

Basic Course Workbook Series Student Materials

**Learning Domain 39
Crimes Against the Justice System
Version 5.8**

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Student Materials
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Crimes Against the Justice System
Version 5.8**

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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

LD 39: Crimes Against the Justice System

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Preface

Introduction

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 Student Workbook

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. You may use the workbook 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: Preface and How to Use the Workbook, which provide an overview of how the workbook fits into the POST 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. The terms appear throughout the text and are bolded and underlined the first time they appear (e.g., <u>term</u>).

Chapter 1

Identifying and Classifying Crimes that Obstruct the Judicial Process

Overview

Learning need

Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for crimes against the judicial process and to correctly categorize 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">recognize the crime elements required to arrest for:<ul style="list-style-type: none">intimidating witnesses or victims,threats of retaliation,violating a court order.	39.01.2 39.01.4 39.01.5
<ul style="list-style-type: none">recognize the crime classification as a misdemeanor or felony.	39.01.6

Continued on next page

Overview, Continued

In this chapter This chapter focuses on crimes related to government administration. Refer to the chart below for specific topics.

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Threats of Retaliation	1-7
Violating a Court Order	1-8
Chapter Synopsis	1-10
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Intimidating Witnesses or Victims

Introduction It is a crime to attempt to prevent a witness or victim from attending or giving testimony at a trial, proceeding, or inquiry authorized by law by means of threat or intimidation.

Leadership The goal of the American legal system is to seek the truth. While this may be one of the most complex and elusive tasks facing humanity, it is clear that the intentional effort to subvert the process contradicts that goal. Officers must demonstrate leadership skills and integrity through accurate communication in written documentation and during testimony.

Penal code section The crime of preventing or dissuading witnesses or victims by intimidation to testify is covered under *Penal Code Section 136.1(a)*.

Crime elements To arrest a person for the intimidation of witnesses or victims to testify, the necessary crime elements include:

Any person who knowingly and maliciously prevents or dissuades any witness or victim from *attending or giving testimony* at any trial, proceeding, or inquiry authorized by law (*Penal Code Section 136.1(a)(1)*).

Any person who knowingly and maliciously attempts to prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law (*Penal Code Section 136.1(a)(2)*).

Continued on next page

Intimidating Witnesses or Victims, Continued

**Penal
code
section**

The crime of preventing or dissuading witnesses or victims from reporting that victimization to any Peace Officer is covered under *Penal Code Section 136.1(b)*.

**Crime
elements**

To arrest a person for the intimidation of witnesses or victims to testify, the necessary crime elements include:

Every person who attempts to prevent or dissuade another person who has been the victim of a crime or who is witness to a crime from doing any of the following including but not limited to: 1) making any report of that victimization to any Peace Officer (*Penal Code Section 136.1(b)(1)*), causing a complaint to be sought or assisting in the prosecution (*Penal Code Section 136.1(b)(2)*), arresting the suspect (*Penal Code Section 136.1(b)(3)*).

Classification

The crime of intimidating witnesses or victims is a misdemeanor or felony.

Continued on next page

Intimidating Witnesses or Victims, Continued

Attempted threats or intimidation

The mere attempt to intimidate or threaten a witness or victim is enough to arrest the person for the offense that was attempted, without regard to the success or failure of the attempt. Further, no person need be physically injured or actually feel intimidated.

Related terms

To understand the crimes involving intimidating a witness or victim, peace officers need to become familiar with the following terms.

A **witness** (*Penal Code Section 136(2)*), is any person:

- having knowledge of the existence or nonexistence of facts relating to any crime
- whose declaration under oath is received, or has been received, as evidence for any purpose
- who has reported any crime
- who has been served a subpoena
- who could be believed by any reasonable person to be one of the above

A **victim** is any natural person with respect to who there is reason to believe that any crime as defined under the laws of this state or any other state or of the United States is being or has been perpetrated or attempted to be perpetrated. (*Penal Code Section 136(3)*)

Malice means an intent to vex, annoy, harm, or injure another person. (*Penal Code Section 136(1)*)

Continued on next page

Intimidating Witnesses or Victims, Continued

Examples

Example:

A man went to the home of his estranged wife to discuss a problem they were having over their property settlement. An argument broke out and the man slapped his wife and then told her he would come back and “really beat you up” if she reported the incident to the local law enforcement. Because of his threat to harm her if she reported the assault, the man committed the crime of intimidation of a witness or victim.

Threats of Retaliation

Introduction It is a crime to use force or threaten to use force or violence upon a witness to, or a victim of, a crime or any other person, or to take, damage, or destroy any property of any witness, victim, or any other person, because the witness, victim, or other person has provided any assistance or information to a law enforcement officer, or to a public prosecutor in a criminal proceeding or juvenile court proceeding.

Penal code section Threats of retaliation is covered under *Penal Code Section 140(a)*.

Crime elements To arrest a person for threats of retaliation, the necessary crime elements include:

Every person who willfully uses force or threatens to use force or violence upon the person of a witness to, or a victim of a crime or any other person, or to take, damage, or destroy any property of any witness, victim, or any other person, because the witness, victim, or other person has provided any assistance or information to a law enforcement officer, or to a public prosecutor in a criminal proceeding or juvenile court proceeding, shall be punished by imprisonment in the county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

NOTE: *Penal Code Section 1170(h)* provides that a felony may be served in state prison or a county jail.

Classification The crime of threats of retaliation is a felony.

Example Example: At a trial for embezzlement, Bill testified against the defendant, his former business partner. Two days later, while the jury was deliberating, Bill received a letter from the defendant stating “you’ll be sorry for what you did.” The letter also stated that the business they had formerly owned together would be “torched.” The defendant committed the crime of threats of retaliation.

Violating a Court Order

Introduction The willful disobedience of any order that has been issued by a court is a violation of a court order.

Penal code section The crime of violation of a court order is covered under *Penal Code Section 166(a)(4)*.

Crime elements To arrest a person for violation of a court order, the necessary crime elements are:

Any person who willfully disobeys the written terms of any process or court order, or out-of-state court order lawfully issued by any court, including orders pending trial.

Classification The crime of violation of a court order is a misdemeanor.

Service of the court order For the crime of violating a court order to be complete, the court order must:

- have been properly served on the person, or
- the person must have been present when the order was generated

Continued on next page

Violating a Court Order, Continued

Examples

Example: An officer arrived at the home of a woman who had reported a prowler. The officer found a man in the backyard of the home but the man claimed that he lived there. The woman identified the man as her former business partner and showed the officer a valid Temporary Restraining Order which forbade the man from coming within 100 feet of the woman. Upon questioning, the man admitted that he had been properly served with the order one week prior to the incident. The officer arrested the man for the crime of violating a court order.

Example: During a trial, the judge decided to adjourn the court proceeding for a lunch break. The judge ordered the officer witness who had been testifying to return after lunch for examination by the defense attorney. The officer witness failed to return. She committed the crime of violating a court order.

Chapter Synopsis

Learning need Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for crimes against the judicial process and to correctly categorize these crimes as misdemeanors or felonies.

Intimidating witnesses or victims
[39.01.2,
39.01.6] Every person who willfully uses force or threatens to use force or violence upon the person of a witness to, or a victim of a crime or any other person, or to take, damage, or destroy any property of any witness, victim, or any other person, because the witness, victim, or other person has provided any assistance or information to a law enforcement officer, or to a public prosecutor in a criminal proceeding or juvenile court proceeding (*Penal Code Section 136.1*).

Threats of retaliation
[39.01.4,
39.01.6] Every person who willfully uses force or threatens to use force or violence upon the person of a witness to, or a victim of a crime or any other person, or to take, damage, or destroy any property of any witness, victim, or any other person, because the witness, victim, or other person has provided any assistance or information to a law enforcement officer, or to a public prosecutor in a criminal proceeding or juvenile court proceeding (*Penal Code Section 140*).

Violating a court order
[39.01.5,
39.01.6] Violating a court order is covered under *Penal Code Section 166(a)(4)*.

Workbook Learning Activities

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. In your own words, describe the differences and similarities between the following crimes.

Crime	Differences	Similarities
Intimidation of witnesses and victims (<i>Penal Code Section 136.1</i>)		
Threats of retaliation (<i>Penal Code Section 140</i>)		

Workbook Learning Activities

Student notes

Chapter 2

Identifying and Classifying Crimes of Obstruction of Law Enforcement

Overview

Learning need Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for crimes that obstruct law enforcement in their duties and to correctly categorize 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:	
- resisting, delaying, or obstructing a public officer, peace officer, or emergency medical technician,	39.02.1
- obstructing or resisting an executive officer by use of threats or force,	39.02.2
- threatening a public officer,	39.02.3
- disarming an officer,	39.02.4
- removing any weapon, other than a firearm, from an officer,	39.02.5
- attempting to remove a firearm from a public officer,	39.02.6
- attempting to escape or escaping from the custody of a peace officer,	39.02.7

Continued on next page

Overview, Continued

Learning objectives (continued)

After completing study of this chapter, the student will be able to:	Objective ID
- attempting to escape or escaping from a prison or other place of confinement,	39.02.8
- attempting to escape or escaping from a county or city jail,	39.02.9
- attempting to rescue or rescuing.	39.02.10
• recognize the crime classification as a misdemeanor or felony.	39.02.12

In this chapter

This chapter focuses on crimes related to the obstruction of law enforcement. Refer to the chart below for specific topics.

Topic	See Page
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Resisting an Officer

Introduction Resisting, delaying or obstructing peace officers in the discharge of their duties is a crime. The crime, often referred to as “resisting arrest,” involves preventing officers from performing their duties.

Penal code section The crime of resisting, delaying, or obstructing any public officer, peace officer, or emergency technician is covered under *Penal Code Section 148(a)(1)*.

Crime elements To arrest a person for resisting, delaying, or obstructing any public officer, peace officer, or emergency technician, the necessary crime elements are:

Every person who willfully resists, delays, or obstructs any public officer, peace officer, or emergency technician in the discharge or the attempt to discharge any duty of that officer’s office or employment.

NOTE: The fact that a person takes a photograph or makes an audio or video recording of a public officer or peace officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, a violation of subdivision (a), nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person. (*Penal Code Section 148(g)*)

Classification The crime of resisting, delaying, or obstructing any public officer, peace officer, or emergency technician is a misdemeanor.

Peace officers The term **peace officer** includes, but is not limited to, the following:

- any county sheriff, undersheriff, or deputy sheriff;
- any city or district chief of police or any police officer;
- any marshal or deputy marshal of a municipal court;
- any DA investigator;
- any member of the California Highway Patrol.

NOTE: *Penal Code Section 830 et al.*

Continued on next page

Resisting an Officer, Continued

Public officers

The term **public officer** includes, but is not limited to, the following:

- building inspectors
 - health inspectors, et al.
-

Physical contact

No physical contact between the suspect and the officer is necessary for the crime of resisting, delaying, or obstructing any public officer, peace officer, or emergency technician to be complete. Verbal threats or interference can pose sufficient obstruction for the crime to take place.

Obstructing executive officers

Executive officers are charged with the responsibility of enforcing the law. This includes peace officers, district attorneys, city attorneys, and police commissioners.

Penal code section

The crime of obstructing or resisting an executive officer as is covered under *Penal Code Section 69*.

Crime elements

To arrest a person for obstructing or resisting an executive officer the necessary crime elements are:

Every person who attempts by means of threat or violence to deter or prevent any executive officer from the performance of that officer's duties, or knowingly resists any executive officer by the use of force or violence in the performance of that officer's duties.

NOTE: The fact that a person takes a photograph or makes an audio or video recording of an executive officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, a violation of subdivision (a) (*Penal Code Section 69(b)*).

Continued on next page

Resisting an Officer, Continued

Classification It is a felony to attempt to deter or prevent executive officers from the performance of their duties. This includes a threat of future harm against the officer.

Threatening public officers Public officers are individuals employed by governmental agencies with certain specified law enforcement powers.

Penal code section The crime of threatening public officers and employees, and school officials are identified under *Penal Code Section 71* and are:

Crime elements To arrest a person for threatening a public officer the necessary crime elements are:

Every person who, with the intent to cause, attempts to cause, or causes, any officer or employee of any public or private educational institution or any public officer or employee to do, or refrain from doing, any act in the performance of their duties, by means of a threat, directly communicated to such person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out.

NOTE: “Directly communicated” includes, but is not limited to, communication by telephone, letter, etc.

Classification It is a felony to use threats to prevent public officers from performing their duties.

Continued on next page

Resisting an Officer, Continued

Examples

Example: A man was being arrested for stealing a bicycle that had been locked up in front of a convenience store. While being handcuffed, he broke free from the peace officer's grip and ran away. The officer eventually subdued the man. Along with the original crime, the man committed the crime of resisting a peace officer.

Example: A man was distraught by what he felt were false charges brought against his son. He contacted the assistant district attorney in charge of the case and threatened to harm the attorney's son if the charges were not dropped. Even though the attorney was not influenced by the threat, the man committed the crime of attempting to deter an executive officer from the performance of his duties.

Example: A college mathematics instructor found a note on his windshield stating that he would be sorry if he didn't give a passing grade to a particular athlete on the school's football team. Although the instructor ignored the first note, he took the second note seriously when he found it taped to a broken window of his home. An officer questioned the athlete mentioned in the notes and the athlete admitted that he had written the notes himself. Along with the crime involving the destruction of property, the young man committed the crime of threatening public officers, employees, or school officials.

Disarming an Officer

Introduction Removing or attempting to remove a Peace Officer or a Public Officer's firearm or any other weapon during the act of resisting, delaying or obstructing an officer is a crime.

Removing a firearm If in the course of resisting, delaying, or obstructing a Peace Officer or a Public Officer, a person also attempts to remove or removes the officer's firearm or any other weapons, has committed a crime.

Penal code sections The crime of removing or taking a firearm from an officer is covered under *Penal Code Sections 148(c)*.
The crime of attempting to remove or take a firearm from an officer is covered under *Penal Code Sections 148(d)*.

Crime elements To arrest a person for removing or taking a firearm, or attempting to remove or take a firearm from an officer, the necessary crime elements are:

Every person who during the commission of any offense described in (*Penal Code Section 148(a)(1)*) (resisting, delaying, or obstructing any public officer, peace officer, or emergency technician) removes or takes a firearm from the person or from the immediate presence of a public officer or peace officer shall be punished by imprisonment pursuant to *Penal Code Section 1170(h)*.

Continued on next page

Disarming an Officer, Continued

**Crime
elements**
(continued)

To prove *Penal Code Section 148(d)*, one or more of the following must occur:

- the officer's holster strap was unfastened by the defendant (*Penal Code Section 148(d)(1)*)
- the firearm was partially removed from the officer's holster by the defendant (*Penal Code Section 148(d)(2)*)
- the firearm safety was released by the defendant (*Penal Code Section 148(d)(3)*)
- an independent witness corroborates that the defendant stated that he intended to remove the firearm and that the defendant actually touched the firearm (*Penal Code Section 148(d)(4)*)
- an independent witness corroborates that the defendant actually had his hand on the firearm and tried to take it from the officer who was holding it (*Penal Code Section 148(d)(5)*)
- the defendant's fingerprint was found on the firearm or holster (*Penal Code Section 148(d)(6)*)
- physical evidence authenticated by a scientifically verifiable procedure established that the defendant touched the firearm (*Penal Code Section 148(d)(7)*)
- in the course of any struggle, the officer's firearm fell and the defendant attempted to pick it up (*Penal Code Section 148(d)(8)*)

Continued on next page

Disarming an Officer, Continued

Classification The crime of taking or removing a firearm or attempting to take or remove a firearm from an officer is a felony.

Example Example: Two officers detained a man to question him regarding an assault. As one of the officers turned to talk to his partner, the man reached for the officer's firearm and was able to pull it from the officer's holster before the officer could take action. The officer's partner grabbed the man's hand and gained control before the man could use the firearm against the officers. The man has committed the crime of taking an officer's firearm.

Example: During a struggle to subdue a suspect, an officer's firearm fell from the officer's holster. The suspect kicked the firearm away from the officer and then attempted to pick it up. Another officer was able to intercede and prevent the suspect from reaching the firearm. The suspect was guilty of the crime of attempting to remove a firearm from an officer.

Continued on next page

Disarming an Officer, Continued

**Removal
of weapons
other than
firearms**

If in the course of resisting, delaying, or obstructing a Peace Officer or Public Officer, a person removes or takes any weapon other than a firearm, has committed a crime.

**Penal
code
section**

The crime of removing or taking any weapon other than a firearm from the person or immediate presence of an officer is covered under *Penal Code Section 148(b)*.

**Crime
elements**

To arrest a person for removing or taking any weapon other than a firearm from an officer, the necessary crime elements are:

Every person who, during the commission of any offense described in *Penal Code Section 148(a)* (resisting, delaying, or obstructing any public officer, peace officer, or emergency technician), removes or takes any weapon, other than a firearm, from the person of, or in the immediate presence of, a public officer or peace officer shall be punished by imprisonment in a county jail not to exceed one year or pursuant to *Penal Code Section 1170(h)*.

Continued on next page

Disarming an Officer, Continued

Classification The crime of removing or taking any weapon other than a firearm from an officer is a felony.

Examples Example: A peace officer attempted to use pepper spray to subdue a belligerent suspect. In the course of the officer's actions, the suspect grabbed the can of pepper spray from the officer's hand. The officer was able to physically subdue the suspect before he could use the spray on him. By taking the officer's chemical weapon, the suspect was guilty of the crime of removing or taking any weapon other than a firearm from an officer.

Escape

Introduction

Once a person has been lawfully arrested, it is a crime to free oneself or to attempt to free oneself from the custody of a peace officer or from the custodial facility where that person has been remanded.

Penal code section

The crime of attempting to escape, or escaping from the custody of a peace officer after being remanded by a magistrate or judge is covered under *Penal Code Section 836.6(a)*.

The crime of attempting to escape or escaping from custody of a Peace Officer who knows or should know he has been arrested. (*Penal Code Section 836.6(b)*).

Crime elements

To arrest a person for attempting to escape, or escaping from the custody of a peace officer, the necessary crime elements are:

Any person who is remanded by a magistrate or judge of any court in this state to the custody of a sheriff, marshal or other police agency, to thereafter escape or attempt to escape from that custody (*Penal Code Section 836.6(a)*).

Any person who has been lawfully arrested by a peace officer and who knows, or by the exercise of reasonable care should have known that he or she was arrested, to thereafter escapes or attempts to escape from the peace officer (*Penal Code Section 836.6(b)*).

NOTE: *Penal Code Section 836.6* does not apply to any person confined to any city, county or state jail or prison.

Classification

The crime of escape or escaping from the custody of a peace officer is a misdemeanor.

If the escape or attempted escape is by force or violence and causes serious bodily injury to the peace officer, the crime of escape or escaping from the custody of a peace officer is a felony.

Continued on next page

Escape, Continued

**Penal
code
section**

The crime of attempting to escape or escaping from a state prison through the use of force or violence is covered under *Penal Code Section 4530(a)*.

The crime of attempting to escape or escaping from a state prison without the use of force or violence is covered under *Penal Code Section 4530(b)*.

**Crime
elements**

To arrest a person for attempting to escape, or escaping from a state prison through the use of force or violence, the necessary crime elements are (*Penal Code Section 4530(a)*):

Every prisoner confined in a state prison who, by force or violence, escapes or attempts to escape therefrom and every prisoner committed to a state prison who, by force or violence, escapes or attempts to escape while being conveyed to or from that prison or any other state prison, or as delineated in *Penal Code Section 4350(a)* while under the custody of prison officials, officers or employees; or who, by force or violence, escapes or attempts to escape while at work outside or away from prison under custody of prison officials, officers, or employees.

To arrest a person for the crime of attempting to escape or escaping from a state prison without the use of force or violence, the necessary crime elements are (*Penal Code Section 4530(b)*):

Every prisoner who commits an escape or attempts an escape as described in subdivision (a) without force or violence.

NOTE: A prisoner's willful failure to return from temporary release, such as work or education release, at the specified time is considered an escape (*Penal Code Section 4530(c)*).

Classification

The crime of attempting to escape or escaping from a state prison with or without the use of force is a felony.

Continued on next page

Escape, Continued

Penal code section

Penal Code Section 4532 identifies the elements of the crime of escaping from county or city jail or home detention.

Crime elements

To arrest a person for escaping from county jail or city jail or home detention the necessary crime elements are:

Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of *Welfare and Institutions Code Sections 5654, 5656, and 5677* as an inebriate, who is confined in any county or city jail, prison, industrial farm, or industrial road camp, is engaged on any county road or other county work, is in the lawful custody of any officer or person, is employed or continuing in confinement, pursuant to the Cobey Work Furlough Law (*Penal Code Section 1208*), is authorized for temporary release for family emergencies or for purposes preparatory to his or her return to the community pursuant to *Penal Code Section 4018.6*, or is a participant in a home detention program pursuant to *Penal Code Sections 1203.016, 1203.017, or 1203.018*, and who thereafter escapes or attempt to escape from the county or city jail, prison, industrial farm, or industrial road camp or from the custody of any officer or person in whose lawful custody he or she is, or from the pace of confinement in a home detention program pursuant to *Penal Code Sections 1203.016, 1203.017, or 1203.18*.

Classification

Crime Elements	Penal Code Section	Classification
When arrested and booked for, charged with or convicted of a misdemeanor	No force used in escape <i>4532(a)(1)</i>	Felony
	Force used in escape <i>4532(a)(2)</i>	Felony
When arrested and booked for, charged with or convicted of felony	No force used in escape <i>4532(b)(1)</i>	Felony
	Force used in escape <i>4532 (b)(2)</i>	Felony

Continued on next page

Escape, Continued

Examples

Example: Two officers arrest three men for assault. One of the officers handcuffed the first man and placed him in the patrol vehicle. While that officer rejoined her partner to deal with the remaining prisoners, the first man kicked out the window of the patrol car, climbed out, and ran. That man has committed the crime of escape from the custody of a peace officer.

Example: Two officers went to the apartment of a suspect to arrest her for possession of a controlled substance for sale. When the suspect opened the door, one of the officers produced a valid arrest warrant and placed the suspect under arrest. After the officer had handcuffed the suspect, the suspect shoved the officer down a flight of stairs and fled. The other officer chased the suspect and completed the arrest. The officer who was pushed sustained numerous serious injuries. The suspect has committed the crime of escape from a peace officer, a felony.

Example: Two state correctional officers were transporting a prisoner to a state prison and became involved in an automobile accident. The officer who had been driving was severely injured, but the prisoner and other officer received only minor injuries. While the passenger officer attempted to aid his partner, the prisoner took advantage of the distraction, kicked the officer in the back and fled. Additional officers who arrived on the scene gave chase and were able to take the prisoner into custody. The prisoner has committed the crime of attempting to escape from a state prison by means of force or violence.

Rescue

Introduction Unlawfully taking a prisoner from an officer or from a **place of confinement** for any reason is a crime.

Penal code section The crime of attempting to rescue or rescuing is covered under *Penal Code Section 4550*.

Crime elements To arrest a person for the crime of attempting to rescue or rescuing, the necessary crime elements are:

Every person who rescues or attempts to rescue, or aids another in rescuing or attempting to rescue any prisoner from any prison, road camp, jail, officer or person having that prisoner in lawful custody

Classification The crime of attempting to rescue or rescuing is a felony.

Chapter Synopsis

Learning need Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for crimes that obstruct law enforcement in their duties and correctly categorize these crimes as misdemeanors or felonies.

Resisting an officer
[39.02.1,
39.02.2,
39.02.3,
39.02.12]

Resisting any public officer is covered under *Penal Code Section 148(a)(1)*.

Disarming an officer
[39.02.4,
39.02.5,
39.02.6,
39.02.12]

Resisting or taking a weapon other than a firearm is covered under *Penal Code Section 148(b)*. Resisting or taking a firearm, or attempting to remove a firearm is covered under *Penal Code Section 148(c)* and *(d)*.

Escape
[39.02.7,
39.02.8,
39.02.9,
39.02.12]

Escape is covered under *Penal Code Sections 836.6, 4530, 4532(a)(1)*.

Rescue
[39.02.10,
39.02.12]

Rescue is covered under *Penal Code Section 4550*.

Workbook Corrections

Suggested corrections to this workbook can be made by going to the POST website at: www.post.ca.gov

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Chapter 3

Identifying and Classifying Crimes Related to False Information

Overview

Learning need Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for crimes related to false information and to correctly categorize 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">• recognize the crime elements required to arrest for:<ul style="list-style-type: none">- providing a false identity to a peace officer,- falsely reporting a criminal offense,- falsely reporting an emergency,- falsely reporting a destructive device.	39.03.5 39.03.7 39.03.8 39.03.9
<ul style="list-style-type: none">• recognize the crime classification as a misdemeanor or felony.	39.03.10

Continued on next page

Overview, Continued

In this chapter This chapter focuses on crimes related to false information. Refer to the chart below for specific topics.

Topic	See Page
Providing False Identification	3-3
Falsely Reporting a Crime, Emergency, or Destructive Device	3-5
Chapter Synopsis	3-9
Workbook Learning Activities	3-10

Providing False Identification

Introduction Failure to truthfully identify oneself to an officer can prevent the officer from performing a lawful duty. Such an action is considered an obstruction of justice.

Penal code section The crime of presenting a false identification to a peace officer is covered under *Penal Code Section 148.9*.

Crime elements In order to arrest a person for presenting a false identification to a peace officer, the necessary crime elements are:

Any person who falsely represents or identifies oneself as another person (real or fictitious) to a peace officer upon a lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of that person by an investigating officer.

Classification The crime of presenting a false identity to a peace officer is a misdemeanor.

Continued on next page

Providing False Identification, Continued

Examples

Example: A man was detained for shoplifting. When the officer requested identification, the man told the officer he left his wallet along with all of his identification at home. Believing that he could avoid prosecution for the theft, he identified himself with a fictitious name and address. The man committed the crime of providing a false identity to a peace officer.

Related statute

The following identifies an additional statute related to crimes identified in this lesson.

Providing false information to a peace officer at this phase enforcing violations of the vehicle code is a misdemeanor. (*Vehicle Code Section 31*). This statute is related to those identified in this lesson.

False personation of another in private or official capacity; bail or surety; verification, publication or acknowledgement of instrument; acts imposing liability or conferring benefit; punishment (*Penal Code Section 529*).

Falsely Reporting a Crime, Emergency, or Destructive Device

Introduction Falsely reporting a crime or emergency is not only an obstruction of justice by the misuse of personnel, facilities, and equipment, it can also jeopardize the safety and well-being of law enforcement officers and the public.

Penal code section The crime of falsely reporting a criminal offense is covered under *Penal Code Section 148.5*.

Crime elements In order to arrest a person for the crime of falsely reporting a criminal offense, the necessary crime elements are:

Every person who reports to any peace officer, district attorney, or deputy district attorney that a felony or misdemeanor has been committed knowing that the report is false.

Classification The crime of falsely reporting a criminal offense is a misdemeanor.

Continued on next page

Falsely Reporting a Crime, Emergency, or Destructive Device, Continued

Introduction An **emergency** is any condition which results in, or could result in, the response of a public official in an authorized emergency vehicle, (e.g., patrol vehicle, ambulance, fire equipment, etc.), or any condition that jeopardizes public safety and results or could result in evacuation. (*Penal Code Section 148.3(c)*)

Penal code section The crime of falsely reporting an emergency is covered under *Penal Code Section 148.3(a)* identifies the crime elements for falsely reporting an emergency.

Crime elements To arrest a person for the crime of falsely reporting an emergency, the necessary elements are:

Penal Code Section 148.3(a) states:

Any individual who reports, or causes any report to be made, to any city, county, city and county, or state departments, district, agency, division, commission, or board, that an “emergency” exists, knowing that the report is false, is guilty of a misdemeanor

Penal Code Section 148.3(b) states:

Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, than an “emergency” exists, and who knows that the report is false, and who knows or should know that the response to the report is likely to cause death or great bodily injury, and great bodily injury or death is sustained by any person as a result of the false report, is guilty of a felony.

Classification Falsely reporting an emergency is a misdemeanor (*Penal Code Section 148.3(a)*).

Falsely reporting an emergency which is likely to cause death or great bodily injury is a felony (*Penal Code Section 148.3(b)*).

Continued on next page

Falsely Reporting a Crime, Emergency, or Destructive Device, Continued

Introduction It is a crime to falsely report that a bomb or other explosive has been, or will be, placed in a public or private location.

Penal code section The crime of falsely reporting a destructive device is covered under *Penal Code Section 148.1(a)*.

Crime elements Any person who reports to specified personnel that a bomb or other explosive has been, or will be, placed or hidden in any public or private place knowing that the report is false, is guilty of a crime punishable by imprisonment in county jail not to exceed one year, or pursuant to *Penal Code Section 1170(h)*.

NOTE: Specified personnel can include, but are not limited to, peace officers, employees of the media, employees of airlines or other forms of public transportation, occupants of a building, telephone company personnel, etc. (*Penal Code Section 148.1(a)*).

NOTE: *Penal Code Section 1170(h)* provides that a felony may be served in state prison or a county jail.

Classification The crime of falsely reporting a bomb, or other explosive, is a felony.

Continued on next page

Falsely Reporting a Crime, Emergency, or Destructive Device, Continued

Examples

Example: A young man reported to a peace officer that his car had been stolen from the parking lot of a local shopping area. The young man falsely reported the crime because he did not want his father to find out that he damaged the car in a minor traffic accident. The young man committed the crime of falsely reporting a crime.

Example: A high school principal received a phone call from an unidentified person stating that a bomb had been placed in a student locker in the school building. Law enforcement officials were notified, and the building was evacuated. After the building was thoroughly searched, the report was deemed to be false. Later it was determined that a student, on a dare from some of his friends, had made the phone call and falsely reported the bomb. The student committed the crime of falsely reporting a destructive device.

Chapter Synopsis

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

Providing false identification
[39.03.5,
39.03.10] The crime of presenting a false identification to a peace officer is covered under *Penal Code Section 148.9*.

Falsely reporting a criminal offense
[39.03.7,
39.03.10] The crime of falsely reporting a criminal offense is covered under *Penal Code Section 148.5*.

Falsely reporting an emergency
[39.03.8,
39.03.10] *Penal Code Section 148.3(a)* identifies the crime of falsely reporting an emergency.

Falsely reporting a destructive device
[39.03.9,
39.03.10] *Penal Code Section 148.1(a)* identifies the crime of falsely reporting a destructive device.

Workbook Learning Activities

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. Under what circumstances would it be a felony to provide a false identity to a peace officer?

Continued on next page

Chapter 4

Identifying and Classifying Crimes Against the Public Peace

Overview

Learning need

Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for crimes related to public disturbances and to correctly categorize 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">recognize the crime elements required to arrest for:<ul style="list-style-type: none">unlawful assembly,refusal to disperse.	39.04.1 39.04.2
<ul style="list-style-type: none">recognize the crime classification as a misdemeanor or felony.	39.04.7

Overview, Continued

In this chapter This chapter focuses on crimes related to public disturbance. Refer to the chart below for specific topics.

Topic	See Page
Unlawful Assembly	4-3
Refusal to Disburse	4-5
Chapter Synopsis	4-7
Workbook Learning Activities	4-8

Unlawful Assembly

Introduction

The First Amendment of the Bill of Rights guarantees “*the right of the people to peaceably assemble.*” But when an assembly disturbs the public peace, that assembly becomes unlawful.

Penal code section

The crime of **unlawful assembly** is covered under *Penal Code Section 407*.

Crime elements

To arrest a person for unlawful assembly, the necessary crime elements are:

Whenever two or more persons assembling together to do an *unlawful* act, or a *lawful* act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly.

Continued on next page

Unlawful Assembly, Continued

Classification The crime of unlawful assembly is a misdemeanor.

Related terms To understand the crime of unlawful assembly, peace officers need to become familiar with the following terms.

A **violent manner** means when acts involve criminal violence or tend to incite others to criminal violence.

A **boisterous or tumultuous manner** means when communication becomes noise at the level that disrupts the public peace.

Intent There is no requirement that any overt unlawful act actually take place to make the assembly unlawful. If the purpose or specific intent of an assembly is *to commit an unlawful act*, then that assembly is unlawful.

The intent of the assembly may be proven by circumstantial evidence (e.g., the hour or location of the assembly, statements made by participants, etc.).

Violent act not required The unlawful act during an assembly does not have to be violent to substantiate an unlawful assembly (e.g., acts of civil disobedience such as blocking an entry way or occupying an area illegally).

Refusal to Disperse

Introduction If people have assembled unlawfully for purposes of disturbing the peace or committing any unlawful act, they can be ordered by a public official to disperse.

Penal code section The crime of refusal to disperse is covered under *Penal Code Section 416(a)*.

Crime elements To arrest a person for refusing to disburse, the necessary elements are:

If two or more persons assembling for the purpose of disturbing the peace, or committing any unlawful act, and do not disperse on being desired or commanded to do so by a public officer, the persons so offending are severally guilty of a misdemeanor.

NOTE: This section applies only to participants in the unlawful assembly.

Classification Anyone who refuses or fails to disperse after being commanded to do so is guilty of a misdemeanor.

Continued on next page

Refusal to Disperse, Continued

**Penal
code
section**

The crime of remaining present at the place of any riot, rout, or unlawful assembly, is covered under *Penal Code Section 409*.

**Crime
elements**

To arrest a person for remaining present at the place of any riot, rout, or unlawful assembly, the necessary elements are:

Every person remaining present at the place of any riot, rout or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse.

Classification

Anyone who remains present at the place of any riot, rout, or unlawful assembly, after they have been lawfully warned to disperse, is guilty of a misdemeanor.

Continued on next page

Refusal to Disperse, Continued

Examples

Example: The members of a garment maker's union were on strike and picketed in front of a local retail store. The group was peaceful and did not block the sidewalk. The purpose of the group was to inform shoppers of a certain manufacturer's unfair labor practices. Members of the group decided they weren't getting enough attention and used bull horns and amplification devices to yell out their message. The noise became so loud that the store owner and other merchants along the street, and residents in a nearby apartment building, began to complain. The assembly became an unlawful assembly when members of the group began to disrupt the peace with their noise.

Example: The owner of the store described in the above example called the police. When officers arrived, they ordered the members of the union to disperse.

Several members walked into the street and blocked traffic directly in front of the store. The members who remained and blocked traffic committed the crime of unlawful assembly.

Chapter Synopsis

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

Unlawful assembly
[39.04.1, 39.04.7] When an assembly disturbs the public peace, that assembly becomes unlawful and is covered under *Penal Code Section 407*. Unlawful assembly is a misdemeanor.

Refusal to disperse
[39.04.2, 39.04.7] Refusal to disperse is covered under *Penal Code Section 416(a)* and is a misdemeanor.

Workbook Learning Activities

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. In an effort to save a local landmark building from destruction, a group of ten concerned citizens sits quietly on the building's front steps. The group refuses to move, preventing the demolition crew from beginning on time. The property owner has called on law enforcement officers to solve the problem. Has a crime taken place? If so, what crime? If not, what actions can officers take?

2. A crowd of about 15 people forms in the street, watching the scenario noted above unfold. One of the concerned citizens who has been quietly sitting begins yelling to the crowd, "They're destroying your heritage. Don't let them crush your past. Act now, before it's too late!" How has the situation changed? Have any additional crimes been completed? Explain.

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions**
(continued)

3. Can a person be arrested for disobedience to a dispersal order if that person claims not to have heard the order? Explain your response based on the policies and guidelines of your department or agency.

Continued on next page

Workbook Learning Activities, Continued

Activity questions
(continued)

4. In your own words, describe the differences and similarities between the following crimes.

Crime	Differences	Similarities
Refusal to disperse <i>(Penal Code Section 416)</i>		
Disobedience to a dispersal order <i>(Penal Code Section 409)</i>		

Glossary

Introduction **The following glossary terms apply only to Learning Domain 39: Crimes Against the Justice System.**

boisterous or tumultuous manner When communication becomes noise at a level that disrupts the public peace

emergency Any condition which results in, or could result in, the response of a public official in an authorized emergency vehicle (e.g., patrol vehicle, ambulance, fire equipment, etc.), or any condition that jeopardizes public safety and results or could result in evacuation (*Penal Code Section 148.3(c)*)

executive officer Any people charged with the responsibility of enforcing the law. This includes peace officers, district attorneys, city attorneys, and police commissioners (*Penal Code Section 69(a)*)

malice An intent to vex, annoy, harm, or injure in any way another person (*Penal Code Section 136(1)*)

peace officer Any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county. Any chief of police, employed in that capacity, of a city, or any police officer, employed in that capacity and appointed by the chief of police or the chief executive of the agency, of a city. Any chief of police or the chief executive of the agency, of a city. Any marshal or deputy marshal of a municipal court. Any member of the California Highway Patrol whose primary duty is the enforcement of the provisions of the Vehicle Code or of any other law relating to the use or operation of vehicles upon the highways as that duty is set forth in the Vehicle Code

Continued on next page

Glossary, Continued

place of confinement A prison, jail, industrial farm, road camp, or juvenile hall, camp, ranch or farm

public officers Individuals employed by a governmental agency with certain specified law enforcement powers (*Penal Code Section 148(a)(1)*)

riot Two or more people gathered together unlawfully who disturb the peace or reasonably threaten to disturb the peace by means of force or violence (*Penal Code Section 404*)

unlawful assembly Two or more people assembled together to do an unlawful act or a lawful act in a boisterous or tumultuous manner (*Penal Code Section 407*)

victim Any person against whom there is a reason to believe that any crime is being or has been perpetrated or attempted to be perpetrated (*Penal Code Section 136(3)*)

violent manner When acts involve criminal violence or tend to incite others to criminal violence

willfully Acting with a purpose to commit or omit an act

witness Any person with knowledge of existence or nonexistence of facts relating to a crime (*Penal Code Section 136(2)*)
