

Basic Course Workbook Series



# Learning Domain 06

## Property Crimes

*Version 7.0*

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

**Basic Course Workbook Series  
Student Materials  
Learning Domain 06  
Property Crimes  
Version 7.0**

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The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California law enforcement in serving its communities.

## **THE ACADEMY TRAINING MISSION**

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

## **FOREWORD**

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.  
Executive Director



## TABLE OF CONTENTS

INTRODUCTION .....	I
HOW TO USE THE WORKBOOK .....	II
<b>CHAPTER 1 IDENTIFYING AND CLASSIFYING CRIMES RELATED TO THEFT .....</b>	<b>1-1</b>
OVERVIEW .....	1-1
THEFT .....	1-3
VEHICLE THEFT .....	1-11
DEFRAUDING AN INNKEEPER .....	1-21
BURGLARY .....	1-23
SHOPLIFTING .....	1-27
POSSESSION OF BURGLARY TOOLS .....	1-28
BURGLARY INVESTIGATIONS .....	1-31
POSSESSING OR RECEIVING PERSONAL PROPERTY WITH ALTERED SERIAL NUMBERS OR IDENTIFICATION MARKS .....	1-38
RECEIVING STOLEN PROPERTY .....	1-41
FORGERY .....	1-43
CHAPTER SYNOPSIS .....	1-45
WORKBOOK LEARNING ACTIVITIES .....	1-47
<b>CHAPTER 2 IDENTIFYING AND CLASSIFYING CRIMES RELATED TO ARSON .....</b>	<b>2-1</b>
OVERVIEW .....	2-1
ARSON, OR UNLAWFULLY CAUSING A FIRE .....	2-3
POSSESSION OF FLAMMABLE OR COMBUSTIBLE MATERIAL .....	2-7
CHAPTER SYNOPSIS .....	2-9
WORKBOOK LEARNING ACTIVITIES .....	2-10
<b>CHAPTER 3 IDENTIFYING AND CLASSIFYING CRIMES RELATED TO TRESPASSING .....</b>	<b>3-1</b>
OVERVIEW .....	3-1
UNAUTHORIZED ENTRY OF PROPERTY .....	3-3
TRESPASS .....	3-5
CHAPTER SYNOPSIS .....	3-10
WORKBOOK LEARNING ACTIVITIES .....	3-11
<b>CHAPTER 4 IDENTIFYING AND CLASSIFYING OTHER PROPERTY RELATED CRIMES .....</b>	<b>4-1</b>
OVERVIEW .....	4-1
VANDALISM .....	4-3
REPOSSESSION .....	4-7
TENANT/LANDLORD DISPUTES .....	4-11
REPORT WRITING TIPS .....	4-15
CHAPTER SYNOPSIS .....	4-24
WORKBOOK LEARNING ACTIVITIES .....	4-25
<b>SUPPLEMENTARY MATERIAL .....</b>	<b>S-1</b>
OVERVIEW .....	S-1
BURGLARY TOOLS ILLUSTRATED GLOSSARY .....	S-2
<b>GLOSSARY .....</b>	<b>G-1</b>





### **Student Workbooks**

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

### **Regular Basic Course Training Requirement**

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

### **Student Workbook Elements**

The following elements are included in each workbook:

- Chapter contents, including a synopsis of key points,
- Supplementary material, and
- A glossary of terms used in this workbook.

## HOW TO USE THE WORKBOOK

### Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning, for test preparation, and for remedial training.

### Workbook Format

To use the workbook most effectively, follow the steps listed below.

Step	Action
1	Begin by reading the: Introduction and How to Use the Workbook, which provides an overview of how the workbook fits into the POST Basic Course Instructional System and how it should be used.
2	Refer to the Chapter Synopsis section at the end of each chapter to review the key points that support the chapter objectives.
3	Read the text.
4	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
5	Refer to the Glossary section for a definition of important terms. When first referenced these terms will be bolded and underlined (e.g., <b><u>term</u></b> ).

# Chapter 1

## Identifying and Classifying Crimes Related to Theft

### OVERVIEW

#### Learning Need

Arrest depends on the development of probable cause. Successful prosecution depends on the collection of admissible evidence. Peace officers need to know the elements required to arrest for crimes related to theft to correctly classify these crimes as misdemeanors or felonies.

#### Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none"><li>Recognize the crime elements required to arrest for:<ul style="list-style-type: none"><li>Theft</li><li>Vehicle theft</li><li>Defrauding an innkeeper</li><li>Burglary</li><li>Shoplifting</li><li>Possession of burglary tools</li><li>Possessing of or receiving personal property with altered serial numbers or identification marks</li><li>Receiving stolen property and</li><li>Forgery</li></ul></li></ul>	<ul style="list-style-type: none"><li>6.01.1</li><li>6.01.2</li><li>6.01.3</li><li>6.01.7</li><li>6.01.17</li><li>6.01.8</li><li>6.01.9</li><li>6.01.10</li><li>6.01.12</li></ul>
<ul style="list-style-type: none"><li>Recognize the crime classification as a misdemeanor or felony</li></ul>	6.01.14
<ul style="list-style-type: none"><li>Describe appropriate peace officer actions when taking a report of a burglary or similar property crime</li></ul>	6.01.15

## Learning Objectives (Continued)

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none"><li>Describe information that should be obtained when interviewing the victim(s) of and/or witness(es) of a burglary</li></ul>	6.01.16

## In This Chapter

This chapter focuses on crimes related to theft. Refer to the chart below for specific topics.

Topic	See Page
Theft	1-3
Vehicle Theft	1-11
Defrauding an Innkeeper	1-20
Burglary	1-22
Shoplifting	1-26
Possession of Burglary Tools	1-27
Burglary Investigations	1-30
Possessing or Receiving Personal Property with Altered Serial Numbers or Identification Marks	1-37
Receiving Stolen Property	1-40
Forgery	1-42
Chapter Synopsis	1-44
Workbook Learning Activities	1-46

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**Definition**

The crime of **theft** is the taking and carrying away personal property of another without the consent of the owner with the intent to permanently deprive the owner.

**Penal Code Section**

Theft is generally defined under *Penal Code Section 484*.

**Crime Elements**

To arrest a subject for theft, the necessary crime elements include:

- The taking and
- Carrying away of
- *Personal property* of another
- Without consent
- With intent to permanently deprive the owner

NOTE: Not all thefts require “intent to permanently deprive” to violate the section, i.e. embezzlement and vehicle theft.

Crimes noted by “\*” in this workbook are wobblers and punishable as felonies pursuant to *Penal Code Section 1170(h)* when the requirements of Penal Code Section 667(e)(2)(C) are met. Generally, Penal Code Section 667 specifies the crime is a felony if:

- 1) the loss is valued in excess of \$950.00 or
- 2) the suspect is required to register pursuant to *Penal Code Section 290* or
- 3) the suspect has a prior conviction for an offense listed in *Penal Code Section 667(e)(2)(C)*. *Penal Code Section 667(e)(2)(C)* includes sexually violent offenses, child molestation, homicide or attempted homicide, solicitation to commit murder, assault with a machine gun on a peace officer or firefighter, possession of a weapon of mass destruction, and any serious or violent felony punishable by life imprisonment or death.”

## Related Terms

To understand theft, peace officers need to understand the following terms.

**Property** can include money, labor, animals, crops, or real or personal items.

**Real property** means land and immovable property, affixed to or growing from that land. It may be otherwise referred to as *real estate*.

**Personal property** includes any movable object(s) owned by an individual; all property other than real estate.

**Control** is the ability to exercise a restraining or directing influence over something. Theft requires that the property that is taken be under the control of the person it was stolen from, not necessarily the owner of the property and that control is transferred to the thief.

Property can be taken from:

- Someone who is in rightful possession of it,
- A person or place having lawful possession of the property,
- Someone who found the property or
- Someone who himself stole the property (since legally the property still belongs to the owner from whom it was originally stolen)

Control, for the purposes of *grand theft person*, requires that the object must be held, carried, or otherwise on the victim's person, not merely in immediate presence.

Example: A person, intending to steal an overcoat from a clothing dummy in front of a store, removed the coat, but was unable to carry it away because it was fastened by a chain. Not having obtained control over the coat, there was no completed theft; however, an attempted theft may have occurred.

## Intent

It is not necessary that the thief's intent be for the purpose of personal gain. The intent needs to be to *permanently* deprive the owner of the property. With theft, the intent to deprive must *exist at the time of taking* and not at a later time.

Example: A man took his personal computer to work. When he left, he took the company's identical computer with him, thinking it was his. Since he believed that the computer was his property, this was not theft as the intent to deprive his company of property was absent.

## Determining Property Value

The value of the property is determined by the reasonable and fair market value. If the property is an item from a commercial establishment, the value of the item is the market retail value plus tax.

If the property is in the form of services received, the contract price of the service is the market value.

## Classification

The crime of theft can be classified as either a felony or a misdemeanor depending on the value or type of the property stolen.

The definition of Grand Theft is addressed in several sections and is further affected by the *Penal Code Section 490.2* which specifies:

- Obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor
- Except that such person may instead be punished pursuant to subdivision (h) of *Penal Code Section 1170* if that person has one or more prior convictions for a specified offense (sometimes referred to as a "superstrike")

Pursuant to *Penal Code Section 490.2*, prior convictions per *Penal Code Section 667(e)(2)(c)(iv)* or registration pursuant to *Penal Code Section 290* would allow certain crimes to be classified as felonies (affected crimes in this workbook are identified as **misdemeanor disqualifiers**).

The following table illustrates the categories of theft and their associated crime classifications.

<b>Crime</b>	<b>Nature and/or Value of Property</b>	<b>Crime Classification</b>	<b>Penal Code Section</b>
<b><u>Grand theft</u></b>	Property value exceeding \$950 ( <i>Penal Code Section 487(a)</i> )	Felony	487
	Agricultural products exceeding \$250*** (e.g., domestic fowl, fruit, nuts, vegetables, etc.) ( <i>Penal Code Section 487(b)(1)(A)</i> )		
	Aquacultural products exceeding \$250*** (e.g., fish, algae, etc.) ( <i>Penal Code Section 487(b)(2)</i> )		
	Property taken over a 12 consecutive month period totaling \$950 or more and taken by a servant, agent or employee of the owner ( <i>Penal Code Section 487(b)(3)</i> )		
	Property taken from the person of another*** ( <i>Penal Code Section 487(c)</i> )		

\*\*\* see *Penal Code Section 490.2*



<b>Crime</b>	<b>Nature and/or Value of Property</b>	<b>Crime Classification</b>	<b>Penal Code Section</b>
<b><u>Grand theft</u></b>	Certain designated livestock (e.g., horses, cattle, sheep, etc.) ( <i>Penal Code Section 487a(a)</i> )	Felony: greater than \$950 misdemeanor: \$950 or less	<b>487a(a)</b>
	Motor vehicles	Felony: greater than \$950 Misdemeanor: \$950 or less	<b>487(d)(1)</b>
	Firearms	Felony	<b>487(d)(2)</b>
<b><u>Petty theft</u></b>	All other thefts not categorized as grand theft	Misdemeanor	<b>488</b>
	Aggregation of the value of property or merchandise stolen during multiple thefts to meet the \$950	Felony	<b>490.3</b>
	Petty theft with prior theft-related conviction and jail time	Misdemeanor*	<b>666</b>
	Recidivist felony offense of committing petty theft or shoplifting while having two or more prior misdemeanor or felony theft-related convictions	Felony	<b>666.1</b>

## Examples

While a woman was waiting for the bus, her wallet containing \$45 was stolen from her pocket without her knowledge. A man nearby saw the crime and stopped the thief. The thief committed misdemeanor grand theft person as the property was taken from someone's person and its value did not exceed \$950.

## Related Statutes

The table below shows the additional penal code sections which deal with particular instances of the crime of theft.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Theft of utility services	**	498(b)

\*\* These crimes can be classified as either a grand theft or petty theft, depending on value or nature of item(s) or service(s) stolen.

## Access Cards

The availability of access cards has led to the adoption of a number of penal code sections governing their misuse. The table below shows the sections of the code and the crime classifications which deal with particular instances of access card crime.

<b>Nature and/or Value of Property</b>	<b>Crime Classification</b>	<b>Penal Code Section</b>
Sell/transfer/convey an access card	Felony: greater than \$950 Misdemeanor: \$950 or less*	484e(a)
Acquire 4 or more access cards within 12 months		484e(b)
Acquire/retain access card information with intent to use fraudulently		484e(d)
Make/alter/use an access card		484f(a)
Forge signature with intent to defraud		484f(b)
Use card or account information unlawfully obtained or altered; false representation of card ownership		484g
Acquire or possess access card with intent to use, sell or transfer without consent	Misdemeanor	484e(c)

NOTE: Access cards are commonly known as ATM, Debit, Credit Cards, etc., per *Penal Code Section 484d(2)*.

<b>Nature and/or Value of Property</b>	<b>Crime Classification</b>	<b>Penal Code Section</b>
Forge an access card	Felony: greater than \$950	<i>484f(a)</i>
Use card or account information unlawfully obtained or altered; false representation of card ownership	Misdemeanor: \$950 or less*	<i>484g</i>
Retailer with knowledge card is counterfeit, expired or revoked	Felony: greater than \$950  Misdemeanor: \$950 or less*	<i>484h</i>
Modify or alter access card magnetic stripe	Felony: greater than \$950	<i>484i(b)</i>
Design, make, possess or traffic in card making equipment with the intent to make counterfeit access cards	Misdemeanor: \$950 or less*	<i>484i(c)</i>
Forge access card transaction	Felony: greater than \$950  Misdemeanor: \$950 or less*	<i>484f(b)</i>
Publish (oral, written, via computer) access card, numbers, code	Misdemeanor	<i>484j</i>
Possess incomplete access card with intent to complete it without consent of issuer		<i>484i(a)</i>

### Definition

The crime of vehicle theft occurs when a person drives or takes a vehicle of another person, without the consent of the owner thereof, with intent to either permanently or temporarily deprive the owner of title or possession of such vehicle.

### Vehicle Code Section

Vehicle theft is covered under *Vehicle Code Section 10851*.

### Crime Elements

To arrest a subject for vehicle theft, the necessary crime elements include:

- The driving or taking of
- A vehicle not the person's own
- Without consent
- With intent to *temporarily* or *permanently* deprive the owner
- Of title or possession of such vehicle.

### Classification

The crime of vehicle theft is a felony.

### Related Terms

To understand vehicle theft, peace officers need to become familiar with the following term.

A **vehicle** is a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks. (*Vehicle Code Section 670*)

## Vehicle Theft vs Grand Theft

A person being arrested for the crime of vehicle theft must have driven or taken the vehicle on a permanent or temporary basis. (*Vehicle Code Section 10851*)

However, if the suspect's intent was to permanently deprive the owner, the suspect may be arrested for grand theft. (*Penal Code Sections 487(d)(1)*) The suspect being charged with grand theft must have taken the vehicle with the intent to permanently deprive the owner.

## Examples

A man picked up his girlfriend in a car he had stolen. He bragged to her how easy it was to steal the car. They took turns driving the car around until it ran out of gas and then they abandoned it. Both are guilty of vehicle theft since they both drove the car with intent to temporarily deprive, even if the girlfriend did not *take* the car.

A man took a motor home that was idling in a rest area. He took it to his friend's "chop shop" where they dismantled the vehicle for its parts. This man was guilty of grand theft as he took the vehicle, and his intent was permanent deprivation.

## Related Statutes

The table below shows additional penal and vehicle code sections which deal with particular types of vehicle theft.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Temporarily using a bicycle, motorboat, or vessel without the permission of the owner	Misdemeanor	<i>Penal Code Section 499b</i>
Intentional failure to return a leased or rented vehicle within five days of expiration of agreement	Felony	<i>Vehicle Code Section 10855</i>

## Noncriminal Explanations for Missing Vehicles

As part of the preliminary investigation, officers responding to a call which involves a stolen vehicle must verify that a crime has actually taken place.

Vehicles may be reported stolen when they actually are:

- “Borrowed” by family members without the permission of the owners
- Used by another and the owners have forgotten that they gave permission
- Taken in conjunction with domestic disputes
- Repossessed by lending institutes without warning
- In storage or impounded
- Misplaced (e.g., on a different street, in a large parking lot, within a parking garage)

## Unlawful False Reports

Initial responding officers need to also be aware that a vehicle may be intentionally reported stolen in order to:

- Collect money fraudulently through insurance policy claims
- Cover up another offense (e.g., hit-and-run)

NOTE: False report of a criminal offense is covered under *Penal Code Section 148.5*.

## Verifying a Criminal Act

To determine if a vehicle theft has in fact been committed, responding officers should ask questions, such as:

- The vehicle payments are up to date
- The owner has received any warnings regarding late payments
- The owner is involved in a family related dispute (e.g., divorce, child custody, or support, etc.)
- Family members often use the vehicle
- Friends or family members have duplicate keys to the vehicle



## Investigating the Theft

Obtaining complete and accurate information from the vehicle's owner and witnesses, if applicable, can be key to recovery of the vehicle.

The following table identifies a number of guidelines for the type of information that initial responding officers should attempt to obtain and include in the investigative report.

Action	Guidelines
Interview owner/ witnesses	<ul style="list-style-type: none"><li>• Identification of the:<ul style="list-style-type: none"><li>- Vehicle's registered owner</li><li>- Reporting party</li><li>- Individual who first noticed the vehicle missing</li><li>- Person who had possession of the vehicle at the time it was reported stolen</li></ul></li><li>• Location of any additional keys to the vehicle</li><li>• Similar thefts in the area</li><li>• Suspicious vehicles or individuals in the area prior to the theft</li></ul>
Obtain vehicle related information	<ul style="list-style-type: none"><li>• Vehicle year, make, style, model, and color</li><li>• Registration/license plate numbers</li><li>• Vehicle identification number</li><li>• Title documentation</li><li>• Description of accessories (e.g., fog lights, trailer hitches, tinted windows, etc.)</li><li>• Unique markings (e.g., bumper stickers, dents, scratches, etc.)</li></ul>

Action	Guidelines
Comply with mandatory reporting	<ul style="list-style-type: none"> <li>• Stolen vehicle: ensure entry into stolen vehicle system (SVS)</li> <li>• Upon recovery, ensure Vehicle Identification Number (VIN) and license plate match. Also, remove from stolen vehicle system</li> </ul>
Note vehicle contents	<ul style="list-style-type: none"> <li>• Items of value that are not physically part of the vehicle</li> </ul>
Other	<ul style="list-style-type: none"> <li>• Name of finance company and the account number</li> <li>• Insurance information, such as: <ul style="list-style-type: none"> <li>- Name of carrier</li> <li>- Account number</li> <li>- Amount of coverage</li> </ul> </li> </ul>

NOTE: If applicable, initiate a crime broadcast.

## Criminal Motive

There are a number of criminal motives for the theft of a vehicle. Recognizing a possible motive may aid officers in the course of their investigation. The following table identifies the most common.

Motive	Additional Information
Joyriding	<ul style="list-style-type: none"><li>• Usually committed by juveniles</li><li>• Stolen for the thrill of it</li><li>• Typically committed by more than one person and involves peer pressure</li><li>• Vehicle usually recovered within 24-48 hours</li><li>• Vehicle often found damaged</li></ul>
Transportation	<ul style="list-style-type: none"><li>• Vehicle taken as a means of getting from one location to another</li><li>• Multiple vehicles may be stolen and abandoned one at a time</li><li>• Suspect may be a transient, runaway, or someone fleeing another crime</li></ul>
Instrument of another crime	<ul style="list-style-type: none"><li>• Vehicle used in the commission of another crime (e.g., getaway car)</li><li>• Eliminates any link between a personal vehicle and the crime</li><li>• Abandoned vehicle may contain physical evidence related to the original vehicle theft and the other crime</li></ul>
Profit	<ul style="list-style-type: none"><li>• Professional auto thieves</li><li>• Stolen vehicle is altered in some manner and resold for financial gain</li><li>• Often associated with stripping or chop-shop operations</li><li>• Insurance fraud</li></ul>

## Recognizing Stolen Vehicles

Patrolling officers who have the opportunity to observe occupied or unattended vehicles should be aware of telltale characteristics that indicate a vehicle may have been stolen. Examples of such indicators are noted in the following table.

	Observations
Location	<ul style="list-style-type: none"><li>• Vehicle parked illegally or in one location for long periods of time</li></ul>
License Plates/ Identification	<ul style="list-style-type: none"><li>• Poorly attached or no license plates</li><li>• Clean license plates or tags on a dirty vehicle</li><li>• DMV registration shows salvage history, but the vehicle shows no signs of the same</li></ul>
Appearance	<ul style="list-style-type: none"><li>• Broken side or vent windows</li><li>• Missing or scratched door locks</li><li>• Damaged steering column</li><li>• Missing or altered Vehicle Identification Number</li><li>• Electronic equipment missing from the dashboard</li><li>• Exterior damage that appears to be recent</li><li>• Stripped vehicle</li></ul>
Other	<ul style="list-style-type: none"><li>• Vehicle being operated without a key in the ignition</li><li>• Suspicious behavior of driver</li></ul>

## Vehicle Identification Numbers (VIN)

A **Vehicle Identification Number (VIN)** is generally a 17-digit number that is unique to a vehicle and may be used to confirm specific ownership. On most domestic and foreign vehicles, the VIN is located to the far left of the dashboard (driver's side) and is visible through the windshield. The VIN may also be positioned on the inside of the pillar post to the left of the driver.

The numbers and letters included in the VIN identify a vehicle's:

- Manufacturer
- Year manufactured
- Car line series
- Body style
- Engine symbol
- Assembly plant where manufactured
- Sequential production number

NOTE: For further information on interpretation of VINs, refer to the National Insurance Crime Bureau (NICB) handbook.

## Other Means of Identification

A vehicle may also be identified by:

- License number (a combination of up to seven letters and numbers)
- Engine number
- Hidden or component part number
- NHTSA (National Highway Transportation Safety Act) labels; federal stickers placed on vehicles, (may also be used to identify a vehicle and/or component)
- Other identifying characteristics (e.g., customized painting, scratches, dents, etc.)

## Sources of Information

Officers can access a number of agencies, organizations, and databases in the course of investigating a vehicle theft.

## Physical Evidence Collection

Recovered stolen vehicles are a form of physical evidence and should be preserved as a crime scene. Care should be taken to preserve latent fingerprints and other forms of trace or transfer evidence. Vehicles may also contain other items or belongings left behind by the suspect(s).

## Modus Operandi

Just as in other crimes involving theft, a Mode of Operation (MO) may also be associated with vehicle thefts. By attempting to identify a specific MO, it may be possible to link a suspect to a particular stolen vehicle.

The following table identifies a number of possible considerations when establishing a MO for a vehicle theft.

	Possible Considerations
Method of Entry	<ul style="list-style-type: none"><li>• Unlocked door</li><li>• Forced, pried, or broken side window</li><li>• Use of special equipment (e.g., coat hanger, “slimjim,” lock pull, spark plug ceramic piece, “ninja rocks,” etc.)</li><li>• Key (duplicate, hidden or original)</li></ul>
Method of Starting Engine	<ul style="list-style-type: none"><li>• Ignition key</li><li>• Broken ignition lock</li><li>• Bypassing ignition system (i.e., “hot wire”) on steering column or engine compartment</li></ul>
Method of Removal	<ul style="list-style-type: none"><li>• Drive away</li><li>• Haul away with tow truck or on flatbed truck</li></ul>

## DEFRAUDING AN INNKEEPER

### Definition

The crime of **defrauding an innkeeper** is obtaining any food, fuel, services, or accommodations at a designated facility without paying, with intent to defraud the proprietor or manager.

### Penal Code Section

Defrauding an innkeeper is covered under *Penal Code Section 537*.

### Crime Elements

To arrest a subject for defrauding an innkeeper, the necessary crime elements include:

- The obtaining of
- Food, services, or accommodations
- At a designated facility without paying
- With intent to defraud the proprietor or manager.

### Classification

The crime of defrauding an innkeeper is a misdemeanor unless the value of the service is over \$950 (then it is a felony).

NOTE: Using ski facilities without paying for or selling a ski lift ticket without proprietor authorization is an infraction. (*Penal Code Section 537(b)*)

## Related Terms

To understand defrauding an innkeeper, peace officers need to be familiar with the following term.

**Designated facilities**, for the crime of defrauding an innkeeper, include:

- Hotel
- Inn
- Restaurant
- Boardinghouse
- Lodging house
- Apartment house
- Bungalow court
- Motel
- Marina
- Marine facility
- Auto camp
- Public or private campground

NOTE: Gas stations are not designated facilities.

## Examples

A man spent the night at a hotel. He knew that he had only enough money to buy gas to get home, so he left without paying. The man committed a crime because he used the facilities and had no intent of paying the proprietor.

A family arrived at a campground in their motor home. The property manager offered the lot for free if the family would agree to pay for the utilities. The father agreed, even though he knew they would not have enough money to do so. After five weeks, the family drove off late one night without telling the manager and not paying the \$360 bill. The father committed the crime of defrauding an innkeeper as he never intended to pay the manager for the utilities.



### Definition

The crime of **burglary** is entering any designated building or structure pursuant to *Penal Code Section 459* with the intent to commit theft or any felony.

### Penal Code Section

Burglary is covered under *Penal Code Section 459*.

### Crime Elements

To arrest a subject for burglary, the necessary crime elements include:

- The entry to a building or specified structure
- With the intent to commit
- Theft or any felony

### Classification

The crime of burglary is a felony.

### Leadership

As a leader, you have the responsibility and the opportunity to promote crime prevention instead of reacting to crimes committed. Useful suggestions such as lighting, window security, and alarms can help community members improve security and peace of mind at home and at their places of business.

## Policing in Our Communities

When a building or dwelling is burglarized and property is damaged or removed, victims commonly report feeling invaded and violated; their sense of security and privacy is shattered. In densely populated neighborhoods, victims can feel betrayed. No matter how small the loss, property crime can have a disproportionate effect on people. Recognizing these feelings can help an officer create the right partnership for solving the case and assisting the victim.

## Related Terms

To understand information about burglary, peace officers need to become familiar with the following terms.

**Specified structures**, for the purposes of burglary, include the following:

- House, room, apartment, tenement
- Shop, warehouse, store, mill, barn, stable, outhouse, or other building
- Tent, vessel designed for habitation
- Railroad car, locked or sealed cargo container, trailer coach (*Vehicle Code Section 635*)
- Any house car (*Vehicle Code Section 362*)
- Inhabited camper (*Vehicle Code Section 243*)
- Motor vehicle when the doors are locked, and the windows are rolled up
- Aircraft (*Public Utilities Code Section 21012*)
- Mine or any underground portion thereof

Inhabited means currently used for dwelling purposes, but not necessarily *actually* occupied, at the moment of the crime.

Example: A house was considered *inhabited* even though its regular occupant had been in a convalescent home for more than one year, since she fully intended to return, and the house was being regularly maintained in the meantime.

## Entry

The entry does not have to be forced. As long as the unlawful intent is present, the entry can take place in any manner at any time. For example, entry into a large store during the day while it is open to the public.

The entry does not have to be by the burglar's person; simply breaking the plane of the door is sufficient.

## Vehicle

Burglary of a vehicle occurs at the moment entry is made. In almost all cases, the vehicle (or at least the portion entered, such as the trunk) must be locked, so that the entry is *forced*. Pushing open the broken wing-window of an otherwise locked vehicle will suffice.

## Intent

The *intent* to commit theft, or any felony, must exist at the moment the building or room is entered. The crime is complete upon entry. Even if the intended theft or felony cannot be completed, the crime of burglary is still complete.

## First and Second Degree

There are two degrees of burglary, first degree, and second degree. Every burglary of an *inhabited* dwelling, house, vessel, floating home, or trailer coach, or the inhabited portion of any other building, is burglary of the first degree and carries an enhanced penalty. (*Penal Code Section 460*)

All other crimes of burglary are second-degree burglary.

## Examples

A woman knew that her boss owned several expensive coins and kept them at his home. While he was away on business, she decided to go to his apartment to steal his coin collection. She entered the apartment with the key he kept in his desk at the office. She went to the drawer where the coins were stored; however, they weren't there. She quickly left the apartment. She committed the crime of burglary as she entered his house with the intent to commit a theft.

A man entered an apartment by the window with the intent to rape the woman who lived there. As he was sneaking to the woman's bedroom, her doorbell rang. The woman answered her door and left with the person who was at the door. The suspect decided to leave and was caught by the security guard while climbing out the window. The suspect committed burglary as he intended to commit a felony (rape) when he entered her apartment, even though the rape was not completed.

## Related Statutes

The table below shows the additional penal code sections which deal with particular instances of the crime of burglary.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Looting during an emergency	Felony or misdemeanor	<b><i>463(a), (b), (c)</i></b>
Opening or attempting to open a vault, safe, or secure device with any device capable of burning through steel, concrete, or any other solid substance	Felony	<b><i>464</i></b>

## SHOPLIFTING

### Definition

The crime of shoplifting is entering a commercial establishment with intent to commit larceny while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed \$950.

### Penal Code Section

Shoplifting is covered under *Penal Code Section 459.5*.

### Crime Elements

To arrest a subject for shoplifting, the necessary crime elements include:

- The entry to a commercial establishment
- With the intent to commit larceny
- During regular business hours
- The value of the property to be taken or intended to be does not exceed \$950

### Classification

The crime of shoplifting is a misdemeanor.

## POSSESSION OF BURGLARY TOOLS

### Definition

The crime of **possession of burglary tools** involves possessing, making, altering, or repairing almost any kind of instrument or tool with the intent to use the tool to break or enter into a specified structure to commit any misdemeanor or felony.

### Penal Code Section

Possession of burglary tools is covered under *Penal Code Section 466*.

### Crime Elements

To arrest a subject for possession of burglary tools, the necessary crime elements include:

- The possession of certain tools
- Knowingly making, altering, or attempting to make a key or other instrument to fit or open the lock of a building without legal request
- With the intent to break or enter into any specified structure
- For the purpose of committing any misdemeanor or felony

### Classification

The crime of possession of burglary tools is a misdemeanor.

## Related Terms

To understand information about possession of burglary tools, peace officers need to become familiar with the following terms.

Specified structures, in relation to the crime of possession of burglary tools, can include houses, stores, warehouses, barns, and tents. (*Penal Code Section 459*)

Specific tools that can be used for burglaries include, but are not limited to:

- Pick lock
- Water pump pliers
- Slide hammer
- Slim jim
- Key bit
- Tension bar
- Crowbar
- Lock pick gun
- Screwdriver
- Tubular lock pick
- Floor safe door puller
- Ceramic or porcelain spark plug chips
- Vise grip pliers

## Maker's Responsibility

It is the responsibility of the person who is making, altering, or repairing the tool to determine the requestor's right to have the item made or altered.

Example: A locksmith was called to a house where a man claimed to have lost his keys. The locksmith requested identification from the man that included an address that matched the address of the house. Because the man could not produce any identification, the locksmith did not open the door and make new keys for the locks.

## Examples

At 3:30 a.m., a woman was seen at the rear door of a closed building in an area where a number of recent burglaries had taken place. The officers stopped their vehicle and asked her if she needed any help. She acted nervous and shifted her weight from foot to foot. In doing so, a set of lock picks fell from her pocket. When she could not credibly answer why she had the picks, the officers could arrest her for possession of burglary tools.

An employer asked his employee to have a copy of the master key made for the new vice president. The employee changed the number of keys on the request form and kept the extra key, planning to enter his employer's office after hours and steal office equipment. The employer noticed that an additional key was billed on the receipt and confronted the employee, who admitted the deceit. The employee committed the crime of possession of burglary tools by having a key made with intent to commit a theft.



## BURGLARY INVESTIGATIONS

### Felonious Intent

For the crime of burglary to be complete, it must be shown that the burglar entered the building or structure for the purpose of committing grand theft, petty theft, or some other felony offense (e.g., assault, rape, mayhem, arson, murder, etc.). Without this specific intent, the individual may have committed a different crime, such as unauthorized entrance or trespass, but not burglary.

Accordingly, it is key that officers attempt to identify evidence that will infer that the accused intended to or actually committed theft or another felony offense, when he or she entered the building or structure (e.g., possession of stolen property linked to a specific crime scene).

### Burglary Offenders

Burglars can be characterized in three general categories based on the skills required, the types of buildings or structures entered, or types of property stolen. By recognizing certain features, officers may be able to better identify the type of individual who committed the crime.

The following table identifies these three categories.

Category	Additional Information
Juvenile	<ul style="list-style-type: none"><li>• Usually, an opportunist who looks for easy access (i.e., unlocked doors or windows)</li><li>• Often targets residences or schools</li><li>• Primary interest is mischief or needless destruction of property</li><li>• Although no specific intent to steal, may take items for personal use (e.g., liquor, small electronic equipment)</li></ul>

Category	Additional Information
Amateur	<ul style="list-style-type: none"> <li>• Crime committed for monetary reasons to satisfy a personal need (e.g., illegal drug habit)</li> <li>• Targets sites with poorly secured doors or windows</li> <li>• May engage in the destruction of property while searching for valuable items to steal</li> <li>• Usually only takes items that can be easily sold</li> </ul>
Professional	<ul style="list-style-type: none"> <li>• Highly skilled</li> <li>• Makes a living committing burglaries</li> <li>• Carefully selects targets</li> <li>• Plans each step in advance</li> <li>• Selects the most opportune time</li> <li>• May use specialized tools to gain entry</li> <li>• Targets specific items to steal</li> </ul>

## Initial Response

When responding to a burglary, officers should take into account the following guidelines.

Action	Guidelines
Approach and arrival	<ul style="list-style-type: none"> <li>• Approach quickly and safely</li> <li>• Avoid excessive noise, if possible, so as not to alert suspects who may still be in the area</li> <li>• Use extreme caution, whether the burglary is in progress or the suspect has already fled the crime scene</li> <li>• Approach each burglary scene as if it were a robbery in progress</li> <li>• Remain alert for individuals who are running, walking unusually fast or appear nervous or out of place</li> </ul>

Action	Guidelines
Initial assessment	<ul style="list-style-type: none"> <li>• Establish the presence or absence of suspects</li> <li>• Verify that a crime has occurred</li> <li>• Identify and arrest suspect(s), if appropriate</li> <li>• Establish/contact the owner/occupant of the building or structure and obtain identification information (e.g., name, address, etc.)</li> <li>• Provide dispatch with pertinent information</li> <li>• Request additional law enforcement support, if necessary</li> </ul>
Securing of the crime scene	<ul style="list-style-type: none"> <li>• Establish perimeters</li> <li>• Control access to the crime scene area</li> </ul>
Surveying the crime scene	<ul style="list-style-type: none"> <li>• With the owner/occupant present, conduct a walk-through of the crime scene</li> <li>• Determine entry and exit points</li> <li>• Check if security alarms were properly set, tampered with, or not working</li> <li>• Attempt to map out the suspect's movements and actions</li> <li>• Identify what has been moved, displaced, or damaged</li> <li>• Determine what was taken</li> <li>• Take note of items that were not taken</li> <li>• Examine areas outside the crime scene for possible evidence</li> </ul>

Action	Guidelines
Victim/ witness interview(s)	<ul style="list-style-type: none"> <li>• Obtain a detailed description of each item taken (e.g., identifying characteristics, serial numbers, etc.)</li> <li>• Determine who was last at the property and everyone who may have had access to the premises</li> <li>• Identify a time period in which the burglary may have occurred</li> <li>• Ask if the property was insured and, if so, for how much</li> <li>• Ask for names of persons the victim may consider to be possible suspects</li> <li>• Canvass the area for possible witnesses (e.g., neighbors, children, utility/construction crews in the immediate vicinity, store owners in the area, school officials, etc.)</li> <li>• Determine if witnesses: <ul style="list-style-type: none"> <li>- Observed any strangers in the area</li> <li>- Saw any vehicles in the area that did not belong</li> <li>- Were aware of anyone ringing doorbells or attempting to solicit anything in the area recently</li> <li>- Heard any loud or unusual noises</li> <li>- Know of previous burglary incidents</li> </ul> </li> <li>• Identify other possible sources of information</li> </ul>
Evidence collection	<ul style="list-style-type: none"> <li>• Document the existence of any physical evidence using photographs, video tape, rough sketches, and field notes</li> <li>• Use appropriate methods for the collection and preservation of physical evidence</li> </ul>
Investigative report	<ul style="list-style-type: none"> <li>• Collect all available information necessary to write a clear and accurate investigative report (i.e., what, when, where, who, how, and why)</li> </ul>

NOTE: Initiate a crime broadcast if applicable.

## Modus Operandi

The crime of burglary is often considered predominantly a serial crime committed by individuals who use consistent methods based on their skills, experience, and needs. For this reason, by attempting to identify a specific modus operandi, or mode of operation (MO), officers may be able to link a suspect to a particular crime scene.

The following table identifies a number of possible considerations when establishing an MO for a completed burglary.

	Possible Considerations
Target Selection	<ul style="list-style-type: none"> <li>• Nature of the neighborhood</li> <li>• Type of business, residence, or structure</li> <li>• Public visibility of area</li> <li>• Degree of skill necessary</li> <li>• Time required to gain entry</li> <li>• Knowledge of layout or possessions within the building or structure</li> <li>• Specific time of day</li> </ul>
Point and Manner of Entry	<ul style="list-style-type: none"> <li>• Location of entry and exit</li> <li>• Method of gaining entry such as: <ul style="list-style-type: none"> <li>- Use of hidden key</li> <li>- Slipped, pulled, or picked lock</li> <li>- Broken window or door</li> <li>- Unlocked/open window or door</li> <li>- Garage door opener</li> <li>- Co-conspirator(s)</li> </ul> </li> <li>• Use of specific tools (e.g., crowbar, bolt cutter, etc.)</li> </ul>
Actions During the Crime	<ul style="list-style-type: none"> <li>• Specific room(s) or area(s) targeted (e.g., bedroom for jewelry, bathroom for prescription medications, family room for electronic equipment, etc.)</li> <li>• Amount and type of damage (e.g., graffiti on walls, defecating or urinating on floors or furnishings, specific equipment destroyed or damaged, etc.)</li> <li>• Particular symbols or writing left behind as notes, graffiti, etc.</li> </ul>
Property Stolen	<ul style="list-style-type: none"> <li>• Type and nature of specific property stolen</li> <li>• Property left behind</li> </ul>

## Evidence Considerations

Responding officers need to be aware of the forms of physical evidence that may be collected from a burglary crime scene. The following table presents different types of evidence that may be found.

Evidence	Examples
Entry marks	<ul style="list-style-type: none"><li>• Tool marks</li><li>• Pry marks</li><li>• Broken or pried locks</li><li>• Kicked doors</li><li>• Chipped paint</li></ul>
Fingerprints	<ul style="list-style-type: none"><li>• At the point of entry/exit</li><li>• On items that are moved or damaged</li><li>• On items left behind (e.g., cigarette butts)</li></ul>
Burglary tools	<ul style="list-style-type: none"><li>• Cutting or burning instruments</li><li>• Wrenches</li><li>• Screw drivers</li><li>• Bolt cutters</li><li>• Portable key cutters</li><li>• Lock picks</li></ul>
Other	<ul style="list-style-type: none"><li>• Shoe or tire impressions</li><li>• Glass fragments</li><li>• Broken lights (e.g., entryway, outdoor fixtures, etc.)</li></ul>

**NOTE:** This list is not intended to be all inclusive. There are numerous other forms of physical evidence that may be found at the crime scene.

## Providing Information

Investigating officers should provide the victim(s) of a burglary with certain information before leaving the crime scene. This information should include:

- A description of any necessary follow-up procedures that will take place at a later time
- A method to reach the primary investigating officer if the individual discovers additional stolen items or information
- A case number
- Possible prevention measures that could aid in preventing similar crimes in the future

NOTE: Agency policy and procedures may also dictate the type and nature of information to be provided to the victim.

## **POSSESSING OR RECEIVING PERSONAL PROPERTY WITH ALTERED SERIAL NUMBERS OR IDENTIFICATION MARKS**

### **Definition**

The crime of possessing or receiving personal property with altered serial numbers or identification marks requires knowledge of the alteration(s).

### **Penal Code Section**

Possessing or receiving personal property with altered numbers or identification marks is covered under *Penal Code Section 537e*.

### **Crime Elements**

To arrest a subject for possessing or receiving personal property with altered serial numbers or identification marks, the necessary crime elements include:

- Any person who *knowingly* buys, sells, receives, disposes of, conceals, or has in possession
- Any personal property
- From which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed.

### **Classifications**

The crime of possessing or receiving personal property with altered serial numbers or identification marks is a misdemeanor, unless the item is an integrated computer chip or panel with a value of \$950 or more.



## Related Terms

To understand information about alteration of serial numbers, peace officers need to be familiar with the following term.

Personal property includes, but is not limited to:

- Television
- Radio
- Telephone
- Any musical instrument
- Any sound equipment
- Household appliance/furnishing
- Office equipment/furnishing
- Computer parts
- Technical or scientific equipment
- Bicycle
- Exercise equipment
- Electrical or mechanical equipment
- Watch, watch movement, or case
- Any vehicle or vessel

## Examples

An officer walked into a pawn shop while on duty. She noticed that a television had its serial number scratched off. When she asked the owner about the television, the owner admitted that he knew the numbers were altered when he purchased the television. The owner knowingly bought and attempted to sell a television with altered serial numbers which is a crime.

A woman was selling computers from the back of a truck. A potential customer looked at the computers and realized that the serial numbers were missing from the monitors and computer units. He called the police who arrested the woman for knowingly selling property with altered serial numbers.

## Related Statutes

The table below shows the additional penal code sections which deal with particular instances of alteration of serial numbers.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Tampering with vehicle identification numbers	Misdemeanor	<i>Vehicle Code 10750 and 10751</i>
Tampering with identification marks on a tear gas weapon	Felony	<i>Penal Code 12422</i>

NOTE: For firearms and tear gas weapons, mere possession is sufficient to arrest.

## RECEIVING STOLEN PROPERTY

### Definition

The crime of **receiving stolen property** is receiving, buying, selling, concealing, or withholding any property knowing that it has been stolen or obtained by extortion.

### Penal Code Section

Receiving stolen property is covered under *Penal Code Section 496(a)*.

### CRIME ELEMENTS

To arrest a subject for receiving stolen property, the necessary crime elements are:

- Every person who *knowingly*
- Buys, receives, conceals, sells, withholds, or
- Aids in concealing, selling or withholding,
- Any property obtained by theft or extortion

NOTE: If the person in possession of the stolen property is the thief, the correct charge is *theft*.

### Classification

The crime of receiving stolen property is a misdemeanor if the value does not exceed \$950. “super strike”

## Possession

Mere possession of property that has been stolen is insufficient to prove the crime. The possession must be coupled with circumstances that show the person knew or reasonably should have known that the property was stolen or obtained by extortion. These circumstances can include:

- The selling of property at an inadequate price
- Flight
- Assuming a false name
- Sale of property with identification numbers removed
- Failure to account for its possession
- Giving false testimony
- Effort to throw away the stolen property
- Inability to establish existence of person from whom property was received

NOTE: Two or more persons may have joint possession if they have dominion and control.

## Examples

A man stole \$2000 in jewelry. He gave an engagement ring and a diamond necklace to his girlfriend and admitted that he had stolen them. When he was arrested, she hid the jewelry and claimed she never received them. The police obtained a search warrant and found the jewelry hidden in her apartment. She committed the crime of receiving stolen property because she concealed property known to be stolen.

A tourist was approached outside a department store by a man who offered to sell him a gold designer watch, normally priced at \$3500, for \$250. The tourist suspected that the watch may have been stolen because of the unusually low price, but he proceeded and bought the watch with cash. The tourist committed the crime of receiving stolen property because of the circumstances in which he bought the watch (inadequate price, not reputable seller).

### Definition

The crime of **forgeries** is signing the name of another or of a fictitious person, without authority or otherwise altering a document with the intent to defraud.

### Penal Code Section

Forgery is covered under *Penal Code Section 470*.

### Crime Elements

To arrest a subject for forgery, the necessary crime elements include:

- The intent to defraud,
- Make, utter, publish, pass, or attempt to pass
- An altered, forged, or counterfeit document or seal or
- Signs an unauthorized or fictitious name

### Classification

The crime of forgery is a misdemeanor if the value does not exceed \$950. “super strike”

### Documents

Documents used in the crime of forgery must be instruments that, if genuine, would have a legal significance. Examples of documents of this type include:

- Deeds
- Mortgages
- Wills
- Lottery tickets
- Negotiable instruments (checks, money orders)
- Contracts

## Examples

An office worker changed the amount due on a bill from \$150 to \$1500. When the bill was paid, she kept the extra money. The office worker committed forgery because she altered the document without authorization.

A man found a checkbook outside a grocery store. He went into the store and bought \$130 worth of groceries. He signed the check with the name in the checkbook. The man committed the crime of forgery because he was not authorized to sign the check.

## Related Statutes

The table below shows the additional penal code sections which deal with particular instances of the crime of forgery.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Falsification, alteration, etc., of a driver license or identification card to facilitate the commission of forgery	Felony: greater than \$950  Misdemeanor: (\$950 or less)	<i>470a</i>
Possession or display of a driver license or identification card with intent to commit forgery		<i>470b</i>
Uttering or passing a check, money order, or warrant with intent to defraud		<i>475a</i>
Making, passing, or uttering a fictitious bill		<i>476</i>
Forgery of state, corporate or official seals	Felony	<i>472</i>
Identity theft	Felony	<i>530.5</i>

### **Learning Need**

Arrest depends on the development of probable cause. Successful prosecution depends on the collection of evidence. Peace officers need to know the elements required to arrest for crimes related to theft and the successful identification and collection of admissible evidence and correctly classify these crimes as misdemeanors or felonies.

### **Theft [6.01.1]**

The taking and carrying away of the personal property of another without the consent of the owner.

### **Vehicle Theft [6.01.2]**

A person drives or takes a vehicle of another person without the consent of the owner.

### **Defrauding an Innkeeper [6.01.3]**

Obtaining any food, fuel, services or accommodations at a designated facility without paying with the intent to defraud.

### **Burglary [6.01.7]**

Entering any designated building or structure with the intent to commit theft.

### **Shoplifting [6.01.17]**

Entering a commercial establishment with intent to commit larceny while that establishment is open during regular business hours.

### **Possession of Burglary Tools [6.01.8]**

Involves processing, making, altering, or repairing almost any kind of instrument or tool with the intent to use the tool to break or enter into a specified structure.

### **Possessing/Receiving Altered Personal Property [6.01.9]**

Possessing or receiving personal property with altered serial numbers or identification marks requires knowledge of the alterations.

### **Receiving Stolen Property [6.01.10]**

Receiving, buying, selling, concealing, or withholding any property knowing it has been stolen or obtained by extortion.

### **Forgery [6.01.12]**

Signing the name of another, or of a fictitious person, without authority, or otherwise altering a document with the intent to defraud.

### **Crime Classification [6.01.14]**

All of the crimes discussed in the chapter are either a felony or misdemeanor.

### **Preliminary Investigation [6.01.15]**

When conducting a preliminary investigation, officers should approach quickly and safely. Make an initial assessment of the scene to verify a crime has taken place and the presence or absence of suspects. Secure the crime scene and survey it with owner/occupant to determine what was stolen. Conduct victim/witness interview(s). Collect any possible evidence and write a clear and accurate investigative report.

### **Victims/Witness Interview [6.01.16]**

When conducting victim/witness interviews make sure to obtain detailed information as much as possible.



## Introduction

## Activity Questions

1. Could a woman found trying to break into her neighbor's home by using a credit card to jimmy the front door be arrested for possession of burglary tools along with other crimes? Explain your answer.
2. Two 18-year-old girls are stopped by local peace officers for speeding down a country road. During the routine vehicle check, officers discover that the car has been reported as stolen. When told that they are being arrested for vehicle theft, the two teens protest that there is a misunderstanding. They just borrowed the car to go cruising and they intended to bring it back. Based on the elements required to make an arrest for vehicle theft, how should this affect how the officers proceed, if at all? Explain.

3. A playpen with a specific model number is being recalled by the manufacturer after it has been shown to present a potential suffocation hazard. In order not to deplete his inventory, one local merchant re-labels the playpens in his stock with a model number not affected by the recall. A young couple, looking to buy a playpen for their child, specifically asks the merchant if the model he is selling is involved in the recall. The merchant says it is not, and he sells the couple the playpen. When the couple gets home, they notice the relabeling and call local authorities. Outline the crimes the merchant has committed and classify each as a felony or misdemeanor.
  
4. A young woman enters an unlocked camper parked at the local campground, hoping to find cash to buy food. After entering and looking around, she changes her mind and leaves, only to be seen by a campground security guard who detains her and calls peace officers. What actions should the officers take? Since nothing was taken, what, if any, crime(s) have been committed?

5. A young woman is given an expensive diamond necklace by her boyfriend. One week later the boyfriend is arrested for grand theft. Among the objects he stole was the necklace. Under what circumstances has the girlfriend committed the crime of receiving of stolen property, and under what circumstances has she committed no crime?
6. How would a preliminary investigative report involving a burglary differ from an investigative report involving a vehicle theft? How would they be similar? What qualities of an officer's report regarding a burglary make it most helpful to a prosecuting attorney?

7. The resident of a ground floor apartment reported that when she arrived home after dark and flipped on the lights, she heard scuffling and possibly laughing in the bedroom down the hall. When she entered the room, she found the drawers and the mattresses askew and the window open. The woman reported that the sliding window had been closed and a broomstick portion placed in the track to prevent entry. Her camera bag, including camera, lenses, and accessories, had been taken along with a piggy bank and some unusual cash and coins formerly kept in a decorative box. The stereo, television, and several pieces of valuable jewelry were left untouched. What immediate actions should the responding officer take? Where might they consider looking for physical evidence? What information should officers provide to the woman before leaving the scene?
  
8. A local shop owner tells you that he caught a teenage girl shoving several cosmetic items into her pockets. He demands that she be arrested for shoplifting. The girl appears frightened and apologetic. She removes the items from her pockets, and the total value is less than \$30. What, if any, crime has been committed? How should the officer proceed?

9. Officers on foot patrol observe a vehicle matching the description of one reported stolen the night before. The vehicle is parked on a suburban street approximately two miles from the owner's home. The license plates have been removed. Officers also noticed dents on the hood and front bumper of the car and a substance that may be blood on the right fender. How should officers proceed to make a positive identification of the vehicle? What precautions should they take not to disturb any other possible physical evidence? What sources of information, other than physical evidence, should officers pursue? How would the officer's actions differ, if at all, if there had been no damage to the car and the car showed no signs of being operated without a key?
10. In your own words, define *modus operandi* (MO). List a number of possible factors that could be a part of a MO regarding a vehicle theft.



# Chapter 2

## Identifying and Classifying Crimes Related to Arson

### OVERVIEW

#### Learning Need

Arrest and successful prosecution depend on the development of probable cause. Peace officers need to know the elements required to arrest for crimes related to arson and to correctly classify these crimes as misdemeanors or felonies.

#### Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to	Objective ID
<ul style="list-style-type: none"><li>Recognize the crime elements required to arrest for:<ul style="list-style-type: none"><li>- Arson</li><li>- Unlawfully causing a fire</li><li>- Possession of a flammable or combustible material</li></ul></li></ul>	6.02.1 6.02.3 6.02.5
<ul style="list-style-type: none"><li>Recognize the crime classification as a misdemeanor or felony</li></ul>	6.02.7

## In This Chapter

This chapter focuses on arson crimes. Refer to the chart below for specific topics.

Topic	See Page
Arson, or Unlawfully Causing a Fire	2-3
Possession of Flammable or Combustible Material	2-7
Chapter Synopsis	2-9
Workbook Learning Activities	2-10



## ARSON, OR UNLAWFULLY CAUSING A FIRE

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### Definitions

The crime of **arson** occurs when a person willfully and maliciously sets fire or burns or causes the burning of any structure, forestland, or property. This includes the aiding, counseling, or procuring of arson.

The crime of **unlawfully causing a fire** is recklessly setting fire to, burning or causing to be burned, any structure, forestland, or property.

### Penal Code Sections

Arson is covered under *Penal Code Section 451*.

Unlawfully causing a fire is covered under *Penal Code Section 452*.

## Crime Elements

To arrest a subject for arson, the necessary crime elements include:

- Willfully and maliciously
- Sets fire to or burns or causes to be burned or
- Aids, counsels, or procures the burning of
- Any structure, forestland, or property

To arrest a subject for unlawfully causing a fire, the necessary crime elements include:

- Any person who *recklessly* sets fire to or burns or causes to be burned,
- Any structure, forestland, or property

## Classification

The crimes of arson and unlawfully causing a fire are felonies.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Willfully and maliciously sets fire to or causes to be burned or aids, counsels, or procures the burning of any structure, forestland, or property	Felony	451
Recklessly set fire to or burns or causes to be burned any structure, forestland, or property	Felony	452
Unlawfully causing a fire of property does not include one burning or causing to be burned his own property unless there is injury to another person or to another person's structure, forestland, or property	Misdemeanor	452(d)

## Related Terms

To understand arson, peace officers need to become familiar with the following terms.  
(*Penal Code Section 450*)

**Structure** means any building, commercial or public tent, bridge, tunnel, or power plant.

**Forestland** means any brush covered land, cut over land, forest, grasslands, or woods.

Property can include money, labor, animals, crops, or real or personal items.

**Maliciously** includes a wish to vex, defraud, annoy, or injure another person or an intent to do a wrongful act, established either by proof or presumption of law.

**Recklessly** means a reasonable person is aware of and consciously disregards a substantial and unjustifiable risk that his or her act will set fire to, burn, or cause to burn a structure, forest, or property. A person who is voluntarily intoxicated and creates such a risk is, by this definition, acting in a reckless manner.

## Examples

A man was terminated from his job. That night he returned to the vacant job site and poured gasoline on the front door of the business. He ignited the gas, and the fire burned half of the building. The man committed arson because he willfully set fire to a structure.

A woman was driving through a state park. She threw her lit cigarette in the dry brush, causing a fire. The woman committed the crime of unlawfully causing a fire by recklessly setting fire to the state park.

## Additional Penal Code Sections

The table below shows the additional arson-related penal code sections.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Every person who willfully injures, destroys, secretes, abandons, or disposes of any property which at the time is insured against loss or damage by theft or embezzlement or any casualty with intent to defraud or prejudice the insurer, whether the property is the property or in the possession of such person or any other person.	Felony	548
Arson of <i>property</i> does not include one burning or causing to be burned his or her own personal property, unless there is intent to defraud or there is injury to another person or another person's structure, forestland, or property.	Not Applicable	451(d)

## POSSESSION OF FLAMMABLE OR COMBUSTIBLE MATERIAL

### Definition

The crime of **possession of flammable or combustible material** is possessing any flammable or combustible material or substance with the intent to commit arson.

### Penal Code Section

Possession of flammable or combustible material is covered under *Penal Code Section 453(a)*.

### Crime Elements

To arrest a subject for possession of flammable or combustible material, the necessary crime elements include:

- Possession or manufacture or disposal of a flammable or combustible material or substance, or any incendiary device in an arrangement or preparation
- With *intent* to willfully and maliciously use such material, substance, or device
- To set fire to or burn any structure, forestland, or property.

### Classification

The crime of possession of flammable or combustible material is a felony.

### Related Terms

To understand information about possession of an **incendiary device**, peace officers need to understand the following terms.

**Dispose of** means to give, give away, loan, offer, offer for sale, sell, or transfer.

Incendiary device means a device that is constructed or designed to start an **incendiary fire** by remote, delayed, or instant means, but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be an incendiary device for the purposes of this section.

## Examples

A man was stopped by a peace officer for speeding. The officer saw, in plain view on the rear seat of the vehicle, six glass bottles, and a separate container filled with clear, gold liquid and strips of cloth. The smell of kerosene was coming from the car. The man told the officer he was going to burn his ex-wife's house down. The man was arrested for possession of flammable material.

Peace officers received a tip that a Neo-Nazi group member was going to set fire to a local synagogue. When the officers arrived at the man's apartment, he gave them permission to enter. They noticed a pile of oily rags on the dining room table along with pamphlets on the inferiority of Jews. When they asked him about the rags, he admitted that he was going to use them to "burn that place down." The man committed possession of flammable materials with intent to burn.

### Learning Need

Arrest and successful prosecution depend on the development of probable cause. Peace officers need to know the elements required to arrest for crimes related to arson and to correctly classify these crimes as misdemeanors or felonies.

### Arson [6.02.1, 6.02.7]

Willfully and maliciously setting fire to or burning or causing to be burned or aiding, counseling, or procuring the burning of any structure, forestland, or property is a felony.

### Unlawfully Causing a Fire [6.02.3, 6.02.7]

Recklessly setting fire to or burning or causing to be burned, any structure, forestland, or property is a felony or misdemeanor.

### Possession of Flammable or Combustible Material [6.02.5, 6.02.7]

Possession or manufacture or disposal of a flammable or combustible material or substance or any incendiary device, or any device in an arrangement or preparation with intent to willfully and maliciously use such material, substance or device to set fire to or burn any structure, forestland, or property is a felony.

## WORKBOOK LEARNING ACTIVITIES

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### Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

### Activity Questions

1. Campers in a state forest build a large fire for warmth and cooking. They leave after breakfast and fail to extinguish the fire. The wind blows the fire into nearby brush, which ignites. Fortunately, rangers and firefighters are able to contain the blaze before much land is burned. If the campers causing the fire can be located, what actions should peace officers take? If the campers have committed a crime, is it a felony or misdemeanor?



2. On a vehicle stop, peace officers find a couple carrying four five-gallon cans of gasoline and several cotton rags in the back of a pickup truck. How should officers proceed? What additional element, if any, is required to arrest the couple for possession of flammable or combustible material?
3. An 18-year-old high school senior, angry that her former boyfriend has given his jacket to a new girlfriend, takes the jacket from the girl's locker and burns it. Could this student be charged with arson? Explain your answer.



# Chapter 3

## Identifying and Classifying Crimes Related to Trespassing

### OVERVIEW

#### Learning Need

Arrest and successful prosecution depend on the development of probable cause. Peace officers need to know the elements required to arrest for crimes related to trespassing, and to correctly classify these crimes as misdemeanors.

#### Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none"><li>Recognize the crime elements required to arrest for:<ul style="list-style-type: none"><li>Unauthorized entry of property</li><li>Trespass</li></ul></li></ul>	6.03.1 6.03.2
<ul style="list-style-type: none"><li>Recognize the crime classification as a misdemeanor</li></ul>	6.03.5

## In This Chapter

This chapter focuses on the crimes related to trespassing. Refer to the chart below for specific topics.

Topic	See Page
Unauthorized Entry of Property	3-3
Trespass	3-5
Chapter Synopsis	3-10
Workbook Learning Activities	3-11

## UNAUTHORIZED ENTRY OF PROPERTY

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### Definition

The crime of unauthorized entry of property occurs when a person enters or remains in any noncommercial dwelling house, apartment, or other residential place without the consent of the owner.

### Penal Code Section

Unauthorized entry of property is covered under *Penal Code Section 602.5*.

### Crime Elements

To arrest a subject for unauthorized entry of property the necessary crime elements include:

- Any person, other than a public officer or employee acting within the course and scope of employment
- Who enters or remains
- In a noncommercial dwelling house, apartment, or other such place
- Without consent of the owner, owner's agent, or person in lawful possession

### Classification

The crime of unauthorized entry of property is a misdemeanor.

## Examples

One night a woman entered her ex-boyfriend's home through an open window and waited for him to come home. When he arrived, the woman began professing her undying love for him. When she refused to leave, he called law enforcement. She committed the crime of unauthorized entry of property as she did not have consent to enter his home.

A transient was looking for a place to sleep. He saw a bed in an open garage. He walked up the driveway, entered the garage through the open doorway, and fell asleep on the bed. The transient committed the crime of unauthorized entry of property because he did not have permission of the homeowner to enter the garage.

### Definition

The crime of trespass (entering and occupying real property) occurs when a person enters and occupies real property and does not obtain the consent of the owner, the owner's agent, or the person in lawful possession before entering.

### Penal Code Section

Trespass (entering and occupying real property) is covered under *Penal Code Section 602(m)*.

### Crime Elements

To arrest a subject for trespass (entering and occupying real property), the necessary crime elements include:

- Any person who enters and occupies
- Real property or structures of any kind
- Without consent of the owner, the owner's agent, or the person in lawful possession

### Classification

The crime of trespass (entering and occupying real property) is a misdemeanor.

### Occupation

**Occupation** is when a person exercises physical control over land where the land is possessed and enjoyed. Subjects must actually use, control, and possess the property *over a period of time* or until they are asked to leave to satisfy the crime elements. Transient, non-continuous possession is not considered occupation.

## Definition

The crime of trespass (entering land) occurs when a person enters any lands, without permission, for the purpose of injuring any property or with the intention of interfering with, obstructing, or injuring any business or occupation.

## Crime Elements

To arrest a subject for trespass (entering land), the necessary crime elements include:

- Any person who enters any land, whether unenclosed or enclosed by fence
- For the purpose of injuring any property or property rights or
- With the intention of interfering with, obstructing, or injuring any lawful business or occupation
- Carried on by the owner of the land, the owner's agent, or by the person in lawful possession.

## Classification

The crime of trespass (entering land) is a misdemeanor.

## Penal Code

Trespass (entering land) is covered under *Penal Code Section 602(k)*.



## Examples

A homeless man found a vacant apartment with a broken-out window. He climbed through the window and lived there for three months until the owner found him. He committed the crime of trespass (entering and occupying real property) as he occupied the real property without the consent of the owner.

Three teenagers followed one of their teachers home. That night, the teens climbed over the teacher's fence, intending to spray paint the teacher's house. The teacher ordered them to leave, when they didn't the husband called law enforcement. The teenagers committed trespass (entering land) because they entered the land with intent to injure property and did not leave when requested.

Members of a nature activist group protested the cutting down of trees that housed a rare species of bird. They chained themselves to the trees in an effort to prevent the logging after being told to leave by the loggers. The loggers called law enforcement and had the protesters arrested. The protesters committed trespass (entering land) because they entered private land with the intent to interfere with the business.

## Additional Penal Code Sections

The table lists the additional penal code sections that are related to trespass.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Cutting or injuring standing timber	Misdemeanor	602(a)
Carrying away downed timber	Misdemeanor	602(b)
Injury to or severance from freehold	Misdemeanor	602(c)
Soil removal	Misdemeanor	602(d)
Soil removal from public property	Misdemeanor	602(e)
Damaging highway signs, etc.	Misdemeanor	602(f)
Oyster land	Misdemeanor	602(g)
Posted lands	Misdemeanor	602(h)
Destroying fences, gates, and signs	Misdemeanor	602(i)
Building fires on posted lands of another	Misdemeanor	602(j)
Entering lands	Misdemeanor	602(k)
Cultivated lands	Misdemeanor	602(l)
Entering and occupying real property	Misdemeanor	602(m)
Driving on private land	Misdemeanor	602(n)
Refusal to leave private property	Misdemeanor	602(o)
Closed lands	Misdemeanor	602(p)

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Refusal to leave public building	Misdemeanor	602(q)
Skiing in closed area	Misdemeanor	602(r)
Refusal to leave hotels or motels	Misdemeanor	602(s)
Entry on private property by person convicted of violent felony	Misdemeanor	602(t)(4)
Airport operations area	Misdemeanor	602(u)
Refusal to leave battered women's shelter	Misdemeanor	602(w)
Intentional interference with business establishment	Misdemeanor	602.1

### **Learning need**

Arrest and successful prosecution depend on the development of probable cause. Peace officers need to know the elements required to arrest for crimes related to trespassing and to correctly classify these crimes as misdemeanors.

### **Unauthorized entry of property [6.03.1, 6.03.5]**

Any person other than a public officer or employee acting within the course and scope of employment, who enters or remains in a noncommercial dwelling house, apartment, or other such place without consent of the owner, owner's agent, or person in lawful possession is a misdemeanor.

### **Trespass - entering and occupying real property [6.03.2, 6.03.5]**

Any person who enters and occupies real property or structures of any kind without consent of the owner, the owner's agent, or the person in lawful possession is a misdemeanor.

### **Trespass [6.03.2, 6.03.5]**

Any person who enters any land, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent, or by the person in lawful possession is a misdemeanor.

## WORKBOOK LEARNING ACTIVITIES

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### Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

### Activity Questions

1. A disgruntled customer enters a local department store and proceeds to stand directly in front of one of the cash registers. The disgruntled customer stops each person bringing a purchase to the register and says that the price or quality is better at a competing store. What, if any, laws can be enforced at this point to assist the store owner? How does this change if the store owner requests that the disgruntled customer leave and he refuses? What action should a peace officer take at this point?
2. Explain the differences between the crime of entering and occupying real property and the crime of trespass to land.

3. A group of high school seniors jumps a fence to picnic and swim in a creek that runs through private property. The owner discovers them and calls peace officers. Can the students be arrested for entering and occupying real property? Why or why not?

# Chapter 4

## Identifying and Classifying Other Property Related Crimes

### OVERVIEW

#### Learning Need

Arrest and successful prosecution depend on the development of probable cause. Peace officers need to know the elements required to arrest for crimes related to types of property crimes and to correctly classify these crimes as misdemeanors or felonies.

#### Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• recognize the crime elements required to arrest for vandalism	6.04.1
• recognize the crime classification as a misdemeanor or felony	6.04.3
• recognize what constitutes a lawful repossession	6.04.5
• recognize what constitutes lawful conduct in a landlord/tenant dispute	6.04.6

## In This Chapter

This chapter focuses on the characteristics of other property related crimes. Refer to the chart below for specific topics.

Topic	See Page
Vandalism	4-3
Repossession	4-7
Tenant/Landlord Disputes	4-11
Report Writing Tips	4-15
Chapter Synopsis	4-24
Workbook Learning Activities	4-25



### Definition

The crime of **vandalism** occurs when a person maliciously damages, destroys, or defaces any real or personal property of another person.

### Penal Code Section

Vandalism is covered under *Penal Code Section 594*.

### Crime Elements

To arrest a subject for vandalism, the necessary crime elements include:

- Malicious intent
- To deface with graffiti or other inscribed material or
- Damage or
- Destroy
- Personal or real property not their own

NOTE: Community property can be the subject of vandalism even if the suspect is a partial owner or the property.

## Classification

The crime of vandalism can be a misdemeanor or felony depending on the cost of damage. The following table illustrates the associated classifications.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Damage is \$400 or more	Felony	<i>594(b)(1)</i>
Damage is less than \$400	Misdemeanor	<i>594(b)(2)(A)</i>
Two prior convictions for vandalism <i>and</i> has served jail time for one vandalism conviction	Felony	<i>594.7</i>

## Examples

A man had an argument with his neighbor. The man threw turpentine on the hood of his neighbor's car and causing \$900 in damage to the paint. The man committed the crime of vandalism by maliciously damaging the car.

Gang members, wandering the neighborhood, spray painted their gang mark on sidewalks and walls of buildings causing \$300.00 in damage. They were committing vandalism by maliciously defacing property.

## Additional Penal Code Sections

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Possession, purchase, or sale of aerosol paint container to a person under the age of 18	Misdemeanor	<i>594.1</i>
Possession of specified tools with intent to commit vandalism	Misdemeanor	<i>594.2</i>
Vandalizing place of religious education or worship where services are regularly conducted	Felony	<i>594.3(a)</i>
Vandalizing place of religious education or worship where services are regularly conducted, which is shown to have been a hate crime	Felony	<i>594.3(b)</i>
Vandalism using noxious or caustic chemicals on any structure	Felony	<i>594.4</i>

## Vandalism of Government Property

Vandalism of government property carries enhanced penalties because it interferes with business and personal safety (i.e., traffic signals, stop signs). The penalties are based on number of offenses, not on the value of property damaged. The table below shows the penal code sections which deal with particular instances of vandalism of government property.

Crime	1st Offense	2nd Offense	3rd Offense
Graffiti of government facility or vehicle (not exceeding \$250) ( <i>Penal Code Section 640.5</i> )	Infraction	Misdemeanor	Misdemeanor
Vandalism of freeway or within 100 feet of highway ( <i>Penal Code Sections 640.7 and 640.8</i> )	Misdemeanor	Misdemeanor	

NOTE: 2nd and 3rd offenses include combinations of *Penal Code Sections 594, 594.3, 594.4, 640.5, 640.6, or 640.7.*

### Introduction

Goods sold under a conditional sales contract in which the title remains with the seller and the possession with the buyer may be lawfully repossessed by the seller.

### Definition

**Repossession** occurs when the seller, a full time employee of the seller, or a licensed reposessor, recovers or takes back with complete control, goods that were sold under a conditional sales contract when the buyer fails to pay for them.

### Related Terms

To understand the parties involved, peace officers need to become familiar with the following terms.

- A **reposessor** is the seller, or a full time employee or a licensed reposessor, who physically attempts to retrieve the goods.
- A **buyer** is the person who signs a conditional sales contract to purchase goods over a period of time. By signing the contract, buyers waive their rights to court hearings if they are unable to meet the conditions of the contract.
- A **seller** is the person who retains the title for the goods being purchased over time until all the conditions of the sales contract have been met.
- A **bailee** is a person having the storage, care, safekeeping, custody, or possession of any vehicle subject to registration.
- **Control** is the ability of the possessor to exercise a restraining or directing influence over an item.
- Repossession: *Business & Profession Code Section 7507.12* states “With regard to collateral subject to registration under the Vehicle Code, a repossession occurs when the reposessor gains entry to the collateral or when the collateral becomes connected to a tow truck.”

## Has a Crime Been Committed?

Peace officers may be asked to determine whether a crime has been committed at the time of the repossession. Officers do this by determining who has control of the property and whether any laws were violated during the repossession.

## Control of property

To complete a repossession, the reposessor must have gained dominion and control of the goods. The buyer can object until the reposessor has control. If the buyer objects, the reposessor must abandon the repossession.

The following table illustrates when a reposessor can lawfully enter to repossess an item and when control is obtained of that item.

Condition	Public Area	Private Property
Reposessor entry	Can enter property at any time	Can only enter places open to public or with permission
Control completion	Control completed when goods are taken or when a vehicle is entered	Control is complete when goods are removed, or when a vehicle is entered or connected to a tow truck

NOTE: Public area includes public property and private property open to the public (i.e., off-street parking).

## Related Crimes

Crimes are sometimes committed during a repossession dispute. The table below shows the related Penal Code Sections which deal with crimes that may be committed during a repossession.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Vandalism	Misdemeanor or Felony	<b><i>594</i></b>
Assault	Misdemeanor	<b><i>240</i></b>
Battery	Misdemeanor	<b><i>242</i></b>
Assault with a deadly weapon	Felony	<b><i>245</i></b>
Disturbing the peace	Misdemeanor	<b><i>415</i></b>
Drawing, exhibiting, or using a firearm	Misdemeanor	<b><i>417</i></b>
Trespassing	Misdemeanor	<b><i>602</i></b>
Forcible Entry	Misdemeanor	<b><i>418, 603</i></b>

**NOTE:** Peace officers should establish the intent of the reposessor when considering if a crime occurred. The intent to steal or commit a felony is not normally present.

## **Peace Officers Responding to a Report of Stolen Property**

When receiving a call that property has been stolen, the peace officer should determine whether it has actually been repossessed. To determine if the property might have been repossessed, the officer should:

- Determine who has title to the property
- Ask the buyer if he is aware that he is delinquent in payments
- Determine whether the item is on the list of repossessed items reported to the police

If the officer reasonably concludes that the property has been repossessed, the complainant should be referred to the titleholder.

### **Examples**

A reposessor began backing an automobile out of a shopping center parking lot when the buyer came out and objected to the repossession. The repossession was complete because reposessor had complete control of the vehicle before the buyer started objecting.

A buyer came out of his house and saw the reposessor driving down the street in the repossessed automobile. The reposessor had established control of the auto before the buyer objected.



## **TENANT/LANDLORD DISPUTES**

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### **Introduction**

When called to a tenant/landlord dispute, peace officers need to be able to explain to the parties what conduct is lawful.

Disputes arise when one of the parties (e.g., the landlord) believes the other (e.g., the tenant) is in violation of the lease agreement (e.g., hasn't paid the rent on time).

### **Tenant And Landlord Rights**

Signing a lease requires a tenant to make timely rent payments and not to damage the property. A landlord is required to respect the privacy of the tenant and not enter the property unless the tenant has given permission or there is an emergency (e.g., a broken water pipe) that requires immediate attention to prevent further damage to the property.

### **Unlawful Landlord Conduct**

Landlords sometimes resort to unlawful methods in an effort to force a tenant to pay rent or vacate the dwelling. Peace officers need to explain what actions constitute lawful conduct during tenant/landlord disputes.

The following table shows the penal code sections of crimes that may be committed if a tenant is being harassed by a landlord.

<b>Crime</b>	<b>Description</b>	<b>Classification</b>	<b><i>Penal Code Section</i></b>
Tenant lockout	Jamming or changing the lock on the tenant's door to prevent the tenant's use of the dwelling until the rent is paid	Misdemeanor	<b>418</b>
Seizure of tenant's property	Seizing a tenant's possessions in payment for delinquent rent. Even with a lien, a landlord cannot seize necessary household items or tools of the tenant's livelihood	Misdemeanor	<b>418</b>
Removal of doors and windows	Removing the doors and windows to the tenant's dwelling or destroying the tenant's personal property in an effort to harass the tenant	Misdemeanor	<b>594</b>

<b>Crime</b>	<b>Description</b>	<b>Classification</b>	<b><i>Penal Code Section</i></b>
Trespass	Entering a tenant's premises without permission from the tenant, in an emergency without prior notice. In case of emergency, a landlord doesn't need a prior notice to enter the premises.	Misdemeanor	602.5
Unlawful interruption of utility services; taking down, removing, injuring, or obstructing	Telephone lines	Felony	591
	Electric lines	Felony	593
	Gas or hazardous liquid pipelines	Felony	593(c)
	Turning off the water	Misdemeanor	624

NOTE: Even though the landlord may destroy his own property by removing doors or windows, the tenant has a property interest, and acts of destruction constitute vandalism on the part of the landlord.

NOTE: If the tenant has consented by lease to the landlord's entry at will, entry is not trespassing.

## Unlawful Conduct by Evicted Tenant

Once a tenant has been lawfully evicted, the tenant cannot reenter the premises without permission from the landlord.

The following table shows the penal code sections which deal with crimes that a tenant might commit after a legal eviction.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Repossession of land after legal eviction	Misdemeanor	419
Burglary	Felony	459
Unauthorized entry	Misdemeanor	602.5
Theft	Misdemeanor	484
Vandalism	Misdemeanor/Felony	594

NOTE: During the time that the civil dispute is under consideration by the court, the tenant cannot be prohibited from entering the dwelling.

## Examples

A tenant came home and realized that someone had entered her apartment. She called law enforcement. Upon questioning the landlord, the peace officer determined that the landlord was investigating a water leak and had come to the apartment, knocked and let himself in with the master key when no one answered. He found that a pipe had burst in the kitchen and caused a water leak. This is not trespassing as the landlord had legally entered the apartment as part of his employment.

After obtaining a court order to enter and seize the tenant's property, the landlord and an authorized officer of the court entered the tenant's apartment and took the tenant's TV, stereo, and radio in lieu of past due rent. Because the landlord followed civil procedures, the actions were lawful.

### Introduction

Peace officers have an ethical, moral, and legal duty to write police reports, which fully document pertinent incident-related facts, statements, and circumstances. We have a clear responsibility not to leave out, distort, or fabricate any information. Our goal should be to produce an easily understood police report, using words and sentences that can be easily grasped by the common man.

### Property Crime

The array of crimes, included in the category, of **property crimes** are varied. They include all manner of thefts, possession of stolen property, possession of burglary tools, and the possession of property with altered serial numbers. Property crimes also include trespassing, tenant/landlord disputes, vandalism, and arson.

Statistically, crimes involving property are probably the most frequently reported types of law enforcement incidents.

### The Beginning of a Good Police Report

Peace officers usually become aware of a property crime in one of several ways. The first (and most common) is by being dispatched. Another way is when an officer actually witnesses an offender committing a property crime. Other times, persons may directly report a property crime to an officer instead of calling 911. For example, someone might wave you down as you pass by in your patrol car and thereafter report a crime to you.

In any report, it's always very important for officers to fully document the manner in which they first became aware of an incident. By doing so, preliminary legal hurdles related to **date and time, jurisdiction, lawful presence, reasonable suspicion, and probable cause** can be fully addressed.

The beginning section of your report (commonly referred to as the introduction) should answer a reader's fundamental questions related to *who, what, why, where, when, and how*.

## Writing the Report

The bulk of information in most reports is placed in the body of the report, typically following a solid **introduction**.

When writing a report involving a property crime, we need to fully document the details useful to either **detectives** or **prosecutors**. These two groups of specialists are the primary users of your reports. Obviously, we want to give them as much information about the crime as possible.

## Investigators

Detectives need you to fully document any pertinent details related to possible investigative leads. An investigative lead is:

- Any information likely to assist an investigator in linking a particular offender to the crime, or
- Any information likely to help an investigator recover the property involved in the incident

## Examples of Property Crime Investigative Leads for Detectives

Details tending to demonstrate method of operation:

- The day of the week and the time of day the offense occurred
- Type and location of the premises involved
- Location and method of entry (if applicable)
- Arrival and departure method (e.g., car, truck, bike, on foot)
- Numbers of suspects
- Unusual actions by a suspect during the crime (for example, a suspect who defecates on the floor in a home being burglarized)
- Type of property taken
- Regarding graffiti, vandalism, or forgery cases: Note misspellings or unusual words used
- Regarding arson cases: Note probable fire-starting method, evidence of accelerant use, and evidence of multiple points of origin

Details regarding *suspects*:

- Detailed suspect descriptions from any witnesses or victims
- Possible suspect vehicle descriptions
- Trace evidence left at the crime scene (e.g., shoe prints, tire tracks, fingerprints)

Details regarding *property*:

- Record precise descriptions of stolen property
- Document a detailed description of the extent and nature of any vandalism
- In arson cases, pay particular attention to describing the extent and nature of the fire damage

### **Details Helpful to Prosecutors**

In property crimes, prosecutors need you to fully document issues related to prosecuting the offender believed to have committed the crime. Such issues are:

- Date and time of the offense (statute of limitations)
- Where the crime happened (jurisdiction)
- How you became aware of the crime (lawful presence, reasonable suspicion, probable cause)
- The details tending to demonstrate a solid connection between the crime and the offender (evidence)

### **Examples of Evidence**

Examples of evidence used by prosecutors in property crime prosecutions:

- Eyewitness statements
- Physical evidence connecting a suspect to the crime scene
- Forensic evidence connecting a suspect to the crime
- Documents or business records linking the suspect to the crime (e.g., pawn slips, forged checks, handwriting samples, etc.)

## “Concrete” vs. “Abstract” Writing

Reports need to be detailed, specific, and thorough. Fundamental questions related **who, what, why, where, when, and how** always need development. For the benefit of anyone who might read your report, the wording should paint a clear “word picture” of what happened.

Report writing is different than when you wrote papers for professors in school. You probably have been conditioned to write in rather abstract terms. In law enforcement reports, we write with precision and detail. This difference is often referred to as **concrete writing versus abstract writing**.

Example: Is a wristwatch simply a wristwatch? How can such a vague description lead to its recovery in a pawnshop or inside a suspect’s home? Describe property so a detective could recognize it from your report.

Detectives constantly look for property crime evidence in many places. For example, they search homes and buildings associated with suspects. They inspect pawnshops, flea markets, and online auction sites.

## “Abstract” Writing

Imagine yourself as a detective at a local flea market, looking over items being offered for sale by vendors. What information would help you spot items of property stolen during a recent burglary? You would need **concrete details** involving complete descriptions of those items!

Example: Consider a set of golf clubs worth \$2, 500.00 stolen from a car, parked and locked at a local driving range. Is that set of golf clubs simply “a set of golf clubs”? That’s all they would be if we described them in abstract terms. But would that description help a detective? No, it would not.



## **“Concrete” Writing**

*Concrete writing* is much more detailed. The best description of those golf clubs would include their brand, color, condition, and the types of the individual clubs (woods, drivers, hybrids, irons, wedges), the color, brand, and distinguishing characteristics of the golf bag itself and any other details which could increase the odds of recovery. The difference between getting an abstract or a concrete description of those golf clubs is huge if you're a detective assigned to that case.

*Concrete* suspect descriptions are just as important. There are often many oddities about the appearance of people. If you ask the right questions of eyewitnesses, they will often give you great suspect characteristics. The common descriptors of people are related to their age, height, weight, eye, and hair color. Think outside the box! For example:

- Did the suspect have tattoos?
- Did she have any missing teeth?
- Did he smell?
- Did he have any scars?
- Were unusual statements made by the suspect?
- Did the suspect have an accent?
- How was the suspect dressed? Be very precise; distinctive clothing can become a piece of evidence linking a suspect to a crime.

## **Details**

The *concrete* details documented in reports dealing with property crimes are absolutely crucial. *Concrete* details often lead to the recovery of stolen property or important evidence. They often corroborate statements made by witnesses and victims. Details can link an offender to a crime or help lead to the identification of a suspect. On the other hand, concrete details in reports can also help demonstrate a person's dishonesty or inaccuracy.

The following is very important:

Details *missing* from reports, or *inaccurate details* contained in your report, can hinder investigations and will inevitably lead to your credibility being questioned in court.

Defense attorneys love inaccuracies in incident reports. They commonly exploit any discrepancies discovered in reports to make you, or someone else, look incompetent or dishonest.

### **Example Narrative: Burglary Report**

04-21-06 at 0835 I was dispatched to a house located at 1400 Balham Drive in Concord, related to a residential burglary. I arrived at 0845 and met with the victim, John Lanham, who gave me the following information:

Lanham lived alone at 1400 Balham Drive. He worked the graveyard shift at a local warehouse. He left for work on 04-20-06 at 2200, locked his home, and left it in good condition. Lanham returned home on 04-21-06 at 0820 and entered via the front door. As soon as he got inside, he saw his house was in disarray. Cabinets, drawers, and doors were opened and the premises appeared to have been ransacked. He searched his house and found the master bedroom sliding glass door wide open. He did not leave it that way. A pistol and a laptop computer had been stolen.

Lanham described his stolen pistol. It was a blue-steel .357 magnum Colt pistol with a 6-inch barrel, serial number 1F3790188. It had been stolen from his bedroom closet and was loaded. The gun was worth \$650.00.

Lanham's described his laptop computer. It was a grey and silver Hewlett-Packard Pavilion model, serial number CNF2441159K. The computer had his California driver license number (A0491863) engraved on the top lid. It was stolen off the desk in the den. It was worth \$1750.00.

Lanham's house was a small two-bedroom house situated on a corner in a residential area. Inside, living room furniture was overturned, kitchen cabinets were open, and the desk in the den had opened drawers. Lanham's master bedroom sliding glass door was wide-open. That doorway led into the back yard. There was an alley behind the house.

I conducted my investigation. The sliding glass door in Lanham's bedroom had been pried open and lifted off its track. There were distinctive pry marks on the outer side of the door lock mechanism, as well as, smudge marks on the exterior glass. In the rear yard, I located a suspicious shoeprint and a bicycle tire impression in the garden soil, four feet from the sliding glass door. Concord Police Technician Sandra Johnson responded to the scene and I showed her the previously mentioned evidence. She took photographs and recovered several latent fingerprints from the outer surface of the sliding glass door. See her supplemental report for details.

I met with two neighbors at 1401 and 1405 Balhan Drive. Nobody had seen or heard anything suspicious; other neighbors were not at home.

Before leaving, Lanham and I discussed how the case might be investigated. I told him burglary detectives might be contacting him for additional information. He was anxious to cooperate. I gave him my business card and the burglary case number for reference.

#### **Example Narrative: Vandalism Report**

04-21-06 at 0700 I was dispatched to the Iron Horse Middle School, located at 12601 Alcosta Boulevards in San Ramon. Dispatch said the call was related to a vandalized classroom at the school. I arrived at 0710 and met with the reporting party, James Deere. He gave me the following information.

Deere was the principal at Iron Horse Middle School. On 04-21-06 at 0635, he arrived at the school. He was the first employee to arrive on campus. While walking to the administration offices, he saw the door to classroom #100 standing wide open. He looked inside the classroom and discovered it had been heavily vandalized. Deere estimated the damage would exceed \$2000.00. He did not believe anything had been stolen. He immediately called 911 and had not entered the classroom for fear of destroying possible evidence. He said classrooms 100 to 110 were not connected into the school's alarm system. He had no idea who might have committed the vandalism.

Deere introduced me to John Jacobs, who gave me the following information:

Jacobs was employed as one of the school's janitors. He had been cleaning classrooms, including classroom #100, and was the last school employee to leave the campus the prior evening. Jacobs left the school campus on 04-20-06 at 2245. He was positive classroom #100 was locked and secure when he left. As he drove off campus, he drove through the school's front parking lot. He noticed a car parked in the lot about 50 feet from the school offices. Nobody was inside it. At the time, he didn't think it was suspicious.

Jacobs described the car. It was a dark-colored older model Ford Explorer 4 door sports utility vehicle, with Tennessee license plates. It had oversized tires and shiny custom rims.

I went to classroom #100. Chairs, desks, and tables were overturned. The components of five computer workstations were smashed on the classroom floor. They included five computer processors, monitors, printers, and keyboards. A color television on a metal rollaway stand was overturned and its screen smashed on the floor.

I conducted my investigation. Only one door led into Classroom #100; it had four windows and two skylights in the ceiling, all intact. Nothing bore signs of forced entry. There was no evidence of forced entry to the classroom door or anywhere else. I was unable to establish a precise point of entry.

I locate and recovered two fresh fingerprints on one of the intact computer monitor screens. I also located and recovered a smashed cigarette butt located inside the classroom, on the linoleum floor, 5 feet from the doorway. I took 24 color crime scene photos. I was unable to locate other witnesses or investigate leads.

Before leaving, Deere and I discussed how the incident might be investigated. I gave Deere my business card and the vandalism report case number.

04-21-06 at 1030, I booked 1 roll of film (the 24 case photos), the cigarette butt, and the 2 recovered fingerprints into the evidence room at the San Ramon Police Department.

## Example Narrative: Arson Report

On 01-21-07 at 2350 I was driving in my patrol vehicle, northbound on the Oakdale Waterford Highway, north of Milnes Road in unincorporated Oakdale. I saw an unoccupied vehicle on fire. It was parked northbound on the east shoulder of Oakdale Waterford Highway. 3/10 of a mile north of Milnes Road. The vehicle was a white 2003 Toyota four-wheel drive pickup truck, California license 2C34889. The cab and engine compartment of the truck were on fire. I checked the license plate in patrol vehicle computer records. The truck had been reported stolen to the Modesto Police Department on 01-20-07.

I requested the fire department respond. Ultimately, Oakdale Rural Fire Department Engine 6 arrived and put out the fire. Fire Captain Ed Ramirez was one of the firefighters who responded. After the fire was out, he inspected the truck.

Ramirez showed me a partially burned highway road flare lying in the pickup bed. Ramirez suspected arson and thought the remains of the road flare in the pickup truck bed was potential evidence.

The truck was missing all four of its wheels and tires, plus its front and rear bumper assembly. The truck rested on its front and rear axles. The driver and passenger side doors, plus the truck's seats were also missing.

I took 24 color photos of the scene and the truck and then searched for evidence. I recovered the road flare from the truck's bed. Afterward, I examined the cab area of the truck and discovered the steering column was damaged around the ignition. The entire ignition assembly was removed from the steering wheel and its remains were melted on the floorboard below. I was unable to locate the other evidence. There were no witnesses at the scene.

On 01-22-07 at 0025, I requested a tow truck. Oakdale City Tow arrived shortly thereafter and towed the truck to their storage yard. Afterward, I spoke with Theresa Phillips in Sheriff's Department records and gave her the pertinent details so the truck could be updated in the stolen vehicle system as recovered.

On 01-22-07 at 0430, I booked the remains of the road flare and my roll of film into the evidence room at the Stanislaus County Sheriff's Department.

### Learning Need

Arrest and successful prosecution depend on the development of probable cause. Peace officers need to know the crime elements required to arrest for crimes related to other types of property crimes, and to correctly classify these crimes as misdemeanors or felonies.

### Vandalism [6.04.1, 6.04.3, 6.04.4]

Vandalism is covered under *Penal Code Section 594*.

The crime of vandalism can be classified as a misdemeanor or felony depending on the cost of damage.

### Repossessions [6.04.5]

To complete a repossession, the reposessor must have gained dominion and control of the goods. The buyer can object until the reposessor has control.

### Tenant/Landlord Disputes [6.04.6]

Signing a lease requires a tenant to make timely rent payments and not to damage the property. A landlord is required to respect the privacy of the tenant and not enter the property unless either the tenant has given permission, or there is an emergency (e.g., a broken water pipe) that requires immediate attention to prevent further damage to the property.

## WORKBOOK LEARNING ACTIVITIES

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### Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

### Activity Questions

1. As a graduation prank, several newly graduated high school seniors returned to the school and covered each of the first floor windows with shaving cream. Has this act completed the crime of vandalism? Why or why not?
  
  
  
  
  
  
  
  
  
  
2. Describe three instances in which the crime of vandalism would be considered to be a felony.

3. Peace officers are called to the scene by a homeowner who hears a sound in his driveway. The officers discover a man in the process of repossessing the homeowner's car. The reposessor shows the officers a copy of the contract and his private license to repossess. At this time, the homeowner comes over to ask the officers what is going on, and the man resumes trying to remove the car. What actions should the peace officers take?



# Supplementary Material

## OVERVIEW

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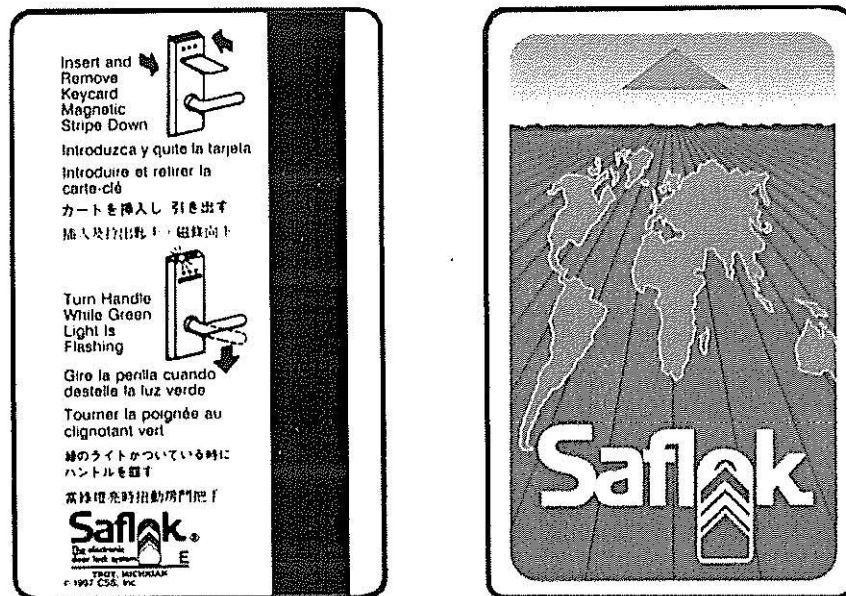
### In This Section

Refer to the following pages for an illustrated glossary of commonly used burglary tools.

Topic	See Page
Burglary Tools Illustrated Glossary	S-2

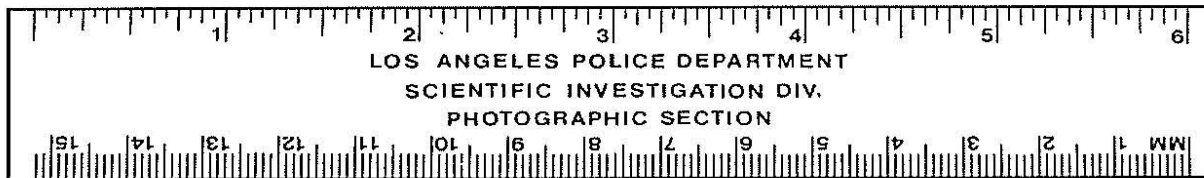
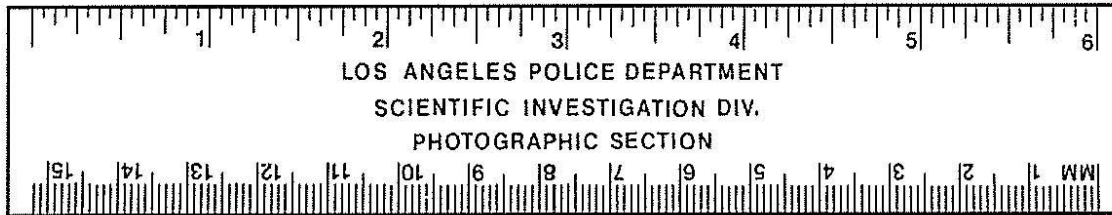
## BURGLARY TOOLS ILLUSTRATED GLOSSARY

### 1. Credit cards or plastic cards



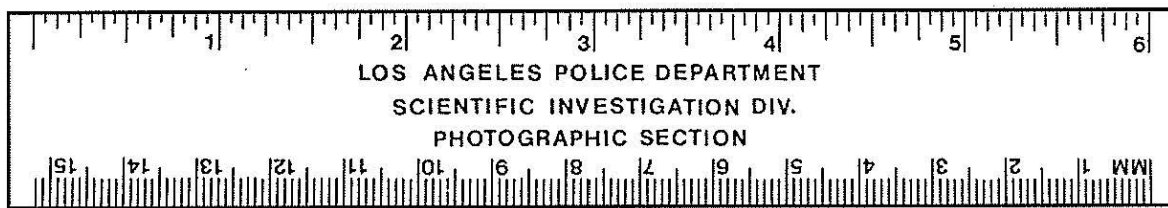
These flexible plastic cards are most commonly used to slip open the angled bolt of a lock, causing a locked door to open. This technique is not effective against deadbolts but is used on the common doorknob lock.

## 2. Crowbar



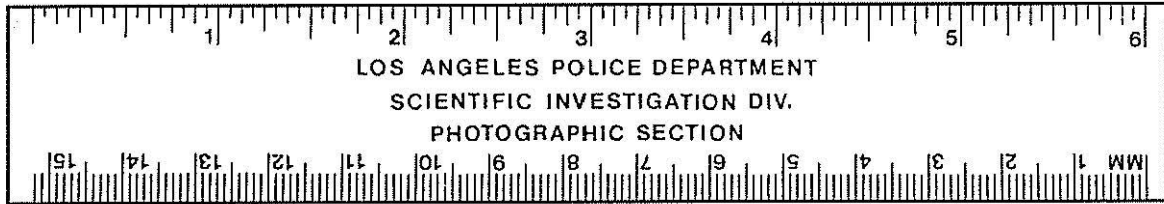
Made out of steel, a crowbar is used to pry open locked doors and drawers. The hook of the crowbar is inserted against the surface to be pried open and when force is applied, the angle of the tool breaks open the lock. It can also smash glass windows to allow entry.

### 3. Keys



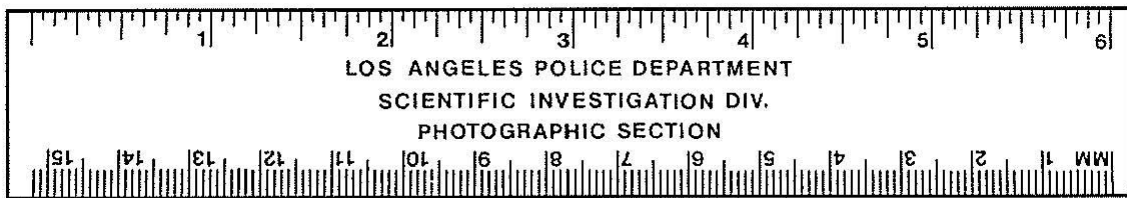
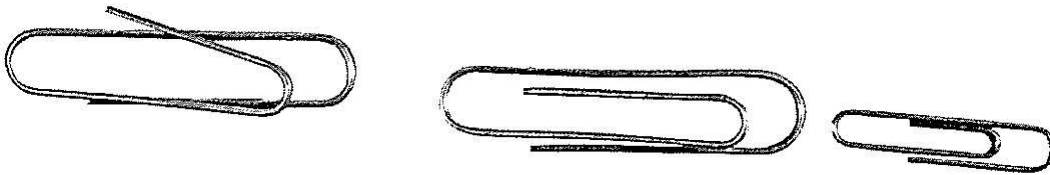
Filed down keys, also know as key bits, can operate as a form of master key and are used to open locks or start car ignitions. Older, worn down locks are especially vulnerable.

#### 4. Nail Set



A hand tool with a fine point which can be inserted into keyholes to trigger the lock to open; it simulates the action of a key.

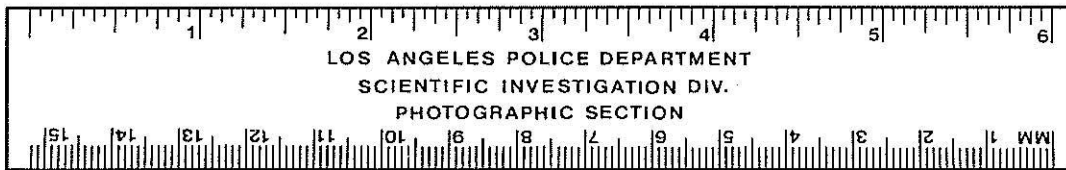
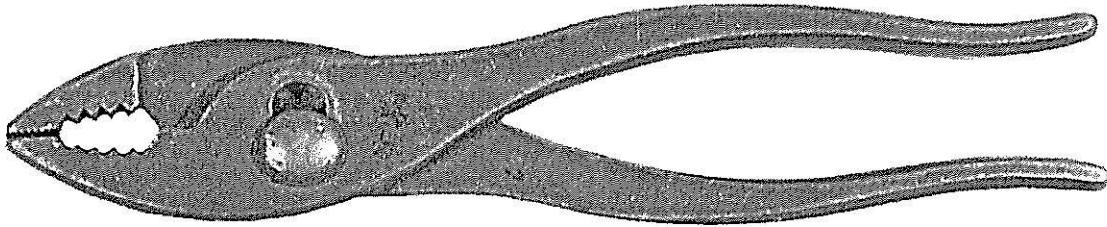
#### 4. Paper Clips



Aluminum paper clips can be used to pick locks, especially older, worn-out locks.



## 5. Slip Joint Pliers



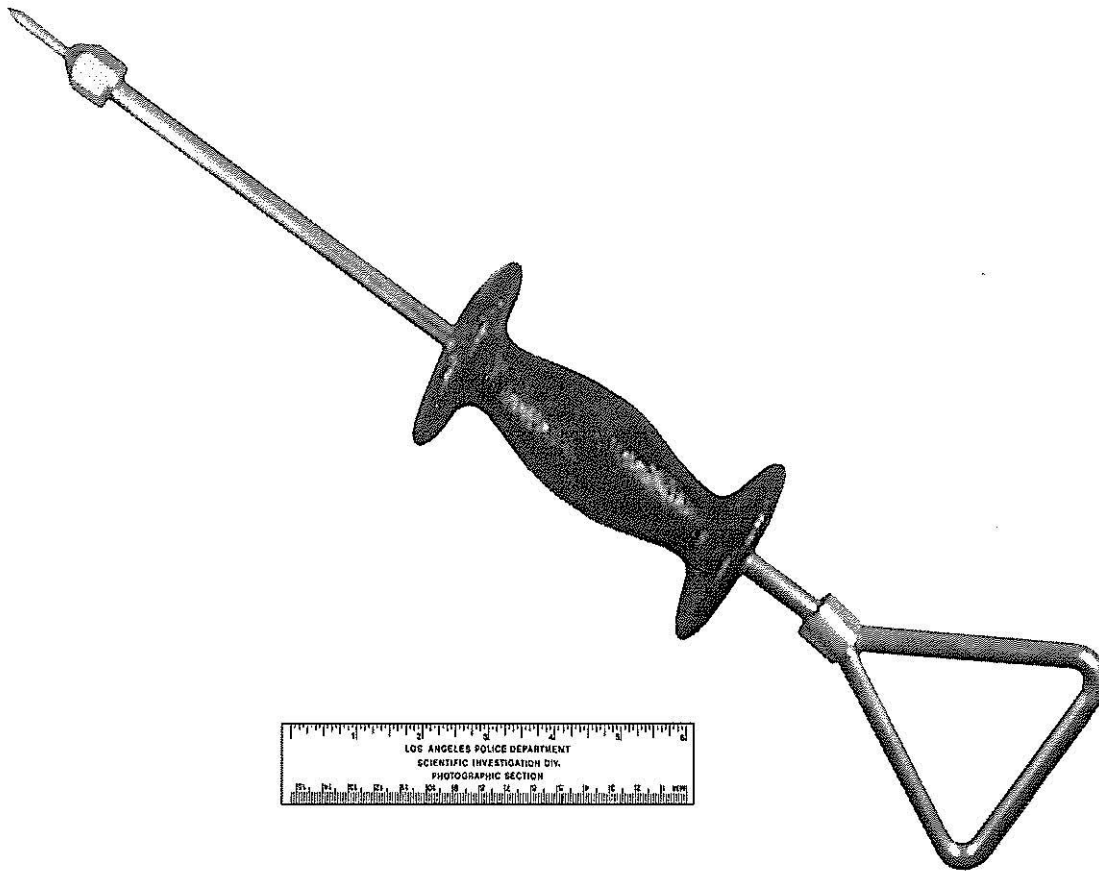
In strong hands, pliers can be used to yank out lock cylinders from building or automobile doors. They can also yank out the ignition mechanism from cars. They are also used to wrench open older doorknobs, pry up screens, open window locks, or peel off the steering column casings of older cars to access the ignition system.

## 6. Screwdriver



A screwdriver rammed into a door lock or automobile ignition can force open the lock or start up a car. They can also pry open door moldings, windows, or weaker locks.

## 7. Slide Hammer



A car repair tool used to pull dents out of metal body parts, the slide hammer can be used to rip outdoor locks, ignition circuits, and car stereos.

**Prepared by**  
Los Angeles Police Department Academy  
Legal Training Unit  
May 2000





# Glossary

## Introduction

The key vocabulary terms for Learning Domain 06: Property Crimes are listed below with the definitions as they apply to this workbook.

## Arson

Willfully and maliciously setting fire to or burning or causing to be burned or aiding, counseling, or procuring the burning of any structure, forestland, or property is a felony

## Bailee

A person having the storage, care, safekeeping, custody, or possession of any vehicle subject to registration

## Burglary

Entering any designated building or structure with the intent to commit theft or any other felony

## Buyer

The person who signs a conditional sales contract to purchase goods over a period of time

## Control

The ability to exercise a restraining or directing influence over something

## Dispose Of

To give, give away, loan, offer, offer for sale, sell, or transfer

**Forgery**

Defrauding by signing the name of another or of a fictitious person, without obvious authority or otherwise altering a document with the intent to defraud

**Forest Land**

Any brush covered land, cut over land, forest, grasslands, or woods

**Grand Theft**

Is a felony or misdemeanor depending on the value or type of the property stolen

**Incendiary Device**

A device that is constructed or designed to start an incendiary fire by remote, delayed, or instant means

**Incendiary Fire**

A fire started by an incendiary device by remote, delayed, or instant means

**Maliciously**

A wish to vex, defraud, annoy, or injure another person or an intent to do a wrongful act, established either by proof or presumption of law

**Occupation**

A person exercises physical control over land where the land is possessed and enjoyed

**Personal Property**

Any movable object(s) owned by an individual; all property other than real estate

### **Petty Theft**

All thefts that are not grand theft

### **Property**

Includes money, labor, animals, crops, or real or personal items

### **Real Property**

Land and immovable property, affixed to, or growing from that land

### **Recklessly**

A reasonable person is aware of and consciously disregards a substantial and unjustifiable risk that his or her act will set fire to, burn, or cause to burn a structure, forest, or property

### **Repossession**

The seller, or a full time employee of the seller, or a licensed reposessor, recovers or takes back with complete control goods that were sold on conditional sales contract when the buyer fails to pay for them

### **Reposessor**

The seller, or a full time employee of the seller, who physically attempts to retrieve the goods

### **Seller**

The person who retains the title for the goods being purchased over time until all the conditions of the sales contract have been met

## **Shoplifting**

Entering a commercial establishment with intent to commit larceny while that establishment is open during regular business hours where the property taken or intended to be taken does not exceed \$950

## **Specified Structures**

For the purposes of burglary, includes house, room, shop, tent, railroad car, inhabited camper, aircraft, mine, warehouse, etc.

## **Structure**

Any building, commercial or public tent, bridge, tunnel, or power plant

## **Theft**

The taking and carrying away of the personal property of another with the intent to permanently deprive the owner

## **Vandalism**

Maliciously damaging, destroying, or defacing any real or personal property of another person

## **Vehicle**

A device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks

## **Vehicle Identification Number**

(VIN) Generally a 17-digit number that is unique to a vehicle and may be used to confirm specific ownership