2) P.C. 12321 - Manufacture or sale of armor piercing ammo. (3) P.C. 12022.2 - Enhancement of felony regarding possession of armor piercing ammo. <p>7. Section 12026 - Exceptions</p> <p>Citizens over the age of 18 years (not within excepted classes of Section 12021) may own, possess, or keep a firearm capable of being concealed, either openly or concealed at a place of business or on private property lawfully possessed by the resident.</p> <p>8. Section 12026.1 - Concealable weapons</p> <p>a. Section 12025 shall not be construed to prohibit any citizen of the United States over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021, from transporting or carrying any pistol, revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:</p>	<p>Weapon is to be unloaded</p>

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>(1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle other than the utility or glove compartment.</p> <p>(2) The firearm is carried by the person directly to or from any motor vehicle for any lawful purpose and, while carrying the firearm, the firearm is contained within a locked container.</p> <p>b. The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.</p> <p>c. As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device.</p> <p>9. Section 12027 - Exceptions from Section 12025 P.C.</p> <p>a. Peace officers - Full-time, paid police officers of other states; federal government agents carrying out duties; those summoned to assist the above.</p> <p>b. Merchants transporting unloaded firearms</p> <p>c. Active or retired officers (retired officers must renew permit every five years); Army, Navy, Marine Corps of United States or National Guard (when on duty); organizations authorized to purchase by law (from United States or California)</p>	<p>Note: Requires agency's identification certificate to be endorsed to carry a concealable firearm. Applies to officers retired after 1-1-81. Endorsement must also now state "ccw approved"</p>

Reference Notes

Note: Requires agency's identification certificate to be endorsed to carry a concealable firearm. Applies to officers retired after 1-1-81.

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>d. Authorized military or civil organizations while parading and going to and from places of meetings (VFW, etc.)</p> <p>e. Guards and messengers of financial institutions (banks, transporting bullion, money, while actually employed in and about the shipment)</p> <p>f. Shooting clubs (going to and from)</p> <p>g. Licenses hunters and fishermen (going to or from)</p> <p>h. Collectors clubs - meetings (going to or from)</p> <p>Provided:</p> <p>(1) Firearms are kept in the trunk, or</p> <p>(2) If vehicle has no trunk, firearms are kept in a locked container other than the glove compartment and are unloaded.</p>	
<p>10. Section 12031 - Carrying of loaded firearm in a public place (misdemeanor)</p> <p>a. Every person who carries a loaded firearm on his person or in a vehicle while in any public place or on any public street in an incorporated city or in an unincorporated territory is guilty of a misdemeanor.</p> <p>b. Foregoing shall not apply to peace officers, etc.</p> <p>c. Peace officers are authorized to examine any firearms carried by anyone on his person or in a vehicle while in a public place or public street. Refusal to allow inspection constitutes probable cause for arrest.</p>	<p>3.24.7 Given word-pictures or audio-visual presentations depicting possible carrying of a loaded firearm, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 12031 and Health and Safety Code Sections 11550c and 11370.1)</p>

Reference Notes

Note: Private citizens wishing to transport firearms should carry unloaded in plain sight.

12028 P.C. provides felony provisions for any person who assembles, maintains, places, or causes to be placed a booby trapped device.

12028.5 P.C. Peace Officer at scene of domestic violence may temporarily seize firearm.

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<ul style="list-style-type: none"> d. Prohibited areas mean any place where it is unlawful to discharge a weapon. e. Firearm deemed loaded when there is an un-expended cartridge or shell in or attached in any manner to the firearm, including firing chamber, magazine, or clip. Muzzle-loaded is loaded when capped or primed and has powder charge and ball or shot in barrel or cylinder. f. Exempts persons from having loaded firearms <u>within</u> business or on private property. Subsection (h) 12031 precludes carrying on person. May be kept within place of business (People vs Overturf 64 CA 3d Suppl). g. Exempts hunters engaged in hunting. h. Exempts one who reasonably believes that the property or person of another or himself is in danger and firearms are necessary for preservation. i. Exempts persons while making a lawful arrest. j. Exempts persons having firearm at residence, temporary residence, or campsite. (OK if reasonably believes life is in danger) k. Section 12031(b)(5) - Uniformed security guards allowed to carry loaded firearms to and from their residences or place of employment. 	
<ul style="list-style-type: none"> 11. Assault Weapons - 12276, 12276.5 and 12285 P.C. <ul style="list-style-type: none"> a. Possession of specific assault weapons is prohibited. b. Applies to weapons obtained after June 1, 1989. c. Weapons possessed prior to June 1, 1989 must be registered by January 1, 1991. 	

Learning Goal 3.24.0 : The student will understand and have a working knowledge of the laws relative to deadly weapons as defined in California law.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>12. Section 467 - Possession of a deadly weapon with intent to assault another (misdemeanor).</p> <p>13. Tampering with marks</p> <p>a. Section 12090 P.C.</p> <p>No person shall: Change, alter, remove, or obliterate identifying marks on pistol or revolver without written permission.</p>	<p>3.24.8</p> <p>Given word-pictures or audio-visual presentations depicting the possible altering of the serial numbers on a firearm, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Sections 12090)</p>

Learning Goal 3.30.0 : The student will understand and have a working knowledge of California laws relative to gaming.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>IV. GAMING LAW (3.30.0)</p> <p>A. Gaming P.C. 330 - (misdemeanor)</p> <ol style="list-style-type: none"> 1. Every person who deals, plays, or carries on, opens, or causes to be open, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noir, rondo, tan, fantan, stud-horse poker, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of said prohibited games, is guilty of a misdemeanor. 2. Corpus Delicti--Elements of the crime <ol style="list-style-type: none"> a. Who <ol style="list-style-type: none"> (1) Person who <u>deals, plays, or carries on, opens, or causes to be open, or who conducts, either as owner or employee, whether for hire or not</u> (2) Persons who <u>play at or bet at</u> <ol style="list-style-type: none"> (a) <u>Faro</u> is a game of chance in which cards, chips, a green cloth layout, and a dealing box is used. The game is based on 13 cards of the spade suit. Present at a game are players, dealer, and a casekeeper who keeps track of cards played. Players bet that any of two, three or more cards will win by placing chips upon the playing cloth. (b) <u>Monte</u> or Monte Bank is a game of chance that is very similar to Lansquenet. It is played by any number of 	<p>3.30.1 Given word-pictures or audio-visual presentations depicting possible gaming violations, the student will determine if the crime is complete and, in any situation where the crime is complete, will identify the crime by its common name and crime classification. (Penal Code Section 330)</p>

Learning Goal 3.30.0 : The student will understand and have a working knowledge of California laws relative to gaming.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>persons with a deck of cards from which the 8's and 10's have been removed. Chips or money are placed as bets. The banker places cards face up on the table. Players bet on cards laid by banker.</p> <p>(c) <u>Roulette</u> is a game of chance. Any number of persons can play roulette. All bets are placed against the house. Equipment is a "wheel," at either end of which there is a layout on which bets are placed by players. The wheel turns on a spindle and is divided into 37 or 38 sections in which a small ivory ball (which is spun in the wheel) may come to rest and designate a winning number. A "tourneur" spins the wheel. A "croupier" pays off and collects bets.</p> <p>(d) <u>Lansquenet</u> is a card game of chance. The banker uses a 52 card deck and places the two top cards of the pack face upwards on the table. One card is dealt face up by the banker to himself and each of the players. Players place their bets and the banker covers them. Chips or money are used as bets.</p> <p>(e) <u>Rouge et noir (trente et quarante)</u> is a game of chance and is essentially a casino game as is baccarat. It is played on a long table on top of which is a specifically</p>	<p>Note: The students should familiarize themselves with the remaining sections in both Chapter 10 and 10.5 of the Penal Code. These are sections involved with vice activities pertaining to gambling.</p> <p>Note: Stress that gaming paraphernalia should be retained as evidence if arrests are made or warrants are issued.</p> <p>Note: Associated with highly organized gaming schemes.</p>

Learning Goal 3.30.0 : The student will understand and have a working knowledge of California laws relative to gaming.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>marked layout. The banker sits midway down one of the sides. The players sit, and some stand behind them, at each end. Six packs of cards are used. Cards are dealt by the banker. Players bet on the outcome of the deal.</p> <p>(f) <u>Rondo</u> is a card game of chance played with a deck of 52 cards by several players.</p> <p>(g) <u>Fan Tan</u> (Tan, Card Dominoes, Parliament and Sevens). Fan Tan is a game of chance and is played with a standard 52 card deck ranking in order from king (high) to ace (low). Bets are placed into a pool (kitty) before cards are dealt. The game is won by the player who is the first to get rid of his cards. Chips or money are used as bets.</p> <p>(h) <u>Stud-horse poker</u> is a card game of chance played with a deck of 52 cards. Stud-horse is a variation of the parent game poker. Types of stud-horse are 5 card stud and 7 card stud. There is no ante unless agreed upon. The deal is interrupted for a betting interval. Chips or money are used as bets.</p> <p>(i) <u>Twenty-one</u> is a game of chance played with either one or two decks of cards with jokers removed. Players bet against the</p>	<p>Note: No longer a popular game of chance.</p>

Learning Goal 3.30.0 : The student will understand and have a working knowledge of California laws relative to gaming.

Unit Outline & Presentation	Objectives & Instructional Cues
<p>house (dealer). Two cards each are dealt to the players and to the dealer himself. Additional cards may or may not be dealt. Object is to attain the score of 21. Money is used for bets. Game is very fast.</p> <p style="text-align: center;"><u>OR</u></p> <p>ANY BANKING OR PERCENTAGE GAME PLAYED WITH CARDS, DICE OR ANY DEVICE</p> <p>b. For</p> <ul style="list-style-type: none">(1) Money(2) Checks(3) Credit, or(4) Other representative of value (chips, matches, etc.)	

SUPPORTING MATERIAL

AND

REFERENCES

Reference Materials

This section is set up as reference information for use by training institutions. These materials can be utilized for prime instruction; remediation, additional reading, viewing or for planning local units of instruction. They are presented here as instructional materials that may assist the learner or the academy staff in the teaching-learning process. Each training institution is encouraged to expand this list but only after careful viewing and reading to determine its acceptability.

Black, Henry Campbell, Black's Law Dictionary. Minnesota: West Publishing Company.

California Digest, West Publishing Co., St. Paul, Minnesota.

California Penal Code, Legal Book Corporation, Los Angeles.

California Reporter, West Publishing Co., St. Paul, Minnesota.

California Peace Officers Legal Source Book - California Department of Justice.

Deering's California Penal Code, California: Bancroft-Whitney Co., Publishers

Compilation of the Penal statutes of the State of California, both substantive and adjective in nature.

Health and Safety Code: Sections 1-15023, California: State of California, Department of General Services.

Hervey, George F., Card Games, Doubleday and Company, Garden City, N.Y. 1962.

Hoyle, Book of Games, 1974.

Jacoby, Oswald, Fireside Book of Cards, Simon and Schuster, N.Y. 1959.

The Los Angeles Daily Journal. Los Angeles, California: Daily Journal Company, Publishers, a daily legal newspaper.

"Offenses Against the Public Peace" Module 93.01 Project MILE, Los Angeles Police Department.

In no way is this list an endorsement of any author, publisher, producer, or presentation. Each training institution must read or view these materials, and others to establish their own list of reference materials.