

Date Revised: 10/23/2019

Course Goal: To provide the students with basic skills necessary to complete investigations involving weapons in a manner consistent with law, policy, and tactically sound principles.

Learning Objective:

- Recognize the statutory definition of a concealed firearm [\[40.3.A\]](#)
- Recognize the exceptions to the license requirement for possession of a concealable firearm [\[40.3.B\]](#)
- Recognize the crime elements required to arrest for possession of a concealable firearm without a license [\[40.3.C\]](#)
- Recognize the crime classification for possession of a concealable firearm without a license [\[40.3.D\]](#)
- Recognize the crime elements required to arrest for:
 - A firearm by a convicted felon, narcotic addict, or other restricted persons [\[40.4.A.1\]](#)
 - A firearm by a person convicted of a specified misdemeanor [\[40.4.A.2\]](#)
 - An unauthorized weapon in a prohibited location [\[40.4.A.3\]](#)
- Recognize the crime classification as misdemeanor or felony [\[40.4.B\]](#)
- Recognize the crime elements required to arrest for drawing, exhibiting, or unlawful use of a(n):
 - Deadly weapon (other than a firearm) [\[40.5.A.1\]](#)
 - Firearm [\[40.5.A.2\]](#)
 - Firearm in the presence of a motor vehicle occupant [\[40.5.A.3\]](#)
 - Imitation firearm [\[40.5.A.4\]](#)
 - Loaded firearm on the grounds of any daycare facility [\[40.5A.5\]](#)
 - Firearm in the presence of a peace officer [\[40.5.A.6\]](#)
- Recognize the crime elements required to arrest for, and classification of unlawful discharging of a firearm [\[40.5.B\]](#)
- Recognize the classification of crimes related to unlawful use of weapons as misdemeanors or felonies [\[40.5.C\]](#)

Session Time: 2 Hours

Resources:

- Classroom with tables
- Overhead projector
- Computer with multimedia software and Microsoft PowerPoint

Session Summary: The instructor will lead a facilitated discussion accompanied with learning activities with the whole class.

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Outline	Instructor's Notes
<p>I. Concealment of Firearms</p> <p>A. Lawful Possession of Firearms</p> <ul style="list-style-type: none">1. PC 16530(a) defines concealable firearm as [40.3.A]<ul style="list-style-type: none">a. Any device designed to be used as a weaponb. From which is expelled a projectile by force of an explosion or other form of combustionc. That has a barrel less than 16 inches in length2. CCW License/Individuals applying must show that:<ul style="list-style-type: none">a. They are residents of the county or a city within the countyb. They are of good moral characterc. Good cause exists for them to be issued a licensed. They have completed a specified training course3. Persons exempt from CCW requirements [40.3.B]<ul style="list-style-type: none">a. Over 18 who resides or temporarily in California not prohibited by law (felon, mental patient)b. Can own and carry open or concealedc. Within residence, business, on private property owned by that person4. Possession for Lawful Activities<ul style="list-style-type: none">a. Recreational eventsb. Media productionsc. Lawfully transporting to and from business, residence, repair shop5. Transporting<ul style="list-style-type: none">a. Over 18 who resides or temporarily in California not prohibited by law (felon, mental patient)b. Locked in the trunk	<p><u>TTS 40.3.A – 40.5.C (2 Hours)</u></p> <p>No PowerPoint</p> <p>Ask: What is the statutory definition of a concealable firearm?</p> <p>Ask: What are the exceptions to the license requirement for possession of a concealable firearm?</p>

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<ul style="list-style-type: none">c. Locked in container other than glove boxd. Carried directly to or from the vehicle (in a locked container) for a lawful purpose6. Possession by specified individuals<ul style="list-style-type: none">a. Peace officersb. Federal government agentsc. Honorably retired peace officersd. Military personnel while on dutye. Guards of financial institutionsf. Authorized military or civil organizations while on parade or going to and from meetingsg. Sportsmenh. Members of shooting clubsB. Unlawful Possession of a Concealable Firearm<ul style="list-style-type: none">1. Elements [40.3.C]<ul style="list-style-type: none">a. Any person whob. Carries concealedc. A firearm that is capable of being concealed (loaded or unloaded)d. Upon one's persone. Within any vehicle under that person's control or directionf. Without a license or permit.g. Key element is firearm is concealed.h. Firearm openly carried in belt holster not considered concealed.2. Felony if: [40.3.D]<ul style="list-style-type: none">a. Convicted of any felony or of any crime made punishable by the provisions listed in PC 16850 (PC 25400(c))b. Firearm is stolen and the person knew or had reasonable cause to believe it was stolen (PC 25400(c)(2))c. Person is an active participant in a criminal street gang as defined in (PC 25400(c)(3))d. Person is not in lawful possession of the firearm (PC 25400(c)(4))	<p>Ask: What are the crime elements required to arrest for possession of a concealable firearm without a license and what is its crime classification?</p>
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<ul style="list-style-type: none">e. Person has been convicted of a crime against a person or property or of a narcotic or dangerous drug violation (PC 25400(c)(5))f. Firearm and the unexpended ammunition are either in the immediate possession of the person or readily accessible to that person or the firearm is loaded as defined in PC 25850 and the person is not listed with the Department of Justice as the registered owner of the firearm. (PC (25400(c)(6)(A)(B)) <p>3. Considered concealed in vehicle if</p> <ul style="list-style-type: none">a. In a glove compartment (locked or unlocked)b. Under the seatc. In a door or center console compartmentd. Under another object (e.g., clothing), etc. <p>4. Minors may not possess firearms unless they are:</p> <ul style="list-style-type: none">a. In a lawful recreational sport which involves the use of a firearmb. At least 16 years of age with written consent from a parent or legal guardianc. Accompanied by a parent, legal guardian, or responsible adult with written consent from the parentd. Felony if not meet the conditions <p>II. Possession of Firearms by Restricted Persons or Within Restricted Locations</p> <p>A. Persons Convicted of Felonies</p> <ul style="list-style-type: none">1. Element [40.4.A.1]<ul style="list-style-type: none">a. Any person who has been convicted of a felonyb. Or is addicted to any narcotic drug (PC 29800(a)(1))c. Or two convictions of (PC 29800(a)(2))d. Or offenses enumerated in PC 235152. Felony	<p>Ask: What are the crime elements for possession of a firearm by a convicted felon, narcotic addict, or other restricted persons and what is its crime classification?</p>
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<ul style="list-style-type: none">3. Juveniles convicted of violent offenses<ul style="list-style-type: none">a. Cannot possess or be in control of a firearm until age 30b. Violent offenses include<ul style="list-style-type: none">1) Murder2) Attempted murder3) Arson4) Armed robbery5) Rape6) Kidnapping7) Assault by means of force or with a firearm8) Carjackingc. Felony if caught with a firearm4. Persons on Probation<ul style="list-style-type: none">a. If indicated on their conditions, may not possess firearmb. Felonyc. May be exempt if immediate danger of person or property (PC 26045 (a)-(c))5. Persons under restraining orders for specific circumstances:<ul style="list-style-type: none">a. To protect a person from harassment (Code of Civil Procedure 527.6)b. Involving domestic violence (Family Code Section 6211)c. On behalf of an employee who has received threats or has been a target of violence (Code of Civil Procedure 527.8)d. Felony (PC 29825)B. Persons Convicted of Certain Misdemeanors<ul style="list-style-type: none">1. Elements [40.4.A.2]<ul style="list-style-type: none">a. Any person whob. Has been convicted of a specified misdemeanor andc. Within ten years of the convictiond. Owns or has possession, custody, or control ofe. Any firearm2. Felony3. Specified Misdemeanors	<p>Ask: What are the crime classification for possession of a firearm by a person convicted of a specified misdemeanor and what is its crime classification?</p>
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- a. Assault 240
- b. Battery 242
- c. Assault with a deadly weapon, or by means likely to produce great bodily injury 245
- d. Spousal abuse 273.5
- e. Drawing, exhibiting, or unlawful use of a firearm 417
- f. Stalking 646.9
- 4. Peace officers convicted of domestic violence
 - a. May petition the court once only for relief of prohibition
 - b. Specified domestic violence offenses:
 - 1) Spousal abuse PC 273.5
 - 2) Stalking PC 646.9
 - 3) Violating a protective order PC 273.6
- C. Prohibited Location
 - 1. Elements [\[40.4.A.3\]](#)
 - a. Any person who
 - b. Brings or possesses
 - c. A specified weapon
 - d. Within any state or local public building
 - e. To any meeting required to be open to the public
 - 2. Felony
 - 3. Specified Weapons Prohibited
 - a. Firearms
 - b. Deadly weapons (switchblade knives & prohibited weapons in PC 16590 (a)-(z))
 - c. Knives with a blade length more than four inches and capable of being fixed in an unguarded position by the use of one or two hands
 - d. Tear gas weapons
 - e. Taser or stun guns
 - f. Metal projectile instruments (pellet guns, BB guns)
 - g. Marker or paint guns
 - 4. Exemptions
 - a. Peace Officers

Ask: What are the crime elements for possession of an unauthorized weapon in a prohibited location and what is its crime classification?

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<ul style="list-style-type: none">b. Federal Government Officers or Out-of-State Officer on official dutyc. Personnel assisting peace officersd. Private citizens with valid licenses or security guardse. Building residents or owners in areas not owned by governmentf. Lawfully hired, licensed securityg. Evidence transportation- person transports weapons to court as evidenceh. Gun show <p>5. School Safety Zone</p> <ul style="list-style-type: none">a. Any person whob. Possesses a firearm (loaded or unloaded)c. In a place that the person knows or reasonably should have knownd. Is a school safety zonee. Without written permission of the school district superintendent or designee or equivalent school authorityf. Felonyg. Exceptions<ul style="list-style-type: none">1) Residents within 1,000 feet of school2) Firearm locked in container or trunk of vehicle3) Peace officers4) Military during performance of duties5) Individuals in possession at direction of school faculty6) Individuals who have lawful use within the scope of their employment <p>6. Playgrounds and youth centers/PC 626.95, Felony for</p> <ul style="list-style-type: none">a. Any person tob. Carry a loaded firearm	
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<ul style="list-style-type: none">c. Carry concealed a loaded or unloaded firearm that is capable of being concealedd. Draw or exhibit a firearm in a threatening manner or uses it in a fight or quarrele. Upon the grounds of or within a playground or youth center any time minors are in the area or using the facility or during hours of operation <p>7. Non-Firearms</p> <ul style="list-style-type: none">a. PC 626.10, Felony to possess specified weapons in<ul style="list-style-type: none">1) Public school (kindergarten through 12)2) University or college campuses including, but not limited to:<ul style="list-style-type: none">a) The University of Californiab) The California State Universityc) California Community Collegesb. Specified weapons<ul style="list-style-type: none">1) Dirks /daggers2) Knives having a blade length longer than 2.5 inches3) Folding knives with a blade that locks into place4) Razors with an unguarded blade5) Tasers6) Stun guns7) Instruments expelling a metal projectile by air pressure or carbon dioxide pressure or spring action, unless the possessor has written permission from the school principal or his or her designee8) Spot marker guns, unless the possessor has written permission from the school principal or his/her designeec. Exceptions	
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<p>1) Individuals providing instruction with weapons, scope of employment, food prep</p> <p>2) Peace officers and military personnel in course of duty</p> <p>d. Weapons do not need to be concealed for violation</p> <p>III. Unlawful Use of Weapons</p> <p>A. Drawing, Exhibiting, or Unlawful Use of Deadly Weapon Other than Firearm PC 417(a)(1)</p> <p>1. Elements [40.5.A.1]</p> <ul style="list-style-type: none">a. Any person whob. Except in self-defensec. In the presence of any other persond. Draws or exhibits any deadly weapon in a rude, angry, or threatening mannere. Unlawfully uses a deadly weapon in any fight or quarrel <p>2. Misdemeanor</p> <p>B. Drawing, Exhibiting, or Unlawful Use of a Firearm PC 417(a)(2)</p> <p>1. Elements [40.5.A.2]</p> <ul style="list-style-type: none">a. Any person who while in the presence of another person, except in self-defenseb. Draws or exhibits any firearm (loaded or unloaded) in a rude, angry, or threatening mannerc. Unlawfully uses a firearm in any fight or quarrel <p>2. Misdemeanor</p> <p>3. At a day care center PC 417(b)</p> <p>a. Elements [40.5.A.5]</p> <ul style="list-style-type: none">1) Any person who, while in the presence of another, except in self-defense2) Draws or exhibits any loaded firearm in a rude, angry, or threatening manner3) Unlawfully uses a loaded firearm in a fight or quarrel on the grounds of	<p>Ask: What are the crime elements for drawing, exhibiting, or unlawful use of a deadly weapon other than a firearm and what is its crime classification?</p> <p>Ask: What are the crime elements for drawing, exhibiting, or unlawful use of a firearm and what is its crime classification?</p> <p>Ask: What are the crime elements for drawing, exhibiting, or unlawful use of a loaded firearm on the grounds of any daycare facility and what is its crime classification?</p>
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<p>a day care center when that center or facility is open for use</p> <p>b. Felony</p> <p>4. In presence of peace officer PC 417(c)</p> <p>a. Elements [40.5.A.6]</p> <ol style="list-style-type: none">1) Any person who, in the immediate presence of a peace officer2) Draws or exhibits any firearm, whether loaded or unloaded3) In a rude, angry or threatening manner4) Who knows or reasonably should know, by the officer's appearance, action or identification that he or she is a peace officer engaged in his or her performance of their duty <p>b. Felony</p> <p>5. In presence of occupants in a motor vehicle PC 417.3</p> <p>a. Elements [40.5.A.3]</p> <ol style="list-style-type: none">1) Any person except in self-defense2) To draw or exhibit any firearm (loaded or unloaded)3) In a threatening manner to cause a reasonable person apprehension or fear of bodily harm4) In the presence of another person who is the occupant of a motor vehicle proceeding on a public street or highway <p>b. Felony</p> <p>c. Law only applies to vehicles on roadway, even stopped at lights or stop signs, but not parked on curb or driveway.</p> <p>6. Bringing firearm into a vehicle PC 26100(a)</p> <p>a. Elements</p> <ol style="list-style-type: none">1) Any driver or owner of any motor vehicle2) Who permits any person3) To carry into, or bring into the vehicle	<p>Ask: What are the crime elements for drawing, exhibiting, or unlawful use of a firearm in the presence of a peace officer and what is its crime classification?</p> <p>Ask: What are the crime elements for drawing, exhibiting, or unlawful use of a firearm in the presence of a motor vehicle occupant and what is its crime classification?</p>
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<ul style="list-style-type: none">4) A firearm in violation of PC 25850(a) or Fish and Game Code Section 2006.b. Misdemeanor7. Drawing and exhibiting imitation firearm<ul style="list-style-type: none">a. Elements [40.5.A.4]<ul style="list-style-type: none">1) Draws or exhibits2) An imitation firearm3) In a threatening manner against another person4) In such a way as to cause a reasonable person apprehension or fear of bodily harmb. Misdemeanor8. Laser scopes PC 417.25<ul style="list-style-type: none">a. Elements<ul style="list-style-type: none">1) Aims or points2) A laser scope or laser pointer3) Except in self defense4) In a threatening manner with intent to cause apprehension or fearb. MisdemeanorC. Unlawfully Discharging a Firearm Crimes<ul style="list-style-type: none">1. Unlawfully Discharging Firearm PC 246.3<ul style="list-style-type: none">a. Elements [40.5.B]<ul style="list-style-type: none">1) Any person who2) Except as otherwise authorized by law3) Willfully discharges a firearm4) In a grossly negligent manner5) Which could result in injury or death to a personb. Felony [40.5.C]2. Discharging at an inhabited or occupied dwelling, vehicle, or aircraft PC 246<ul style="list-style-type: none">a. Elements<ul style="list-style-type: none">1) Any person who2) Maliciously and willfully3) Discharges a firearm at an:<ul style="list-style-type: none">a) Inhabited dwelling houseb) Inhabited housecar	<p>Ask: What are the crime elements for drawing, exhibiting, or unlawful use of an imitation firearm and what is the crime classification?</p> <p>Ask: What are the crime elements required to arrest for, and classification of unlawful discharging of a firearm?</p> <p>Ask: What are the crime classifications for other laws relating to unlawful discharge of a firearm?</p>
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<ul style="list-style-type: none">c) Inhabited camperd) Occupied buildinge) Occupied motor vehiclef) Occupied aircraftg) Note: No requirement for intent to injureh) Note: Does not have to hit structure, just shooting ati) Note: This PC does not apply to discharging within a structure <p>b. Felony</p> <p>3. Discharging in an unoccupied aircraft, motor vehicle or building/dwelling. PC 247</p> <p>a. Elements</p> <ul style="list-style-type: none">1) Any person2) Willfully and maliciously3) Discharges a firearm at an:<ul style="list-style-type: none">a) Unoccupied aircraftb) Unoccupied motor vehiclec) Uninhabited building or dwelling house <p>b. Felony</p> <p>c. Does not apply to shooting at an abandoned vehicle, unoccupied vehicle, uninhabited building or dwelling house if the shooter has the permission of the owner</p> <p>4. Driver permitting discharge of firearm in a vehicle PC 26100(b)</p> <p>a. Elements</p> <ul style="list-style-type: none">1) Any driver or owner of a vehicle2) Who knowingly permits any person3) To discharge any firearm from the vehicle <p>b. Felony</p> <p>5. Discharging firearm from a vehicle at a person PC 26100(c)</p> <p>a. Elements</p> <ul style="list-style-type: none">1) Any person who willfully and maliciously2) Discharges a firearm	
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<ul style="list-style-type: none">3) From a motor vehicle4) At any person other than an occupant of a motor vehicleb. Felony6. Discharge a firearm from a vehicle PC 26100(d)<ul style="list-style-type: none">a. Elements<ul style="list-style-type: none">1) Except as provided in Fish and Game Code Section 30022) Any person who willfully and maliciously discharges a firearm3) From a motor vehicleb. Felony	
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