

# BASIC COURSE INSTRUCTOR UNIT GUIDE

40

WEAPONS VIOLATIONS

July 1993

144151

U.S. Department of Justice  
National Institute of Justice

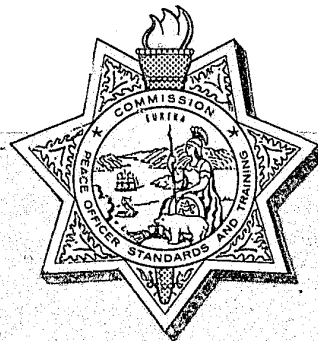
This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material 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.



THE COMMISSION  
ON PEACE OFFICER STANDARDS AND TRAINING  
STATE OF CALIFORNIA

This unit of instruction is designed as a *guideline* for performance objective-based law enforcement basic training. It 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.

## UNIT GUIDE 40

### TABLE OF CONTENTS

#### LEARNING DOMAIN 40 Weapons Violations

Knowledge Domain 40 (POSTRAC-tested)		Page
3.24.1	Drawing or Exhibiting a Firearm .....	1
3.24.2	Shooting at an Inhabited Dwelling .....	5
3.24.3	Possession of a Switchblade Knife .....	7
3.24.4	Possession of a Deadly Weapon .....	9
3.24.5	Possession of Firearm by a Felon, etc. ....	13
3.24.6	Carrying a Concealed Weapon .....	15
3.24.7	Carrying a Loaded Firearm .....	17
3.24.8	Altering Identifying Marks on a Firearm .....	19
3.24.9	Possession of Tear Gas .....	21
3.24.10	Weapons on School Grounds .....	23
3.24.11	Exceptions to Possession of Concealed Firearm .....	25
3.24.12	Possession of Deadly Weapon with Intent to Assault .....	29
3.24.13	Unsafe Storage of Firearm .....	31

Supporting Materials and References

## **DRAWING OR EXHIBITING A FIREARM**

Given a word picture depicting the possible drawing or exhibiting a firearm or a replica, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 417, 417.1, 417.2(a), 417.3 and 417.8)

Performance Objective 3.24.1

### **CURRICULUM**

- A. Drawing, exhibiting or using a firearm or deadly weapon (Penal Code Section 417(a)(1) - Misdemeanor)
  - 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.
    - a. In the presence of any other person
    - b. Draws or exhibits
      - (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: "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."
  - 4. Corpus Delicti--The elements of the crime are very specific.
    - a. In the presence of any other person, exhibits
    - b. Loaded or unloaded firearms, and
      - (1) in a rude, angry, or threatening manner, or
      - (2) uses the same in any fight or quarrel.
  - 5. This crime is a misdemeanor, and does not require injury or assault.

6. Exhibiting loaded firearm on daycare facilities (Penal Code Section 417b) - Felony
  - a. On the grounds of any daycare center as defined in Health and Safety Code Section 1596.76.
    - (1) For recreation programs for persons under the age of 18 years.
    - (2) During the hours in which the facility is open for use.
  - b. Draws or exhibits any firearm
    - (1) Loaded
    - (2) Rude, angry or threatening manner
    - (3) Unlawfully uses in a fight or quarrel.
7. Exhibiting firearm in presence of peace officer (Penal Code Section 417c) - Felony
  - a. Every person in immediate presence of peace officer
    - (1) As defined in Penal Code Section 830.1, Section 830.2, 830.3(a), and Section 830.5.
  - b. Draws or exhibits any firearm
    - (1) Loaded or unloaded
    - (2) Rude, angry or threatening manner
  - c. Knows or reasonably should know victim is a peace officer
    - (1) Engages in duty and is actually engaged in duty
  - d. Related sections:
    - (1) Drawing or exhibiting firearm in presence of reserve officers (Penal Code Section 417.1) - Felony
    - (2) Drawing or exhibiting firearm or deadly weapon with intent to resist detention or arrest (Penal Code Section 417.8) - Felony

- B. Drawing or exhibiting replica of firearm (Penal Code Section 417.2) - Misdemeanor

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.
  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.
- C. Drawing or exhibiting firearm in presence of occupant of motor vehicle proceeding on public street or highway. (Penal Code Section 417.3) - Felony
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.
    - a. The suspect is not required to be an occupant of a motor vehicle.
- D. Drawing or exhibiting laser scope. (Penal Code Section 417.25) - Misdemeanor
1. Every person who, except in self defense, knowingly draws or exhibits a laser scope, that projects a colored target on a person in a threatening manner with the specific intent to cause a reasonable person apprehension or fear of bodily harm.
    - a. Laser scope need not be attached to a firearm.
    - b. A laser scope is defined as a portable battery powered device capable of being attached to a firearm and capable of projecting a laser light on objects at a distance.
- E. Discharging firearm from motor vehicle (Penal Code Section 12034)
1. Driver or owner knowingly permitting others to carry or bring firearms into motor vehicle. (Penal Code Section 12034(a)) - Misdemeanor
  2. Driver or owner permitting others to discharge firearms from motor vehicle (Penal Code Section 12034(b)) - Felony/Misdemeanor
    - a. Owner need not be occupying vehicle

(Penal Code Section 12034(a) & (b))

- 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. (Penal Code Section 12034(c)) - Felony
- F. Shooting at inhabited dwelling or occupied building or vehicle Penal Code Section 246 - Felony
- G. Shooting on public highways (Penal Code Section 374c) - Misdemeanor

## SHOOTING AT AN INHABITED DWELLING

Given a word picture depicting the possible shooting at an inhabited dwelling, occupied building, inhabited house car, inhabited camper, vehicle, or aircraft, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 246, 246.3 and 247)

Performance Objective 3.24.2

### CURRICULUM

- A. Shooting at an inhabited dwelling, etc. (Penal Code Section 246)
  - 1. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, occupied aircraft, inhabited house car or inhabited camper is guilty of a felony.
  - 2. Corpus Delicti--The elements of the crime are:
    - a. Maliciously and willfully (intent), and
    - b. Inhabited dwelling house or occupied building as used in this section, "inhabited" means currently being used for dwelling purposes whether occupied or not.
    - c. Must be discharged "at", not within - as specified by the code.
  - 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.
- B. Discharge of firearm in grossly negligent manner (Penal Code Section 246.3) - Felony/Misdemeanor
  - 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.
- C. Shooting at unoccupied aircraft, motor vehicle, or uninhabited building or dwelling house (Penal Code Section 247) - Felony/Misdemeanor
  - 1. Any person who willfully and maliciously discharges a firearm at an unoccupied aircraft is guilty of a felony.
  - 2. Any person who discharges a firearm at an unoccupied motor vehicle -or an uninhabited building or dwelling house is guilty of a public offense punishable by imprisonment in 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.

D. Shooting at common carriers (Penal Code Section 219.2) - Felony

## POSSESSION OF A SWITCHBLADE KNIFE

Given a word picture depicting a possible possession of a switch blade knife, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 653k)

Performance Objective 3.24.3

### CURRICULUM

- A. Carrying, selling, etc., of switchblade knife with a blade over 2" in length  
(Penal Code Section 653k) - Misdemeanor
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:
    - 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 "two or more inches" long.

NOTE: Conflict exists with blade length specified in the statute.

    - 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:
    - a. Carried upon the person or in a vehicle in a public place or place open to the public
    - b. Person who sells or offers to sell
    - c. Exposes for sale
    - 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

### POSSESSION OF A DEADLY WEAPON

Given a word picture depicting a possible manufacture, sale, possession, or import of the following dangerous weapons, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 12020)

Weapons include:

- A. Any firearm which is not immediately recognizable as a firearm e.g. pen gun, belt buckle gun
- B. Ballistic knife
- C. Multiburst trigger activator
- D. Nunchaku
- E. Short-barreled shotgun/rifle
- F. Metal knuckles
- G. Belt buckle knife
- H. Zip gun
- I. Shuriken (throwing stars)
- J. Billyclubs and saps
- K. Dirk or dagger

Performance Objective 3.24.4

### CURRICULUM

#### A. The unlawful possession of dangerous weapons

##### 1. Penal Code Section 12020 - Felony

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 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 blackjack, slungshot, billy nunchaku, sandclub, sap or sandbag, 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 Penal Code Section 12020 for definition of weapons described in this section.)

##### a. Corpus Delicti--key elements of the crime:

1. Manufacture, import, keeps for sale, offers for sale, gives, lends, or possesses the following specified weapons as defined:
  - (a) any firearm not immediately recognizable as a firearm, e.g., pen gun, belt buckle gun, etc.
  - (b) ballistic knife - a device that propels a knife like blade as a projectile by means of a coil spring, elastic material, or compressed gas. (does not include cross bows or spear guns)
  - (c) multiburst trigger activator - a device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device
  - (d) nunchaku - an instrument consisting of two or more sticks, clubs, bars, or rods to be used as handles, connected by a rope, cord, wire, or chain
  - (k) short-barreled shotgun - a shotgun having a barrel or barrels of less than 18 inches or have been modified and the overall length is less than 26 inches.
  - (l) short-barreled rifle - a rifle having a barrel or barrels less than 16 inches or has been modified and the overall length is less than 26 inches.
  - (m) metal knuckles - any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and protects the wearer's hands or increases the force of impact.
  - (m) belt buckle knife - a knife which is an integral part of a belt buckle and consists of a blade with a length of at least 2 1/2 inches.
  - (n) zip gun - a weapon which is not imported, designed, or taxed as a firearm, which has been altered or made to expel a projectile by the force of an explosion or other combustion which has a barrel or barrels less than 18 inches in length or an overall length of less than 26 inches.
  - (o) Shuriken - (throwing star) any instrument without handles, consisting of a metal plate having three or more radiating points, with one or more sharp edges and designed in a geometric shape for use as a weapon for throwing
  - (p) billy club and saps, e.g., wooden club, baton, bludgeon, weighted pool cue, weighted baseball bat, small leather covered club or billy weighted at one end and having an elastic shaft, etc.

(q) dirk or dagger - a stabbing instrument with a fixed blade or a blade which is capable of being fixed, which is capable of reaching a vital organ.

(1) Must be concealed upon the person to be illegal pursuant to Penal Code Section 12020

(2) Knives carried in sheaths openly suspended from the waist of the wearer are not concealed within the meaning of this section

NOTE: See Penal Code Section 12020 for definitions of other weapons which are illegal to possess.

b. Authorization to carry wooden club or baton  
Penal Code Section 12002

(1) 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.

(2) Business and Professions Code Section 7539.3 requires private security officers carrying a baton to wear a shoulder patch which identifies them as security officers.

c. Authority to seize weapons (Penal Code Section 12028)



### **POSSESSION OF ANY FIREARM BY A FELON**

Given a word picture depicting a possible possession of a concealable firearm by a felon, a narcotic addict, a person who has been convicted within the past ten years of certain specified misdemeanors, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 12021 and 12021.5)

Performance Objective 3.24.5

#### **CURRICULUM**

- A. Possession of any firearm by a felon, narcotic addict, or a person convicted, within the last ten years, of specified misdemeanors (Penal Code Section 12021) - Felony
  - 1. Corpus Delicti--The key elements of the crime are:
    - a. Convicted felons, exception "self-defense" if life-threatening situation, or
    - b. Persons addicted to a narcotic drug or
    - c. Persons convicted within the last ten years of the following misdemeanors, Penal Code Sections 136.5, 140, 171b, 171c, 171d, 241, 243, 244.5, 245, 245.5, 246.3, 247, 417, 417.2, 626.9, 12034(b), 12034(d), 12100(a), 12320, and 12590.
    - d. Who own, possess, or have under their control or custody
    - e. Any firearm
- B. Carrying of a firearm during the commission or attempted commission of street gang crime (Penal Code Section 12021.5) - sentence enhancement
- C. Persons prohibited from possessing a firearm or other deadly weapon because of mental disorder (Welfare and Institutions Code Sections 8100 and 8103) - Felony/Misdemeanor





### **CARRYING A CONCEALED WEAPON**

Given a word picture depicting a possible carrying of a concealed weapon, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 467, 626.9, 12025, 12026, 12026.1, 12026.2, and 12027)

Performance Objective 3.24.6

### **CURRICULUM**

#### **A. Carrying a concealed firearm (Penal Code Section 12025) - Misdemeanor**

1. Corpus Delicti—key elements of the crime:
  - a. Any person who carries, loaded or unloaded
  - b. Concealed on his or her person, or
  - c. Concealed in any vehicle which is under his or her control or direction
  - d. any pistol, revolver, or any firearm capable of being concealed
2. If he or she has been convicted previously of any felony, or of any crimes made punishable by this chapter, he or she is guilty of a felony.
3. Definition of a concealable firearm (Penal Code Section 12001)
  - 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 Penal Code Section 12025.
  - c. Related sections:
    - (1) Penal Code Section 12320 - Possession armor piercing handgun ammunition.

- (2) Penal Code Section 12321 - Manufacture or sale of armor piercing handgun ammunition.
  - (3) Penal Code Section 12022.2 - Enhancement of felony regarding possession of armor piercing ammunition.
  - (4) Penal Code Section 12023 - In the trial of a person charged under Penal Code Section 12022, the fact that he was so armed shall be prima facie evidence of his intent to commit the felony of Penal Code Section 12022
  - (5) There are a number of exceptions to Penal Code Section 12025 which include Penal Code Section 12026, 12026.2, 12026.2, 12027 and 12050.
4. A minor may not possess a firearm without written permission from a parent or guardian or unless accompanied by a parent or guardian (Penal Code Section 12101)
- a. May not possess live ammunition without written permission from parent or guardian or unless accompanied by them.

### **CARRYING A LOADED FIREARM**

Given a word picture depicting a possible carrying of a loaded firearm, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 12031 and Health and Safety Code Section 11370.1)

Performance Objective 3.24.7

### **CURRICULUM**

#### **A. Carrying of loaded firearm in a public place (Penal Code Section 12031) Misdemeanor**

1. Corpus Delicti--The key elements of the crime are:
  - a. Any person,
  - b. who carries,
  - c. a loaded firearm
    - (1) on his person
    - (2) or in a vehicle,
  - d. in any public place or on any public street
    - (1) in an incorporated city or
    - (2) in a prohibited area of unincorporated territory.
2. Firearm deemed loaded when there is an unexpended 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.
3. Peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in a public place or public street. Refusal to allow inspection constitutes probable cause for arrest.
4. Prohibited areas mean any place where it is unlawful to discharge a weapon.

#### **B. Exemptions.**

1. Foregoing shall not apply to peace officers, etc.
2. Any officer, employee, agent, or employer within their place of business or any person in lawful possession of private property

3. Hunters while engaged in hunting
  4. A person who reasonably believes that the property or person of another or himself is in danger and firearms are necessary for preservation
  5. Persons while making a lawful arrest
  6. Persons having firearm at residence, temporary residence, or campsite
  7. Persons who reasonably believe that their life is in grave danger because of circumstances forming the basis of a current restraining order
  8. Uniformed security guards allowed to carry loaded firearms to and from their residences or place of employment (Penal Code Section 12031(b)(5))
- C. Possession of certain controlled substances while armed with a loaded operable firearm (Health and Safety Code Section 11370.1 - Felony
- D. Possession of a shotgun/rifle with an unexpended round in the chamber - (Fish and Game Code Section 2006) - Misdemeanor
- E. Assault weapons (Penal Code Section 12276, 12276.5 and 12285)
1. Possession of specific assault weapons is prohibited.
  2. Applies to weapons obtained after June 1, 1989
  3. Weapons possessed prior to June 1, 1989 must be registered by January 1, 1991

### **ALTERING IDENTIFYING MARKS ON A FIREARM**

Given a word picture depicting the possible altering of identifying marks on a firearm, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 12090)

Performance Objective 3.24.8

#### **CURRICULUM**

- A. Tampering with identifying marks (Penal Code Section 12090) - Felony
  - 1. Corpus Delicti--key elements:
    - a. Change, alter, remove, or obliterate
    - b. Name of the maker, model, manufacturer's number, or other mark of identification
    - c. On any pistol, revolver, or any other firearm
    - d. Without written permission of the Department of Justice
- B. Presumption that possessor altered mark (Penal Code Section 12091)



### POSSESSION OF TEAR GAS

Given a word picture depicting a possible possession of tear gas or a tear gas weapon, the student will identify if the possession is a lawful exception to Penal Code Section 12420. The major exceptions to the prohibition against possession are as follows.

- A. A peace officer who has completed an approved course of instruction on the use of tear gas (Penal Code Section 12403)
- B. A member of the military or naval forces of California or of the United States or any federal law enforcement officer (Penal Code Section 12403.1)
- C. A licensed private investigator or private patrol officer (Penal Code Section 12403.5)
- D. A person in possession of a card showing that he has completed a DOJ certified course on the use of tear gas and tear gas weapons (Penal Code Section 12403.7)

Performance Objective 3.24.9

### CURRICULUM

- A. Possession of tear gas (Penal Code Section 12420) - Misdemeanor
  - 1. Corpus Delicti--key elements:
    - a. Any person, firm, or corporation
    - b. Knowingly sells, offers for sale, possesses or transports
    - c. Tear gas or tear gas weapon
  - 2. Tear gas defined (Penal Code Section 12401)
    - a. All liquid, gaseous, or solid substances intended to produce temporary discomfort or permanent injury through being vaporized or otherwise dispersed in the air. Does not apply to and shall not include any substance registered as an economic poison as specified in the Agriculture Code.
  - 3. Tear gas weapon (Penal Code Section 12402)
    - a. Any shell, cartridge, or bomb capable of being discharged or exploded which allows the release of tear gas.
    - b. Any revolver, pistol, fountain pen gun or other device intended for the release of tear gas.
  - 4. Exemptions
    - a. A peace officer who has completed an approved course of instruction on the use of tear gas (Penal Code Section 12403)



- b. Members of the military or naval forces of California, the military or naval forces of the United States, or any federal law enforcement officers, when in the official performance of their duties (Penal Code Section 12403.1)
- c. A licensed private investigator or private patrol officer who has completed an approved course of instruction on the use of tear gas (Penal Code Section 12403.5)
- d. A person in possession of a card showing that he has completed a Department of Justice-certified course on the use of tear gas and tear gas weapons (Penal Code Section 12403.7)

NOTE: No persons shall possess tear gas weapons other than authorized by DOJ.

NOTE: Illegal to possess tear gas weapon with altered serial numbers (Penal Code Section 12422) - Felony

## **WEAPONS ON SCHOOL GROUNDS**

Given a word picture depicting a possible bringing, brandishing or possessing firearms or other weapons on school grounds, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 626.9, 626.95. and 626.10)

Performance Objective 3.24.10

### **CURRICULUM**

- A. Bringing or possessing a firearm upon the grounds of a school or college  
(Penal Code Section 626.9) - Felony
  - 1. Corpus Delicti--key elements:
    - a. Brings or possesses
    - b. Loaded or unloaded firearm
    - c. Upon the grounds of or within
    - d. Any public school, or specified private school
    - e. Without the permission of the school district or other designated authority.
  - 2. Exceptions
    - a. Peace officers
    - b. Armored vehicle guards while engaged in the performance of their duties
    - c. Members of the military forces of the United States in the performance of their duties
    - d. Persons licensed pursuant to Penal Code Section 12050
- B. Firearm violations upon grounds of playground or youth center  
(Penal Code Section 626.95) - Felony
  - 1. Corpus Delicti--key elements:
    - a. Any person
    - b. Who violates Penal Code Section 417 (2)(a) or (2)(b), or Penal Code Section 12025, or Penal Code Section 12031

- c. Upon the grounds of or within a playground or youth center
- d. when the facility is open for business, classes, or school related programs or
- e. Any time minors are using the facility

2. Definitions

- a. Playground - any park or recreational area designed to be used by children that has play equipment installed including public grounds designed for athletic activities such as football, baseball, soccer or basketball, or any similar facility located on public or private school grounds, or on city or county parks.
- b. Youth Center - any public or private facility used to host recreational or social activities for minors while minors are present.

C. Bringing or possessing other weapons on school grounds Penal Code Section 626.10 - Felony

1. Corpus Delicti--key elements:

- a. Any person
- b. Brings or possesses
- c. Dirk, dagger, knife having a blade longer than 3 1/2 inches, folding knife with a blade that locks into place, razor with an unguarded blade, Taser, or stun gun as defined in Penal Code Section 244.5 (a).
- d. Upon the grounds of or within any public school kindergarten through 12, or
- e. Brings or possesses
- f. Dirk, dagger, or knife having a fixed blade longer than 3 1/2 inches
- g. Upon the grounds of or within any University or community college

2. Exceptions

- a. Peace officers
- b. Members of the military forces of the United States in the performance of their duties
- c. At the direction of a school faculty member for use in a sponsored activity or class

- d. For the lawful use in or around school grounds within in the scope of employment

### EXCEPTIONS TO POSSESSION OF CONCEALED FIREARM

Given a word picture depicting a possible possession of a concealed firearm, the student will identify if the possession is a lawful exception to Penal Code Section 12025. The major exceptions are:

- A. Possession at residence, place of business, or private property owned or possessed by a legal resident over the age of 18 (Penal Code Section 12026)
- B. Transportation in locked container or trunk of a motor vehicle (Penal Code Section 12026.1)
- C. Transportation between specified destinations (Penal Code Section 12026.2)
- D. Peace officer exemptions (Penal Code Section 12027)
- E. Persons possessing a valid concealed weapon license (Penal Code Section 12050)

Performance Objective 3.24.11

### CURRICULUM

#### A. Exceptions to Penal Code Section 12025

1. Penal Code Section 12026 - 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 their residence, place of business or on private property lawfully possessed by the resident.
2. Penal Code Section 12026.1 - 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:
  - a. 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.
  - b. 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.
  - c. 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.

firearm capable of being concealed upon the person in accordance with this chapter.

- d. 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.
3. Penal Code Section 12026.2 - This section provides exceptions to Penal Code Section 12025 for persons involved in lawful activities as specified
- a. Motion picture, television or video productions
  - b. Firearm club members while going to, coming from, and while attending firearm club meetings
  - c. Participants going to, or coming from a safety or hunter's safety class, or sporting event involving that firearm
  - d. Transportation by any person mentioned in Penal Code Section 12026 directly between any of the places mentioned in Penal Code Section 12026
  - e. Transportation while going directly to or coming from a fixed place of business or private residential property for the purpose of lawful repair or the lawful transfer of that firearm
  - f. Transportation by a person going to or coming from a gun show, swap meet, or similar event which the public is invited for the purpose of displaying that firearm.
  - g. Transportation by a person to or from a target range
  - h. Transportation by a person to and from a place designated to issue licenses pursuant to Penal Code Section 12050
  - i. Transportation by a person going to or from a lawful camping activity

NOTE: The above listed exceptions do not include all of exceptions listed in 12026.2.

4. Penal Code Section 12027
- a. Peace officers - Full-time, paid police officers of other states; federal government agents carrying out duties; those summoned to assist the above.
  - b. Merchants transporting unloaded firearms
  - 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)

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"

- d. Authorized military or civil organizations while parading and going to and from places of meetings (VFW, etc.)
- e. Guards and messengers of financial institutions (banks, transporting bullion, money, while actually employed in and about the shipment)
- f. Shooting clubs (going to and from)
- g. Licenses hunters and fishermen (going to or from)
- h. Collector clubs - meetings (going to or from)

Provided:

- (1) Firearms are kept in the trunk, or
- (2) If vehicle has no trunk, firearms are kept in a locked container other than the glove compartment and are unloaded.

### **POSSESSION OF DEADLY WEAPON WITH INTENT TO ASSAULT**

Given a word picture depicting a possible possession of a deadly weapon with intent to assault, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 467)

Performance Objective 3.24.12

#### **CURRICULUM**

- A. Possession of a deadly weapon with intent to commit an assault (Penal Code Section 467) - Misdemeanor
  - 1. Corpus Delicti--key elements:
    - a. Person
    - b. Having upon him or her
    - c. Any deadly weapon
    - d. With intent to assault another





### **UNSAFE STORAGE OF A FIREARM**

Given a word picture depicting the possible unsafe storage of a firearm or a firearm which is accessible to children, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 12035)

Performance Objective 3.24.13

#### **CURRICULUM**

A. Criminal storage of a firearm (Penal Code Section 12035) -  
Felony/Misdemeanor

1. Corpus Delicti--key elements:

- a. Loaded firearm
- b. Within any premise under his or her custody or control
- c. Knowingly or reasonably should know
- d. That a child is likely to gain access to the firearm
- e. Without permission of the child's parent or legal guardian
- f. Child obtains access to the firearm which results in:
  - (1) death or great bodily injury to himself, herself, or any other person (felony) or
  - (2) injury, other than great bodily injury to himself, herself, or any other person or exhibits the firearm either in a public place or in violation of Penal Code Section 417 - Misdemeanor

2. Exceptions

- a. The child obtains the firearm as a result of an illegal entry to any premises by any person.
- b. The firearm is kept in a locked container or in a location which a reasonable person would believe to be secure.
- c. The firearm is carried on the person or within such a close proximity that the individual can readily retrieve and use the firearm as if carried on the person.
- d. The firearm is equipped with a locking device.

- e. The person is a peace officer or a member of the armed forces or National Guard and the child obtains the firearm during or incidental to the performance of the persons duties.
- f. The child obtains, or obtains and discharges the firearm in a lawful act of self-defense or defense of another person or persons.
- g. The person who keeps a loaded firearm on any premise which is under his or her custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premise

## **SUPPORTING MATERIAL**

**AND**

## **REFERENCES**

This section is set up as reference information for use by training institutions. These materials can be used for instruction, remediation, additional reading, viewing, or for planning local blocks of instruction. This list is not an endorsement of any author, publisher, producer, or presentation. Each training institution should establish its own list of reference materials.

TOPICAL LIST OF SUPPORTING MATERIALS AND  
REFERENCES INCLUDED IN THIS SECTION

None included

ADDITIONAL REFERENCES

None