ELEMENTS OF CRIMES

Updated August 2015
Purpose

- Understand who can enforce specific laws
- To become familiar with the elements of common crimes reported to Dispatch
- Understand how to appropriately use codes in calls (including as call types)
Laws Enforced by SBSO

- Federal Laws
- State Laws
  - Penal Codes
  - Vehicle Codes
  - Health and Safety Codes
- County Ordinances
  - NOT enforceable in incorporated cities
- City Municipal Codes
  - In contract cities only
A local ordinance is a *law* enacted by local government for specific areas (i.e. city, county) and is enforced by local law enforcement.

Generally meant to enhance or further define state or federal laws in order to reflect the desire of the community.

- Example: 415 PC vs 40-2
Peace Officer

“Deputy, City Police Officer, Harbor Police, Highway Patrolman, University Police Officer, Fish and Wildlife Warden, Drug Enforcement Officer, District Attorney Investigator…”

Penal Code Section 830.5

Willfully

“Implies simply a purpose or willingness to commit the act, or make the omission referred to.”
Words and Phrases

- **Knowingly**
  
  “Imports only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.”

- **Attempt (664 PC)**
  
  An attempt to commit a crime consists of two elements: a specific intent to commit the crime, and a direct but ineffectual act done towards its commission”

Penal Code Section 21a
Words and Phrases

- **Felony**
  - A felony is a crime that is punishable with death, by imprisonment in the state prison, or notwithstanding any other provision of law, by imprisonment in a county jail ...

- **Misdemeanor**
  - "Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions... Punishment should not excess 1 year in county jail..."
Words and Phrases

- **Infraction**
  - An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury . . . [or] to have the public defender or other counsel appointed at public expense to represent him or her unless he or she is arrested and not released on his or her written promise to appear, his or her own recognizance, or a deposit of bail."

- **Wobbler**
  - A crime that can be either a misdemeanor (a conviction punishable by a small amount of jail time, typically one year or less) or a felony (a conviction punishable by time in state prison). Wobblers can be charged either way, and depending on the law of their state, judges may have the discretion to reduce a felony conviction in a wobbler case to a misdemeanor.
Section 166.4- Violation of Court Order

“Willful disobedience of the terms as written of any process or court order or out-of-state court order, lawfully issued by a court, including orders pending trial”
Section 187 - Homicide

“The unlawful killing of a human being, or fetus, with malice aforethought”
Section 207- Kidnapping

“Every person who forcibly, or by any other means of instilling fear steals, takes, or holds, detains, or arrests any person in this state and carries the person into another…”
Common Penal Code Sections

- Section 211- Robbery
  - “…the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.”
Section 240 - Assault

“An assault is an unlawful attempt coupled with a present ability, to commit a violent injury on the person of another”
Section 242- Battery

“A battery is any willful and unlawful use of force or violence upon the person of another.”
Common Penal Code Sections

- Section 245- Assault with a Deadly Weapon
  - “...assault upon another with a deadly weapon or instrument likely to produce great bodily injury.”
Section 261 - Rape

- “…the act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following…”
  1. Disability
  2. Force or Fear
  3. Drugged
  4. Unconscious of Act
  5. Believes to be spouse
  6. Threats
  7. Public Official

Section 261.5 - Statutory Rape

- “unlawful sexual intercourse…if the person is a minor…” “minor” is person under 18 years
Common Penal Code Sections

- **Section 273.5- Felony Spousal Abuse**
  - “…Willful infliction of corporal injury resulting in a traumatic condition upon...a spouse, former spouse, cohabitant, former cohabitant, fiancé or fiancée, current or previous dating relationship, or have a child in common”

- **Section 243(e)(1)- Misdemeanor Spousal Abuse**
  - “...battery is committed against spouse....”
Section 273d- Child Abuse

“…willfully inflicts upon a child any cruel or inhuman corporal punishment or any injury resulting in a traumatic condition…"
Section 288- Child Molest

“...willfully and lewdly commits any lewd or lascivious act, ... with a child...”
Section 308(b) - Juvenile possession of Tobacco

“...every person under the age of 21 who possesses...”
Common Penal Code Sections

- Section 314.1 - Indecent Exposure
  - “…every person who willfully and lewdly exposes his person, or the private parts thereof, in any public place…”
Section 374b- Illegal Dumping

“…willful or negligent throwing, dropping, placing, depositing, or sweeping...waste matter…”
Common Penal Code Sections

- Section 415- Disturbing the Peace
  1. “Fighting, challenging to fight…”
  2. “…disturbs another by loud noise…”
  3. “…offensive words…”

“I was convicted of disturbing the peace. I refused to turn down the woofer. My pleas for leniency fell on deaf ears.”
Section 417- Brandishing a Weapon

“Every person who, except in self defense, in the presence of any other person, draws or exhibits any deadly weapon...in a rude, angry, or threatening manner...”
Section 459- Burglary

“Every person who enters... with the intent to commit larceny or any felony...”
Section 484 - Theft (defined)

“Every person who shall feloniously steal, take, carry, lead or drive away the personal property of another…”
Common Penal Code Sections

- Section 487 - Grand Theft
  1. Theft over $950.00
  2. Certain items over $100.00
  3. Taken from the person
  4. Auto, firearm, misc. animals
Common Penal Code Sections

- Section 488- Petty Theft
  - All other thefts
Section 496- Possession of Stolen Property

“Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft...knowing the property to be stolen...”
Section 537- Defrauding an Innkeeper

“Any person who obtains any food, fuel, services, or accommodations at a hotel, inn, restaurant…with the intent to defraud…”
Section 594- Malicious mischief; Vandalism

“Any person who…”

1. Defaces with graffiti or other inscribed material
2. Damages
3. Destroys
Common Penal Code Sections

- **Section 597- Cruelty to Animals**
  - “…any person who maliciously and intentionally maims, mutilates…”

![Image of a dog with a bandaged face]
Common Penal Code Sections

- Section 602- Trespassing
  - “Entering lands…digging, taking, carrying away…Refusing or failing to leave…”
Section 647(f) - Public Intoxication

“...who is found in a public place under the influence of intoxication liquor, any drug...in a condition that he or she is unable to exercise care for his or her own safety or the safety of others...”
Section 653m - Misuse of Telephone (renamed to Annoying Electronic Communication)

“...every person who with intent to annoy telephones or makes contact by means of electronic communication device...”
Section 853.8- Failure to Appear on Misdemeanor Cite

“When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not … the magistrate shall issue… a warrant for his or her arrest…”
Section 1203.2- Violation of Probation Terms

“...Any time during the period of supervision of a person...is violating any term or condition of his or her supervisor... may issue a warrant for his or her re-arrest...”
Section 10851- Theft and Unlawful Taking or Driving of a Vehicle

“Any person who drives or takes a vehicle not his or her own without the consent of the owner thereof, and with intent…”
Section 12500a- Unlicensed Driver

“No person shall drive a motor vehicle upon a highway, unless the person holds a valid driver’s license…”
Section 12951a- Possession of License

“The licensee shall have the valid driver’s license issued to him or her in his or her immediate possession...when driving a motor vehicle...”
Section 14601- License suspended or revoked

“No person shall drive a motor vehicle when his or her driving privilege is suspended or revoked…”
Common Vehicle Code Sections

- Section 20001/20002- Hit and Run with Injury/Non-injury
  - “The driver of any vehicle involved in an accident resulting in [injury, death, damage to any property] shall immediately stop…”
Section 22348a- Speeding

“...a person shall not drive a vehicle upon a highway with a speed limit established...at a speed greater than that speed limit...”
Common Vehicle Code Sections

- Section 23152- Driving Under the Influence
  - “It is unlawful for any person who is under the influence of an alcoholic beverage or drug, or under the combined influence…”

![Image of a police traffic stop]
Section 40508a- Failure to Appear (FTA)

“Any person who willfully violates his or her written promise to appear or lawfully granted the continuance of his or her promise to appear in court.”
Section 4000a- Unregistered Vehicle

“No person shall drive, move, or leave standing upon a highway, or in an off street public parking facility, any motor vehicle, trailer...unless it is registered and the appropriate fees have been paid under this code...”
Section 11350- Possession of Controlled Substance (Cocaine/Heroin)

“Except as authorized by law and as otherwise provided... every person who possesses any controlled substance which is classified in schedule...”
Section 11357a,b- Possession of Marijuana

“Except as authorized by law, every person who possesses any concentrated cannabis...not more than 28.5 grams of marijuana, other than concentrated cannabis under 21 years old...”
Section 11364 - Possession of paraphernalia

“It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking...a controlled substance...”
Section 11377- Possession of Controlled Substance

“Except as otherwise provided in this division, every person who possesses any controlled substances specified in subdivision....”
Section 11550 - Under the Influence of Controlled Substance

“No person shall use, or be under the influence of a controlled substance which is…”
Section 300- Court Dependent Child

“A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may judge that person to be a dependent of child court…”
Section 601- Juvenile out of Control; Runaway

“Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of his or her parents, guardian, or custodian or who is beyond the control of that person...”
Section 602- Juvenile Crime

“Any person who is under the age of 18 years when he or she violates any law in this state...is within the jurisdiction of the juvenile court, which may adjudge the person to be a ward of the court...”
Section 5150 - Dangerous or Gravely Disabled Person

- “When any person, as a result of a mental disorder is a danger to others, or himself or herself, or greatly disabled…”
Section 25662- Minor possessing alcoholic beverage

“Any person under the age of 21 years who has any alcoholic beverage in his or on her possession on any street or highway or any public place or any place open to the public…”
Section 24-5.1- Illegal Camping

The public roads and public property within the county should be readily accessible to residents and the public at large. The use of these areas for camping purposes interferes with the rights of others to use these areas for the purposes for which they were intended.
Section 24-14 - Public Nudity

No person shall appear in any county recreation area or exposed to public view within a county recreation area, including specifically a view from any residence or any portion of the real property in the immediate vicinity of such residence, whether such place is publicly or privately owned, unclothed or in such a state of undress as to expose, in the case of a female, any portion of her breast or breasts below the areola thereof, or in the case of any male or female, any part of his or her pubic, genital, or anal region.
Section 24-29- Driving on Unimproved Property

- It is unlawful for any person willfully to drive any motor vehicle as that term is defined in the Vehicle Code upon unimproved portions of real property in the unincorporated areas of Santa Barbara County, whether public property, or property belonging to or lawfully occupied by another, without the express permission of the owner, the owner's agent or the person in lawful possession of said real property.
Section 36-2- Consumption of alcohol in public

- It is unlawful for any person to drink or consume any intoxicating liquor in the unincorporated areas of the county upon any public street, public sidewalk, public highway, public parking lot or public alley.
Section 36-3- Display of Open Container

- No person shall have in his or her possession on any public street or other area described in section 36-2 any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed. This section shall not be construed to apply under any circumstances governed or regulated by the California Vehicle Code.
Section 40-2 - Noise Level Prohibited

It shall be unlawful within the unincorporated area of the County of Santa Barbara to make... any loud and unreasonable noise, music, percussion or other sound which is broadcast outside of any residence or building by means of any amplified music... during any of the following periods of time:

* Sunday- Thursday 10:00 pm to 7:00 am the following morning, or
* Friday-Saturday midnight to 7:00 am the following morning
Federal Laws

- Title 8, Section 1325 USC
  - ICE
- Title 8, Section 1705 USC
  - Postal Inspector
  - Report (OAA) 488
- Title 8, Section 1708 USC
  - Postal Inspector
  - Report (OAA) 594
Online Resources

- CopWare
- https://www.countyofsb.org/lawsregulations.sbc
Questions?