

# **Basic Course Workbook Series Student Materials**

**Learning Domain 7**

**Crimes Against Persons/Death Investigations**

**Version Five**

**Basic Course Workbook Series  
Student Materials  
Learning Domain 7  
Crimes Against Persons/Death Investigations  
Version Five**

© Copyright 2007  
California Commission on Peace Officer Standards and Training (POST)  
All rights reserved.

Published 1998  
Revised June 2001  
Corrected October 2005  
Revised January 2006  
Revised July 2007

This publication may not be reproduced, in whole or in part, in any form or by any means electronic or mechanical or by any information storage and retrieval system now known or hereafter invented, without prior written permission of the California Commission on Peace Officer Standards and Training, with the following exception:

California law enforcement or dispatch agencies in the POST program, POST-certified training presenters, and presenters and students of the California basic course instructional system are allowed to copy this publication for non-commercial use.

All other individuals, private businesses and corporations, public and private agencies and colleges, professional associations, and non-POST law enforcement agencies in-state or out-of-state may purchase copies of this publication, at cost, from POST as listed below:

From POST's Web Site:  
**[www.post.ca.gov](http://www.post.ca.gov)**  
Go to [Ordering Student Workbooks](#)

## POST COMMISSIONERS

John Avila	Narcotics Detective Fresno County Sheriff's Department
Anthony W. Batts	Chief Long Beach Police Department
Lai Lai Bui	Sergeant Sacramento Police Department
Collene Campbell	Public Member
Robert G. Doyle	Sheriff Riverside County
Robert T. Doyle	Sheriff Marin County
Bonnie Dumanis	District Attorney San Diego County
Floyd Hayhurst	Deputy Sheriff Los Angeles County
Deborah Linden	Chief San Luis Obispo Police Department
Ronald Lowenberg	Director, Golden West College
Henry T. Perea	Councilman City of Fresno
Laurie Smith	Sheriff Santa Clara County
Michael Sobek	Sergeant San Leandro Police Department
Jerry Brown, Attorney General	Ex Officio Member Attorney General's Office
Hal Snow	Interim Executive Director



## **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 worked with POST to develop this workbook. The Commission extends its heartfelt appreciation to the California law enforcement agencies who freely offered personnel who gave of their time to participate in the development of this training material.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides self-study documents for every learning domain that makes up the basic course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. Its objective is to improve learning and retention of information by a student attending the academy.

The content of each workbook is organized into sequenced learning modules to meet requirements as proscribed 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 book helps you, the student, to successfully complete the academy course, to advance to the Field Training Officer program and to enjoy a safe and rewarding career as a peace officer serving the communities of California.

A handwritten signature in black ink, appearing to read "Hal Snow". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

HAL SNOW  
Interim Executive Director



# LD 7: Crimes Against Persons/Death Investigations

## Table of Contents

---

Topic	See Page
<b>Preface</b>	<b>iii</b>
Introduction	iii
How to Use the Student Workbook	iv
<b>Chapter 1: Identifying and Classifying Crimes Related to Injury</b>	<b>1-1</b>
Overview	1-1
Crimes Against Persons	1-3
Report Writing Tip	1-4
Battery	1-6
Assault with a Deadly Weapon or by Means of Force	1-10
Elder or Dependent Adult Abuse	1-13
Chapter Synopsis	1-17
Workbook Learning Activities	1-18
<b>Chapter 2: Identifying and Classifying Crimes Related to Kidnapping</b>	<b>2-1</b>
Overview	2-1
Kidnapping	2-3
False Imprisonment	2-6
Child Abduction without Custodial Right	2-8
Child Abduction with Custodial Right	2-11
Chapter Synopsis	2-13
Workbook Learning Activities	2-14

---

*Continued on next page*

## Table of Contents, Continued

---

Topic	See Page
<b>Chapter 3: Identifying and Classifying Crimes Related to Robbery</b>	<b>3-1</b>
Overview	3-1
Robbery	3-2
Carjacking	3-6
Chapter Synopsis	3-8
Workbook Learning Activities	3-9
<b>Chapter 4: Identifying and Classifying Crimes Related to Homicide</b>	<b>4-1</b>
Overview	4-1
Murder	4-2
Manslaughter	4-5
Chapter Synopsis	4-9
Workbook Learning Activities	4-10
<b>Chapter 5: Death Investigations</b>	<b>5-1</b>
Overview	5-1
Death Investigations	5-3
Homicide Investigations	5-16
Suicide Investigations	5-19
Deaths Involving Poison	5-23
Deaths Involving Children	5-24
Chapter Synopsis	5-36
Workbook Learning Activities	5-37
<b>Glossary</b>	<b>G-1</b>

---

# 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 training program 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	Begin reading 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 (e.g., <b><u>term</u></b> ).

---

# Chapter 1

## Identifying and Classifying Crimes Related to Injury

### Overview

---

**Learning need** Arrest and successful prosecution depends on the development of probable cause. Peace officers need to know the elements required to arrest for crimes related to injury, and to correctly categorize these crimes as misdemeanors or felonies.

---

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• recognize the crime elements required to arrest for:<ul style="list-style-type: none"><li>- battery,</li><li>- assault with a deadly weapon or by means of force,</li><li>- elder or dependent adult abuse.</li></ul></li></ul>	7.01.EO2 7.01.EO3 7.01.EO6
<ul style="list-style-type: none"><li>• recognize the crime classification as a misdemeanor or felony.</li></ul>	7.01.EO7

---

*Continued on next page*

## Overview, Continue

---

**In this chapter** This chapter focuses on recalling, classifying, and categorizing crimes related to injury. Refer to the following chart for specific topics.

<b>Topic</b>	<b>See Page</b>
Crimes Against Persons	1-3
Report Writing Tip	1-4
Battery	1-6
Assault with a Deadly Weapon or by Means of Force	1-10
Elder or Dependent Adult Abuse	1-13
Chapter Synopsis	1-17
Workbook Learning Activities	1-18

---

# Crimes Against Persons

---

**Introduction** The effective investigation of crimes against persons involves apprehending criminals, assisting crime victims, and protecting the community. To be an effectual peace officer, the student must understand how each of these components interconnect.

---

**Leadership** A peace officer who responds to a call of a crime against a person has to wear many hats. Emergency care for victims, protection of community members against further harm, apprehension of the perpetrator, and preserving the integrity of the scene are all part of the job.

---

**Ethics** A peace officer responding to a call where a person has been seriously injured at the hands of another may experience many difficult emotions including revulsion, anger, and the desire for revenge. Peace officers and community members share these reactions, which cannot easily be brushed away. It is the peace officer's job to keep a clear head, bring the situation back to normal as quickly as possible, and avoid the temptation of dispensing street justice or engaging in retaliation.

---

**Policing in the community** A peace officer must be able to explain how these crimes impact a community's perception of crime, fear, and law enforcement.

---

## Report Writing Tip

---

### **Battery: intent-action- result**

Ask questions that will bring the observations or thoughts of others into a clear picture of what happened. Organize your report in such a way that the nexus between **intent**, **action** and **result** makes sense to your audience.

1. **Intent (why the willful and unlawful happened):** Give accurate and factual details of who said what (victim and suspect quotes). Describe the context or relationship (argument, retribution, heated discussion, debate, etc.)

Example:                      Victim Miller told me that he and the suspect were involved in a minor traffic collision in the intersection of Main Street and Parker Boulevard. Miller said he and the suspect were “arguing over who was at fault.”

2. **Action (how the unlawful force of violence happened):** Accurately and thoroughly describe the unlawful use of force or violence upon the person of another (fist or foot - right or left, punched, kicked, etc.)

Example:                      Miller told me the suspect was standing approximately four feet from him when the suspect, without warning “punched me in the face.” Miller recalled the suspect used his right fist while simultaneously shouting, “Learn how to drive!”

---

*Continued on next page*

## Report Writing Tip, Continued

---

**Battery:  
intent-action-  
result**  
(continued)

3. **Result (what were the bodily injuries, wounds, complaints of pain):**  
Describe injuries using measurements (length, width, depth, diameter), bleeding, colors, swelling. Include complaints of pain using “quotes,” especially if there are no visible injuries. Remember, photographs are worth a thousand words!

Example:

I saw an approximate two-inch in diameter dark reddish bruise on victim Miller’s left cheek. The bruise was swollen approximately one-half inch above the surrounding facial skin. I asked Miller if he needed any medical attention and he said, “No, I’ll see my own doctor later.” I took a photograph of victim Miller’s injury.

---

**The link**

In any investigative report, ask questions that will bring observations or thoughts into a clear picture of what happened. Your audience will be using your words to visualize the incident in their own minds. The correlation of intent, action and result are very important.

---

# Battery

[7.01.EO2, 7.01.EO7]

---

## Definitions

A **battery** is any willful and unlawful use of force or violence upon the person of another.

**Battery causing/inflicting serious bodily injury** means a serious impairment or physical condition, including, but not limited to:

- concussion,
  - loss of consciousness,
  - bone fracture,
  - protracted loss or impairment of any member or organ,
  - extensive suturing, or
  - serious disfigurement.
- 

## Penal code section

Battery is covered under *Penal Code Section 242*

Battery causing/inflicting serious bodily injury is covered under *Penal Code Section 243(f)(4)*.

---

## Crime elements

To arrest a subject for the crime of battery, the necessary crime elements must include:

- willful and unlawful
- use of force or violence
- on the person of another.

NOTE: Every battery contains the lesser crime of assault.

---

*Continued on next page*

## Battery, Continued

---

### Crime elements (continued)

NOTE: The crime of battery requires actual physical contact with the victim or with items closely associated with the victim's person (i.e., clothing, canes and other walking devices).

NOTE: Battery as it relates to domestic violence is covered in *Penal Code Section 243(e)(1)* and is referenced in LD 25: *Domestic Violence*.

---

### Related terms

To understand the crime of battery, peace officers need to become familiar with the following terms:

**Willful** implies a purpose or willingness to commit the act.

**Unlawful** means without legal excuse or justification such as self-defense.

**Use of force or violence** in the context of battery means any force or violence. The degree of force is not a consideration in the crime, and battery doesn't require an injury.

---

### Classification

Battery is a misdemeanor. (*Penal Code Section 242*)

Battery upon a specified person is a misdemeanor. (*Penal Code Section 243(b)*)

Battery upon a specified person with treatable injury is a felony. (*Penal Code Section 243(c)(1)*)

Battery causing/inflicting serious bodily injury is a felony. (*Penal Code Section 243(f)(4)*)

---

*Continued on next page*

## Battery, Continued

---

**Battery  
on a  
peace  
officer**

A battery upon a peace officer can only occur when the officer is *engaged in the lawful performance of his/her duties*. The person committing the offense must know or reasonably know that the victim is a peace officer. (*Penal Code Section 243(b)*)

NOTE: This offense cannot occur in the course of an illegal arrest or an arrest involving the use of excessive force because then the officer is not engaged in a lawful activity.

---

**Battery  
on a  
sports  
official**

A battery on a sports official can occur when a person is engaged in the lawful performance of his/her duties. The person committing the offense must know or reasonably know that the victim is a sports official. (*Penal Code Section 243.8*)

---

**Battery  
on school  
property**

If a person commits an assault or battery on school property (K-12, community college, adult school, evening high school) during hours when school activities are being conducted, peace officers may, without a warrant, arrest the person who commits the assault or battery. (*Penal Code Section 243.5*)

NOTE: This is an exception to the general rule requiring that the misdemeanor was committed in the officer's presence.

---

**Examples**

Example: Two men argued over the final results of the football game. The first man didn't think his friend knew what he was talking about and spit at him; the spittle landed on his friend's shirt. The first man has committed the crime of battery because he made contact even though he caused no harm.

---

*Continued on next page*

## Battery, Continued

---

**Examples**  
(continued)

Example: A woman walked into the local bar and saw her boyfriend with another woman. She went to the table and hit him on the head. He fell off his barstool, struck his head on the floor and was knocked unconscious. She has committed the crime of a battery causing/inflicting serious bodily injury.

Non-example: After arguing with his girlfriend, the man stormed out of their apartment. He immediately realized that he had forgotten his keys and had to return. When he opened the door, unbeknownst to him his girlfriend was standing on the other side of the door; the door accidentally hit her in the nose, causing her nose to bleed. He is not guilty of battery because his action was not willful.

---

# Assault with a Deadly Weapon or by Means of Force

[7.01.EO3, 7.01.EO7]

---

## Definition

An **assault with a deadly weapon or by means of force** is an attempt upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury.

---

## Penal code section

Assault with a deadly weapon or by means of force is covered under *Penal Code Section 245*.

---

## Crime elements

To arrest a subject for the crime of assault with a deadly weapon or by means of force, the necessary crime elements must include:

- unlawful attempt, and
  - the present ability
  - to commit a violent injury
  - upon the person of another
  - by use of a deadly weapon
  - or force likely to produce great bodily injury.
- 

## Classification

Assault with a deadly weapon or by means of force is a felony.

---

## Related term

To understand the crime of assault with a deadly weapon or by means of force, peace officers need to become familiar with the following terms:

A **deadly weapon** can be any object capable of causing death or great bodily injury from the manner in which it is used.

**Present ability** means the present capability to accomplish the act of applying force.

**Great bodily injury** means a significant or substantial physical injury.

---

*Continued on next page*

# Assault with a Deadly Weapon or by Means of Force, Continued

---

## **Physical force**

Any physical force is sufficient if it is capable of producing great bodily injury. It is not necessary that an actual injury result from the assault. However, if an injury does occur, additional punishments may apply.

Examples of physical force with a deadly weapon or causing great bodily injury include:

- throwing a hard object (e.g., a rock, full beer can, etc.),
  - kicking or beating someone severely, or
  - throwing someone against or off something.
- 

## **Examples**

Example: Two men were arguing during a baseball game. One man picked up a baseball bat and swung at the other man. The second man ducked to avoid being hit on the head. The first man committed the crime of assault with a deadly weapon because he attempted to cause harm by using the bat as a weapon.

Example: During a bar fight, a man stabbed another man in the arm with a knife. The first man has committed the crime of assault with a deadly weapon.

---

*Continued on next page*

# Assault with a Deadly Weapon or by Means of Force, Continued

## Examples (continued)

- Example:** A young man walking in a gang area is confronted by four other young men. The four shoved him to the ground and kicked him until he was unconscious. The four committed assault with force likely to produce great bodily injury.
- Non-example:** A woman pointed an unloaded rifle at the victim. She cannot be arrested for assault with a deadly weapon because she simply pointed the rifle and didn't use it as a bludgeon in an attempt to cause injury. The fact that the gun was unloaded means the gun was not deadly when it was pointed. The woman did not have the present ability to inflict force using the gun as a firearm weapon.

## Related statutes

The following chart lists additional penal code sections.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Assault with a firearm	felony	245(a)(2)
Assault with other than a firearm on a peace officer	felony	245(c)
Assault with a firearm upon a peace officer or firefighter	felony	245(d)
Assault with caustic chemicals	felony	244
Assault with stungun or taser	misdemeanor or felony	224.5

# Elder or Dependent Adult Abuse

[7.01.EO6, 7.01.EO7, 7.01.EO8]

---

## Definition

The crime of **elder or dependent adult abuse** refers to the infliction of unjustifiable physical pain or mental suffering upon an elder or dependent adult or theft or embezzlement from an elder or dependent adult.

---

## Penal code section

Elder or dependent adult abuse is covered by *Penal Code Section 368*.

---

## Crime elements

To arrest a subject for the crime of elder or dependent adult abuse, the necessary crime elements must include:

- any person who willfully causes or permits an elder or dependent adult to suffer or inflicts unjustifiable physical pain or mental suffering, or
  - willfully causes or permits the elder or dependent adult to be injured or endangered, or
  - violates any provision of law proscribing theft or embezzlement to the property of that elder or dependent adult.
- 

*Continued on next page*

## Elder or Dependent Adult Abuse, Continued

**Classification** The following chart lists the Penal Code sections related to the crime of elder and dependent adult abuse and the related crime classifications.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b>Penal Code Section</b>
<p>Any person who knows or should know that a person is an elder or dependent adult and who, under any circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to:</p> <ul style="list-style-type: none"> <li>• suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or</li> <li>• having care and custody, permits the person or health to be injured, or</li> <li>• be placed in a situation such that the person or health is endangered.</li> </ul>	felony	368(b)
<p>Any person who knows or reasonable should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.</p>	misdemeanor	368(c)

*Continued on next page*

## Elder or Dependent Adult Abuse, Continued

Classification (continued)	Circumstance of Crime	Crime Classification	Penal Code Section
	Any person or <b>caretaker</b> who violates any provisions of the law proscribing theft or embezzlement with respect to the property of the elder or dependent adult.	misdemeanor, or felony (Same as theft)	368(d) 368(e)
	Any person who commits false imprisonment of an elder or dependent adult by use of violence, menace, fraud or deceit.	felony	368(f)

### Related terms

To understand the crime of elder or dependent adult abuse, peace officers need to become familiar with the following terms:

**Elder** means any person who is 65 years of age or older.

**Caretaker** means any person who has the care, custody, or control of, or who stands in a position of trust with, an elder or dependent adult.

**Dependent adult** means any person, between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights. This includes, but is not limited to, persons who have physical or developmental disabilities or whose mental abilities have diminished because of age. This includes any patient between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility.

*Continued on next page*

## Elder or Dependent Adult Abuse, Continued

---

### Examples

Example: A paraplegic adult required home care. The caretaker arrived every morning to dress the paraplegic and clean the apartment. The caretaker saw a wad of money in the dresser drawer. One day, after completing the daily tasks, he took the cash and left the apartment. The caretaker has committed the crime of dependent adult abuse because he stole the money. The amount of money will determine whether the crime is a felony or misdemeanor.

Example: As a 67-year-old woman became more senile, she became more demanding. One day she demanded repeatedly to have her hair brushed. Her daughter brushed it again and again and became increasingly frustrated. Finally, the daughter got so frustrated, after the mother asked her to brush her hair again, that she hit her mother repeatedly with the brush. The daughter committed a crime of elder abuse because she caused her mother physical pain.

Non-example: An elderly father and son went for a drive. The father wanted to stop for lunch. The father ordered a grilled hamburger, despite doctor's orders to cut back on red meat. The son argued with his father to change his mind; the father refused and the son walked out of the restaurant. The son has not committed the crime of elder abuse because he caused no pain or suffering and did not endanger his father's health.

---

## Chapter Synopsis

---

**Learning need** Arrest and successful prosecution depends on the development of probable cause. Peace officers need to know the elements required to arrest for crimes related to injury, and to correctly categorize these crimes as misdemeanors or felonies.

---

**Battery**  
[7.01.E02,  
7.01.E07] Willful and unlawful use of force or violence on the person of another is a misdemeanor; felony, when serious bodily injury, or battery and injury against certain classes of victims.

---

**Assault with a deadly weapon or by means of force**  
[7.01.E03,  
7.01.E07] Unlawful attempt coupled with the present ability to commit a violent injury upon the person of another by use of a deadly weapon or force likely to produce great bodily harm is a felony.

---

**Elder or dependent adult abuse**  
[7.01.E06,  
7.01.E07] Willfully causes or permits an elder or dependent adult to suffer unjustifiable physical pain or mental suffering or to be placed in a condition or situation likely to produce great bodily harm or death or violates any provision of law proscribing theft or embezzlement to the property of that elder or dependent is a felony abuse involving theft or embezzlement is misdemeanor, below \$400, and a felony, over \$400.

---

# 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. After receiving complaints from nursing home residents, a peace officer discovered that an attendant had been frightening residents into turning over money. Two residents who didn't comply were struck by the attendant. In one case this resulted in the patient's arm being broken. What crimes have been committed? Which are felonies and which are misdemeanors?

2. What distinguishes misdemeanor battery from felony battery?

---

*Continued on next page*



## Workbook Learning Activities, Continued

---

**Activity  
questions**  
(continued)

4. List ten objects, other than firearms or knives, and describe circumstances under which they could be considered deadly weapons.

## Chapter 2

# Identifying and Classifying Crimes Related to Kidnapping

## 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 kidnapping, and to correctly categorize these crimes as misdemeanors or felonies.

---

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• recognize the crime elements required to arrest for:<ul style="list-style-type: none"><li>- kidnapping,</li><li>- false imprisonment,</li><li>- child abduction without custodial right,</li><li>- child abduction with custodial right.</li></ul></li></ul>	7.02.EO1 7.02.EO2 7.02.EO3 7.02.EO4
<ul style="list-style-type: none"><li>• recognize the crime classification as a misdemeanor or felony.</li></ul>	7.02.EO5

---

*Continued on next page*

## Overview, Continued

---

**In this chapter** This chapter focuses on recalling, classifying, and categorizing crimes related to kidnapping. Refer to the following chart for specific topics.

<b>Topic</b>	<b>See Page</b>
Kidnapping	2-3
False Imprisonment	2-6
Child Abduction without Custodial Right	2-8
Child Abduction with Custodial Right	2-11
Chapter Synopsis	2-13
Workbook Learning Activities	2-14

---

# Kidnapping

[7.02.EO1, 7.02.EO5]

---

## Definition

The crime of **kidnapping** occurs when a person forcibly, or by means of instilling fear, takes another person to another place.

---

## Penal code section

Kidnapping is covered under *Penal Code Section 207(a)*.

---

## Crime elements

To arrest a subject for the crime of kidnapping, the crime elements must include:

- unlawful taking of a person
- against his or her will
- by force or fear
- from one place to another.

NOTE: The movement involved in any taking does not refer to a specific distance, rather it refers to whether or not the victim was exposed to additional danger because of the movement.

---

## Classification

Kidnapping is a felony.

---

## Amount of force

The force used to effect the kidnapping does not need to be physical force. As long as the suspect gives orders which the victim feels compelled to obey, and the victim reasonably believes some kind of harm will occur if he or she doesn't cooperate, the force used is sufficient to complete the crime of kidnapping.

---

*Continued on next page*

## Kidnapping, Continued

---

### Examples

Example: A hitchhiker was picked up by a passing driver. As he entered the car, the hitchhiker asked the driver to drop him off at a specific location. The driver agreed initially, but later drove past the specified location in spite of the hitchhiker's protests. The driver took the hitchhiker to another location against the hitchhiker's will, refused to stop, and refused to let him out of the car when he asked to leave. The driver has committed the crime of kidnapping because the hitchhiker's consent was withdrawn when he wanted to get out, but the driver refused.

Example: A man wanted to date a coworker. One day in the company parking lot he saw her next to her car which had a flat tire. The man offered to give her a ride to the gas station. When she refused, he grabbed her, shoved her into the car, locked the doors, and drove until they entered another state. The man committed the crime of kidnapping, since he forced the woman against her will to go with him.

Non-example: A man and a woman were arguing on the way to the movies. The woman wanted him to stop the car so she could get out. He drove to the closest safe location and dropped her off. The woman was not kidnapped, as she had willingly gotten into the car.

---

*Continued on next page*

## Kidnapping, Continued

---

### Related statutes

The following chart lists additional penal code sections related to the crime of kidnapping.

<b>Circumstance of Crime</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Kidnapping a child under 14	felony	<i>207(b)</i>
Kidnapping for ransom	felony	<i>209</i>
Taking of hostages	felony	<i>210.5</i>

---

# False Imprisonment

[7.02.EO2, 7.02.EO5]

---

## Definition

The crime of **false imprisonment** is the unlawful violation of the personal liberty of another.

---

## Penal code section

False imprisonment is covered under *Penal Code Section 236*.

---

## Crime elements

To arrest a subject for the crime of false imprisonment, the necessary crime elements must include:

- unlawful violation
  - of the personal liberty
  - of another.
- 

## Classification

False imprisonment is a misdemeanor.

False imprisonment if accomplished by means of violence, menace, fraud, or deceit, is a felony.

---

## Elements

False imprisonment does not require that there be confinement in a jail, prison, or other building. It can be accomplished by:

- restraining,
- confining,
- detaining, or
- compelling someone to stay or go somewhere without their consent.

NOTE: Human Trafficking is covered under *Penal Code Section 236.1*.

---

*Continued on next page*

## False Imprisonment, Continued

---

### Examples

- Example: During a break in courtroom proceedings, two attorneys entered an empty elevator. Without warning, the defense attorney pushed the emergency button and began to harass the prosecuting attorney about a suspected ethics violation. When the prosecutor demanded to get off the elevator, the defense attorney refused to reactivate it. This is false imprisonment because the defense attorney confined the other attorney in the elevator.
- Example: A man lured his ex-girlfriend into his car and then locked the doors to keep her from leaving. He wouldn't unlock the doors until she promised to meet him for a date that week-end. This is false imprisonment because the man deceived the woman, and she couldn't leave of her own free will.
- Non-example: A car salesman took a customer's keys in order to appraise the car. He refused to return the keys until the customer purchased a new car. This is not false imprisonment because the customer was free to leave, though not with his car. It is, however, an example of extortion.
- 

### Related statute

There are situations when the law allows individuals to be detained against their will. (*Penal Code Section 490.5*) For example:

- A merchant has the authority to detain a person suspected of shoplifting, theft, or burglary.
  - A theater owner has the authority to detain a person suspected of operating an unauthorized video device within the premises of a motion picture theater.
-

# Child Abduction without Custodial Right

[7.02.EO3, 7.02.EO5]

---

## Definition

The crime of **child abduction without custodial right** occurs when a person, *not having a right of custody*, restrains or withholds the child from the person having lawful custody.

---

## Penal code section

Child abduction without custodial right is covered under *Penal Code Section 278*.

---

## Crime elements

To arrest a subject for child abduction without custodial right, the necessary elements must include:

- every person
  - *not having the right of custody*, who
  - maliciously takes, entices away, keeps, withholds, or conceals
  - any minor child
  - with the intent to detain or conceal
  - from a person having lawful custody.
- 

## Classification

Child abduction without custodial right is a felony.

---

## Related terms

To understand child abduction crimes, peace officers need to become familiar with the following terms:

**Child** means a person under the age of 18 years.

---

*Continued on next page*

## Child Abduction without Custodial Right, Continued

---

**Related terms**  
(continued)

**Court order or custody order** means a permanent or temporary custody determination decree, judgment, or order issued by a court of competent jurisdiction. The decree, which can be initial or modified, must affect the custody or visitation of a child, and must have been issued in the context of a custody proceeding. Any order, once made, continues in effect until it expires, is modified, is rescinded, or terminates by operation of law.

**Operation of law** means that natural parents have equal rights to custody of their children, in the absence of a court order.

A **right to custody** means the right to the physical care, custody, and control of a child pursuant to a custody order or by operation of law.

**Visitation** means the time for access to the child allotted to any person by court order.

**Lawful custodian** means a person, guardian, or public agency having a right to custody of a child.

**Custodial proceeding** means a hearing in which a custody determination is an issue including, but not limited to, an action for dissolution or separation, dependency, guardianship, termination of parental rights, adoption, paternity, or protection from domestic violence proceedings including emergency protective order.

NOTE: Parents, in the absence of a court order, have equal rights of custody to their children.

---

*Continued on next page*

## Child Abduction without Custodial Right, Continued

---

### **Good samaritan exception**

*Penal Code Section 278.7* provides a Good Samaritan exception to the prohibition against detainment or concealment of a child from legal custodians. Under this code, it will not be considered a crime to detain or conceal a child if the person doing so is acting under good cause.

**Good cause** is a good faith belief that the taking, detaining, concealing, or enticing away of the child is necessary to protect the child from immediate bodily injury or emotional harm.

---

### **Examples**

Example: A boy lived with his father who had legal custody, but the boy still wanted to see his mother, the man's ex-wife. The boy's father decided to allow the boy to visit with his mother and took him to the mother's apartment. When he came to pick the boy up, the mother refused to let the boy go home with his father. The mother committed the crime of child abduction without custodial right because she prevented the child from returning to his father, the custodial parent.

Example: While playing in her yard, a girl's noncustodial father drove by, stopped, and asked her to come with him to get an ice cream. When the girl said she needed to tell her mother, the custodial parent, he said that it wasn't necessary because they would be right back. Instead, the father took the girl to live with his parents in another country. The father has committed the crime of child abduction without custodial right because he enticed the girl away from her mother without asking permission.

---

*Continued on next page*

## Child Abduction without Custodial Right, Continued

---

**Examples**  
(continued)

Non-example:

Responding to a child's sobs coming from the apartment next door, a neighbor found a badly bruised five-year-old girl. The girl was home alone. The neighbor took the child into her apartment to protect her and phoned police. Before police officers arrived, the girl's mother came home and knocked on the neighbor's door trying to locate her child. The neighbor refused to let the mother have access to her child. Because the neighbor was acting in good faith to protect the child from further possible abuse, she did not commit the crime of child abduction without custodial right.

---

# Child Abduction with Custodial Right

[7.02.EO4, 7.02.EO5]

---

**Definition** Every person who takes, entices away, keeps, withholds, or conceals a child and maliciously deprives a lawful custodian of a right to custody, or a person of a right to visitation.

---

**Penal code section** Child abduction with custodial right is covered under *Penal Code Section 278.5*.

---

**Crime elements** To arrest a subject for child abduction with custodial right, the necessary crime elements must include:

- every person who entices away, keeps, withholds, or conceals
- with intent to deprive
- the other person of his or her right to custody or visitation.

---

**Classification** Child abduction with custodial right is a felony.

---

*Continued on next page*

## Child Abduction with Custodial Right, Continued

---

### Examples

- Example: Martinez and his wife, in the process of a divorce, obtained a temporary custodial decree. The decree granted them joint custody of their 6-month-old daughter. Martinez was to have the daughter on weekends. Martinez decided to go on a weekend trip with his daughter and did not tell his wife. When his wife frantically called, Martinez told her that she did not need to worry. He indicated they'd be back in a few days. He told her that since she had never treated him right during their marriage, he felt that she deserved to know how it felt to be mistreated. Martinez has committed the crime of child abduction with custodial right.
- Example: Smith and her ex-husband have been divorced for years. Smith had never liked the terms of their divorce granting them joint physical custody on alternating weeks. Smith decided to take the children to Europe for three weeks. Smith's ex-husband told her she couldn't because the trip would interfere with his custodial rights. Smith told him that he should talk to her lawyer and took the children to Europe. Smith has committed the crime of child abduction with custodial right.
- Non-example: A mother took her daughter to the dentist after school. The appointment took longer than she thought, and then they ran into traffic on their way home. When they got home, there was a message that the ex-husband had been there to pick up their daughter as previously planned, but no one was home. He would call in an hour. The mother did not commit the crime of child abduction with custodial right as events prevented her from returning home as scheduled. It was not her intent to deprive her ex-husband of visitation.
-

## Chapter Synopsis

---

**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 kidnapping, and to correctly categorize these crimes as misdemeanors or felonies.

---

**Kidnapping**  
[7.02.EO1,  
7.02.EO5] Unlawful taking of a person against his or her will, by force or fear, from one place to another is a felony.

---

**False imprisonment**  
[7.02.EO2,  
7.02.EO5] Unlawful violation of the personal liberty of another is a misdemeanor; felony, if accomplished by violence, menace, fraud, or deceit.

---

**Detainment or concealment of a child from legal custodian**  
[7.02.EO3,  
7.02.EO5] Every person *not having the right of custody*, who maliciously takes, entices, or conceals away any minor child with the intent to detain or conceal from a person having lawful custody is a felony.

---

**Deprivation of custody of a child**  
[7.02.EO4,  
7.02.EO5] Every person who has the *shared right of custody or visitation* pursuant to a court order who detains, conceals, takes, or entices away with intent to deprive the other person of custody is a felony.

---





## Workbook Corrections

---

Suggested corrections to this workbook can be made by going to the POST website at: [www.post.ca.gov](http://www.post.ca.gov)

---

*Continued on next page*

## **Workbook Corrections,** Continued

---

**Student notes**

## Chapter 3

### Identifying and Classifying Crimes Related to Robbery

#### 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 robbery and to correctly categorize these crime as 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:	E.O. Code
<ul style="list-style-type: none"><li>recognize the crime elements required to arrest for:<ul style="list-style-type: none"><li>robbery, and</li><li>carjacking.</li></ul></li></ul>	7.03.EO1 7.03.EO2
<ul style="list-style-type: none"><li>recognize the crime classification as a felony.</li></ul>	7.03.EO3

---

**In this chapter** This chapter focuses on recalling, classifying, and categorizing crimes related to robbery. Refer to the following chart for specific topics.

Topic	See Page
Robbery	3-2
Carjacking	3-6
Chapter Synopsis	3-8
Workbook Learning Activities	3-9

---

# Robbery

[7.03.EO1, 7.03.EO3]

---

## Definition

The crime of **robbery** is the felonious taking of personal property in the possession of another. This requires the taking of property from a person or from his or her immediate presence, and against the person's will, by means of force or fear.

---

## Penal code section

Robbery is covered under *Penal Code Section 211*.

---

## Crime elements

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

- taking of personal property of another
  - from the person or immediate presence
  - against the person's will
  - accomplished by means of force or fear.
- 

## Classification

Robbery is a felony.

---

## Related terms

To understand the crime of robbery, peace officers need to become familiar with the following terms:

**Immediate presence** means an area within which the victim could reasonably be expected to exercise some physical control over his or her property.

**Force** means the overcoming of resistance by the exertion of strength, weight, power, threat, or duress. Any force directed at a victim is sufficient.

---

*Continued on next page*

## Robbery, Continued

**Related terms**  
(continued)

**Fear** means the reasonable apprehension of danger to oneself or another. This means a reasonable person, under the same set of circumstances, would be in fear of life, fear of danger of injury, or fear that personal property may be injured or damaged.

**Fear of unlawful injury**

In the course of a robbery, there must be a reasonable apprehension of danger. The apprehension of danger is defined as (*Penal Code Section 212*):

- the fear of an unlawful injury to the person or property of the person robbed, or of any relative of his or member of his family, or
- the fear of an immediate and unlawful injury to the person or property of anyone in the company of the person robbed at the time of the robbery.

**Other related crimes**

<b>Circumstances of Crime</b>	<b>Crime Classification</b>	<b>Penal Code Section</b>
Robbery of hired vehicle	felony	212.5(a)
Robbery at an Automated Teller Machine (ATM)	felony	212.5(b)
Any other type of robbery or robberies not listed in subdivisions (a) and (b) are of the second degree	felony	212.5(c)

*Continued on next page*

## Robbery, Continued

---

### Examples

Example: A woman cashed a check at a liquor store for \$100. As she walked away, a man approached her and demanded her handbag. She refused and clutched the handbag tightly in her arms. The man grabbed the handbag, but the woman wouldn't let go. The man pulled the handbag away from her and knocked her off balance. She fell and hit the ground, and the man ran off with the handbag. The man has committed the crime of robbery because he used force to take the woman's handbag.

Example: A boy was walking toward the entrance of his school wearing a new school jacket. Two older boys stepped in front of him and demanded that he hand over the jacket. The boy refused and tried to walk away. The two older boys knocked him down and forcefully took the jacket off of him and ran away with it. By taking the jacket against the owner's will, the two older boys have committed the crime of robbery.

Example: A night watchman was sitting at his desk, when a group of masked men entered the room and tied him to his chair. They then went down the hall and stole several pieces of computer equipment that were under his protection. Even though the property was not taken directly from the watchman's person, it was taken in the watchman's immediate presence. The masked men have committed the crime of robbery.

---

*Continued on next page*

## Robbery, Continued

---

**Examples**  
(continued)

Non-example:

A woman, after accepting an offer of a ride from a man, was taken to an unfrequented road where he attempted to kiss her; she escaped out of the car. The man drove away in his car containing her handbag. He has not committed the crime of robbery because it was not his intent to take the handbag.

---

# Carjacking

[7.03.EO2, 7.03.EO3]

---

## Definition

The crime of **carjacking** is the felonious taking of a motor vehicle in the possession of another, against his or her will and with the intent to either permanently or temporarily deprive the person in possession of the motor vehicle of his or her possession, accomplished by means of force or fear. The vehicle must be taken from the person or from the immediate presence of a person in possession or from the person or immediate presence of a passenger of the motor vehicle.

---

## Penal code section

Carjacking is covered under *Penal Code Section 215*.

---

## Crime elements

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

- taking of a motor vehicle
  - from the person or immediate presence
  - of a possessor or passenger
  - by means of force or fear
  - with the intent to either permanently or temporarily deprive the possessor or passenger.
- 

## Classification

Carjacking is a felony.

---

## Completing the crime

A subject has completed the crime of carjacking once he or she has dominion and control over the vehicle. It is not necessary for the possessor to be removed from the vehicle for the crime to be committed. The possessor might, for instance, be shoved over in the seat. The key is that the possessor has had to give up dominion and control.

---

*Continued on next page*

## Carjacking, Continued

---

### Other related crimes

*Penal Code Section 209.5* states: Any person who, during the commission of a carjacking and in order to facilitate the commission of the carjacking kidnaps another person who is not a principal in the commission of the carjacking has committed the crime of kidnapping.

---

### Classification

Kidnapping while committing a carjacking is a felony.

---

### Examples

Example: A woman was sitting in her car at a red light. The driver's side door was opened and a man pulled her from the car and drove off. The man has committed the crime of carjacking because he forced the driver out of the car and stole her vehicle.

Example: A woman put the groceries in the back of the car. As she attempted to get into the driver's seat, a man pushed her aside, jumped into the driver's seat, and drove off. The man committed the crime of carjacking because he forcibly took the car.

Non-example: At a gas station, a man got out of his car, leaving the keys in the ignition. He filled his gas tank and went to pay the cashier. Another man got into the car, started it, and drove away. This is not considered carjacking because there was no force or fear involved in the stealing of the vehicle.

---

## Chapter Synopsis

---

**Learning need** Arrest and successful prosecution depend on the development of probable cause. Peace officers need to know the elements required to arrest for robbery and to correctly categorize these crimes as felonies.

---

**Robbery**  
[7.03.EO1,  
7.03.EO3] Taking of personal property of another from the person or immediate presence against the person's will accomplished by means of force or fear with the specific intent to permanently deprive that person of the property is a felony.

---

**Carjacking**  
[7.03.EO2,  
7.03.EO3] Taking of a motor vehicle from the person or immediate presence of a possessor or passenger by force or fear with the intent to either permanently or temporarily deprive the possessor or passenger is a felony.

---

# 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. One roommate, Alice, calls peace officers to report a robbery. When they arrive, she says that she is just fed up with her roommate who always borrows her clothes without asking. Alice relates that she had just arrived home from work to discover that her roommate has borrowed an expensive designer dress from her closet. The roommate left a note, saying she would return the dress tomorrow. What, if any, crime has been committed? How would this change if the roommate threatened to destroy all of Alice's clothes if she wasn't allowed to wear the dress? Under what circumstance would the removal of the dress be considered robbery?

---

*Continued on next page*



# Chapter 4

## Identifying and Classifying Crimes Related to Homicide

### 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 homicide, and to correctly categorize these crimes as felonies.

---

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

<b>After completing study of this chapter, the student will be able to:</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>recognize the crime elements required to arrest for murder.</li></ul>	7.04.EO5
<ul style="list-style-type: none"><li>recognize the crime elements and classification for manslaughter crimes.</li></ul>	7.04.EO6

---

**In this chapter** This chapter focuses on recalling, classifying, and categorizing crimes related to homicide. Refer to the following chart for specific topics.

<b>Topic</b>	<b>See Page</b>
Murder	4-2
Manslaughter	4-5
Chapter Synopsis	4-9
Workbook Learning Activities	4-10

---

# Murder

[7.04.EO5]

---

## Definition

The crime of **murder** is the unlawful killing of a human being, or a fetus, with malice aforethought.

NOTE: Homicide is the taking of life by another human being.

NOTE: Standard description regarding murder of a fetus is the viability of the fetus outside the womb.

---

## Penal code section

Murder is covered under *Penal Code Section 187*.

---

## Crime elements

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

- unlawful killing of a human being or fetus.
  - with malice aforethought.
- 

## Classification

Murder is a felony.

---

## Malice aforethought

The concept of malice aforethought is key to the definition of murder. It is what distinguishes murder from the less heinous crime of **manslaughter**.

**Malice aforethought** may be expressed or implied and is expressed when there is an intent to kill. Malice aforethought is implied when the killer, although not intending to kill, manifests a conscious disregard for life. Conscious disregard for life occurs when the killing results from an intentional act, the natural consequences of which are dangerous to life, and the act is performed by one fully aware of the danger, but who proceeds in spite of the danger.

---

*Continued on next page*

## Murder, Continued

---

### Malice aforethought (continued)

Put another way, implied malice aforethought is the state of mind where there is no intent to kill but, there is a conscious disregard for life.

---

### Felony degree murder

When murder is perpetuated under the following conditions, it would be classified as first-degree murder. (*Penal Code Section 189*)

These types of murders can be easily recalled using the acronym “PET PoLy” which stands for:

- Premeditated,
- Explosives (including Weapons of Mass Destruction (WMD’s), destructive devices, and metal or armor piercing ammunition)
- Torture (*Penal Code Sections 206 and 12022.7*)
- Poison
- Lying in wait

Destructive devices are defined in *Penal Code Section 12301*. Explosive devices are defined in *Health and Safety Code Section 12000*. WMD’s are defined in *Penal Code Section 11417*.

---

### Felony murder rule

The state of mind of malice aforethought may be implied by operation of law. This is called the **felony murder rule**. This situation occurs when any killing happens during the commission of certain felonies listed in *Penal Code Section 189*. The list of felonies are:

- |                   |                      |
|-------------------|----------------------|
| - arson,          | - rape,              |
| - robbery,        | - carjacking,        |
| - burglary,       | - kidnapping,        |
| - mayhem,         | - drive by shooting, |
| - train wrecking. |                      |
- 

*Continued on next page*

## Murder, Continued

---

**Felony  
murder  
rule**  
(continued)

If there is a killing of any person including suspects, whether intentional, unintentional, or completely accidental, during the commission, or attempted commission of one of these felonies, that killing will be a murder by operation of the felony murder rule. Thus, no matter what the actual state of mind of the perpetrator of a listed felony, the law will consider the state of mind to be malice aforethought. The killing will be a murder under the felony murder rule.

---

**Examples**

Example: A woman discovered that her husband was having an affair with her best friend. She purchased a handgun and returned after a two-week waiting period to pick up the gun. She then drove to her friend's house and waited for her to come home from work. When the friend got out of her car, the woman shot her several times and killed her. The woman has committed the crime of murder.

Example: A teenage boy, armed with a gun, was meeting a man in the park to buy some crack. When he arrived, the seller said he didn't have the crack, but he would have it the next day. The boy was so outraged he shot the man, killing him. The boy committed the crime of murder.

Non-example: A father was cleaning his gun when the son entered the room. The father continued cleaning the gun when it accidentally discharged, the bullet hit and killed the son.

---

# Manslaughter

[7.04.EO6]

---

**Definition** The crime of manslaughter is the unlawful killing of a human being without malice aforethought.

---

**Penal code section** Manslaughter is covered under *Penal Code Section 192*.

---

**Crime elements** To arrest a suspect for voluntary manslaughter, the necessary crime elements must include:

- the unlawful killing of a human being without malice.
- Upon a sudden quarrel or heat of passion.

---

**Classification** Voluntary manslaughter is a felony.

---

**Related terms** To understand the crime of voluntary manslaughter, peace officers need to understand the following terms:

**Heat of passion** implies a blinding rage which clouds judgment and common sense and prompts a person to act rashly, without deliberation. Voluntary manslaughter during heat of passion presumes that the act was committed without deliberation or reflection. If a reasonable person would have had time to “cool off” and regain senses between the provocation and the act of killing, the homicide may be presumed to be an act with malice aforethought, a murder, rather than voluntary manslaughter.

**Imperfect self-defense** means the killer had an actual belief in the necessity to use deadly force to defend himself against imminent peril to life or great bodily injury, but under the circumstances this belief, no matter how genuine, was not reasonable.

---

*Continued on next page*

## Manslaughter, Continued

---

**Crime elements**

To arrest a suspect for involuntary manslaughter, *Penal Code Section 192(b)*, the necessary crime elements must include:

- in the commission of an unlawful act not amounting to a felony or
  - in the commission of a lawful act which might produce death in an unlawful manner, or
  - without caution and circumspection.
- 

**Classification**

Involuntary manslaughter is a felony.

---

**Vehicular manslaughter**

The crime of vehicular manslaughter depends on two elements: The intoxication or condition of the driver, the level of negligence displayed by the driver.

<b>Vehicular Manslaughter</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Gross negligence while intoxicated	felony	<i>191.5</i>
Gross negligence while not intoxicated	felony	<i>192(c)(1)</i>
Ordinary negligence while intoxicated	felony	<i>192(c)(3)</i>
Ordinary negligence while not intoxicated	misdemeanor	<i>192(c)(2)</i>

NOTE: Gross negligence is defined in *Penal Code Section 192*.

---

*Continued on next page*

## Manslaughter, Continued

---

### Examples

Example: A husband came home unexpectedly in the middle of the day. He walked into his bedroom and found his wife in bed with his best friend. The husband got his gun out of the bedroom closet and killed the man. The husband has committed the crime of voluntary manslaughter because he killed his friend in the heat of passion.

Example: A man was in his suburban backyard with a high-powered rifle, practicing shooting into a cardboard target. He hit the target, but the bullet continued into a neighbor's house where it hit and killed the neighbor. The man has committed the crime of involuntary manslaughter because he didn't take into account the safety of others (i.e., gross negligence) whose homes were only a short distance away.

Example: Leaving the house a few minutes late, a woman began driving to work. She was driving approximately 75 mph in a school zone when suddenly the car in front stopped for a school bus. The woman could not stop and plowed into the car. The car was forced into the stopped bus. The driver of the car hit by the woman was taken to a hospital where he died later that night. The woman has committed the crime of gross vehicular manslaughter.

Example: An eighteen-year-old male was driving 30 miles per hour in a 25 zone. His speed prevented him from stopping when a young child ran into the street without looking. The child was killed. The teen has committed vehicular manslaughter with negligence, because his speeding did not constitute a felony and was not excessive enough to show willful and wanton disregard for safety.

---

*Continued on next page*

## Manslaughter, Continued

---

**Examples**  
(continued)

Non-example:

A father came home from work and discovered his 13 year-old son in his study. The son was unclothed and in front of an unknown older man. Horrified, the father grabbed a gun from the display case on the study wall and shot and killed the man. The father committed the crime of manslaughter because the killing was done without malice aforethought.

---

## Chapter Synopsis

---

**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 homicide, and to correctly categorize these crimes as felonies.

---

**Murder**  
**[7.04.EO5]** To arrest a subject, the necessary crime elements for murder must include unlawful killing of a human being or fetus with malice aforethought.

---

**Manslaughter**  
**[7.04.EO6]** The crime of manslaughter is the unlawful killing of a human being without malice aforethought.

---

# 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. As part of a fraternity initiation, a college student tampered with a railroad signal. As a result of the tampering, a train was switched to the wrong track and collided with an oncoming train. As a result, there were several passenger fatalities. The student has committed what crime?

2. What homicide-related crimes are classified as misdemeanors?

---

*Continued on next page*

## Workbook Learning Activities, Continued

---

**Activity  
questions**  
(continued)

3. On the steps of a courthouse, peace officers observe a young couple in a heated argument. The woman slaps the man, but is horrified when he loses his balance and falls backward down the stairs. The man strikes his head and dies of this injury two hours later. Has the woman committed any crime? How should peace officers react on the scene?

---

*Continued on next page*

## **Workbook Learning Activities, Continued**

---

**Student notes**

# Chapter 5

## Death Investigations

### Overview

---

**Learning need** Peace officers who are first to arrive at a scene involving a death must be aware of their responsibilities to assess the situation and take an appropriate course of action based on their preliminary investigation.

---

**Learning objectives** The following table identifies the student learning objectives for this chapter.

<b>After completing study of this chapter, the student will be able to...</b>	<b>E.O. Code</b>
<ul style="list-style-type: none"><li>• identify information that should be obtained and documented when conducting an investigation involving the death of a child.</li></ul>	7.05.EO6
<ul style="list-style-type: none"><li>• identify indicators that a child's death may be due to Sudden Infant Death Syndrome (SIDS).</li></ul>	7.05.EO7
<ul style="list-style-type: none"><li>• identify appropriate actions for responding officers interacting with parents or care givers involved in a SIDS incident.</li></ul>	7.05.EO8

---

*Continued on next page*

## Overview, Continued

---

**In this chapter** This chapter focuses on the investigation of incidents involving the death of an adult or child. Refer to the table below for a specific topic.

<b>Topic</b>	<b>See Page</b>
Death Investigations	5-3
Homicide Investigations	5-16
Suicide Investigations	5-19
Deaths Involving Poisoning	5-23
Deaths Involving Children	5-24
Chapter Synopsis	5-36
Workbook Learning Activities	5-37

---

# Death Investigations

---

## Introduction

Not every death is a crime. But if a death was unattended, sudden or unexpected, or suspicious in any way, it must be investigated by law enforcement personnel to determine whether or not the death was the result of a criminal act.

---

## Death recognition

Upon arrival, officers should immediately check for signs of life except in cases of obvious death. If there is any doubt whatsoever or if there are any indications of life, the responding officers should immediately summon emergency medical assistance and render first aid.

The following table identifies observable indicators that an individual is dead.

<b>Indications that a person may be dead</b>	<b>Information</b>
Cessation of breathing	<ul style="list-style-type: none"><li>• No movement of upper abdomen is observed</li><li>• No breath sounds can be heard</li></ul> <p>NOTE: The absence of abdominal movement by itself may not necessarily mean the individual is dead.</p>
No detectable pulse	<ul style="list-style-type: none"><li>• No neck or wrist pulse can be felt.</li><li>• Bleeding of wounds has ceased.</li><li>• Skin appears waxy or translucent due to lack of blood circulation.</li></ul>
Cessation of eye movement	<ul style="list-style-type: none"><li>• Pupils are fixed and dilated and show no reaction to a change in light.</li></ul>

---

*Continued on next page*

## Death Investigations, Continued

### Death recognition (continued)

Indications that a person may be dead	Information
Body temperature	<ul style="list-style-type: none"> <li>• Skin feels cool (or near room temperature) to the touch.</li> </ul> <p>NOTE: The rate of cooling can vary depending on the individual's age, size, clothing, amount of fat, or air temperature.</p>

### Postmortem Observation

Obvious signs of death	Description/Rationale
Livor mortis	<ul style="list-style-type: none"> <li>• Also referred to as postmortem lividity</li> <li>• Purple discoloration resulting from gravity induced pooling or settling of blood within the body</li> <li>• Staining is due to clotted blood and remains permanently.</li> <li>• Begins immediately at time of death but not first noticeable until 30 minutes to one hour after death</li> <li>• Usually well developed within three to four hours and becomes "fixed" eight to twelve hours after death</li> <li>• May provide an indication of:               <ul style="list-style-type: none"> <li>- the time of death,</li> <li>- position of the body at death, and/or</li> <li>- whether or not the body was moved or repositioned after death</li> </ul> </li> </ul>

*Continued on next page*

## Death Investigations, Continued

---

<b>Postmortem observation (continued)</b>	<b>Obvious signs of death</b>	<b>Description/Rationale</b>
	Rigor mortis	<ul style="list-style-type: none"><li>• Gradual stiffening or hardening of muscle tissue</li><li>• Caused by the breakdown of enzymes and the accumulation of lactic acid in the muscle tissue</li><li>• Takes place at the same time throughout the body but is first observable in the neck and jaw muscles</li><li>• Can first appear 1-6 hours after death; full rigor at 6-24 hours after death; begins to disappear until completely gone 36-60 hours after death</li><li>• An unreliable method of indicating time of death because onset and duration may vary if:<ul style="list-style-type: none"><li>- conditions are abnormally cool or hot,</li><li>- the individual experienced a high fever, heavy muscle activity, convulsions, or fright prior to death, or</li><li>- death was due to specific conditions (e.g., Sudden Infant Death Syndrome).</li></ul></li><li>• May provide information regarding the posture or positioning of the body at the time of death</li></ul>

---

*Continued on next page*

## Death Investigations, Continued

---

**Postmortem  
observation**  
(continued)

<b>Obvious signs of death</b>	<b>Description/Rationale</b>
Putrefaction	<ul style="list-style-type: none"><li>• Natural decomposition or breakdown of body tissue due to bacterial or fungi activity or normal chemical reactions within the body</li><li>• Onset and rate are dependent on environmental temperatures</li><li>• Usually begins in lower abdomen and genitals as a greenish discoloration</li><li>• Can be marked by the formation of blisters filled with gas</li><li>• Proceeds in stages until the body is reduced to a skeleton</li></ul>
Other	<ul style="list-style-type: none"><li>• Insect infestation indicating a time of death based on the normal insect development cycle (specifically the presence of insect eggs, larvae, and/or adult insects)</li><li>• Loss of tissue caused by wild or domestic animals eating off the body</li><li>• Traumatic injuries leading to a possible cause of death (e.g., burns, decapitation, mutilation, etc.)</li></ul>

---

*Continued on next page*

## Death Investigations, Continued

### Responding officers' responsibilities

Based on their findings, responding officers must take appropriate actions and conduct a preliminary investigation.

IF the officers...	THEN officers should...
find indications or even suspect the individual is still <b>alive</b>	<ul style="list-style-type: none"> <li>• call for emergency medical services and render appropriate first aid.</li> <li>• coordinate the efforts of those at the scene rendering medical assistance.</li> <li>• determine if a crime has been committed, if possible, and conduct a preliminary investigation.</li> </ul>
determine there are obvious signs of death	<ul style="list-style-type: none"> <li>• contain, secure, and protect the body and incident scene.</li> <li>• identify and locate possible witnesses and other sources of information.</li> <li>• determine, if possible, the manner of death and if a crime has been committed.</li> <li>• identify and arrest suspect(s), if possible.</li> <li>• notify dispatch as soon as possible with information regarding the circumstances of the death.</li> <li>• make any other required notifications (e.g., medical examiner/coroner's office).</li> <li>• collect available information necessary to write a clear and accurate preliminary investigative report.</li> </ul>

NOTE: It is each officer's responsibility to be aware of and comply with his or her own agency policies and guidelines

*Continued on next page*

## Death Investigations, Continued

---

### Death pronouncement

As soon as a responding officer determines that an individual is dead, the officer should document:

- the time the *observation* was made (not the time of the actual death), and by whom, and
- those factors that led the officer to conclude that the individual was dead.

This information can be used by the medical examiner/coroner and should be included within the officer's investigative report.

---

### Officer safety

Responding officers should be aware of potential hazards to themselves and others related to the cause of the death. If a danger, or the potential for danger exists, officers should take appropriate action to ensure their own safety and the safety of others.

Examples of possible hazards that would warrant special precautions or actions include, but are not limited to:

- live electrical wires,
- explosive materials,
- toxic fumes,
- flammable substances,
- blood borne pathogens, and
- other hazardous materials.

NOTE: To protect themselves from blood borne pathogens, officers should wear protective clothing, including disposable gloves.

---

*Continued on next page*

## Death Investigations, Continued

---

### Required notifications

The **manner of death** will dictate the required notifications to be made, the type of assistance to request, and the disposition of the body itself. Based on the officers' preliminary investigation, the responding officers may notify:

- supervisory personnel,
- special investigative units,
- additional backup units,
- evidence technicians,
- special crime scene photographers, and/or
- medical examiner/coroner.

NOTE: The extent of availability of such individuals may be dependent on the resources of each specific law enforcement jurisdiction.

---

### On-scene treatment of the body

The body of the victim should be considered a crime scene in and of itself. Once it has been determined that the individual is dead, responding officers should:

- secure the body and immediate area along with any other areas associated with the death scene.
  - refrain from touching, disturbing, or moving the body or any other potential evidence in any manner. Officers should also prevent any other unauthorized individuals from doing so as well.
- 

*Continued on next page*

## Death Investigations, Continued

---

### **On-scene treatment of the body** (continued)

- ensure that the scene is documented by using of photographs, sketches, and field notes before the body is moved.
- attempt to identify the deceased through witnesses, family members, the reporting party, or other individuals, if possible.

Only after the body has been officially removed, may officers begin a thorough search of the surface where the body was found for additional physical evidence.

---

### **Time of death**

**It is not the responsibility of the responding officers to determine the actual time of death.** That determination must be made by the medical examiner/coroner or forensic pathologists.

Responding officers should document any observations regarding the condition of the body that may aid the medical examiner/coroner in making this determination. The following table presents general guidelines regarding postmortem conditions based on time of death.

<b>General Guidelines</b>	<b>Postmortem Conditions</b>
under 30 minutes ago	<ul style="list-style-type: none"><li>• that the body is still warm to the touch,</li><li>• absence of or only slight signs of lividity, and/or</li><li>• toneless and flaccid muscles.</li></ul>
30 minutes to one hour ago	<ul style="list-style-type: none"><li>• slight lividity, and/or</li><li>• toneless and flaccid muscles.</li></ul>
more than one hour ago	<ul style="list-style-type: none"><li>• slight lividity,</li><li>• toneless and flaccid muscles, and/or</li><li>• a thin opaque film over the eyeballs.</li></ul>
two to four hours ago	<ul style="list-style-type: none"><li>• mild lividity,</li><li>• rigor mortis, and/or</li><li>• a thin opaque film over the eyeballs.</li></ul>

---

*Continued on next page*

## Death Investigations, Continued

---

**Time of death**  
(continued)

General Guidelines	Postmortem Conditions
eight to twelve hours ago	<ul style="list-style-type: none"> <li>• maximum lividity,</li> <li>• rigor mortis,</li> <li>• a thin opaque film over the eyeballs, and/or</li> <li>• a body surface temperature that feels the same as that of surrounding atmosphere.</li> </ul>
more than 24 hours ago	<ul style="list-style-type: none"> <li>• initial decomposition (under warm environmental conditions),</li> <li>• no apparent indication of rigor mortis, and/or</li> <li>• a body surface temperature that feels the same as that of surrounding atmosphere.</li> </ul>

**Medical examiner/coroner**

Under California law, whenever a death appears to be sudden, unexplained, unnatural, or suspicious, the **medical examiner/coroner** has the authority to investigate the circumstances and determine the cause of death.

Jurisdiction over the deceased and the investigation falls with the medical examiner/coroner of the *county in which the deceased is found* not the county where the event which caused the death occurred.

Coordination between investigating officers and the medical examiner/coroner is essential in the collection of evidence used to determine the cause, manner, mode of death, and identification of possible suspects.

NOTE: Not *all* deaths are coroner cases (e.g., deaths from natural causes that take place in a medical facility).

*Continued on next page*

## Death Investigations, Continued

---

### **Medical examiner/ coroner responsibilities**

Once law enforcement personnel have conducted a preliminary investigation of the scene, the medical examiner/coroner becomes responsible for:

- searching the body and premises for personal effects and identification.
- taking custody of and safeguarding the personal effects and property (e.g., papers, money, jewelry, etc.) found on the body of the deceased and on the premises until otherwise lawful disposition can be made.
- determining if the premises should be locked and a seal applied to the door(s) prohibiting entrance until arrival of a legally authorized representative of the deceased is present. (Such action cannot interfere with any law enforcement investigation that is being conducted.)
- estimating the actual time of death.
- performing an autopsy.
- conducting a death investigation.
- generating a death certificate.
- releasing to the investigating law enforcement agency or district attorney's office any evidence necessary for a criminal investigation, including a receipt for all evidence.

---

*Continued on next page*

## Death Investigations, Continued

---

**Cooperation  
between  
medical  
examiner/  
coroner and  
law  
enforcement**

It is unlawful for any person (including law enforcement officers) to:

- search for or remove any:
  - papers,
  - money,
  - valuable property, or
  - weapons
- from the person of the deceased, or
- the premises of the deceased
- prior to the arrival of the medical examiner/coroner.

NOTE: In the event of a vehicular homicide, the investigating officer may legally search the person or property on or about the deceased for a driver's license or identification card to determine if an anatomical donor card is attached (*Government Code Section 27491.3(d)*).

At the same time, whenever it is apparent that a crime has been committed and that a criminal investigation and prosecution will take place, the medical examiner/coroner cannot:

- disturb or remove the body or
- any related evidence
- until law enforcement personnel have had a reasonable opportunity to respond to the scene.

---

*Continued on next page*

## Death Investigations, Continued

---

### **Undetermined deaths**

If the crime scene investigation does not indicate that the death can be attributed to natural, accident, suicide or homicide, it will be classified as undetermined.

Forensic medical examination will determine the cause of death which will identify the classification.

---

### **Agency policy regarding death investigations**

The role of the responding officer in the collection of physical evidence may be dependent on agency policy and the investigative support available (e.g., special evidence technicians, homicide investigation units, medical examiner/coroner, etc.). It is each officer's responsibility to be aware of and comply with agency policies and procedures.

---

# Homicide Investigations

---

## Introduction

**Homicide** refers to any killing of one human by another, regardless of the circumstances. Homicide can be either lawful or unlawful.

---

## Responding officers' role

When responding to a call involving a homicide, it is the responding officers' responsibility to secure the scene and aid in conducting the preliminary investigation.

---

## Initial actions

Once responding officers have safely arrived at the scene and have determined that the victim is obviously dead, they must conduct a protective sweep of the immediate area and look for additional victims, possible suspects, witnesses, or other persons who may have information regarding the death.

---

## Crime scene containment

The identification and preservation of the scene is of the *utmost importance*. After initially approaching the victim to determine if there are no signs of life, officers should vacate and secure the immediate crime scene and *not re-enter*.

An inner perimeter should be established around the primary crime scene area. An inner perimeter may include, but is not limited to:

- the location of any evidence,
- the path of access or egress of a suspect,
- signs of struggle between people.

An outer perimeter may include additional locations associated with the acts of the crime including, but is not limited to:

- the location where the initial assault took place,
  - the location where the victim actually died, and
  - points of entry and escape from the crime scene.
- 

*Continued on next page*

## Homicide Investigations, Continued

---

### **Access to the crime scene**

The initial responding officers have the lawful authority to deny unauthorized access to the scene. It is their responsibility to limit access in an effort to preserve and protect possible evidence as well as protect the victim's rights and property.

Those who are allowed access to the crime scene may include:

- the medical examiner/coroner,
- assigned investigators, and
- other personnel whom the investigators authorize.

**NOTE:** Officers should maintain a crime scene log of everyone allowed access and their reason for entering the crime scene.

---

*Continued on next page*

## Homicide Investigations, Continued

---

### Protection of physical evidence

Physical evidence associated with the crime scene should be protected until it can be properly identified, documented, collected, and processed. The following table identifies types of physical evidence that may be associated with a homicide investigation.

<b>Form of Physical Evidence</b>	<b>Examples</b>
Body materials	<ul style="list-style-type: none"><li>• Blood</li><li>• Bloodstain patterns</li><li>• Semen</li><li>• Hair</li><li>• Skin and other tissue</li><li>• Saliva</li></ul>
Instruments of the death	<ul style="list-style-type: none"><li>• Firearms</li><li>• Knives</li><li>• Blunt objects (e.g., bat, lamp, large stick, etc.)</li><li>• Sharp or puncturing objects (e.g., scissors, ice pick, etc.)</li></ul>
Objects associated with the crime	<ul style="list-style-type: none"><li>• Tools</li><li>• Documents</li><li>• Foreign matter (e.g., soil, paint, glass particles)</li></ul>
Prints and pattern markings	<ul style="list-style-type: none"><li>• Fingerprints</li><li>• Tire tracks</li><li>• Footprints</li><li>• Tool marks</li></ul>

*Continued on next page*

## Homicide Investigations, Continued

---

### Trace and transfer evidence

Responding officers must remain alert for all forms of physical evidence that may be associated with the crime. This includes trace and transfer evidence (e.g., hair, fibers, blood, gunshot residue, etc.) that may exist on people associated with the crime scene including surviving victims, witnesses, and suspects.

Suspects should not be allowed to wash their hands, change clothes, or use the toilet. Special measures, such as bagging hands or feet, may occasionally be necessary.

---

### Witnesses

While containing the crime scene, responding officers have the responsibility of identifying and possibly detaining witnesses at the scene for later questioning by homicide investigators.

An eyewitness is any individual who actually saw the act that led to the death of the victim. Officers should not limit themselves to only identifying eyewitnesses. Witnesses may also include people who can provide information regarding:

- the motive of the individual who committed the act,
  - the manner in which the suspect left the area,
  - the identification and background of the victim or suspect,
  - the circumstances of the crime (e.g., identification of unusual people or vehicles in the area, neighbors who heard shouting, etc.).
- 

### Crimes associated with homicide

Crimes associated with homicide (**criminal homicide**) include:

- murder (*Penal Code Section 187*),
  - voluntary manslaughter (*Penal Code Section 192(a)*),
  - involuntary manslaughter (*Penal Code Section 192(b)*), and
  - vehicular manslaughter (*Penal Code Section 192(c)*).
-

# Suicide Investigations

---

## Introduction

**Suicide** is the act of intentionally causing one's own death.

---

## Suicide vs. homicide

It is often difficult to differentiate between a suicide and a homicide. A determination that the manner of death was suicide can only be after a thorough investigation. The medical examiner/coroner has the legal authority to make the final determination after reviewing all the facts of the case.

---

## Appearance of scene upon arrival

Upon arrival, responding officers should take the same steps they would when conducting any death investigation. They should be careful not to make any assumptions regarding the manner of death without clear supporting evidence.

Indicators that the manner of death *may* have been suicide include, but are not limited to:

- no apparent signs of a struggle.
- an instrument of death (weapon, objects, etc.) being present.
- injuries that appear to be self-inflicted.
- the existence of hesitation marks or previously self-inflicted wounds.
- the position of the body.
- the manner of death being consistent with the physical capabilities of the person,
- the presence of prescription medications, and/or
- the presence of written matters pertaining to suicide.

NOTE: If any factors exist that cast *any suspicion* on whether or not the manner of death was suicide, officers should immediately request assistance from a supervisor or investigator.

---

*Continued on next page*

## Suicide Investigations, Continued

---

### **Mode of death**

Responding officers should also be careful not to make assumptions regarding the **mode of death** that are not supported by evidence.

For example, suicide by strangulation may not require a fully suspended hanging body with a broken neck. Death may be self-inflicted by using a cord fastened to a bed rail, door knob, or other low object.

No matter what mode of suicide was used (i.e., pills, carbon monoxide, gunshot), investigating officers should carefully describe the body and scene as fully as possible. Such documentation may be in the form of photographs, sketches, and detailed field notes.

---

### **Self-inflicted injuries**

During the preliminary investigation, officers should pay close attention to the location and extent of observable injuries. If the injury was caused by force or trauma, they should consider the direction from which it was delivered.

---

### **Interviews**

Obtaining information to determine what, where, when, why, and how regarding a suicide becomes more difficult because there is usually no one other than the victim involved. Investigating officers should seek out and interview relatives, friends, neighbors, or other individuals regarding the victim's behavior and state of mind prior to the act.

During such interviews, officers should attempt to obtain factual information (e.g., mental condition, financial problems, sudden unemployment, ill health, etc.) that could lead to a possible motive and actions of the person prior to the death. Any opinions expressed (e.g., victim's sadness or moodiness) will require further verification.

---

*Continued on next page*

## Suicide Investigations, Continued

---

### Motive

Establishing a motive may also be a factor for distinguishing between a suicide and a homicide. Officers should realize that the individual's motive cannot always be determined.

If it is determined that the individual had no *apparent* motive for committing suicide, investigating officers should examine the scene carefully to determine if evidence can be developed indicating the manner of death was homicide rather than suicide.

There are a number of possible motives for suicide often reported, including:

- old age,
- ill health,
- relationship problems (e.g. marital, illicit affairs),
- financial problems,
- unemployment,
- drug or alcohol abuse, or
- mental disorders, including depression.
- death of a loved one

---

### Suicide note

Suicide notes, letters, diaries, notebooks or journals, or other possible personal items may be left at or near the death scene, mailed to a relative or acquaintance, or found elsewhere (e.g., the victim's residence, vehicle, etc.). Officers should keep in mind though that the existence of a suicide note **does not automatically prove that the death was self-inflicted**. Many suicides will not have a note left by the deceased.

---

*Continued on next page*

## Suicide Investigations, Continued

---

### **Authenticity**

The authenticity of any suicide note should be verified. Specific content references (e.g., events, individuals, etc.) should also be investigated when establishing the authenticity of the suicide note.

To aid in the verification process, officers should gather items of evidence such as:

- the suspected writing instrument,
  - samples of the same type of paper,
  - impressions left on the surface where the note was written, or
  - samples of other writings for comparison of style, form, or legibility.
- 

### **Criminal actions of others**

When investigating a possible suicide, officers may also look for indications of the involvement of other individuals. A criminal act can take place even if the other individual was not directly involved in the act. Anyone who *deliberately aids, advises, or encourages* another person to commit a suicide has committed a felony (*Penal Code Section 401*).

---

# Deaths Involving Poisoning

---

## Introduction

A **poison** is any substance introduced into the body by any means which by its chemical action is capable of causing death. The criminal act of **poisoning** involves the willful mingling of any harmful substance with any food, drink, medicine, or water supply with the intent to injure or cause the death of the person who consumes it (*Penal Code Section 347(a)*).

---

## Suicide and accidental death

Poisons are more likely to be found in cases of suicide or accidental death. Under such circumstances, the self-inflicted or unintentional poisoning may involve:

- a drug overdose,
  - ingestion of lethal substances,
  - food poisoning, or
  - carbon monoxide.
- 

## Homicide

Although poisoning is more common with suicide or accidental death, responding officers should not make any assumptions regarding the manner of death without substantiating evidence. Until shown to be otherwise, responding officers should handle all suicides and unnatural deaths as potential homicides.

---

## Initial indicators of poisoning

Death by poison may be initially suspected when responding officers find the following outward indicators at the scene where the body is located.

- No outward signs of trauma to the body
  - Pill bottles or medicine containers
  - Drug paraphernalia, illegal drug residue, hypodermic needles, or syringes
  - A vehicle with the motor running (or with an empty gas tank) and the ignition key in the on position
-

# Deaths Involving Children

[7.05.EO6, 7.05.EO7, 7.05.EO8]

---

## Introduction

The death of a child is a highly emotional event which calls for sensitivity and skill on the part of the initial responding officers. Officers must have an understanding of possible causes of death, methods for investigating the circumstances surrounding the death, and proper techniques for interviewing parents, care givers, witnesses, and/or suspects.

---

## Manner of death

The following table identifies possible manners in which the death of a child can occur.

Possible Manner	Examples
Accidental	<ul style="list-style-type: none"><li>• Falls</li><li>• Drowning</li><li>• Suffocation/choking</li></ul>
Natural or undetermined	<ul style="list-style-type: none"><li>• Traumatic birth injuries brought on by the forces of labor and/or delivery</li><li>• Congenital malformations or defects, unknown to the parents, that result in death (e.g., heart defects)</li><li>• Illness or disease</li><li>• Sudden Infant Death Syndrome (SIDS) and other medical conditions leading to sudden unexplained death</li></ul>
Homicide	<ul style="list-style-type: none"><li>• Murder with malice aforethought</li><li>• Manslaughter involving child abuse or neglect (e.g., shaken baby syndrome)</li></ul>

NOTE: For additional information regarding abuse, neglect, and/or criminal acts against children, refer to LD 9: *Crimes Against Children*.

---

*Continued on next page*

## Deaths Involving Children, Continued

---

### **Initial response**

Responding officers are among the first to arrive at the scene of a possible death involving a child. Just as with all other possible death investigations, officers must immediately attempt to identify any signs that the child may still be alive.

If they find any indications, or even *suspect* the child is still alive, emergency medical assistance should be immediately summoned and appropriate first aid rendered.

---

### **Emotional responses**

The death of a child is a traumatic and highly emotional situation. Emotional response varies between individuals and cannot be predicted. Officers should also be aware of their own emotional reactions to the situation.

	<b>Possible Responses</b>
<b>Parents, family members, or care givers</b>	<ul style="list-style-type: none"><li>• Anger</li><li>• Frustration</li><li>• Denial or withdrawal</li><li>• Self-doubt or self-blame</li><li>• Guilt</li><li>• Intense grief</li><li>• Shock (no visible response)</li></ul>
<b>Law enforcement officers</b>	<ul style="list-style-type: none"><li>• Identification with parents (e.g., urgent need to call home regarding the officer's own children)</li><li>• Withdrawal or avoidance of parent or care giver</li><li>• Sadness, depression</li><li>• Difficulty accepting or anger related to the responses or actions of parents or care givers (e.g., parent's failure to initiate CPR)</li></ul>

---

*Continued on next page*

## Deaths Involving Children, Continued

---

### **Preliminary investigation**

A complete inquiry into the circumstances surrounding the death of a child is essential in order to separate incidents of natural or accidental death from forms of criminal misconduct. Officers should treat the scene as any other death investigation.

---

### **Initiating interviews**

The skill and sensitivity of the peace officer interviewing parents, care givers, and other involved individuals will affect that officer's ability to establish a professional rapport and obtain complete and accurate information.

As a result of their own emotions and response to the death, some parents or care givers may be difficult to interview and require extra patience on the part of the interviewing officer.

---

### **Initiating an interview**

When initiating an interview with a parent or care giver, officers should:

- be sensitive to their need to calm themselves prior to the interview.
  - express sympathy.
  - use a calm and directive voice.
  - explain:
    - the activities of the personnel involved in the investigation,
    - the procedures that will be followed, and
    - the reasons for those procedures.
  - inform the person to be interviewed why the interview is necessary.
  - inform the parents or care giver that they may receive follow-up contacts from others who will provide support or need to obtain additional information. (e.g., investigators, medical examiner/coroner's staff, public health nurse, etc.)
  - avoid using accusatory phrases or law enforcement jargon (e.g., "suspect," "crime scene," "homicide investigation," "victim," etc.).
- 

*Continued on next page*

## Deaths Involving Children, Continued

---

### Interview techniques

When interviewing parents or care givers, officers should attempt to use open-ended questions (i.e., questions that cannot be answered with a simple “yes” or “no”). Open-ended questions encourage individuals to speak more freely while, at the same time, do not reveal any expectations on the part of the questioning officer.

Examples of possible open-ended questions include, but are not limited to, the following:

- What happened?
  - Who found the child? Where?
  - What did that person do when the child was found?
  - How was the child behaving earlier today?
- 

### Dead investigations checklist

The following checklist is an example of a job aid for peace officers who respond to a call involving the death of a child.

---

### Identification of all parties

- \_\_\_\_\_ Victim’s name, DOB, time found dead.
  - \_\_\_\_\_ Who found child in distress or deceased?
  - \_\_\_\_\_ Who was last with the child? What time was it?
  - \_\_\_\_\_ Who was the child with for the 24 hours preceding the event?
  - \_\_\_\_\_ Who normally takes care of the child?
  - \_\_\_\_\_ Are there other children in the home? If so, what are their names and birth dates?
  - \_\_\_\_\_ Was there anyone present in the same room with the child just prior to the discovery?
  - \_\_\_\_\_ Was the child sleeping/playing alone?
  - \_\_\_\_\_ Who else resides in the home?
- 

*Continued on next page*

## Deaths Involving Children, Continued

---

### Documentation of physical scene

- \_\_\_\_\_ Where was the child found? (describe in detail the room, type of bed (crib? bassinet? other?), etc.
  - \_\_\_\_\_ What was the child's position when found?
  - \_\_\_\_\_ What was the position of the bed covers?
  - \_\_\_\_\_ Was there anything near the child when he/she was found, such as blankets, toys, bottles, plastic of type, etc.?
  - \_\_\_\_\_ If bottles are at the scene, describe the condition of contents (juice, water, or milk; contents curdled or fresh; temperature warm or cold; bottle contents full, half full, or empty, etc.)
  - \_\_\_\_\_ Was there anything caught in the child's mouth or nose? (If so, what?)
  - \_\_\_\_\_ Describe any secretions present (mucous, milk, food, foam, blood, etc.)
  - \_\_\_\_\_ Describe the condition of the physical setting (clean, dirty, wet, messy, etc.)
  - \_\_\_\_\_ Describe anything unusual or significant not covered above.
- 

### Victim history

- \_\_\_\_\_ What was the child's apparent condition when last observed alive?
  - \_\_\_\_\_ Had the child eaten and slept normally during the prior 24 hours?
  - \_\_\_\_\_ Was there anything unusual about the child's behavior during the preceding 24 hours?
  - \_\_\_\_\_ Had the child suffered any injury during the three days preceding death?
  - \_\_\_\_\_ Did the child have any illness during the two weeks preceding death?
  - \_\_\_\_\_ Did the child have any ongoing medical problems?
  - \_\_\_\_\_ Who was the child's doctor?
  - \_\_\_\_\_ Was the child taking any medication?
  - \_\_\_\_\_ How, where, and with whom had the child spent the preceding 24 hours?
  - \_\_\_\_\_ Was there any difficulty at childbirth?
  - \_\_\_\_\_ Was the child considered to be developing normally?
  - \_\_\_\_\_ Is this the first death of a child in the family?
- 

*Continued on next page*

## Deaths Involving Children, Continued

### Collection of physical evidence

- \_\_\_\_\_ Before moving anything at the scene, photograph (if possible) the specific place where the child was found.
- \_\_\_\_\_ If there is any indication that the child suffered a recent injury, photograph the scene where the injury is reported to have occurred.
- \_\_\_\_\_ Collect any items present in the immediate area where the child was found, including bedding, child's last bottle, and objects around the victim.
- \_\_\_\_\_ Collect clothing worn by child when he or she was found.
- \_\_\_\_\_ Collect any medicine the child had been taking.

### Documentation

As part of the on-scene investigation, officers must gather and document information related to the incident. The following table identifies examples of the type of information that should be documented.

Information pertaining to the...	Examples
Child	<ul style="list-style-type: none"> <li>• Name, date of birth, ethnicity, gender</li> <li>• Nature and extent of known medical conditions or problems at the time of death (e.g., colds, ear infections, etc.)</li> <li>• Description of chronic illnesses or injuries which the child may have experienced recently</li> <li>• Medications the child may have been taking</li> <li>• Recent vaccinations</li> <li>• Recent or past history of falls or abuse</li> <li>• Name of the child's physician</li> <li>• Medical history               <ul style="list-style-type: none"> <li>- hospital of birth</li> <li>- places of recent treatment</li> </ul> </li> </ul>

*Continued on next page*

## Deaths Involving Children, Continued

**Documentation**  
(continued)

<b>Information pertaining to the...</b>	<b>Examples</b>
death scene	<ul style="list-style-type: none"> <li>• Location where the child was discovered</li> <li>• Position in which the child was found</li> <li>• Appearance of the child, including clothing and, if applicable, bedding</li> <li>• Any possible signs or indications of abuse (e.g., bruises, scars)</li> <li>• Description and condition of :               <ul style="list-style-type: none"> <li>- the immediate area where the child was found and</li> <li>- the overall residence or general area.</li> </ul> </li> <li>• Approximate temperature of the area/room where child was found</li> </ul>
circumstances	<ul style="list-style-type: none"> <li>• Circumstances that led to the discovery of the child</li> <li>• Exact time the child was last seen alive</li> <li>• Time the child was found to be unresponsive</li> <li>• If the child was found in a crib or bed, the time the child was put down to rest</li> <li>• Name and relationship of the person who found the child</li> <li>• Description of any resuscitation attempts, including by whom and how long</li> </ul>

*Continued on next page*

## Deaths Involving Children, Continued

---

### Documentation (continued)

Information pertaining to the...	Examples
other individuals	<ul style="list-style-type: none"><li>• Name, address, phone number of parent(s) and/or care giver</li><li>• Behavior of individuals present</li><li>• Names, addresses, phone numbers of other individuals who may be able to furnish information or access to the location and/or child prior to the incident</li></ul>

### Sudden Infant Death Syndrome

Sudden deaths involving infants may be attributed to **Sudden Infant Death Syndrome (SIDS)**. SIDS is defined as the sudden death of an infant which remains unexplained after a complete:

- postmortem examination and autopsy,
- law enforcement investigation, and
- review of the child's medical history.

NOTE: "Crib death" is also used to denote SIDS.

---

*Continued on next page*

## Deaths Involving Children, Continued

---

### No known cause

At this time there is no known explanation for SIDS. It is not caused by suffocation, aspiration, or regurgitation. It is *not* caused by child abuse.

If it is determined the cause of death is SIDS, officers should reassure parents and care givers that:

- there was nothing a parent, care giver, or even physician could have done to predict or prevent the child's death.
  - SIDS is not contagious to other children.
  - death occurs quickly and quietly.
- 

### Indicators of SIDS

Peace officers need to become familiar with the following primary indicators of a SIDS related death.

A SIDS infant generally:

- was under the age of one year. (The majority of SIDS deaths occur before six months with the largest number of deaths occurring between the age of two to four months.)
- appeared to have been healthy prior to the death (with the exceptions of minor colds, vomiting, diarrhea, etc.)
- died during a period of sleep.
- had no visible signs of trauma or injury at the time of death.

NOTE: Although unlikely, what may appear to be a SIDS death, may have been the result of other manners of death including homicide (e.g., soft smothering). Responding officers must remain objective when examining the scene and investigating the death.

---

*Continued on next page*

## Deaths Involving Children, Continued

---

### Postmortem observations

Officers may observe any of the following postmortem changes.

<b>Postmortem Observation</b>	<b>Description</b>
Skin tone	<ul style="list-style-type: none"><li>• Skin may appear mottled, blue, or gray in color</li></ul>
Pressure marks	<ul style="list-style-type: none"><li>• Impressions left on the infant's face or body caused by lying against objects such as crib, blankets, or toys</li></ul>
Discharge	<ul style="list-style-type: none"><li>• A frothy or blood-tinged mucus or vomit present in or around the nose and/or mouth of the infant</li><li>• May also be found on clothing or bedding</li></ul>
Rigor mortis	<ul style="list-style-type: none"><li>• Progresses more rapidly in infants than in older children or adults</li></ul>
Livor mortis	<ul style="list-style-type: none"><li>• Lividity that can be easily mistaken for bruising</li></ul>

---

*Continued on next page*

## Deaths Involving Children, Continued

---

### Common sequence of events

Every case involving the death of a child will vary regarding specific details. When a child's death is due to SIDS, a common sequence of events often takes place.

	<b>Action</b>
1	<ul style="list-style-type: none"><li>• The infant is found nonresponsive by a parent or care giver.</li><li>• Attempts to revive the infant (e.g., CPR) are unsuccessful.</li></ul>
2	<ul style="list-style-type: none"><li>• A 911 call is initiated.</li></ul>
3	<ul style="list-style-type: none"><li>• Local law enforcement officers, emergency medical technicians, or individuals from the local fire department arrive at the scene.</li><li>• Additional attempts are initiated to revive the child.</li></ul>
4	<ul style="list-style-type: none"><li>• The infant is transported to a medical facility, or</li><li>• pronounced dead at the scene.</li></ul>
5	<ul style="list-style-type: none"><li>• The medical examiner/coroner is called to the scene of the death (or hospital if the infant had been transported).</li><li>• An investigation to determine the manner and cause of death is undertaken by the medical examiner/coroner and law enforcement personnel.</li></ul>

---

*Continued on next page*

## Deaths Involving Children, Continued

---

### Additional actions

If the death is attributed to SIDS:

- the medical examiner/coroner's office notifies the local health department.
  - a representative of the local health department must (under California law) contact the family within three days and provide:
    - counseling regarding SIDS, and
    - referral information for peer support.
  - both the medical examiner/coroner's office and the local health department must provide information to the state SIDS program.
- 

### Community resources

Local law enforcement agencies shall provide responding officers with a list of community and other resources available to assist parents and care givers involved with the sudden death of an infant.

Along with sources of information, officers should be able to provide the name, location, and telephone numbers of the local infant death support group and the SIDS statewide hotline number: **1-800-369-SIDS** or on the internet at [www.californiasids.com](http://www.californiasids.com).

---

## Chapter Synopsis

---

**Learning need** Peace officers who are first to arrive at a scene involving a death must be aware of their responsibilities to assess the situation and take an appropriate course of action based on their preliminary investigation.

---

**Documenting information on the death of a child [7.05.EO1]** As part of the on-scene investigation, officers must gather and document information related to the incident.

---

**Indicators of SIDS [7.05.EO2]** Peace officers need to become familiar with the primary indicators of a SIDS-related death.

---

**Appropriate actions for officers [7.05.EO3]** Responding officers should reassure parents and care givers that:

- there was nothing a parent, care giver, or even physician could have done to predict or prevent the child's death.
- SIDS is not contagious to other children.
- death occurs quickly and quietly.

---

# 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. A man came home from work and discovered the body of his 46-year-old wife lying on the bed. Beside the body was an empty bottle with a label indicating prescription sleeping medication and a note written in red ink. As the initial responding officer, how should you proceed? What information should you obtain from the husband? What evidence might indicate whether the manner of death was suicide, accidental, or homicide? How might your actions during an initial survey of the scene differ when the manner is considered a suicide rather than a homicide? How would they differ if accidental death is suspected?

---

*Continued on next page*

## Workbook Learning Activities, Continued

---

### Activity questions (continued)

2. You and your partner have been called to investigate an incident involving the death of an infant. When you arrive you find the parents to be dazed, distraught, and at times in a state of panic. The infant's grandmother is also present and is attempting to comfort the parents. You learn from the mother that the infant appeared fine at his 2 a.m. feeding; then, this morning she couldn't wake him up. She called 911 while her husband tried to revive the baby using CPR. As the initial responding officer, what are your responsibilities at the scene? What indication would lead you to believe the infant's death was due to SIDS? How should you proceed with the preliminary investigation if SIDS is a factor? What, if any, physical evidence should be gathered?

3. A body of a middle-aged male is found lying face down on the floor of his living room. The man is wearing only boxer shorts. There are no signs of struggle or an obvious mode of death. There are no signs of rigor mortis. You can clearly see large purple discoloration marks on the man's back, calves, and the back of his arms. The man's eyes are open and there appears to be a thin opaque film over his eyeballs. The body feels to be at room temperature.

Based on the information given, what might you deduct regarding an estimated time of death? Where the man died? The manner and mode of death? What actions would you take based on each of your deductions?

# Glossary

---

**Introduction**      **The following glossary terms apply only to Learning Domain 7: Crimes Against Persons**

---

**assault with a deadly weapon or by means of force**      An assault upon the person of another with a deadly weapon or by any means of force likely to produce great bodily injury

---

**battery**      Any willful and unlawful use of force or violence upon the person of another

---

**battery causing /inflicting serious bodily injury**      Battery that causes or inflicts a serious impairment of physical condition

---

**caretaker**      Any person who has the care, custody, control of, or stands in a position of trust with an elder or dependent adult

---

**carjacking**      The felonious taking of a motor vehicle in the possession of another, against his or her will and with the intent to either permanently or temporarily deprive the person in possession of the motor vehicle of his or her possession, accomplished by means of force or fear

---

**child**      A person under the age of 18 years

---

*Continued on next page*

## Glossary, Continued

---

**child abduction with custodial right**

A person who has a right to physical custody of or visitation with a child pursuant to an order, judgement, decree or by operation of law, within or without the state detains, conceals, takes, or entices away that child with the intent to deprive the other person of such right to custody or visitation

---

**child abduction without custodial right**

A person, not having a right of custody, restrains or withholds, with the intent to deprive the child from the person having lawful custody

---

**court order or custody order**

A custody determination decree, judgment, or order issued by a court of competent jurisdiction, whether permanent or temporary, initial or modified, that affects the custody or visitation of a child, issued in the context of a custody proceeding

---

**criminal homicide**

An unlawful homicide (e.g., murder, manslaughter)

---

**custodial proceeding**

A hearing in which a custody determination is an issue including, but not limited to, an action for dissolution or separation, dependency, guardianship, termination of parental rights, adoption, paternity, or protection from domestic violence proceedings including emergency protective order

---

**deadly weapon**

Any object capable of causing death or great bodily injury from the manner in which it is used

---

**dependent adult**

Any person who is between the ages of 18 and 64 who has physical or mental limitations which restrict their ability to carry out normal activities

---

*Continued on next page*

## Glossary, Continued

---

**elder**

Any person who is 65 years of age or older

---

**elder or  
dependent  
adult abuse**

The infliction of unjustifiable physical pain, mental suffering or theft or embezzlement from an elder or dependent adult

---

**false  
imprisonment**

The unlawful violation of the personal liberty of another

---

**fear**

The reasonable apprehension of danger to oneself or another. This means a reasonable person, under the same set of circumstances, would be in fear of life, fear of danger of injury, or fear that personal property may be injured or damaged

---

**felony  
murder  
rule**

May be applied when any killing happens during the commission of certain felonies listed in Penal Code Section 189, regardless of whether the killing was accidental or intentional

---

**force**

The overcoming of resistance by the exertion of strength, weight, power, threat, or duress

---

**good  
cause**

A good faith belief that the taking, detaining, concealing, or enticing away of the child is necessary to protect the child from immediate bodily injury or emotional harm

---

**great  
bodily  
injury**

A significant or substantial physical injury

---

*Continued on next page*

## Glossary, Continued

---

<b>homicide</b>	Any killing of one human by another, regardless of the circumstances.
<b>immediate presence</b>	An area within which the victim could reasonably be expected to exercise some physical control over his or her property
<b>kidnapping</b>	A person forcibly, or by other means of instilling fear, takes another person to another place
<b>lawful custodian</b>	A person, guardian, or public agency having a right to custody of a child
<b>malice aforethought</b>	The state of mind manifesting an intent to kill or conscious disregard of human life
<b>manner of death</b>	The style of death; includes natural death, accidental death, homicide, suicide, or undetermined
<b>manslaughter</b>	The unlawful killing of a human being without malice
<b>medical examiner/coroner</b>	An appointed medical physician specializing in forensic pathology with the responsibility of investigating all sudden, unexplained, unnatural, or suspicious deaths; duties include conducting autopsies and assisting in law enforcement investigations
<b>mode of death</b>	The instrument or action that led to the physiological cause of death (e.g., gunshot, knife wound, vehicle accident, etc.); determined during the criminal investigation

---

*Continued on next page*

## Glossary, Continued

---

<b>murder</b>	The unlawful killing of a human being or a fetus <i>with</i> malice aforethought
<b>operation of law</b>	The natural parents have the equal right to custody of their children, in the absence of a court order
<b>poison</b>	Any substance introduced into the body by any means which by its chemical action is capable of causing death
<b>poisoning</b>	The willful mingling of any harmful substance with any food, drink, medicine, or water supply with the intent to injure or cause the death of the person who consumes it.
<b>present ability</b>	Capability to accomplish the act of applying force
<b>right to custody</b>	The right to the physical care, custody, and control of a child pursuant to a custody order or by operation of law
<b>robbery</b>	The felonious taking of personal property in the possession of another
<b>Sudden Infant Death Syndrome (SIDS)</b>	The sudden death of an infant which remains unexplained after a complete postmortem examination and autopsy, law enforcement investigation, and review of child's medical history
<b>suicide</b>	The act of intentionally causing one's own death

---

*Continued on next page*

## **Glossary, Continued**

---

**unlawful**

Without legal excuse or justification such as self-defense

---

**use of  
force or  
violence**

In the context of battery, means any force or violence

---

**visitation**

The time for access to the child allotted to any person by court order

---

**willful**

Implies a purpose or willingness to commit the act

---

