

140174

# BASIC COURSE UNIT GUIDE

## 6

### CRIMES AGAINST PROPERTY

This unit guide covers the following performance objectives contained in *Performance Objectives for the POST Basic Course*:

3.9.1	3.12.2	3.13.5	3.16.2
3.9.2	3.13.1	3.14.1	3.16.3
3.9.3	3.13.2	3.15.1	
3.11.1	3.13.3	3.15.2	
3.12.1	3.13.4	3.16.1	

Revised July 1992

NCJRS

JAN 12 1993

ACQUISITIONS



THE COMMISSION  
ON PEACE OFFICER STANDARDS AND TRAINING

STATE OF CALIFORNIA

**This unit of instruction is designed as a *guideline* for performance objective-based law enforcement basic training. It is part of the POST Basic Course guidelines system developed by California law enforcement trainers and criminal justice educators for the California Commission on Peace Officer Standards and Training.**

**This guide is designed to assist the instructor in developing an appropriate lesson plan to cover the performance objectives which are required as minimum content of the Basic Course.**

140174

**U.S. Department of Justice  
National Institute of Justice**

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by  
California Comm. on Peace Officer

Standards and Training

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

## UNIT GUIDE 6

### TABLE OF CONTENTS

#### Knowledge Domain 6

	Page
Performance Objectives	
3.9.1 Theft .....	1
3.9.2 Defrauding an Innkeeper .....	11
3.9.3 Appropriation of Lost Property .....	13
3.11.1 Embezzlement .....	15
3.12.1 Forgery .....	17
3.12.2 Fraud .....	19
3.13.1 Unauthorized Entry of Property .....	21
3.13.2 Burglary .....	23
3.13.3 Burglary with use of Explosives .....	25
3.13.4 Possession of Burglary Tools .....	27
3.13.5 Altering Serial Numbers on Certain articles .....	29
3.14.1 Receiving Stolen Property .....	31
3.15.1 Vandalism .....	35
3.15.2 Cruelty to Animals .....	37
3.16.1 Arson .....	39
3.16.2 Possession of a Firebomb .....	41
3.16.3 Aid, Counsel or Procure to Burn Property or Land .....	43

Supporting Materials and References

### PERFORMANCE OBJECTIVE 3.9.1

Given a word picture depicting a possible theft, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 484, 484d through 484j, 487, 488, 499b and Vehicle Code 10851)

#### CURRICULUM

- A. Penal Code Section 484--Theft Defined
1. Basically, theft may be defined as the taking and carrying away of the personal property of another, without the owner's consent, with the specific intent to permanently deprive the owner thereof.
  2. Elements of theft:
    - a. Taking and carrying away,
    - b. Property of another,
    - c. Without consent of the owner,
    - d. Specific intent to deprive permanently.
  3. The two degrees of theft are grand theft, which constitutes a felony, and petty theft, which constitutes a misdemeanor (486 P.C.).
- B. Grand Theft as Defined in 487 P.C. is Committed in the Following Cases
1. When the money, labor, or real or personal property taken is of a value exceeding \$400 (the fair market value, contract price), or
  2. Providing that the value of the following exceeds \$100:
- NOTE: Re: Avocados and citrus fruit. Refer to P.C. 487.1  
"Establishes on the day of the theft .... in the wholesale value."
- a. Domestic fowls
  - b. Avocados
  - c. Citrus fruit
  - d. Deciduous fruit
  - e. Nuts

- f. Artichokes
  - g. Olives
  - h. Real estate (487(b) P.C.)
  - i. Other fruits and vegetables and other farm crops
  - j. Aquacultural products
  - k. Fish, shellfish, kelp, algae, crustaceans, etc.
3. Provided that where the money, labor, real or personal property is taken by a servant, agent or employee from his employer and aggregates \$400 or more in any 12 consecutive month period, or
4. When the property taken is from the person of another (must actually be upon or attached to the other person), or in a container being carried by the person. (Related offense 211 P.C.)
5. When the property taken is one of the following; regardless of value:
- a. Automobile (Related offenses: 499b P.C. and 10851 CVC)
  - b. Horse
  - c. Mare
  - d. Gelding
  - e. Bovine animal (cow)
  - f. Caprine animal (goat)
  - g. Mule
  - h. Jack
  - i. Jenny
  - j. Sheep (bovine)
  - k. Lamb
  - l. Hog
  - m. Sow
  - n. Boar
  - o. Gilt

- p. Barrow
- q. Pig
- r. Firearm

C. Penal Code Section 488--Petty Theft

- 1. Petty theft as defined in 488 P.C. includes those thefts which are not classified as grand theft

D. Vehicle Theft

- 1. Taking motor vehicle; 499(b) P.C.
  - a. Any auto, bicycle, motorcycle or other vehicle, motorboat or vessel.
  - b. Purpose of temporarily using or operating.
  - c. Misdemeanor
- 2. Auto theft 10851 V.C.
  - a. Felony
  - b. Any person who:
    - (1) Drives or takes
    - (2) Without consent of the owner
    - (3) With intent either to permanently or temporarily deprive the owner of the vehicle or the use of the vehicle.
    - (4) With or without intent to steal

E. Elements of Theft

- 1. Taking and asportation (taker must not only move or remove the personal property involved, but he must secure dominion or control over the property)
  - a. Elements of taking and carrying away (steal, take, carry, lead, or drive away)
    - (1) The distinction here is that the act consists of taking and carrying away, never taking or carrying away. To constitute the necessary asportation, the thief must move the property so that in some degree it occupies a different position than previously

occupied and the conditions must be such that the thief secures such dominion over the property as to be able to carry it away.

- (2) The thief, intending to steal an overcoat from a clothing dummy in front of a store, removed the coat but was unable to carry it away because it was fastened to the dummy by a chain. Not having obtained dominion or control over the coat, there was no asportation; result, no larceny. (People v. Meyer, 75 Cal. 383)
- (3) Where dominion or control over the property is secured and there be any movement of the property from the place it occupied to another place, even though the distance it was moved is only a matter of inches, asportation is complete.
- (4) Merely grasping the handle of a suitcase with intent to steal would not be asportation but merely an attempt; but once the thief has raised or moved the suitcase from its place, the asportation and the larceny are complete. (People v. Davis, 76 Cal. App. 2d 701)
- (5) It is not necessary that the asportation go to the extent of removing the property from the premises upon which it was stolen. (People v. Arnest, 133 Cal. App. 114, People v. Koury 108 Cal. 3rd Supp. 1)
- (6) The asportation "need be only for an appreciable time be it ever so short". (People v. Dukes, 16 Cal. App. 2d 105)
- (7) Once there is asportation, the voluntary return of the property does not affect the guilt of the thief. (People v. Post, 76 Cal. App. 2d 511)

2. To determine the value of the property taken, the reasonable and fair market value shall be the test.
  - a. In determining the value of services received, the contract price shall be the test.
  - b. If there is no contract price, the reasonable and going wage for the service rendered shall govern.
  - c. Retail stores - retail value of item taken.
  - d. Intrinsic value can be used if no fair market value can be established.

- (1) Any false and fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information, or indictment may charge that the crime was committed on any date during this particular period in question.
  - (2) The hiring of additional employee(s), without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet, shall be prima facie evidence of intent to defraud.
3. With specific intent to permanently deprive the owner of his property.
- a. It is not necessary that the taking be for the sake of gain, just intention to deprive the owner of his property permanently.
  - b. Specific intent must exist at the time of the taking and not at a later time.
  - c. A taking with the intention of returning the property or a taking without the intent to permanently deprive the owner of his property will not amount to larceny even though the accused, after gaining possession of the property formed that intent. (People v. Brown 105 Cal. 66)
  - d. If one in good faith takes the property of another believing it to be legally his own or that he has a legal right to its possession, he is not guilty of larceny; to wit, the specific intent to permanently deprive the owner of his property is absent. (People v. Photo, 45 Cal. App. 2d 345)
  - e. Taking of an auto belonging to another in his absence, and without his consent, and without any intention to permanently deprive, is not a violation of 487.3 P.C. It might constitute a violation of 499b or 10851 CVC. (People v. Tucker, 104 Cal. 440)

F. Types of Thefts

1. Theft by False Pretense - P.C. 532, (corroboration required) - The significant characteristic of a case of obtaining property by false pretenses is that it resembles a legitimate transaction, usually in the nature of an exchange, transfer or sale of property. In order to induce the victim to part with his property, the defendant will, knowingly and with intent to defraud, misrepresent that which the victim is to receive. The victim, believing and relying on the representation to be true, parts with title to property which he would not have done had he known the true facts.



a. Elements

- (1) Specific Intent to defraud--defendant must know of the falsity.
- (2) An actual fraud committed.
- (3) False pretenses must be used for the purpose of perpetrating the fraud.
- (4) The false pretenses used must have been the cause which induced the owner to part with the property or title to property.

b. Discussion points

- (1) The false pretense, while usually an oral statement, may be in writing, or by the act or silence of a person, or by a person knowingly allowing his agent to make the false statements.
- (2) Statements which amount to no more than an expression of opinion are not false pretenses.
- (3) If a person makes a false statement believing it to be true, this would not constitute theft by false pretenses as there would be no intent to defraud.
- (4) Victim must have relied upon the truth of one or more of the false representations for parting with his property. Not necessary that it was the sole reason for parting with property. Victim not obligated to investigate into truthfulness of representation.
- (5) A representation of a future fact is not sufficient.
- (6) The false pretense must be of a past fact or present one--this is a fraudulent pretense.
  - (a) "Tricks of the trade" and "puffing" are not illegal.
  - (b) Without any false representation as to the character, quality, or quantity of merchandise sold, owner can make false and exaggerated statements to induce a sale; e.g., "Due to low overhead and volume buying, we can sell our goods 25% cheaper than anyone else", when in fact the goods are higher than elsewhere.
- (7) Corroboration required (1110 P.C.).

c. Attempts

- (1) To constitute offense of attempt to secure money by false pretenses, it is not necessary that victim rely on or be deceived by pretenses (People v. Wallace, 1947, 78 CA 2d, 726)

2. Theft by Trick or Device - 488, 487 P.C., also 332 P.C. (3 Card Monte) - More commonly referred to as a "bunco" or confidence game. This is a form of swindle in which a theft is committed by use of trick, device, secret, stealth, or fraud. Or, as is most often the case, by false fraudulent representation, there is held out to the victim the promise of financial or other gain much to be desired, or an appeal to the sympathy, emotions, or desires of the victim.

a. Elements

- (1) Defendant has specific intent to bilk victim
- (2) Defendant gains possession of the property through trick, device, fake or fraudulent representations, etc.
  - (a) Appeals to the sympathy, emotions, desires of the victim.
  - (b) Usually offering a promise of financial or other gain, or a tremendous advantage.
- (3) Owner is under the assumption of not losing title to the property.

b. Larceny by trick and device and obtaining money by false pretenses are frequently so similar in the modus operandi employed by the swindler that, depending upon the conclusion which may be formed as to the intent of the parties, the crime may be viewed as either larceny or obtaining property by false pretenses and a verdict or conviction of either offense may be sustained. In both offenses the victim parts with property because of fraud and deceit practiced by the defendant. If false representations do not relate to the past or present, or are mere matters of opinion or promise, then false pretenses is eliminated.

c. The basic test to distinguish between theft by false pretenses and trick and device is found in the intent of the owner. In false pretenses, the owner of the property turns it over to the defendant intending that he shall become unconditional and unrestricted owner (gives up complete title and all ownership rights). In trick and device, the owner never intends that the property shall belong to or

become the property of the defendant; he never intends to part with the title to the defendant, but merely turns the possession of the property to the defendant to be used by him according to an agreement between the parties.

d. Some types of theft by trick or device include the pigeon drop, paddy hustle, and Jamaican switch.

3. Access Cards - The plastic world of access cards (credit cards) has led to the adoption of a number of sections governing their misuse.

a. Penal Code Section 484d - Definitions

As used in this section and sections 484e to 484j, inclusive:

- (1) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.
- (2) "Access card" means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access card, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds other than a transfer originated solely by a paper instrument.
- (3) "Expired access card" means an access card which shows on its face it has elapsed.
- (4) "Card issuer" means any person who issues an access card or the agent of such person with respect to such card. The card issuer is the owner of the access card.
- (5) "Retailer" means every person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of an access card by a cardholder.
- (6) An access card is "incomplete" if part of the information, other than the signature of the cardholder which an issuer requires to appear on the access card before it can be used by a cardholder, has not been stamped, embossed, imprinted, or written on it.
- (7) "Revoked access card" means an access card which is no longer authorized for use by the issuer, such authorization having been suspended or terminated

and written notice thereof having been given to the card-holder.

- b. Penal Code Section 484e - Theft of access card elements- 484e has four exclusive subsections, each containing specific elements (subsection 484e(4) is a felony).
- c. Penal Code Section 484f - Forgery of access card. (Felony)
- d. Penal Code Section 484g - Use of forged access cards: misrepresentation as to identity of cardholder.
- e. Penal Code Section 484h - Retailer with intent to defraud furnishes money, goods, services on forged access card; failure to furnish as represented to issuer and receipt of payment.
- f. Penal Code Section 484i - Filling in incomplete card: counterfeit cards.



### PERFORMANCE OBJECTIVE 3.9.2

Given a word picture depicting the possible defrauding of an innkeeper, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 537)

#### CURRICULUM

- A. Defrauding Proprietors of Hotels, Inns, Etc.--Penal Code Section 537
1. This section includes any person who obtains any food, fuel, services or accommodations at any hotel, inn, restaurant, boarding house, lodging house, apartment house, bungalow court, motel, marina, marine facility, auto camp, ski area, public or private campground, without paying for same, with intent to defraud the proprietor or manager. In addition, it includes persons who obtain credit by use of false pretenses at such places, or who, after obtaining credit, absconds surreptitiously, or by force, menace, or threats, removes any part of his baggage without paying for his food or accommodations, is guilty of a misdemeanor, if value is \$400 or less; felony if value is over \$400. (Exception 537(b) - Infraction)
  2. Evidence that such person left the named locations without paying or offering to pay shall be prima facie evidence that the person obtained the food or accommodations with intent to defraud the proprietor or manager.
  3. Examples include eating in a restaurant and failing to pay the bill or eating at a drive-in and driving off without paying the bill. However, if one fills up the gas tank at a service station and drives off without paying, his act would constitute a theft - not 537 P.C.



**PERFORMANCE OBJECTIVE 3.9.3**

Given a word picture depicting a possible appropriation of lost property, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 485)

**CURRICULUM**

- A. Appropriation of Lost Property by Finder--Penal Code Section 485
1. One who finds lost property under circumstances which give him knowledge of or means of inquiry as to the true owner, and who appropriates such property to his own use or to the use of another person not entitled thereto, without first making reasonable and just efforts to find the owner and to restore the property to him, is guilty of theft.
  2. It is only when the property is lost that the statute applies. Property which is abandoned does not apply, and the finder is not guilty of theft.
  3. Here, the property must have been lost and then found by one who took it, not as a thief, but as a finder of lost property. His guilt arises when, having the means of returning the lost property, he appropriates it to his own use.





### PERFORMANCE OBJECTIVE 3.11.1

Given a word picture depicting a possible embezzlement, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 503, 504, 507, 508, and 514)

#### CURRICULUM

- A. Penal Code Section 503 defines embezzlement as "the fraudulent appropriation of property by a person to whom it has been entrusted."
- B. The corpus delicti of embezzlement consists of:
  - 1. A fiduciary relationship. A relationship of trust and confidence is essential to the crime of embezzlement. This would include public officers and employees, trustees, executors, corporation or association officers, and ordinary agents or employees.
  - 2. Property belonging to another. The property belonging to another is self-evident, but vital. The value of the property and to whom the property lawfully belongs are important factors when determining the penalty for embezzlement as per Section 514 P.C. The property may consist of money, goods, chattels, things in evidence of debt, right of action, or real property. According to 487 P.C. which defines grand theft, "where the money, labor, real or personal property is taken by a servant, agent or employee from his principal or employer and aggregates \$400 or more in any 12 consecutive month period, then the same shall constitute grand theft."
  - 3. Lawfully in the possession of the defendant. At the time of the taking, the defendant must be in lawful possession and control of the property.
  - 4. Fraudulent appropriation. There must be an intent to deprive the owner of his property either permanently or temporarily. According to P.C. 512, the fact that the accused intended to restore property is no defense; if not done before an information or indictment is drawn or found charging the offense. Section 513 P.C. authorizes a mitigation of punishment if the property is restored prior to the filing of an information or indictment.
- C. The main distinctions between ordinary theft and embezzlement are:
  - 1. Ordinary theft requires the intent to permanently deprive the owner of his property; embezzlement requires intent to temporarily or permanently deprive the owner of his property for use other than the original purpose.

2. Ordinary theft consists of the non-consensual taking and carrying away of the personal property of another; in embezzlement, the defendant originally acquired the property with the owner's consent.
- D. Offenses involving the crime of embezzlement are particularly described in the following Penal Code sections:
1. P.C. 504 Fraudulent appropriation of property by officers of state or any association. Every officer of this state, or of any county, city, city and county, or other municipal corporation or subdivision thereof, and every deputy, clerk, or servant of any such officer, and every officer, director, trustee, clerk, servant, or agent of any association, society or corporation (public or private), who fraudulently appropriates to any use or purpose not in the due and lawful execution of his trusts, any property which he has in his possession or under his control by virtue of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose, is guilty of embezzlement.
  2. P.C. 507. When bailee, tenant, or lodger guilty of embezzlement. Every person entrusted with any property as bailee, tenant, or lodger, or with any power of attorney for the sale or transfer thereof, who fraudulently converts the same or the proceeds thereof to his own use, or secretes it or them with a fraudulent intent to convert to his own use, is guilty of embezzlement.
  3. P.C. 514. Penalty for embezzlement. Every person guilty of embezzlement is punishable in the manner prescribed for theft of property of the value or kind embezzled, and where the property embezzled is an evidence of debt or right of action, the sum due upon it or secured to be paid by it must be taken as its value; if the embezzlement or defalcation is of the public funds of the United States, or of this state, or of any county or municipality within this state, the offense is a felony.

**PERFORMANCE OBJECTIVE 3.12.1**

Given a word picture depicting a possible forgery, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 470)

**CURRICULUM**

**A. Forgery (P.C. 470) Defined**

1. Briefly, forgery may be defined as every person who, with intent to defraud, signs the name of another, or of a fictitious person, knowing that he has no authority to do so, or falsely makes, alters, forges or counterfeits any of a long list of writings, or counterfeits or forges the seal, or handwriting of another or utters, publishes, passes, or attempts to pass any of the above, is guilty of forgery.
2. Corpus Delicti--elements of the crime (P.C. 470)
  - a. False signature.
    - (1) Wherein a defendant signs a fictitious name to a document.
  - b. Lack of authority to sign.
  - c. A writing or other instrument.
    - (1) It must be an instrument that, if genuine, would have legal significance, i.e., deeds, mortgages, negotiable instruments, and contracts.
  - d. One who utters, publishes, passes, or attempts to pass any forged or altered document.
  - e. Intent to defraud.
    - (1) There must exist a specific intent to defraud the general public or a particular person. However, there is no requirement that anyone actually be defrauded.
    - (2) Punishment--Forgery is a felony.



**PERFORMANCE OBJECTIVE 3.12.2**

Given a word picture depicting a possible fraud, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 476a)

**CURRICULUM**

**A. Issuing Bank Check with Intent to Defraud, (N.S.F.) P.C. 476a**

**1. Definition of P.C. 476a--Briefly, this offense may be defined as:**

Any person who willfully with intent to defraud, makes, or draws, or utters, or delivers any check.....for the payment of money, knowing at the time.....that he has not sufficient funds in or credit with said bank.....for the payment of such check.....in full upon its presentation.

**2. Corpus Delicti--elements of the crime (P.C. 476a)**

**a. Intent to defraud.**

(1) Required specific intent, it is not necessary that any person shall have been defrauded or shall have suffered a loss.

**b. Making, drawing, presenting or delivering a check.**

**c. Knowledge of the insufficient funds and lack of credit.**

(1) Requires proof that at the time the check was offered, the defendant knew he had neither sufficient funds nor credit to cover it.

**3. Punishment--According to 476b P.C.--Fraudulent checks having a face value of \$200 or less are misdemeanors (exception; the defendant has suffered a prior conviction of P.C. Sections 470, 475 or 476); more than \$200 face value constitutes a felony.**



**PERFORMANCE OBJECTIVE 3.13.1**

Given a word picture depicting the possible unauthorized entry of property, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 602.5)

**CURRICULUM**

**A. Unauthorized Entry--Defined (P.C. 602.5)**

1. Every person other than a public officer or employee acting within the course and scope of his employment in performance of a duty imposed by law, who enters or remains in any noncommercial dwelling house, apartment, or other such place without consent of the owner, his agent, or the person in lawful possession thereof.
2. Penalty--Guilty of a misdemeanor





### PERFORMANCE OBJECTIVE 3.13.2

Given a word picture depicting a possible burglary, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 459)

## CURRICULUM

### A. Burglary (P.C. 459)

1. Definition of P.C. 459--Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, railroad car, locked or sealed cargo container, whether or not mounted on a vehicle, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 Vehicle Code, inhabited camper as defined in 243 Vehicle Code, vehicle as defined by said code when the doors are locked, aircraft as defined by Section 21012 of the Public Utilities Code, mine or any underground portion thereof, with intent to commit grand or petty larceny or any felony, is guilty of burglary.
2. Corpus Delicti--elements of the crime
  - a. Entry
    - (1) Does not have to be forcible entry.
    - (2) May be a legal entry as into a store open for business.
    - (3) Body of person does not have to physically enter structure, as in use of lasso to rope cases of oil through gate.
  - b. A building or other place described in P.C. 459
    - (1) A house or building is a structure with walls on all sides and enclosed by a roof.
    - (2) An open pit mine is covered under the burglary statute.
    - (3) Enclosed telephone booths and showcases can be the subjects of burglary.
    - (4) Vehicles--Other property.
      - (a) The vehicle must be locked to constitute burglary. Taking property from an unlocked vehicle is theft.
      - (b) Entering the locked trunk of an unlocked vehicle is a

burglary.

(c) Inhabited camper need not be locked (see 243 CVC).

(5) Inhabited means currently being used for dwelling purposes whether occupied or not.

c. Specific intent to commit grand theft, petty theft, or any felony

(1) Must be specific intent. Intent on purpose to commit grand theft, petty theft, or some other felony must be in the mind at the time of entry.

(2) Does not have to be a completed intention

(a) Can be frustrated by outside factors

(b) Can be voluntary cessation of effort

**PERFORMANCE OBJECTIVE 3.13.3**

Given a word picture depicting a possible burglary with the use of explosives, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 464)

**CURRICULUM**

**A. Burglary With Explosives (P.C. 464)**

1. Definition of Burglary with Explosives--Any person who, with intent to commit crime, enters, either by day or night, any building, whether inhabited or not, and opens or attempts to open any vault, safe, or other secure place by use of acetylene torch or electric arc, burning bar, thermal lance, oxygen lance, or any other similar device capable of burning through steel, concrete, or any other solid substance, or by use of nitroglycerine, dynamite, gunpowder or any other explosive, is guilty of a felony.
2. Corpus Delicti--elements of the crime
  - a. Entry to any building
  - b. Specific intent to commit a crime, and
  - c. Use of explosives, torches, etc.
  - d. Opens or attempts to open a safe, vault, etc.



**PERFORMANCE OBJECTIVE 3.13.4**

Given a word picture depicting the possession of burglary tools, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 466)

**CURRICULUM**

A. Possession of Burglary Tools (P.C. 466)

1. Definition--Every person having upon him or her in his or her possession a picklock, crow, key bit, crowbar, screwdriver, vice grip pliers, water-pump pliers, slidehammer slim jim, tension bar, lock pick gun, tubular lock pick, floor-safe door puller, master key, or other instrument or tool with intent feloniously to break or enter any building, or who shall knowingly make or alter, or shall attempt to make or alter, any key or other instrument above named so that the same will fit or open the lock of a building, without being requested so to do by some person having the right to open the same, or who shall make, alter, or repair any instrument or thing, knowing or having a reason to believe that it is intended to be used in committing a misdemeanor or felony, is guilty of a misdemeanor.

NOTE: People v. Blalock 20 CA 3rd 1078 (1971)

2. Corpus Delicti--elements of the crime
  - a. Possession of certain tools
  - b. Intent to break or enter any building (building in this section refers to any structure mentioned in P.C. 459)
  - c. Knowingly make or attempt to make a key or other instrument to fit another building without legal request. Responsibility of maker to ascertain right to open or make, alter, or repair any instrument or thing.
  - d. Knowledge of intent to commit any misdemeanor or felony.
3. Misdemeanor



**PERFORMANCE OBJECTIVE 3.13.5**

Given a word picture depicting the possible alteration of serial numbers on certain articles, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 537e)

**CURRICULUM**

**A. Alteration of Serial Numbers (P.C. 537e)**

1. Definition of the crime--Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a radio, piano, phonograph, sewing machine, washing machine, typewriter, adding machine, comptometer, bicycle, safe or vacuum cleaner, dictaphone, watch, watch movement, watch case, or any mechanical or electrical device, appliance, contrivance, material, piece of apparatus or equipment, computer parts, from which the manufacturer's name plate, serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, is guilty of a misdemeanor. (Integrated chip-exceeding #400 - felony)
2. Mere possession of such a device is sufficient for a violation.
3. Related Section: Tampering with marks on a firearm 12090 P.C. (felony).





### PERFORMANCE OBJECTIVE 3.14.1

Given a word picture depicting the possible receiving of stolen property, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 496)

#### CURRICULUM

##### A. Receiving Stolen Property Law (3.14.0)

###### 1. Buying or Receiving Stolen Property (496 P.C.)

Every person who buys, receives, conceals, or withholds any property which has been stolen or obtained in any manner constituting theft or extortion, is guilty of 496 P.C. if he knew property to be stolen.  
(Felony)

###### a. Elements:

- (1) Every person, who knowingly
- (2) Buys, receives, conceals or withholds
- (3) Property obtained by theft or extortion

###### 2. Every person or his employee whose business is dealing in, or collecting used or secondhand property, who buys or receives any stolen property under circumstances dictating an inquiry into the legal right of the seller to sell or deliver such property, shall be presumed to have knowingly received stolen property.

###### a. Elements:

- (1) Every secondhand dealer
- (2) Without inquiry as to legal right of seller,
- (3) Buys or receives stolen property under circumstances dictating an inquiry.
- (4) Shall be presumed to have known property to be stolen.

###### 3. Receiving Stolen Property as Distinct From Theft

The crime of receiving stolen goods is distinct from that of larceny. (Stanley, in re, 1928, 90 CA 132).

If the person charged with receiving unlawfully is really a thief, the

charge of receiving stolen property must fail. (People v. Jacobs 1925, 73 CA 334).

4. Thief and Receiver of Property as Accomplices

Generally, the thief and one knowingly receiving stolen property are guilty of distinct and separate substantive offenses and are not accomplices of each other. (People v. Raven, 1955, 44 C2d 523).

The thief and receiver of stolen goods are not accomplices where an arrangement between them for transfer of goods is made after theft, but where thief and receiver conspire before theft, that one shall steal and the other receive, thief is accomplice in crime of receiving and receiver accomplice in theft. (People v. Brumbeck, 1957, 152 CA2d 386--P. v Duarte, 1960, 183 CA2d 393).

5. Possession Accompanied by Suspicious Circumstances

Guilty knowledge--possession accompanied by suspicious circumstances will justify inference that property was received with knowledge that it had been stolen. (People v. Kot, 1959, 171 CA2d 9).

6. Mere Possession

Mere possession of stolen property is insufficient to prove the offense of receiving stolen property. (People v. Jolley, 1939, 35 CA2d 159).

7. Possession of Stolen Property

a. Among the circumstances which, coupled with the possession of stolen property, have been held to connect the defendant with the crime and to sustain his conviction are:

- (1) Flight
- (2) False statements as to how the property came into defendant's possession.
- (3) Assuming a false name and an inability to establish the existence of the person from whom the defendant claimed to have received the property.
- (4) Sale of the property under a false name and at an inadequate price.
- (5) Sale of the property with marks of identification removed.
- (6) Failure to account for its possession and giving false testimony.
- (7) An effort to throw away the stolen property. (People v. Russell, 120 CA 622, etc.)

2. Possession Defined.

Within the meaning of the law, a person in possession of an article of personal property when it is under his dominion and control and, to his knowledge, either is carried on his person or is in his presence and custody or, if not on his person or his presence, the possession thereof is immediately accessible and exclusive to him. Two or more persons may have possession of such property if jointly and knowingly they have the dominion, control and exclusive possession such as exists where but one person has possession (Caljic No. 41, P. 252, Fricke).



**PERFORMANCE OBJECTIVE 3.15.1**

Given a word picture depicting possible vandalism, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 594 and 594.3)

**CURRICULUM**

**A. Vandalism--P.C. 594**

**1. Definition of P.C. 594.**

(a) Every person who maliciously (1) defaces with paint or any other liquid, (2) injures damages or (3) destroys any real or personal property not his own, in cases otherwise than those specified in this code by state law, is guilty of vandalism.

**2. Corpus Delicti--elements of the crime.**

- a. Malicious intent
- b. To damage or destroy
- c. Personal property not his own

**3. Punishment:**

- a. 594(b)(1) - Felony - \$50,000 or more
- b. 594(b)(2) - Misdemeanor - \$5,000 to \$50,000
- c. 594(b)(3) - Misdemeanor - \$1,000 to \$5,000
- d. 594(b)(4) - Misdemeanor - under \$1,000

**B. Vandalism - Church synagogue, etc. 594.3 P.C.**

**1. Definition of 594.3(a) P.C.**

Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted is guilty of a crime punishable by imprisonment in the state prison or by imprisonment in the county jail for not exceeding one year.

**2. Definition of 594.3(b) P.C.**

Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted, which is shown to have been committed by a reason of the race, color, religion, or national origin of another individual or group of individuals and to have been committed for the purpose of intimidating and deterring persons from freely exercising their religious beliefs, is guilty of a felony punishable by imprisonment in the state prison.

**PERFORMANCE OBJECTIVE 3.15.2**

Given a word picture depicting possible cruelty to animals, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 597)

**CURRICULUM**

A. P.C. 597 Cruelty To Animals

1. Definition of P.C. 597

Cruelty to animals defined. (a) Every person who maliciously maims, wounds, tortures, or mutilates a living animal, or maliciously kills an animal is guilty of an offense punishable by imprisonment in the state prison or in a county jail for not more than one year. (b) Except as otherwise provided in subdivision (a), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink or shelter, cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink or shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the same, or in any manner abuses any animal, or fails to provide the same with proper food, drink, shelter or protection from the weather, or who drives, rides or otherwise uses the same when unfit for labor, is for every such offense, guilty of a felony.

NOTE: See also P.C. 597.5 - Dog Fighting (Felony)

2. Corpus Delicti elements

a. Intent is extremely important as an element of this crime. (Cruelty)





### PERFORMANCE OBJECTIVE 3.16.1

Given a word picture depicting a possible act of arson or acts preliminary to arson, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Sections 451 and 452)

## CURRICULUM

### A. P.C. 450 Arson Definitions

In this chapter, the following terms have the following meanings:

1. "Structure" means any building, or commercial or public tent, bridge, tunnel, or powerplant.
2. "Forest land" means any brush covered land, cutover land, forest, grasslands, or woods.
3. "Property" means real property or personal property, other than a structure or forest land.
4. "Inhabited" means currently being used for dwelling purposes whether occupied or not. "Inhabited structure" and "inhabited property" do not include the real property on which an inhabited structure or an inhabited property is located.
5. "Maliciously" imports a wish to vex, defraud, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.
6. "Recklessly" means a person is aware of and consciously disregards a substantial and unjustifiable risk that his or her act will set fire to, burn, or cause to burn a structure, forest and, or property. The risk shall be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto.

### B. P.C. 451 Willfully and Maliciously Setting Fires

A person is guilty of arson when he willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of, any structure, forest land or property.

1. Arson that causes great bodily injury is a felony.
2. Arson that causes an inhabited structure or inhabited property to burn is

a felony.

3. Arson of a structure or forest land is a felony.
4. Arson of property is a felony. For purposes of this paragraph arson of property does not include one burning or causing to be burned his own personal property unless there is an intent to defraud or there is injury to another person or another persons's structure, forest land, or property.

C. P.C. 452 Recklessly Setting Fires.

A person is guilty of unlawfully causing a fire when he recklessly sets fire to or burns or causes to be burned, any structure, forest land or property.

1. Reckless burning that causes great bodily injury is a felony.
2. Reckless burning that causes an inhabited structure or property to burn is a felony.
3. Reckless burning of a structure or forest land is a felony.
4. Reckless burning of property is a misdemeanor. (For purposes of this section, reckless burning does not include burning ones' own property. See 451 P.C.)

**PERFORMANCE OBJECTIVE 3.16.2**

Given a word picture depicting the possible possession of a "firebomb," the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 453)

**CURRICULUM**

A. P.C. 453 Possession of Flammable Explosive or Combustible Material or Substance or Device With Intent to Set Fire to or Burn.

1. 453(a). Every person who possesses any flammable, explosive or combustible material or substance, or any device in an arrangement or preparation, with intent to willfully and maliciously use such material, substance or device to set fire to or burn any structure, forest land or property, is punishable by imprisonment in the state prison, or in the county jail, not exceeding one year.
2. 453(b) P.C. Possession of Firebomb.

E. P.C. 454 Violation During State of Insurrection or Emergency.

Every person who violates any of the provisions of Section 451 or 452 during and within an area of a:

1. State of insurrection pursuant to Section 143 of the Military and Veterans Code,
2. State of emergency pursuant to Section 8625 of the Government Code, or
3. State of local emergency pursuant to Section 8630 of the Government Code, when proclaimed by the Governor or the responsible local authority as provided in Section 8630 of the Government Code is punishable by imprisonment in the state prison for three, five or seven years.



### PERFORMANCE OBJECTIVE 3.16.3

Given a word picture depicting possible attempts to set fire to or aid, counsel or procure the burning of any structure, forest land or property, the student will identify if the crime is complete, and if it is complete, will identify it by its common name and crime classification. (Penal Code Section 455)

#### CURRICULUM

- A. P.C. 455 Attempt to Set Fire to, Burn, and, Counsel or Procure the Burning of Structure, Forest Land, or Property; Punishment.

Any person who willfully and maliciously attempts to set fire to or attempts to burn or to aid, counsel or procure the burning of any structure, forest land or property or who commits any act preliminary thereto, or in furtherance thereof, is punishable by imprisonment in the state prison.

The placing or distributing of any flammable, explosive or combustible material or substance, or any device in or about any structure, forest land or property in an arrangement or preparation with intent to eventually willfully and maliciously set fire to or burn same, or to procure the setting fire to or burning of the same shall, for the purposes of this act constitute an attempt to burn such structure, forest land or property.

- B. P.C. 548 Burning, Destroying, Etc., Insured Property With Intent to Defraud Insurer - Punishment.

Every person who willfully injures, destroys, secretes, abandons, or disposes of any property which at the time is insured against loss or damage by theft, or embezzlement, or any casualty with intent to defraud or prejudice the insurer, whether the same be the property or in the possession of such person or any other person, is punishable by imprisonment in the state prison.

For purposes of this section, "casualty" does not include fire.

**SUPPORTING MATERIAL**

**AND**

**REFERENCES**

This section is set up as reference information for use by training institutions. These materials can be used for instruction, remediation, additional reading, viewing, or for planning local blocks of instruction. This list is not an endorsement of any author, publisher, producer, or presentation. Each training institution should establish its own list of reference materials.

**TOPICAL LIST OF SUPPORTING MATERIALS AND  
REFERENCES INCLUDED IN THIS SECTION**

Theft Defined

Degrees of Theft

Case Decisions - Value

Examples of Theft by False Pretense

Examples of Trick and Device

Property of Another

Other Property Subject to Theft Covered by Specific Sections

Case Decisions Involving the Crime of Embezzlement

Forgery of Wills, etc.

PC 473 and 476A

Additional Forgery Law Sections

Building

Windows

Buying or Receiving Stolen Goods

Vandalism

Cruelty to Animals

Bunco Schemes



THEFT DEFINED--PENAL CODE SECTION 484(a)

Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test and, in determining the value of services received, the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false and fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employees, without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet, shall be prima facie evidence of intent to defraud.

Penal Code 484(b)(c)(d)(e)

Except as provided in 10855 CVC, intent to commit theft by fraud is presumed if one who has leased or rented the personal property of another pursuant to a written contract fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented, or if one presents to the owner identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental agreement.

The foregoing presumptions are presumptions affecting the burden of producing evidence.

Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the proper property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

## DEGREES OF THEFT (Case Decisions)

### PC 487.1

1. Corpus delicti of Grand Theft of Poultry is established by evidence that, before weighing supposedly empty truck, defendants put rocks in trucks, disposed of rocks while going to seller's ranch, loaded truck with poultry, again weighed truck and paid seller difference between weight slips, and by evidence that weight of rocks multiplied by value per pound of poultry exceeded \$100 (People v. McKibben, 1955, 136 CA 2d 479)
2. The conviction of grand theft by an attorney was sustained where he received \$4,000 from a client with which to pay her bills and to repay \$500 which he had loaned her, and he paid only about \$325 of such bills and retained the balance. (People v. Glenn, 1950, 96 CA 2d 859) (under 1983 law - amount is petty theft.)

## CASE DECISIONS--VALUE

1. Value to be placed on stolen articles for purpose of establishing felony charge is market value of property, not value of property to any particular individual. (People v. Latham, 1941, 43 CA 2d 35)
2. In prosecuting one for theft, whether the value of the property makes the crime a felony, is ascertained by its value on the open market and not by what it is worth to the owner. (People v. Simpson, 1938, 26 CA 2d 223)
3. An implied finding that value of property stolen from fur store exceeded \$200 is supported by testimony of two experienced furriers that \$250 plus tax, the price marked on a tag attached to stolen fur piece, was a fair market value and they estimated the wholesale price between \$120 and \$165. (People v. Lizarrage, 1954, 122 CA 2d 436) (under 1983 law value must exceed \$400)

## EXAMPLES OF THEFT BY FALSE PRETENSE

1. While mere nonperformance of promise is not enough to constitute fraudulent pretense within law of grand theft, promise made with intent not to perform constitutes false pretense. (People v. Otterman, 1957, 154 CA 2d 193). Example: The Williamsons
2. Where one falsely represented that mortgage which he sold was a first mortgage and the only lien on the property covered thereby, and such false statement induced the purchase of the mortgage, that element of theft, formerly termed obtaining money under false pretenses, was committed. (People v. Henniger, 1912, 20 CA 79)
3. In prosecution of chiropractor for conspiracy to commit theft by false pretenses as to effectiveness of certain machines used by him in treatment of cancer and certain other diseases, fact that treatments may have been worth consideration paid is no defense. (People v. Schmitt, 1957, 155 CA 2d 871)
4. Implied finding that defendant chiropractor made false representation with intent to deceive was sustained by evidence that, for purpose of inducing his patients to take and pay for series of treatments given with aid of certain machine, he falsely represented that he had cured hundreds of cases of cancer with the machine. (People v. Schmitt, 1957, 155 CA 2d 87)
5. Theft by false pretenses was sustained where new car purchasers were persuaded to sign blank purchase orders and blank conditional sales contracts; when the contracts were completed, \$350 was inserted as the allowance for the trade-in rather than the \$1,295 which was promised or agreed upon. Evidence indicated victims would not have signed the contract or parted with the old car if they had known the trade-in was to be \$350. (People v. Caruso, 1959, 176 CA 2d 272)
6. Making promise without intent to keep it; conviction of grand theft by false pretenses is sustained by evidence that defendant, without intent to keep promise and in consideration of \$3,500, agreed to provide victim with pasture land. (People v. Rocha, 1955, 130 CA 2d 656)
7. Unconditional promises, made without any intention of performing them, constitutes actionable fraud. (People v. Allen, 1962, 203 CA 2d 659)
8. False characterization of himself by magazine subscription solicitor as veteran, orphan or epileptic in order to secure order for subscription by appealing to sympathy of person solicited, is not akin to type of "puffing" of merchandise which is recognized in marts of trade; such misrepresentation is sufficient to form basis of charge of obtaining money or property under false pretenses. (People v. Conion, 1962, 207 CA 2d 86)
9. Even if property is worth consideration paid therefor, this is not defense to prosecution for obtaining money by false pretenses, where defendant knowingly makes false representation with intent to defraud with the purpose and effect of inducing victims to part with something of value. (People v. Conion, 1962, 207 CA 2d 86)

### EXAMPLES OF TRICK AND DEVICE:

1. Pigeon drop
2. Handkerchief game
3. Felonious taking by trick and false representation sustained where defendant and co-conspirator placed co-conspirator's name on prize-drawing ticket register opposite number of ticket in defendant's possession, that he palmed it while pretending to withdraw ticket by chance from drum containing tickets, his co-conspirator was paid prize money. (People v. Carpenter, 1956, 141 CA 2d 884)
4. A conviction of grand theft by larceny, by trick and device is sustained by evidence that, among other things, defendant secured about \$4,000 from the victim on representations that the money would be used in a business venture despite defendant's true intention to appropriate the money for his own use. (People v. Andary, 1953, 120 CA 2d 657)
5. Conviction of theft by trick and device is sustained by evidence that defendant had preconceived design and intent of appropriating to his own use money which victims gave to be used in payment of automobile or freight on auto to be delivered to victim. (People v. Reinschreiber, 1956, 141 CA 2d 688)

### PROPERTY OF ANOTHER

1. A person rightfully in possession of personal property has such ownership therein as may be the subject of larceny. (People v. Hayes, 72 Cal App 292)
2. Thus, a bailee or other person having lawful possession of property has such property right therein as to make its stealing from the possession of such person amount to larceny. (People v. Buelna, 81 Cal. 135)
3. Since all that the law requires is that the thing taken be the property "of another," it would be no defense to a charge of larceny that the defendant had taken the property from the person of one who had found it. (People v. Beach, 62 Cal App 2nd 803)
4. It would be no defense that the person stealing the property took it from one who had himself stolen it, since the property was still that of the owner from whom it had been stolen.
5. Where the testimony of eye-witnesses showed that a pocketbook was taken from the person of an unidentified victim who was not a witness at the trial, it was held that the pocketbook was in the possession of the victim was sufficient evidence of ownership in her. (People v. Davls, 97 Cal. 194)
6. The crime of grand theft is complete when a man takes property not his own with intent to take it. (People v. Corenevsky, 1954, 124 CA 2d 19)

OTHER PROPERTY SUBJECT TO THEFT  
COVERED BY SPECIFIC SECTIONS

PC 491.	Dogs are personal property
PC 492	Written instruments, evidences of debt
PC 493	Passenger tickets; railroad, vessel, or public conveyances
PC 494	Written instruments completed but not delivered
PC 495	Severing and removing part of the realty
PC 496	Copying information relating to title to real property
PC 498	Theft of utility services
PC 499c	Trade secrets
PC 499d	Aircraft
PC 500 1/2	Removal of improvements from mortgaged real property

## CASE DECISIONS INVOLVING THE CRIME OF EMBEZZLEMENT

1. Gist of this offense is appropriation to one's own use of property delivered to him for devotion to specific purpose other than his own enjoyment of it. (People v. Path, 1961, 196 CA2d 638).
2. To constitute embezzlement it is not necessary to show actual possession of money or property by the accused, it being sufficient to show that it was under his direction and management. (People v. Hess, 1951, 107 CA2d 407).
3. One may be guilty of embezzlement where he has aided or abetted actual embezzlement though he does not occupy any fiduciary capacity to one whose property is embezzled. (People v. Dolbeer, 1963, 214 ACA 672).



## FORGERY OF WILLS, ETC.

P.C. Section 470. Forgery of wills, conveyances, etc. Every person who, with intent to defraud, signs the name of another person, or of a fictitious person, knowing that he has no authority to do so, to, or falsely makes, alters, forges, or counterfeits, any charter, letters, patent, deed, lease, indenture, writing obligatory, will, testament, codicil, bond covenant, bank bill or note, post note, check, draft bill of exchange, contract, promissory note, due bill for the payment of money or property, receipt for money or property, passage ticket, trading stamp, power of attorney, or any certificate of any share, right, or interest in the stock of any corporation or association, or any controller's warrant for the payment of money at the treasury, county order of warrant, request for the payment of money, or the delivery of writing, or acquittance, release, or receipt of money or goods, or any acquittance, release, or discharge of any debt, account, suit, action, demand, or other thing, real or personal, or any transfer or assurance of money, certificate of shares of stock, goods, chattels, or other property whatever, or any letter of attorney, or other power to receive money or to receive or transfer certificates of shares of stock, or annuities, or to let, lease, dispose of, alien, or convey any goods, chattels, lands, or tenements, or other estate, real or personal or any acceptance or endorsement of any bill of exchange, promissory note, draft, order, or any assignment of any bond, writing obligatory, promissory note, or other contract for money or other property; or counterfeits or forges the seal or handwriting of another; or utter, publishes, passes, or attempts to pass, as true and genuine, any of the above names specified and described, knowing the same to be false, altered, forged or who, with intent to defraud, alters, corrupt, or falsifies any record of any will, codicil, conveyance, or other instrument, the record of which is by law evidence, or any record of any judgment of a court or the return of any officer to any process of any court, is guilty of forgery.--Amended Stats. 1958, Ch. 713.

PC 473 and 476A

PENAL CODE 473--Punishment of forgery.

Forgery is punishable as a felony.

PENAL CODE 476A--Issuing bank check with intent to defraud. Protest, "Credit: defined.

(a) Any person who for himself or as the agent or representative of another, or as an officer of a corporation, willfully, with intent to defraud, makes or draws or utters or delivers any check, or draft or order upon any bank of depositary, or person, or firm, or corporation, for the payment of money, knowing at the time of such making, drawing, uttering or delivering that the maker or drawer or the corporation has not sufficient funds in, or credit with said bank of depositary, or person, or firm, or corporation, for the payment of such check, draft or order and all other checks, drafts, or orders upon such funds than outstanding, in full upon its presentation, although no express representation is made with reference thereto, is punishable as a felony.

(b) However, if the total amount of all such checks, drafts or orders that the defendant is charged with and convicted of making, drawing or uttering does not exceed two hundred dollars (\$200), the offense is punishable only by imprisonment in the county jail for not more than one year, except that this subdivision shall not be applicable if the defendant has previously been convicted of a violation of Sections 470, 475, or 476 of this code, or of this section of this code, or of the crime of petty theft in a case in which defendant's offense was a violation also of Sections 470, 475, 476 of this code or of this section, or if the defendant has previously been convicted of any offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a violation of Sections 470, 475, or 476 of this code or of this section, or if he has been so convicted of the crime of petty theft in a case in which, if defendant's offense had been committed in this state, it would have been a violation also of Section 470, 475, or 476 of this code, or of this section.

(c) Where such check, draft or order is protested, on the grounds of insufficiency of funds or credit, the notice of protest thereof shall be admissible as proof of presentation, nonpayment and protest and shall be presumptive evidence of knowledge of insufficiency of funds or credit with such bank or depositary, or person, or firm, or corporation.

(d) The word "credit", as used herein, shall be construed to mean an arrangement or understanding with the bank or depositary or person of firm or corporation for the payment of such check, draft or order.

(e) If any of the preceding paragraphs, or parts thereof, shall be found unconstitutional or invalid, the remainder of this section shall not thereby be invalidated, but shall remain in full force and effect.-- Amended Stats. 1963, Chap. 1448.

The instructor should have overhead transparencies or 35 mm slides of various forged checks and documents for this discussion.

## ADDITIONAL FORGERY LAW SECTIONS

- 470a PC Falsification, alteration, etc. of driver's license or identification card to facilitate commission of Forgery--Felony.
- 470b PC Possession or display of driver's license or identification card with intent to commit forgery--Felony.
- 475a PC Uttering or passing a check, money order or warrant with intent to defraud--Felony.
- 476 PC Making, passing or uttering fictitious bill, etc.--Felony.

## BUILDING

### "Building" under 459 P.C.

1. Carport attached to a house with a roof and enclosed on two sides only, was a "building" within the meaning of 459 P.C. In re: Christopher Lee J. 102 CA 3d 76 (1980).
2. Enclosed patio attached to a garage which was in turn attached to a house - entering with intent to commit theft is a burglary (135 CA 3d 78 (1982)). (People vs. Cook)

## WINDOWS

1. People v. Woods 112 CA 3r 226 (1982): Window rolled down 5 1/2" - cannot be construed as locked. (Some court case held 1/4" was locked)
2. People v. Malcolm, 47 CA 3d 217 (1975) held that where the windows of the vehicle were up, the car locked, and a broken lock on the window wing, and suspect pushed open the window wing to gain entry, there was a vehicle burglary.

BUYING OR RECEIVING STOLEN GOODS—SECTION 496 P.C.

A. Defined.

1. Every person who buys or receives any property which has been stolen or which has been obtained in any manner constituting theft or extortion, knowing the same to be so stolen or obtained, or who conceals, withholds or aids in concealing or withholding any such property from the owner, knowing the same to be so stolen or obtained, is punishable by imprisonment in a state prison, or in a county jail for not more than one year.
2. Every person whose principal business is dealing in or collecting used or second-hand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion, under such circumstances as should cause inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.
3. When in a prosecution under this section it shall appear from the evidence that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances, as should have caused him to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him, then the burden shall be upon the defendant to show that before so buying, receiving or otherwise obtaining such property, he made reasonable inquiry to ascertain that the person so selling or delivering the same to him had the legal right to sell or deliver it.

DISCUSSION (CASE DECISIONS ON BUYING  
OR RECEIVING STOLEN GOODS)

1. 55 CA 256 (People v. Rojas) where defendant had the specific intent to commit the crime and did the acts necessary to commit it, but because of circumstances unknown to him, the substantive crime was lacking, there was an attempt. The criminality of the attempt is not destroyed by the police recovery of the property. Stolen property, recaptured by the police, no longer has the status of stolen goods, but is held by the police in trust for the owner.
2. It is not necessary, to constitute receipt of stolen property, that defendant receive physical possession of property, it being sufficient that property has been concealed on defendant's premises by others with his knowledge or consent. (People v. Rossi, 1936, 15, CA 2d 180).
3. Guilty knowledge of theft need not be that actual and positive knowledge which is acquired from personal observation of fact. (People v. Mercado, 1922, 59 CA 69). May be circumstantial and deductive. (People v. Bolus, 1957, 153, CA2d 618).
4. Person who is not aware that property is stolen when he comes into possession thereof is guilty of receiving stolen property in violation of this section, if he subsequently learns of its stolen nature and then conceals or withholds it from true owner. (People v. Scaggs, 1957, 153 CA2d 339).

## VANDALISM

Vandalism: Penalty--P.C. 594(a) Every person who maliciously (1) defaces with paint or other liquid, (2) damages or destroys any real or personal property not his own, in cases otherwise than those specified by state law, is guilty of vandalism.

(b) If the amount of defacement, damage or destruction is one thousand dollars (\$1,000) or more, vandalism is punishable by (1) imprisonment for six months in the county jail, imprisonment in the state prison not to exceed one year and one day, a fine of five thousand dollars (\$5,000), or both such fine and imprisonment.

(c) If the amount of defacement, damage or destruction is less than one thousand dollars (\$1,000), vandalism is punishable by imprisonment in the county jail for not more than six months, a fine or not more than five hundred dollars (\$500), or both. (1872; 1974 ch 582, Section 1.) California Jurisdiction 3d Criminal Law Sections 63, 2747; Witkin Crimes, pp 430, 431, 434, 575.



## CRUELTY TO ANIMALS

Criminal acts relative to cruelty to animals are outlined in numerous Penal Code sections. For example, Dog fighting is defined in P.C. section 597.5. Other Penal Code sections which define particular offenses relating to this subject may be found in Penal Code sections 597a through 597z, 598 PC (Killing birds in cemetery), 598a PC (Killing, selling or importing dogs or cats), and 599 PC (Selling or giving away baby chicks, rabbits or ducklings) under defined conditions which are adverse to health.

## BUNCO SCHEMES

It should be noted that many Bunco and Fraud suspects use sexual differences or racial prejudices to aid them in their deception. They frequently will prey on the desire of some victim to prove that they are not prejudiced to defraud these victims. Almost any confidence scheme can be done by any racial group on different races or their own.

At the present time, the pigeon drop is generally operated by two female pigeon drops. The victims are characteristically elderly female.

Although the scam has many variations, it generally adheres to the following guidelines: The victim is selected in a bank or an above-average neighborhood. Suspect #1, appearing quite sociable, engages the victim in conversation. At this point, suspect #2 enters the scene and finds a pre-planted envelope on the floor or in the street. Suspect #1 immediately calls the victim's attention to the find of suspect #2. Suspect #2 looks into the envelope and is visibly startled, and her eyes bulge for a moment as she beholds the thick sheaf of greenbacks inside. Looking around the room to see if she has been discovered, suspect #2 spots suspect #1 and the victim looking at her. At first haltingly, then resignedly, suspect #2 approaches suspect #1 and the victim and states, "You saw me find this, didn't you? It doesn't have any name in it. Look! It must have eight or nine thousand dollars in it. What in the world are we going to do with it?" The significance of the word "we" is not overlooked by the victim. Avarice begins to enter the picture as she realizes that the suspect #2 is including her in the alleged find. The conversation turns to various alternatives of handling the money. Then suspect #1 suggests that they contact her boss for advice; after all, he is a lawyer and knows the legal ramifications of the situation. As the situation progresses, suspect #1 takes suspect #2 and the victim to an officious looking building and leaves them in the hallway while she confers with her boss. Shortly thereafter, she returns stating essentially that her boss examined the contents of the envelope and found it to contain \$12,000 and that they could legally hold the money until its rightful owner produced evidence of ownership. However, as remote as this might be, he requested that each of the recipient sharers prove their financial responsibility to him, an impartial person, commensurate with the amount of their expected share.

Suspect #1, immediately states that she has \$4,000 as proof of her financial responsibility, and offers the money to be shown to the fictitious boss. Attention then shifts to the victim to show proof of her financial responsibility. Reluctantly, the victim produces her bank book showing a balance in excess of the required amount. However, because bank books are easily acquired and altered, the victim is induced to withdraw the desired amount. Thereafter, the three go back to the hallway to wait while the "Boss" examines each persons' offering of financial responsibility. By this time, another strategic point in the plan has been executed. To ensure each person's honesty, the found \$12,000 has been sealed in the envelope and entrusted to the care of the victim. With the trap set, suspect #1 gives her purported \$4,000 to suspect #2 for examination. Shortly, thereafter, suspect #2 returns and, returning the money, relates that the boss agrees that she should share in the proceeds of the found money.

The moment of truth has arrived; the victim gives her \$4,000 to suspect #2 to prove her financial responsibility. But, after all, she is secure, for didn't suspect #1 trust suspect #2 with her money and everything worked out okay. Besides, she has the envelope containing the \$12,000 which is quite a lot of security itself. Suspect #1 and the victim engage in pleasant conversation while waiting for suspect #2 to return, but as the time draws on, suspect #1 becomes more and more fidgety.

After some lapse of time, suspect #1 suggests to the victim to wait in the hall so that suspect #2 will not be missed when she returns, while she (suspect #1) tries to ascertain why there is so much delay. After

waiting a considerably long time, the victim finally decides that something is amiss. Upon opening the envelope, she discovers it to contain only bits of torn paper.

1. One of the primary problems in reporting pigeon drops is classification. Many officers classify all switches as pigeon drops. In reality, the pigeon drop is only one type of switch. Additional switches include the Jamaican Switch, the Mexican Charity Switch, the Gypsy Handkerchief Switch, the Jewelry Switch, etc. Each switch, although having factors in common, is a definite type of bunco scheme, and should be accurately reported.
2. A Pigeon Drop is not a theft from a person. The value of the property taken will determine whether a grand theft or petty theft has occurred.

#### Jamaican Switch

This type of theft is perpetrated by two male Negroes against men. One of the suspects approaches the victim (usually on the street, but it may be somewhere else such as in a store, building, or a bus depot) and uses a phony foreign accent and tells the victim he is a seaman off a boat. This boat is in San Pedro and it just arrived here from Jamaica or some other foreign port. The suspect tells the victim he is looking for a hotel and gives the victim a name of a non-existent hotel. The second suspect walks by and suspect #1 tells victim to ask him about the hotel. Victim calls suspect #2 over and suspect #1 gives him the name of the hotel, stating that he is looking for that hotel because there is a girl there to whom he has already given \$50 for a "party." Suspect #1 then displays a large roll of what appears to be money and says he wants to have a good time. Suspect #2 tells suspect #1 he should put his money in a bank before someone robs him. Suspect #1 says his captain on the ship told him not to put money in the "white man's bank" because it was a "one-way deal" in this country. A Negro can deposit money but can't draw it out. This statement puts the white victim on the defensive and he will usually reveal the location of his bank account and attempt to convince suspect #1 that his captain's advice is erroneous. In the case of the victim being a Negro, all three may berate the white race; however, the Negro victim becomes vulnerable because he wants to prove that he, as a Negro, can conduct business the same as a white man. Often suspect #2 tells the victim that suspect #1 is ignorant and will lose his money, and suggest that they (victim and suspect #2) could get some of his money if victim would bet suspect #1 that he could withdraw money from the "white man's bank," and draw money out to prove this to suspect #1. The Negro victim often "bites" on this.

In the case of the white victim, suspect #1 bets a considerable amount that he can't withdraw cash from his account. In both cases, after the victim has withdrawn his cash, suspect #2 tells suspect #1 that he will take him to see some girls but he had better leave his money with victim while they are gone because the girls are dishonest. At this point, suspect #2 sometimes tells victim to keep all of suspect #1's money and that he will meet victim later and they will split the money. If victim doesn't seem to have enough of a larcenous inclination for the approach, the "safe-keeping" approach is used. Victim is to keep suspect #1's money until they return, at which time victim will receive his winnings for proving he withdraw money. Suspect then folds the bag and at this time a "switch" is made and a bag containing pieces of newspaper is handed to victim. Both suspects then leave, agreeing to meet the victim later, after they "see the girls."

In some cases, with a particularly larcenous victim who is willing to gamble, he is talked into shooting dice after he withdraws his money. (Sometimes suspect #2 and victim agree to cheat suspect #1 in a dice game.) On the last roll, victim loses but is allowed by suspect #2 to write a bum check which is gambled against suspect #1. Victim loses. Suspect #1 goes into a store to cash check -- comes running out shouting, "He's calling the police! Run!" All three run.

In another variation of this crime (where the victim is Negro), after he has withdrawn his money, suspect #1 tells victim and suspect #2 that the captain on his ship told him not to trust American Negroes. Suspect #2 acts indignant and gives his wallet to suspect #1 and tells him and victim to walk around the block with it and he will wait there to prove that he trusts the victim. When they return, suspect #1 asks victim if he trusts suspect #2. To prove that he does, victim gives his money to suspect #2 and both suspects walk away.

#### Charity Switch

Suspects: Any foreign speaking person.  
They always speak Spanish.

Victims: Speaks the same language as suspects.

The victim is stopped on street by suspect #1 and asked if he speaks his foreign language. If the victim replies "yes" suspect #1 engages the victim in conversation and asks for assistance in locating a fictitious person (usually a real estate man or attorney). At this time, suspect #2 joins the conversation and joins in the effort of trying to locate the fictitious person. Suspect #1 then reveals that his father is dying in Mexico (or whatever country he alleges to be from); that years ago, when his father was in this country, he stole a large sum of money; and that he returned to his native land, he became very rich. The dying father had gone to the priest and confessed the theft. The priest insisted that before he could give the father absolution, it would have to be necessary that he return the money to the United States and distribute it to charity. Suspect #1's father told him to locate the fictitious person and give him the money to distribute for him. At this time, suspect #1 displays what appears to be a large amount of money and states that he has \$10,000 or \$15,000. Suspect #1 then asks victim and suspect #2 if they will assist him as he wants to return to his father before he dies and tell him of his successful mission.

Suspect #1 then tells victim and suspect #2 if they can show him that they have money of their own, so that they will not touch his money, he will give them all the money for them to distribute to charity. Suspect #2 leaves the scene and returns later and shows suspect #1 what appears to be a large amount of money. The suspects then ask victim if he will obtain money to show his good faith. One of the suspects will go with victim to bank to obtain his money and return. After victim obtains his money, the suspects suggest that they all go the nearest church and pray. When they get to the church, suspect #1 takes the victim's money and ties it up in a bundle with tight knots. All three go into the church to pray. While they are in the act of praying, handkerchiefs are switched. Victim is given the switched handkerchief. He thinks that he has the handkerchief with all the money tied up in it. Suspect #1 then asks suspect #2 to take him to the airport so he can return to his father. The suspects leave telling the victim that suspect #2 will contact him when he returns from the airport. When victim opens the handkerchief he finds folded newspapers. Suspect #2, naturally, never returns.

#### Jamaican Trust Game

The Jamaican Trust Game is characteristically perpetrated by two Negro suspects against a Negro victim, although other races may be the target for this type of scam. It is usually conducted as follows: Suspect #1, approaches a likely victim; speaking in a heavy Jamaican accent he explains that he has just given \$20 to a woman for a date and she has run out on him. Being unfamiliar with the laws of this country, he is uncertain what he should do about the incident. The victim explains that it probably would do no good to report the incident to the police as prostitution is against the law in this country. At about this time, suspect #2, who is standing nearby, overhears the conversation and joins the scene. He explains to Suspect #1 that he can supply him with a beautiful girl at a very reasonable price. Suspect #1 readily agrees to the girl, but expresses doubt about trusting Suspect #2. Somewhat affronted Suspect #2 rallies to his own defense and hands his wallet to Suspect #1 suggesting that he

(Suspect #1) and the victim walk around the corner with the wallet to prove Suspect #2's faith. En route Suspect #1 confides to the victim that he has just gotten off ship and has \$700 on his person. He indicates he still does not thoroughly trust Suspect #2 and requests that the victim keep his money until after the party with the girls. Naturally, there will be a nice fat reward for the victim's trouble. Perhaps having a little larceny in his own heart, the victim agrees. Returning after their brief walk, Suspect #2 learns of Suspect #1's intention to leave his money with the victim and inquires how Suspect #1 knows he can trust the victim. Suspect #1 vigorously defends the victim, but a cloud of suspicion has been cast, so Suspect #2 suggests that the victim give his wallet to Suspect #1 and they (Suspect #1 and Suspect #2) will walk around the corner to prove that the victim has faith and is trustworthy. Taking the victim's wallet, Suspects walk around the corner never to return.

### Paddy Hustle

Young Caucasian servicemen seem extremely vulnerable to this type of bunco scheme. Negro men, posing as pimps, are characteristically the suspects.

Victims: Usually young servicemen fresh out on their first liberty from boot camp.

Suspects: One or two males working without prostitutes, but posing as pimps.

The scene: Invariably a small skid row hotel of the second floor walkup variety, equipped with front and rear exits, a community toilet, and a room clerk's desk which is seldom occupied.

Act I - Suspect #1 approaches the victim and offers to get him a girl at a reasonable price. The choice in girls is represented to be wide and varied, ranging from luscious blonde Scandinavian beauties to exotic creamy-complexioned Orientals.

Act II - When the victim agrees, he is led to a suitable pre-arranged skid row hotel and introduced to suspect #2 who is standing behind the clerk's counter posing as the room clerk. Suspect #2 directs suspect #1 and the victim to the community toilet and disappears ostensibly to see if the girls are ready. Shortly, the suspect reappears and tells the victim there will be a brief wait. A conversation then ensues in which it is explained that although these girls are all or more than represented, they are not trustworthy, and it would be wise for the victim to check his money and valuables with the room clerk until he is finished. To make things appear proper, an envelope is produced in which the victim places his ring, watch, and money. Not to be outdone, the victim demands and receives a receipt for his valuables.

Act III - Separated from his earthly valuables, the victim is directed to go to a room on the second floor. To his astonishment, rather than paradise, he is confronted with "the abominable snowman" and does not know what he is talking about.

Act IV - Rushing back downstairs, the victim discovers his ring, watch, money, and business associates gone. Probably, more often than not, this type of theft goes unreported due to the embarrassment of the victim.

1. We should be cautioned though that if a theft is reported, it should not be classified as a grand theft person, because the victim voluntarily gave his money to the suspects and the type of theft would be determined by the value of combined articles. Therefore, the report should be properly classified as a Paddy Hustle.
2. On occasion, when the victim will not go along with checking his valuables, the suspects will commit robbery to effect their thievery. In this event, a robbery report should be completed.

### Creepers

This type of bunco scheme is characteristically operated by either two prostitutes or a prostitute and an accomplice. In simple analysis, the prostitute picks up her mark in a bar or on the street, and accompanies him to a pre-arranged location where the accomplice is waiting. The location is a dark, suitably equipped room in which to turn a trick. After disrobing and while engaged in the sex act, the accomplice creeps into the room from a place of concealment, and removes the valuables from the victim's clothing which has been placed in a "convenient" chair. If his loss is discovered soon enough, the victim may protest, but it is difficult for him to point the finger of blame at the suspect, for she has been in his view at all times. If he persists, however, he is seldom successful as the lady is on her home ground surrounded by her friends, accomplices, and pimps and who are ready to champion her cause.

1. When reported, this incident should be entitled "Creepers," and not grand theft person, in that the objects of theft were taken off the chair and not from the person of the victim.

### The Badger Game

The time worn adage, "Beware of Greeks Baring Gifts," could never be truer than in the case of the badger game. It can be perpetrated against both sexes but the male, seemingly weaker in the temptations of the flesh, most often falls to embarrassing tenets of this crime. The badger game is usually accomplished by a prostitute and a male friend and follows this time proven pattern. The lady, often voluptuous in looks and proportions, allows herself to be picked up by the mark. She further allows him to make friendly advances and at the proper time being overcome by his powers, manly good looks, and wit -- she allows him to lead her to her private apartment. At the peak of the evening's entertainment, the lady's husband appears to defend his honor. The outraged husband repeatedly photographs the victim without his clothing. Faced with the apparent shocking truth of the situation, the victim is ripe for extortion.

Depending upon their wealth, victims of such schemes will often pay and pay, rather than run the risk of exposure. Although there are many variations that can be utilized in the badger game, one of the recent reports goes as follows:

### False Fire Game

A seductive young prostitute selects one of her higher-priced clientele as the mark. She takes her earthly patron to a particular motel which is decorated in the most fashionable manner and noted for its discreetness. After partaking of the lady's favors, the businessman departs to his workaday, hum-drum world.

A day or two later the businessman receives a call from the manager of the motel who explains that either Mr. Businessman or his "wife" must have left a cigarette burning in their room as the motel had a serious fire which destroyed considerable expensive furnishings in Mr. Businessman's suite. The manager explains that the insurance company representative requested him to call and check to see if a lawsuit could be avoided.

It goes without saying, the businessman might be inclined to pay for the damages. If he checks the premises, he will find the evidence of the fire which will substantiate a law suit. Because Mr. Businessman's wife might be upset by the circumstances, situations of this type are often settled out of court.

### Marriage Bunks

All large cities are literally teeming with lonely persons; persons who in spite of the very present large crowd, are alone in life. Such persons often advertise in local papers for friends, join lonely hearts clubs, or attend old-fashioned dances. Add these factors together and we have a ready prey for the marriage bunk operator. Although operators of such schemes are of either sex, the male gender appears to be the one most often named as suspect. He is characteristically the well-dressed, suave, man of the world variety, seemingly with unlimited financial resources. The victim, to the contrary, is often the shy, reticent type of modest means, usually with a few thousand dollars set aside for old age security.

After initial introductions, and careful interrogation and analysis, the con man chooses his mark. She is then wined and dined in regal surroundings; no queen could be treated with greater regard and attention. After a whirlwind courtship rivalling any romantic fairy tale, the mark is swept off her feet. Without hesitation, she accepts the con artist's undying love and offer of marriage. It is at this point the victim is told that in spite of their great love and immediate need of marriage, the actual wedding will have to be postponed until the bunco artist's funds are released on escrow in another city. He goes on to explain that he has recently sold his business and that all his assets will be tied up for about six months pending the transfer of title to the new owner. If the loving mark is worth her salt at all, she will readily "loan" her future husband sufficient money to enable the ceremony to proceed. After all, their money will all be in the family after the conjugal knot is tied. Without hesitation, she contributes her life savings, often at her own insistence, and the con man is never seen again.

There are many wrinkles that can be added or altered within the marriage bunk; however, the basic scheme remains the same, i.e., the obtaining of money under the promise or inducement of marriage. Ironically, the marriage bunk operators seldom marry their victims; one notorious Los Angeles operator, however, married twenty-six different women, and divorced the same of varying sums of money before he was apprehended.

### Money-Making Machine

The money-making machine, a miracle of modern day electronics, offers a chance for the naive, the gullible, albeit the greedy to get rich quick. Although not in common use today, the money-making machine remains in the confidence man's repertoire, ready to be revived and used whenever the occasion presents itself. As a general rule, this bunk is operated by a person of foreign extraction against victims of similar heritage. Like other bunco operations, the victim does not just happen; he is selected by the confidence man because the victim aside from having money, has certain attributes and weaknesses that mark him as easier prey.

Once the intended mark is located, the con man proceeds in campaign of impressing the victim with his (the con man's) apparent unending wealth. This often includes lavish entertainment and the spending of many new crisp bills. Once the victim begins to display friendship and confidence in the con man, he reciprocates by hinting that he has a great secret which he will share with his new friend.

The next step is the unveiling of his fabulous invention which will representatively dwarf the mythical money tree in magnitude and riches. Leading the victim into a dimly lit room, the con man, in the grand manner of a magician, draws back a cover cloth and reveals his secret invention--the money-making machine. The victim stares in awe at this strange contraption with its many knobs, dials, and levers. He can hardly believe that this machine can really make money, and yet in this day of reproducing machines and colored television, anything is possible. After much pleading, and swearing him to secrecy, the victim finally induces the con man to demonstrate his remarkable invention. Reluctantly, the con man begins to operate the dials of the machine as it begins to warm up, a light from within the machine eerily bathes the room and a strange humming sound is emitted that sounds like something out

of science fiction. Carefully, the con man demonstrates the machine by opening two compartments; into one, he places a crisp new twenty-dollar bill; into the other, he has the victim place a piece of blank, white bond paper. Cautioning the victim to not stand too closely while the machine is operating, the con man begins to operate the dials and levers, increasing the humming sound emitting from within. During the operation, unbeknown to the victim, the con man has pushed a hidden lever, which in turn has caused a third secret compartment to align itself in the position previously occupied by the compartment containing the bond paper.

The con man then opens both compartments and the miracle has occurred; from one he removes his twenty-dollar bill, and from the other he removes a crisp new twenty-dollar bill. The victim is absolutely amazed; he cannot believe what he has seen, and yet, it happened. He examines the money, and though it feels and looks genuine, it is too incredulous to believe. Realizing the mark has taken his hook, the con man suggests that the victim take the newly made money with him and have a banker examine it for authenticity. This, after all, is the real proof. The victim readily agrees, and at the first opportunity, verifies the authenticity of the newly made money.

From this point on, there are various methods that can be used to induce the victim to part with his money. One such method is to allow the victim to purchase the machine. The con man is able to explain that he has had the machine for a considerable length of time and has made more money than he will ever be able to spend. Therefore, why should he not share his good fortune with his new-found friend...for a price, that is.

A second way the theft can be accomplished by the con man is to again share his good fortune with his new-found friend by making him some money with the machine. The con man explains that the machine wets and gradually deteriorates each of the original bills used, so to make a run of money, he needs a large supply of new bills to speed up the process. The mark hurries off and converts his savings into crisp, new money which is then delivered to the confidence man. In this latter method, a confederate of the confidence man is generally used to divert the victim's attention during the period required to produce the new money. This can usually be accomplished by an attractive female accomplice enticing the victim to have a few drinks while he becomes rich. After completion of the process, the victim is shown his money and a comparable stack of new money. Both stacks are then wrapped in the victim's good fortune. After much merrymaking, the victim is given his package and gratefully departs for the bank to deposit his new fortune. At the bank, much to his chagrin, he discovers that a switch of packages has been made, and the one he now possesses contains little more than cut paper as reward for his greed. Naturally, the suspects have since fled and are nowhere to be found.

### Short Change Artists

The interesting aspect of this bunco scheme is the every changing techniques utilized by thieves in taking a victim for money. The amount involved can range from one dollar to a hundred, depending on the capital of the victim and the glibness of the suspect. The short-change crooks operate from small-town service stations to the best hotels in the country. In analyzing many typical occurrences, there are certain general features that prevail in each incident. First, the short-change artist, like other con men, has a good working knowledge of human nature. He possesses enormous confidence in his own ability to out think his victim. Secondly, he is a glib talker and uses a continuous line of chatter to distract the victim from the underlying theft. To accomplish the theft there are several exchanges of money between the suspect and the victim during which the suspect attempts to confuse the victim into giving him more money than he is entitled to. Once the theft is accomplished, the suspect hastily departs before the victim has a good chance to determine that he has been victimized.



To illustrate the short change scheme, let's examine a theft that was actually perpetrated by a suspect on a gasoline station attendant: The suspect drove his vehicle into the gas station and asked directions on how to go to a specified street in the neighborhood. After receiving instructions, he requested to purchase 25 cents worth of gas, but almost immediately changed his mind, told the gas attendant to make it 50 cents worth of gas, thereby setting the stage for subsequent changes of mind in monetary changes. After receiving the gas, the suspect gave the attendant a ten-dollar bill and received \$9.50 in change. The suspect then stated he had made a mistake and did not want so much change. He produced and retained possession five one-dollar bills and a five-dollar bill and asked for a ten-dollar bill in exchange. The attendant gave the suspect a ten-dollar bill, but did not take possession of the suspect's money in exchange as the suspect immediately slapped the five ones, the five, and the ten-dollar bill together, and asked the attendant for a twenty-dollar bill in exchange. The attendant, thereafter, gave the suspect a twenty-dollar bill and received the miscellaneous twenty dollars in exchange. In retrospect, the involved underlying theft might appear quite apparent; however, we should remain aware that the exchanges in money are occurring quite rapidly and accompanied by a continuous line of distracting chatter from the suspect. Hence, confusion on the part of the victim thus enabling the theft.

### Coin Smack

The coin smack is a relatively simple form of larceny in its basic form; however, a few embellishments are tacked on to make it an effective bunco scheme. The bunco men first select a likely victim of a transient nature. Normally, such individuals can be located in bus or railroad terminals or in adjacent cocktail lounges. Suspect #1, a friendly sort of cuss, strikes up a conversation and determines the victim's destination and time of departure. Suspect #1 suggests that they match for a drink and graciously loses. At about this time, the accomplice appears on the scene and often sports a Canadian, Australian, or English accent. Seeing suspect #1 and the victim matching for drinks, he offers to make it a three-way match, odd man to buy the drinks. Suspect #2 loses the match and begrudgingly buys the drinks; as time progresses, suspect #2 becomes more and more obnoxious and berates American sportsmanship.

After some inducement, the victim joins in matching of coins of odd man wins. At this point, after making some snide remarks, suspect #2 absents himself to go the restroom. During the lull, suspect #1 tells victim to always hold heads, thus throwing the win odds considerably in suspect #1's favor if he holds tails. After taking the obnoxious foreigner, they could then divide the proceeds. Disliking suspect #2 and having a little larceny in his own heart, the victim agrees. Thus once again, as in many bunco schemes, we have the hunter who unknowingly has become the hunted. When suspect #2 returns, all three men match for considerable sums of money. Suspect #2 loses consistently and gives suspect #1 his large roll of bills. Suspiciously, suspect #2 then begins to complain that when he lost the victim also lost and that victim had not paid suspect #1. Since the victim feels he is to get half of the winnings, he normally will show his money and will give it to suspect #1 who has risen to his defense. Suspect #2 now loudly complains he has been cheated and leaves to call the police. Suspect #1, manifesting a sense of urgency, tells the victim to leave immediately and to meet in the depot in a half-hour. The victim returns to the depot as specified, but he waits alone as suspect #1 never returns with his money or alleged share of the ill-gotten gains.

1. The theft involved in a coin smack is difficult to substantiate, and can probably only be shown by multiple isolated incidents involving the same suspects, but separate victims, each testifying to substantially the same story. Even the conviction of the suspects might be dubious due to the larcenous intent of the victim.

### The Shell Game and Three Card Monte

The shell game and three card monte are essentially the same bunco scheme, except in the former, three shells and a small pea are utilized, whereas in the latter, three cards are used. As a general rule, both games are conducted by the same operators. Therefore, an explanation of both schemes.

The shell game is based on the old adage that the hand is quicker than the eye. The dealer places a small pea under one of the shells, then moves all three around on a flat smooth surface which usually is covered by felt material; this is done so the pea will not make any rolling noise under the shell to aid in its detection. The player is then allowed to guess which shell pea is under. A proficient dealer can make money honestly at this game for the hand is indeed quicker than the eye, and the odds are two to one that the player cannot pick the correct shell. The crooked dealer by manipulation, cleverly controls the wins and losses and can efficiently separate the player from his money when the time is right.

A typical operation is that an accomplice of the dealer selects a victim and engages him in conversation while both make small bets against the dealer. At this time, the accomplice is carefully analyzing the mark with special emphasis on his larcenous tendencies. After awhile, the accomplice confides with the mark, whispering to him that the dealer is slow and they should increase their bets and take the dealer. The victim watches the dealer and sees that the dealer is noticeably slow, and decides to go along with his "friend" the accomplice, and increases his bets accordingly. The victim is allowed to win a few more times, but then the dealer begins to palm the pea more and more. The victim is allowed to win occasionally to keep his confidence but he loses steadily. The victim may even double or triple his bets in hopes of recouping his losses, but he soon ends up broke, a victim of his own greed.

#### Lemon Game

While this type of confidence game is not widespread, it is still encountered frequently to make it advantageous to review its operation.

The "Lemon" man, as he is often referred to, must have all the characteristics of the typical bunco operator if he is to be successful. He must have a glib tongue and a quick mind. He must be congenial and have the ability to meet and make friends. He must be an actor and have a good understanding of applied psychology. Most important, however, he must be an expert at playing pool.

The "Lemon" man might be found wherever there is a pool game. Of recent years, his base of operations is most likely to be a bar which offers a pool table for the amusement of its patrons. In a typical operation, the suspect strikes up an acquaintance with the victim and suggests a game of pool "just to pass the time," or "just for fun," or some other seemingly harmless reason. In order to make the game interesting, he suggests they play for the cost of the game. Losing the first few games on purpose, the operator good-naturedly suggests to the victim that they double the bet so that he (the operator) can get even. Now the skill of the "Lemon" man at playing pool is most important, in that he must win by very small margins so as not to scare off the victim. The operator usually has the victim convinced that they are not only equal in playing ability, but that the operator wins only by luck.

Meanwhile, the bets are increased in size, and the victim is falling more in the debt of his "lucky" opponent. By this time, it is often the victim that suggests doubling the bets so that he can get even. However, the operator carefully continues to win allowing the victim to win occasionally to maintain his confidence to eventually win. If worked properly, the victim is soon broke and convinced that the operator of the "lemon game" was merely too "lucky."

#### Bunco Crimes Involving Police Impersonations

There are many crimes committed by individuals who use "police impersonation" as part of their modus operandi. These scams most often take the form of a shakedown racket in which victims are subjected

to phony arrests by bogus officers. The incident giving rise to the phony arrest is usually set up by the phony officers to pave the way for acceptance of "cash ball" or the soliciting of a phony bribe. Like other criminals, suspects engaged in police impersonation become specialists in their field and play a convincing policeman role. In this respect, it is interesting to note that the vast majority of victims interviewed were convinced they were dealing with real policemen. On the West Coast, the bribery or ball posting schemes are commonly referred to as "shakes" by both the perpetrator and the police. There are several phony-arrest routine variations which have been used in the California area.

#### 1. Bookmaker Shake

It should be fairly obvious that the phony cop arrest schemes can be adapted to any type of criminal situation. It is equally obvious that things go the smoothest when the victim is caught in the commission of an actual crime or where they believe they have committed a crime.

In that bookmaking, like other forms of gambling is a crime in California. Bookmakers are sometimes ready victims for a phony bribe shakedown for purported police protection. Sooner or later the hoax is discovered, so such shakedowns are generally of a temporary nature rather than a continuing offense, and are generally committed against a novice bookmaker.

#### 2. Badger Game Shake

Another type of shake is a variation of the badger game with the familiar irate husband and movie camera being replaced by police impersonators. With a pre-arranged stage, a pair of bogus vice officers enter the dimly-lighted boudoir and arrest the mark suggestively disposed in the company of a prostitute. The suspects frequently settle for pocket scores (whatever their hapless male may have with him), but the badger shake provides many opportunities for a playback. The normal victim usually has a wife and family, a good job or business, and a healthy fear of publicity, all of which serve to quash his enthusiasm for reporting the circumstances.

#### 3. Fruit Shake

During the past few years, the "fruit shake" or phony cop-homosexual shakedown racket has received a police unmatched by most other kinds of bunco schemes. In the past, a phony cop would locate a homosexual hangout like a bar or a public toilet frequented by homosexuals. The phony cop would operate the deviate and then produce false police credentials and arrest the deviate for lewd conduct. The arrestee would be hustled off toward the police station when a second phony officer would join the first and explain that they had a hot call to make. The bogus policeman would then allow the arrestee to make cash ball on the spot for his offense and would settle for what pocket money they could obtain. The arrestee would normally pay off and feel that he has just bribed a pair of police officers who, like all police officers, are dishonest anyhow.

In recent years, the deviates have been operated by a decoy called a lugger who locates and operates victims. The decoy then suggests a place that is more quiet or clandestine and lugs the victim past a pair of shakemen or bugs police officers en route to his quiet place. The victim is led to an office building when he is compromised, the shakemen appear and arrest both parties. The decoy pleads for his freedom but to no avail and he is taken away to jail since he is well known to the officers. The victim is told he is different from the general people found involved in this type for activity and he is released with a stern admonishment not to be seen in the area again. A good shakeman normally can get considerable information about family, friends, background, job, and financial status from the victim who panics and blurts out answers to any question asked him. Subtle pressures are brought to bear and the victim is certain that if he is arrested the locale will print the story forever ruining him and exposing his sexual foibles to the

entire world.

But one of the policemen is kind and understanding and the victim is released and rushes off amazed and relieved at his good fortune. Three or four days later the officers appear at the victim's home or place of employment explaining that the other arrestee has an aunt with money who has engaged a high-priced lawyer and they are demanding to know why the other person was not arrested. It is explained that a warrant of arrest has been issued, but in another name, for the kind-hearted policeman had made his report with a phony name to protect the victim and he is now in trouble.

Again the victim panics but again he is offered an out, for the policeman can allow him to post cash bail under the phony name and in this manner there would be no necessity for fingerprints, photography or booking the victim into the local bastille. The victim normally supplies transportation to his banking institution and one of the phony officers accompanies him. The bail is withdrawn and they now meet the other bogus officer near the local police station where the money is taken off the victim and the officers disappear to post the bail.

In the words of one shakeman, "You start high with bail amount because you can always come down, but there is just no way to go up." Scores of \$5,000 are common and during the first eight months of 1962, victims reported individual losses of \$20,000, \$15,000, and twice \$10,000 in reporting approximately a dozen "fruit shakes" to the L.A.P.D.

#### 4. Till Tap by Police Impersonation

Although till taps involving police impersonations are not common, a recent incident merits mentioning because it graphically illustrates the brazen extent to which the con man will go to perpetrate his fraud. Recently, a liquor store clerk received a phone call where the caller asked to speak with a police sergeant who was supposed to be in the store. When told the sergeant was not at the store, the caller requested the clerk to notify the sergeant to call the police station upon his arrival. Approximately ten minutes later, a suspect entered the store, flashed a badge of some type, and introduced himself as Sergeant Ferrari of the Detective Division.

Advised of the phone call by the clerk, the sergeant representatively phoned the station from the store phone and appeared to have a short conversation with an unknown person regarding a robbery suspect. The sergeant then advised the clerk that he had received information that the store was to be held up that evening and it would be necessary to set-up a stakeout.

Subsequently, the sergeant advised the clerk to place most of the till money in a brown bag and hide it in a designated spot at the rear of the store; the suspect then places small marks of identification on the paper money remaining in the till. In convincing fashion, the sergeant donned a clerk's apron and proceeded to dust the merchandise. After a short time, he advised the clerk that it would be best to stake the store from the outside, and left the premises.

Subsequently, the clerk discovered the suspect had fled, and had taken the paper bag containing the money.

#### Phony Bank Examiner

This confidence game, like the pigeon drop, is perpetrated almost exclusively against elderly women. The most frequent sites of these operations are residential areas, especially apartment house districts, which are contiguous to shopping, and small business centers which have local banks. These confidence men operating in two- or three-man teams have been very successful and have avoided arrest by selecting their victims carefully, proceeding with great caution throughout the entire transaction

and modifying the basic scheme to decrease the risk of discovery and arrest. If the victim contacts anyone other than those she is instructed to meet, the suspects will cease their activities.

The action begins with a telephone call to the victim. The caller identifies himself as a bank official (examiner, auditor) and informs the victim that the bank has been experiencing some losses from its accounts, including the victims. He requests the victim's aid in catching the thief and offers a reward of cash or bonds for inducement. If the victim agrees, she is instructed to go to her bank and withdraw a specified sum of money, generally between \$1,000 and \$3,000 from her account. The victim is cautioned not to discuss this investigation with anyone and is told to act perfectly natural in the bank so as not to cause any suspicion to arise in bank employees. She is told to get the money in \_\_\_ only so that the serial numbers can be traced and not to handle the bills so as not to destroy the suspect's fingerprints.

Originally, the victim was instructed to return home where a Pinkerton man (bank investigator, examiner, detective) would retrieve the money and return it to the bank. However, the procedure has not been modified. The victim is told that just after she leaves the bank, a bank official will approach her and identify himself with a password such as "Code 7." The victim is then to give him the money.

This is now the only time the victim sees any of the suspects, and then only briefly on the street at a place selected by the suspect after he assures himself that it is safe to proceed.

These suspects are very active in California. Between January 1965 and September 1965, there were more than 15 crimes of this type perpetrated in Los Angeles County.

#### Pickpockets and Purse Picks

Statistics indicate that one out of every 12 city dwellers will be the victim of a pickpocket at some time in their life. The majority of these will be elderly men and women.

The pickpocket may work alone or in groups of two or three persons. The professional pickpocket is considered one of the highest types of mechanical criminals. He is an expert in human reflexes. By using psychology and planned physical reaction in his work, he skillfully maneuvers a victim into a position to remove his wallet or money. Pickpockets operate in many different ways. The theory behind pocket picking is, "You can't steal a man's money if his mind is on it." The timing of the theft is planned on the basis of the principle of misdirection; for instance, when the victim directs his interests to activities of sporting events or boarding buses, or purchasing food at markets, etc., his attention is concentrated in a specific activity rather than an awareness of his general environment.

Thus, misdirected from the physical act of theft. The necessary distraction is often caused by the pickpocket himself; as part of his method of operation, he may burn the person's neck with a cigarette or "accidentally" spit on him. While the victim's mind is so distracted, he is gently divorced from his money. There are amorous women pickpockets who put their arms around a victim, rub against him, and at the same time pick his pocket.

1. Many times, individuals believe they have lost their wallets and are unaware they have been victimized by pickpockets. In this respect, they should be questioned, thoroughly to ascertain if they have been jostled, or in other ways exposed to the surreptitious operations of the pickpocket.
  - a. If the probable act of pickpocketing cannot be established then a Lost Report should be completed in lieu of the theft report.

2. If a woman's purse is detached from her arm and lying on a display counter, for instance, or a man's wallet has independently slipped from his pocket onto a theater seat, and these items are subsequently stolen, a theft report should be taken in most instances, however, the report should not be classified as a pickpocket or a grand theft person.
  - a. In this instance, barring intervening factors, the report most likely would be classified as a plain theft.

### Gypsies

Gypsies have made their way for centuries by convincing the gullible that God has given them a special power to solve all problems, no matter how serious they may be.

Gypsies, with no formal education--only the practical psychology learned on the street in everyday life--swindle most people who come to them for help as easily as taking candy from a child, simply because going to a Gypsy for help is usually the last resort. The victim frequently has tried almost everything else and all has failed. Being helpless, they are thus most susceptible to the Gypsy's cunning. While no one is immune from the Gypsy's charms, victims are often elderly people.

One of the most common Gypsy schemes is fortune telling which provides the Gypsy with a supply of victims for major bunco thefts. By advertising in a local newspaper or by distributing advertisements from door-to-door, the potential victim is obtained.

First, the victim has his fortune told; the fee is usually two to ten dollars.

By skillful interrogation the Gypsy is able to learn about problems the victim may have and if the victim is a person of means. Next, the Gypsy assures the victim of the power of prayer, offering to pray and to burn candles for a price, which depends on how large a candle the victim wishes burned. Victims are told that there are evil spirits within their bodies which cause their problems and these evil spirits are caused by money, "the root of all evil."

To confirm their supernatural prowess the Gypsy may perform a practical demonstration by having the victim bring in a raw egg and producing a black mass with the egg (by sleight of hand) representing the evil. Or the Gypsy may produce a skull within a tomato also representing an evil spirit. After the victims are convinced their bodies do contain evil spirits which have caused their problems, the rest is easy. It is impressed upon the victim that his money is the source of his trouble and that only by removing the money can they be rid of the evil spirit.

The victim is then told to bring in a large amount of money, the larger the bills the better. The Gypsy takes the money and tells the victim either that it will be flushed down the toilet, thrown in the ocean, or buried in a cemetery. Occasionally, they will ask the victim to throw the money in the ocean after placing the money in a cloth bag and sewing the ends. While the victim's attention is distracted, the bag is switched.

Other crimes perpetrated are gem repair, body and fender repair, plating, roof and driveway coating, and insurance frauds.

Gypsies seldom use the same name twice upon being arrested, adding to the confusion of identification. Also, Gypsy women make up in various ways to avoid identification by victims.

Only frequently do the victims report being swindled wishing to avoid the embarrassment of being asked, "How could you be so gullible?"

### Williamsons

The Williamsons are a Gypsy-type clan of door-to-door solicitors who have been swindling the public for over 50 years. At the present time, they are primarily engaged in oiling roofs and driveways with a substandard grade of oil diluted with inflammable solvent or water. The method used is nearly always the same; the salesman approaches elderly homeowners with the observation that the roof is in need of repair and has just enough oil left over from large commercial job and will spray the roof for just under \$100. A useless 10 to 20-year guarantee against leaks is verbally given and the roof is sprayed in about 20 minutes. Occasionally they quote no price and demand \$500 to \$700 from very old victims and, by intimidation, frighten them into paying.

The Williamsons have been called the "terrible Williamsons" and the "Williamson - McMillan Gang." The exact number in the group is unknown but estimates run from 300 to 500. They are a clannish group that marry only within the group, mingling with outsiders only to relieve them of their money.

The name of individuals in the group are Williamson, McMillan, Daly, Stewart, Carrol, Johnson, Gregg, Halliday, and McDonald. They invariably have a Scotch accent and drive immaculately-kept model pick-up trucks with new spray equipment. The group arrives in Los Angeles early in November and leaves around the first of April taking thousands of dollars obtained from local citizens.

The Williamsons are reported to have vast real estate holdings throughout the United States amassed from the profits from the roof oiling business.

### Magazine Solicitors

"Will you vote for me in my popularity contest?" You look and see this young, clean-scrubbed face looking at you innocently, almost pleadingly. If you're like most people, your heart goes out to this person seeking your help. But before we progress too far, let's divorce ourselves of our natural charitable instinct to lend a helping hand to the young folk and take an objective, detached look at the magazine solicitor and his method of operation.

To many persons, it may come as a surprise to learn that most door-to-door magazine solicitors are con men--just as unscrupulous as the parasite who sells rings and watches on the street for prices far above their actual worth. For, actually a con man is a person who, by appealing to your weaknesses and emotions, induces you to purchase an article that you probably do not want at a price that is usually exorbitant in relation to its actual value. Many magazine solicitors qualify.

Let's take a look at their usual method of operation. The solicitor may work alone or in partnership with another solicitor. He approaches you at your door usually with the pitch that he is engaged in a popularity contest that will enable him to win a scholarship for college, or a cash award to enable him to go into business. Rarely will the solicitor admit that he is selling magazines, even under the most direct questioning, until he has gained admittance to your house. Once inside, the solicitor expertly scrutinizes you and your home for things that can be used as a basis for his sales pitch. For instance, if he spots a religious symbol, he will automatically be of your same religion, or even studying for the ministry, and will attempt to sell you religious-type magazines. If he spots law books, he will be studying to be a lawyer. In any event, he will find some common ground of conversation. By some occasions, solicitors will have told prospective customers that their contest is being conducted in conjunction with the local banks and customer's checks will not be cashed, but used only by the bank in tabulating votes for contestants.

On other occasions, they have told customers that their partial payment checks will be sent to the parent company and held in trust for thirty days. If at the end of this thirty days the company has not

received the balance due on the order the check will be returned to the customer and the order canceled.

There are many stories the solicitor can give, but his sole purpose is to induce you to purchase magazines. Once you are committed to a purchase, you are then encouraged to pay in cash. Naturally, if you don't have the cash, a check is acceptable, but the solicitor attempts to induce you to leave the "Pay to the order of" portion blank, stating that they will stamp in the company name later. Once out of your home, the solicitor will write in the word "cash" or his name in this portion and immediately cash it at a local store where you are known or at your bank.

There are certain measures one can take to protect himself:

1. Do not allow any solicitor to enter your home. Any purchase you want to make can be made while the solicitor is on your front porch. (We have had reports of solicitors committing acts of violence against the person of customers.)
2. If you do allow the solicitor inside your residence, do not leave him alone at any time. Solicitors have been known to steal checks and other items while the occupants were out of the room (getting the solicitor a drink of water, for example.)
3. If you do purchase magazines, do not pay in cash and do not give an incompletely filled-out check. Remember, the solicitor is authorized by the parent company to cash all checks, even those made out to the parent company.
4. Require all verbal representatives to be completely enumerated in writing, preferably on the order blank, and signed by the solicitor.
5. The purchaser of the magazines, should remember that it is usually cheaper, and delivery is more prompt and reliable, if direct contact is made with the publisher rather than with a door-to-door solicitor.

#### Religious Solicitors

Your doorstep is our pulpit. Through your donations you are carrying on God's work by supplying funds by which Bibles are purchased and distributed to those less fortunate than ourselves. What more noble purpose!

It never occurs to many of us to question a person in clerical garb, and yet, he may be every bit the con man that the shell man or the circus barker is. His main purpose, like any con man, is to separate you from your money. Let's take a look at his operation.

Like all con men, the unscrupulous religious solicitor presents a picture in keeping with the impression he wants to convey. His clothing may vary from only a Salvation Army-type hat to the complete regalia of clerical garb; his props usually include religious literature and perhaps a Bible. In greeting you at your door, the solicitor explains his noble purpose and requests you make a donation which is purportedly to purchase Bibles for distribution to the poor. On some occasions, the solicitor may request admittance to your residence to pray for your salvation, and your generosity. After this conditioning process, you are requested to donate whatever your conscience dictates "for God's work." Irrespective of what you donate, the solicitor departs, satisfied in having hit another mark.

Let's take a look at how each dollar collected is divided: 60 cents goes to the solicitor who approached you at your door as his wages; 10 cents goes to a crew manager who transports and supervises



solicitors in your neighborhood; 25 cents goes for business expense which includes rent for the so-called church which is generally a converted store with a few benches and perhaps a podium complete with pulpit, and wages for the persons providing the corporate name and hats for the solicitors; in the final analysis, 5 cents, at the most, is used for the purchase and distribution of Bibles to the poor and needy.

Although this type of operation is unethical, it is not illegal. Most of these organizations are incorporated as non-profit religious corporations; they are legally classified as churches and are therefore immune from taxation. As a result, they are entitled to solicit donations in perpetuation of their church and evangelistic work.

This description of the pseudo-religious type of organization would have the natural result of making one wary of all door-to-door religious solicitations. However, there are legitimate religious organizations making door-to-door solicitations; so how can one protect himself from the illegitimate ones? Probably the simplest method is not to give to any questionable organizations at the door under any circumstances. If an organization is legitimate, the solicitor should not mind identifying himself and supplying his local business address.

#### The Gambling or Dice Switch Bunco

A foreign president of a photographic manufacturing company in Tokyo, and his associate, stopped in Los Angeles on their way to a photographic convention in Chicago. They met two young men from his country near the Statler Hilton Hotel. They didn't know that the two young men were about to cheat them out of their money.

A third swindler, a male from another similar country, walked by and began talking to one of the first swindlers. The men invited the foreign businessmen to their room at the Alexandria Hotel. The three swindlers got into a dice game among themselves while the businessmen watched. One of the first swindlers won \$5,000 from the third swindler. The third swindler then accused the first swindler of cheating and that he never had any money to start with. The first swindler then asked one of the businessmen to quietly loan him some money to prove to the third that he was honest. So the businessman cashes a travelers check for \$5,000 and loans the money to the first swindler.

The third swindler demands just one more toss of the dice for the entire amount and the first swindler agrees.

The first swindler asks the businessman to stand behind the third and tell him quietly whether the numbers on the dice are even or odd. The businessman replies "Odd." When all of the numbers are revealed, an even number is displayed. The third suspect picks up all of the money and says he is returning to his room at the Beverly Hilton. The first swindler blames the businessman for the bad information and tells him to leave.

The businessmen go back to the Alexandria Hotel and find the two swindlers have quickly checked out. The Beverly Hilton Hotel is contacted and they find the third swindler has also moved.

#### Till Taps

Suspects enter store separately. One suspect makes a small purchase. Both suspects go to cashier together. The suspect that makes purchase will pay for his purchase to get cashier to open the register. After register is opened, the suspect will point to an article in the back counter to the rear of the cashier. When cashier reaches for his article this suspect will remark, "No, not that," and point to another article. While this going on, the other suspect will reach into the till and remove paper currency

and depart from the store. Then the suspect that has been confusing the cashier will depart.

In some cases, the suspect that is making the purchase will drop some small coins on the counter so they will roll off to the back of the counter. This occurs after register is opened. While cashier is picking up these coins, the other suspect will take all the paper money from register.

Merchants should be advised to caution clerks to always close register if they turn their back or reach to floor to retrieve any articles.

## ADDITIONAL REFERENCES

Black, Henry Campbell, Black's Law Dictionary. Minnesota: West Publishing Company.

"Burglary" A 6 74-1, Attorney General Series, Department of Justice.

"Burglary" CCL 16, California Criminal Justice Series, Riverside Academy of Justice.

California Digest, West Publishing Co., St. Paul, Minnesota.

California Penal Code, Legal Book Corporation, Los Angeles.

California Reporter, West Publishing Co., St. Paul, Minnesota.

Deering's California Penal Code, California: Barcroft-Whitney Co., Publishers. (Compilation of the Penal statutes of the State of California, both substantive and adjective in nature.)

The Los Angeles Daily Journal. Los Angeles, California: Daily Journal Company, Publishers, a daily legal newspaper.

Supreme Court Report, West Publishing Co., St. Paul, Minnesota.

Weekly Law Digest. California: J. Mason Wlegal, Publisher, weekly publications.

West's Annotated California Codes, Minnesota: West Publishing Co., with cumulative pocket part.  
(An additional source of appellate court decisions that have impacted on the penal statutes of this state.)