

Basic Course Workbook Series Student Materials

**Learning Domain 8
General Criminal Statutes
Version Four**

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Student Materials
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General Criminal Statutes
Version Four**

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THE ACADEMY TRAINING MISSION

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

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. The Commission extends its thanks to California law enforcement agency executives who offered personnel to participate in the development of these training materials.

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

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

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

A handwritten signature in black ink, appearing to read 'Paul Cappitelli', with a stylized flourish at the end.

PAUL CAPPITELLI
Executive Director

LD 8: General Criminal Statutes

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Preface

Introduction

Student workbooks

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

Regular Basic Course training requirement

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

Student workbook elements

The following elements are included in each workbook:

- chapter contents, including a synopsis of key points,
 - supplementary material, and
 - a glossary of terms used in this workbook.
-

How to Use the Student Workbook

Introduction

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

Workbook format

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

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

Chapter 1

Identifying and Classifying Crimes Related to Disorderly Conduct

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 disorderly conduct and to correctly categorize these crimes as misdemeanors or felonies.

Learning objectives

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

After completing study of this chapter, the student will be able to:	E.O. Code
<ul style="list-style-type: none">• recognize the crime elements required to arrest for:<ul style="list-style-type: none">- lewd conduct,- invasion of privacy,- prostitution,- loitering about a public toilet,- public intoxication	8.01.E05 8.01.E010 8.01.E06 8.01.E07 8.01.E08
<ul style="list-style-type: none">• recognize the crime classification as a misdemeanor or felony.	8.01.E09

Continued on next page

Overview, Continued

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

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General Criminal Statute

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

Leadership General criminal statutes are directly related to the community's expectation of safety, security, and they are a "quality of life" issue. Peace officers have not only an ethical obligation to enforce these statutes but they have a leadership responsibility to handle these crimes in such a manner that the community looks to the peace officer for guidance and direction regarding all matters associated crimes.

This translates to peace officers being the pivotal point for crime prevention programs, neighborhood watch programs and other activities where the peace officer partners with the community to develop strategies that enhance the general safety and welfare of the community at large and enhance the quality of life for all citizens.

Ethics Crimes that fall into the category of general criminal statutes can appear minor in comparison to robbery, rape or murder. However, the community at large has an expectation that peace officers will respond to crimes of any nature with the same level of competency and professionalism as they would respond to a more serious crime. Peace officers have an ethical obligation to meet the community's expectations in such a manner that they cause the community to develop a sense of trust and confidence in the officer's law enforcement agency.

Continued on next page

General Criminal Statue, Continued

Policing in the community

General criminal statutes are intended to protect community members against crimes that diminish the sense of safety and privacy in the home and in public. Some of these crimes are lewd conduct, invasion of privacy, prostitution, loitering about a public toilet and public intoxication. While these crimes are sometimes seen as low priority, ignoring or even tolerating them can contribute to the deterioration of a neighborhood. Peace officers and community members can form partnerships to keep neighborhoods free of all levels of crime.

Lewd Conduct

[8.01.EO5, 8.01.EO9]

Definition

The crime of **lewd conduct** as stated in *Penal Code Section 647(a)* is touching or soliciting someone to touch the genitals, buttocks, or female breast with the intent to sexually arouse, gratify, annoy, or offend, while in a public place or in public view.

NOTE: No skin-to-skin contact is required. Touching can be through clothing.

Crime elements

To arrest a subject for the crime of lewd conduct, the necessary crime elements include:

- any person who solicits or engages
 - in lewd conduct
 - in a public place
 - or a place open to public view.
-

Penal code section

Lewd conduct is covered under *Penal Code Section 647(a)*.

Classification

Lewd conduct is a misdemeanor.

Related terms

To understand the crime of lewd conduct, peace officers need to become familiar with the following terms.

Lewd conduct means the touching or soliciting someone to touch the genitals, the buttocks, or the female breast with the intent to sexually arouse, gratify, annoy, or offend. “Touching” includes the touching of oneself or another.

Continued on next page

Lewd Conduct, Continued

Related terms
(continues)

Public view means an area that can be seen by others.

Public place means any area that is accessible to the general public such as a park, street, building open to the public, movie theaters, department stores, or public offices.

Examples

Example: A man sat on a park bench. When women walk past him, he openly rubbed his genitals for them to see while saying “hey check this out.” The man has committed the crime of lewd conduct because he rubbed his genitals in an attempt to arouse while in a public place.

Example: A woman sat at a bar during happy hour. To get attention from some of the men, she opened her blouse to expose her bare breasts and invited everyone to touch them. The woman has committed the crime of lewd conduct because she was attempting to engage in sexual arousal in a public place.

Invasion of Privacy

[8.01.EO10]

Definition

The crime of **invasion of privacy** when a person looks through an opening with or without the aid of some instrument, (e.g., a periscope, telescope, binoculars, camera or camcorder) into the interior of a bathroom or the interior of any other area in which the occupant has a reasonable expectation of privacy.

Crime elements

To arrest a subject for invasion of privacy, the necessary crime elements include:

- looking through
 - a hole or opening or otherwise viewed by means of any instrumentality into a private area
 - with the intent to invade the privacy of people therein
-

Penal code section

Invasion of privacy is covered under *Penal Code Section 647(k)*.

Classification

Invasion of privacy is a misdemeanor.

Examples

Example: A man climbed into a tree and looked around using his binoculars. He looked toward a nearby building and noticed that a window opened into a bathroom. He focused on the window and saw a woman taking a shower. He has committed the crime of invasion of privacy because he continued to look into an open window even when he realized it was a private bathroom.

Continued on next page

Invasion of Privacy, Continued

Examples (continues)

Example: A security guard at the local health club drilled holes into the men's and women's bathrooms. He then covered each hole with a picture. Whenever anyone entered a bathroom, he moved the picture aside and looked in and watched the person use the toilet. He has committed the crime of invasion of privacy because he invaded the privacy of the people by peering into the bathroom.

Prostitution

[8.01.EO6, 8.01.EO9]

Definition

The crime of **prostitution** occurs when a person solicits another person or agrees to engage in any lewd act for money or other consideration.

Crime elements

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

- any person who solicits or
 - agrees to engage in, or
 - engages in
 - any act of prostitution, or
 - some act is agreed to and done in the furtherance of prostitution.
-

Penal code section

Prostitution is covered under *Penal Code Section 647(b)*.

Classification

Prostitution is a misdemeanor.

Additional penal code sections

The table below shows additional penal code sections which deal with specific incidences of the crime of prostitution.

Circumstances of Crime	Crime Classification	<i>Penal Code Section</i>
Pimping	felony	266h

Continued on next page

Prostitution, Continued

**Additional
penal
code
sections**
(continued)

Circumstances of Crime	Crime Classification	Penal Code Section
Pandering (obtaining another person to be a prostitute)	felony	266i
Prostitution with a prior CONVICTION AND PRIOR positive AIDS test	felony	647f
Loitering with intent to commit prostitution	misdemeanor	653.22(a)

NOTE: *Penal Code Sections 647f and 647(f)* are different penal code sections.

**Related
terms**

To understand the crime of prostitution, peace officers need to become familiar with the following term.

Solicit means to seek to induce or try to obtain.

Examples

Example: A man walked by a group of women. One woman called out to him and offered to take him to a room and perform multiple sex acts for \$100. The woman has committed the crime of prostitution because she offered sex in return for payment.

Continued on next page

Prostitution, Continued

Examples (continued)

Example:

Two men in a gay bar were talking and dancing. One man offered to pay the other for sex and money exchanged hands. They have committed the crime of prostitution because one offered payment (solicitation), and the other accepted the money.

Loitering About a Public Toilet

[8.01.E07, 8.01.E09]

Definition

The crime of **loitering about a public toilet** means lingering in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd, lascivious, or unlawful act.

Penal code section

Loitering about a public toilet is covered under *Penal Code Section 647(d)*.

Crime elements

To arrest a subject for loitering about a public toilet, the necessary crime elements include:

- loitering in or about
 - any toilet facility
 - open to the public
 - for the purpose of soliciting or engaging in
 - a lewd or lascivious or unlawful act.
-

Classification

Loitering about a public toilet is a misdemeanor.

Continued on next page

Loitering About a Public Toilet, Continued

Examples

Example: A man stood inside the men's room at the local amusement park. He eyed each man as he came into the bathroom. The man would walk up to each man and stare at the man's genitals as he urinated saying, "Can I help you with that?" The man has committed the crime of loitering about a public toilet to engage in a lewd act by watching men go to the bathroom.

Example: A man stood outside a public restroom. Every time a woman walked past him he offered to engage in oral sex. The man has committed the crime of loitering about a public toilet because he was soliciting a lewd act.

Public Intoxication

[8.01.EO8, 8.01.EO9]

Definition

The crime of **public intoxication** occurs when a person is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, or toluene to the extent that he or she cannot care for his or her own safety or the safety of others or is obstructing any street, sidewalk, or public way.

Penal code section

Public intoxication is covered under *Penal Code Section 647(f)*.

NOTE: *Penal Code Sections 647(f) and 647f* are different penal code sections.

Crime elements

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

- any person in a public place
- under the influence of alcohol or drugs, and who
- is unable to care for his or her own safety or the safety of others or is obstructing a public way.

NOTE: Public intoxication does not require either field sobriety tests or chemical tests.

Classification

Public intoxication is a misdemeanor.

Continued on next page

Public Intoxication, Continued

Examples

Example: A woman sat on a park bench and drank out of a wine bottle in a brown paper bag. After several minutes, she passed out. The woman has committed the crime of public intoxication because she was under the influence of alcohol and unable to care for herself in a public place.

Example: A man drank a bottle of alcohol while sitting in a bar. At one point he got so intoxicated he fell on the floor and couldn't get up again. The man has committed the crime of public intoxication because he was under the influence of alcohol in a public place and obstructed a public way.

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 disorderly conduct and to correctly categorize these crimes as misdemeanors or felonies.

Lewd conduct [8.01.E05] Any person who solicits or engages in lewd conduct in a public place or a place open to the public.

Prostitution [8.01.E06] Any person who solicits or agrees to engage in or engages in any act of prostitution, or some act is agreed to and done in the furtherance of prostitution.

Loitering about a public toilet [8.01.E07] Loitering in or about any toilet facility open to the public for the purpose of soliciting or engaging in a lewd or unlawful act.

Public intoxication [8.01.E08] The crime of public intoxication occurs when a person is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, or toluene to the extent that he or she cannot care for his or her own safety or the safety of others or is obstructing any street, sidewalk, or public way.

Continued on next page

Chapter Synopsis, Continued

**Crime
classifications
misdemeanor/
felony
[8.01.EO9]**

The various penal codes mentioned in this chapter specify the types of crimes and their classifications.

**Invasion
of privacy
[8.01.EO10]**

The invasion of privacy is looking into a private area with the intent to invade the privacy of an individual

Workbook Corrections

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

Chapter 2

Identifying and Classifying Crimes Related to Public Nuisance

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 public nuisance and to correctly categorize these crimes as misdemeanors.

Learning objectives

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

After completing study of this chapter, the student will be able to:	E.O. Code
<ul style="list-style-type: none">• recognize the crime elements required to arrest for:<ul style="list-style-type: none">- prowling,- peeping,- disturbing the peace, and- obstruction of a public way.	8.02.EO13 8.02.EO14 8.02.EO10 8.02.EO11
<ul style="list-style-type: none">• recognize the crime classification as a misdemeanor.	8.02.EO12

Continued on next page

Overview, Continued

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

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Prowling

[8.02.EO13, 8.02.EO12]

Definition

The crime of **prowling** is when a person loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant.

Penal code section

Prowling is covered under *Penal Code Section 647(h)*.

Crime elements

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

- any person who loiters, prowls, or wanders
- on private property of another, at any time,
- without visible or lawful business with the owner or occupant.

Loiter means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as an opportunity to may be discovered.

NOTE: The owner or occupant does not have to be present.

Classification

Prowling is classified as a misdemeanor.

Continued on next page

Prowling, Continued

Examples

Example: A woman who does not live at or know the occupants of a residence enters the back yard looking for something of value to steal.

Example: A man walked around a housing complex in the middle of the day. He walked from house to house and rang doorbells to see if the residents were home. When another resident walked by he pretended to be waiting for the bus. He has committed the crime of prowling because he was loitering on private property.

Peeping

[8.02.EO14, 8.02.EO12]

Definition

The crime of **peeping** is when a person, while loitering, prowling, or wandering upon private property, peeks in the door or window of any inhabited building or structure and has no visible or lawful business with the owner or occupant.

Penal code section

Peeping is covered under *Penal Code Section 647(i)*.

Crime elements

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

- loitering, prowling, or wandering
- on the private property of another, at any time,
- peeking in the door or window of any inhabited building or structure
- without visible or lawful business with the owner or occupant.

NOTE: Peeping must meet all the elements of prowling (*Penal Code Section 647(h)*) in addition to violating the elements related to peeping.

Classification

Peeping is classified as a misdemeanor.

Continued on next page

Peeping, Continued

Examples

Example: At around two in the morning, a man wandered around outside a house not in his neighborhood. He looked into several windows and stopped at one where he saw a child sleeping. The man has committed the crime of peeping because he was looking in the windows of an occupied house that was not his own.

Example: A woman was prowling around the first floor of an apartment building and looking into the basement windows. When the maintenance man asked her what she was doing, she walked away from the building. The woman has committed the crime of peeping because she was looking into the windows of a private apartment building without any lawful purpose.

Disturbing the Peace

[8.02.EO10, 8.02.EO12]

Introduction

Disturbing the peace occurs when a person's activity causes unlawful fighting, making loud or unreasonable noises, or using offensive words.

Definitions

The crime of **unlawful fighting** is when a person unlawfully fights in a public place or challenges another person in a public place to fight.

The crime of **making loud and unreasonable noise** is when a person maliciously and willfully disturbs another person by loud and unreasonable noise.

The crime of **using offensive words** is when a person uses offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

Penal code sections

Unlawful fighting is covered under *Penal Code Section 415(1)*.

Making loud and unreasonable noises is covered under *Penal Code Section 415(2)*.

Using offensive words is covered under *Penal Code Section 415(3)*.

Continued on next page

Disturbing the Peace, Continued

Crime elements

To arrest a suspect for disturbing the peace, the necessary crime elements include:

Fighting	Loud Noises	Offensive Words
<ul style="list-style-type: none">• unlawfully fighting or challenging to fight• in a public place (or place open to public view or access)	<ul style="list-style-type: none">• willfully and maliciously• disturbing another person• by loud and unreasonable noise	<ul style="list-style-type: none">• using offensive words• in a public place• which are inherently likely to provoke an immediate violent reaction

Classification

Disturbing the peace is a misdemeanor.

First Amendment rights and use of offensive words

Words, shouting, or cheering that are intended to express ideas are considered communication. These ideas are protected under the First Amendment to the U.S. Constitution which guarantees the right to freedom of speech.

The utterance of offensive words must be “inherently likely to provoke an immediate violent reaction” based on the circumstances then present. This reaction applies to anyone, including peace officers.

It is necessary for reports to illustrate the circumstances in which the utterance was made. Any violent reaction which did not occur as a result of the utterance should be explained.

Continued on next page

Disturbing the Peace, Continued

Determining a loud noise

The chart below lists three factors to help the peace officer determine if noise is unreasonable.

The noise might be considered unreasonable because of the...	For example...	However...
time of day.	a motorcycle revving up at 3 a.m.	revving up at 10 a.m. may be annoying, but is not unreasonable.
place where noise takes place.	a person talking loudly in a public library.	addressing the librarian in a conversational tone is normal business.
manner in which noise is made.	a driver honking the car horn because the driver is impatient and just wants the other cars to get out of the way.	honking of the car horn as a warning that the other car is veering into the wrong lane of traffic is acceptable noise.

Continued on next page

Disturbing the Peace, Continued

Examples

Example: A teenage boy was a member of a band that usually practiced in his garage in the early evening. One summer day, they left the garage door open and continued to play past midnight. The neighbor repeatedly requested that the boy close the garage door, but the boy refused. The neighbor called the police. The boy has committed the crime of loud noises because of the unreasonably late hour.

Example: At 5:00 am on a Sunday morning, a man used his new gas-powered leaf blower to clean up his yard. Because the time of his use is unreasonable, the neighbor called the police. The man committed the crime of disturbing the peace.

Obstruction of a Public Way

[8.02.EO11, 8.02.EO12]

Introduction A person who willfully and maliciously obstructs a public way and forces people to go out of their way is committing a crime.

Definition The crime of **obstruction of a public way** occurs when a person willfully and maliciously obstructs the free movement of another person on any street, sidewalk, or other public place.

NOTE: Nothing in this section affects the power of a state, county or a city to regulate conduct upon public way.

Penal code section Obstruction of any public way is covered under *Penal Code Section 647c*.

Crime elements In order to arrest a subject for obstruction of streets, sidewalks, or other public way, the necessary crime elements include:

- any person who willfully and maliciously
 - obstructs the free movement of any person
 - on any public way.
-

Classification Obstruction of any public way is a misdemeanor.

Continued on next page

Obstruction of a Public Way, Continued

Examples

Example: A group of teenagers gathered at the corner of a busy downtown intersection with a lot of pedestrian traffic. They refused to move out of the way so that other people could walk past them. The pedestrians were forced to step into the street to walk around the group. The group has committed the crime of obstructing a public way because they prevented people from using the sidewalk.

Example: The limousine of a visiting controversial dignitary drove down the city's main street. As it passed through the third block, several protestors broke through the police lines, stood in the street, chanted protest slogans, and prevented the limo from continuing. The protestors have committed the crime of obstructing a public way because they are willfully preventing free movement of vehicles in the street, and they had no permit allowing them to use the street for a protest.

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 public nuisance and to correctly categorize these crimes as misdemeanors.

Prowling
[8.02.EO13] Any person who loiters, prowls, or wanders on private property of another with out visible or lawful business for the purpose of committing a crime.

Peeping
[8.02.EO14] Any person loitering, prowling, or wandering on private property and peeking into doors or windows without lawful business with the intent to commit a crime.

Disturbing the peace
[8.02.EO10] Disturbing the peace occurs when a person’s activities cause offense, disturbance, or obstruction in a public area, such as unlawful fighting, making loud or unreasonable noise, or using offensive words.

Obstruction of a public way
[8.02.EO11] A person willfully and maliciously obstructs the free movement of another person or any street, sidewalk, or other public place.

Crime classification as misdemeanor
[8.02.EO12] Based on penal codes referenced in this chapter all the types of crimes are classified as misdemeanors.

Glossary

Introduction **The following glossary terms apply only to Learning Domain 8: General Criminal Statutes.**

disturbing the peace A person's activity causes unlawful fighting, making loud or unreasonable noises or using offensive language.

invasion of privacy A person looks through a hole or opening with or without the aid of some instrument (e.g., a periscope, telescope, binoculars, camera, or camcorder) into the interior of a bathroom or the interior of any other area in which the occupant has a reasonable expectation of privacy.

lewd conduct Touching or soliciting someone to touch the genitals, the buttocks or the female breast with intent to sexually arouse, gratify, annoy, or offend, while in a public place or in public view.

loiter Occurs when a person stands or wanders along the streets without apparent purpose or business, refuses to provide identification when the public demands it.

loitering about a public toilet Lingering in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd, lascivious, or any unlawful act

making loud and unreasonable noise A person maliciously and willfully disturbs another person by loud and unreasonable noise

obstruction of a public way A person willfully and maliciously obstructs the free movement of another person on any street, sidewalk, or other public place

Continued on next page

Glossary, Continued

peeping A person, when loitering, prowling, or wandering upon private property, peeks in the door or window of any inhabited building

prostitution A person solicits another person or agrees to engage in any lewd act for money or other consideration

prowling A person loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant with the intent to commit a crime

public intoxication A person is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, or toluene to the extent that he or she cannot care for his or her own safety or the safety of others, or he or she is obstructing any street, sidewalk, or public way.

public place Any area that is accessible to the general public such as a park, street, building open to the public, movie theaters, department stores, or public offices

public view An area that can be seen by others

solicit To seek to induce or try to obtain

unlawful fighting A person unlawfully fights in a public place or challenges another person in a public place to fight

using offensive words A person uses offensive words in a public place which are inherently likely to provoke an immediate violent reaction
