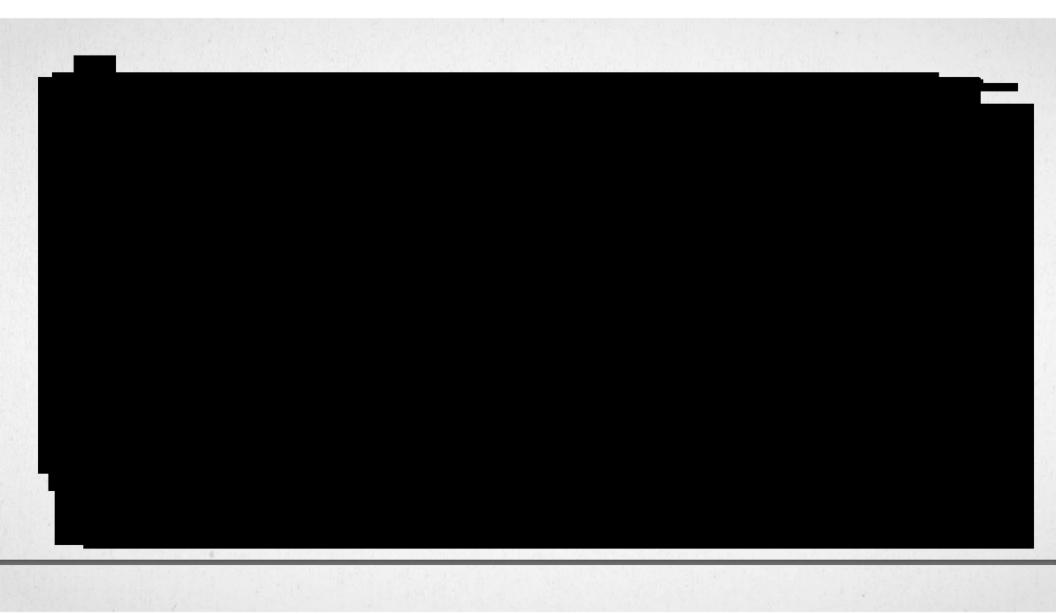




PRIMARY FELONY GUN STATUTES

- Penal Code 29800 Felon in Possession
- Penal Code 29900 Violent Offender in Possession
- Penal Code 29805 Specified Misdemeanant in Possession
- Penal Code 29815 Probation with Gun Restriction in Possession
- Penal Code 29820 Specified Former Juvenile Ward in Possession
- Penal Code 30305 Any prohibited person with ammunition
- Penal Code 25850 Carrying A Loaded Firearm (with elevator)
- Penal Code 25400 Carrying a Concealed Firearm (with elevator)



PC 29800

FELON IN POSSESSION

- Any prior **felony conviction**
- Anyone who has an outstanding warrant for a felony offense
- Anyone with a **misdemeanor conviction** for PC 245(a)(2), assault with a firearm, or PC 245(a)(3), assault with a machinegun, PC 246, shooting into an inhabited dwelling, or PC 417(c), brandishing a firearm in the presence of a peace officer.
- Anyone with **two prior convictions** for PC 417(a)(2), brandishing a firearm

PC 29900 - VIOLENT OFFENDER IN POSSESSION

- PC 187, Murder
- · PC 192(a), Voluntary manslaughter
- · Any mayhem
- Any rape
- · Any sodomy by force or threat
- · Any oral cop by force or threat
- · Any lewd acts on a child under 14
- · Any felony punishable by death or life
- Any felony with GBI (not necessarily just 12022.7)
- Any felony with personal use of a firearm (not just 12022.5 or 12022.53)
- · Assault with intent to commit rape or robbery
- PC 245(c), assault on peace officer (weapon required)
- PC 4501.5, Assault on non-inmate (life inmates only)

- PC 4501, Assault by inmate with deadly weapon (weapon required)
- PC 451, Arson
- PC 18745 & 18755, Exploding a destructive device with the intent to injure, causing GBI, or causing murder
- · Any robbery
- · Any kidnapping
- · PC 4503, taking a hostage by an inmate
- · PC 4530, Escape by force or violence
- PC 245, ADW or means likely
- Any felony gang crime under PC 186.22(a) or (b)
- PC 246, shooting at inhabited dwelling
- PC 417(c), brandishing a firearm in presence of peace officer, or two violations of PC 417(a)(2), brandishing firearm
- · PC 215, Carjacking

PC 29900

VIOLENT OFFENDER IN POSSESSION

- Same punishment as a 29800, but if probation is granted, defendant must serve a minimum of 6 months in county jail
- Court can suspend six month jail sentence by finding unusual circumstances and placing it on the record

PC 2980!

SPECIFIED MISDEMEANOR GUN BAN

- PC 71 Threats to Officers (NOT PC 69!)
- PC 76 Threats to Other Public Officials
- PC 136.1 Dissuading A Witness
- PC 136.5 Armed with DW with Intent to Dissuade Witness
- PC 140 Retaliatory Threats to Witnesses
- PC 148(d) Taking Officer's Gur
- PC 148.5(f) Falsely Reporting Stolen Gun
- PC 171b, 171(c)(a)(1) & 171d Bringing gun to gov't building or official residence
- PC 186.28 Giving firearm to gang member

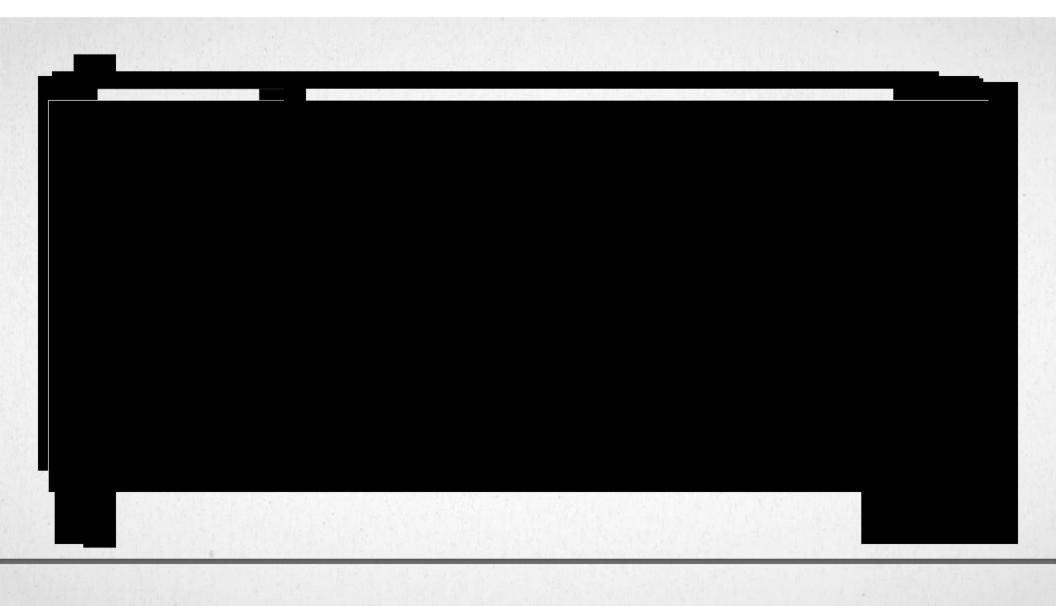
- PC 240 & 241 Assault (NOT 415)
- PC 242 & 243 Battery
- PC 243.4 Sexual Battery
- PC 244.5 Assault With A Stun Gun
- PC 245 ADW/Means Likely
- PC 245.5 ADW on School Employee
- PC 246.3 Negligent Discharge
- PC 247 Discharge At Unoccupied Vehicle / Uninhabited Building
- PC 273.5 DV w/ Injury (Lifetime Ban if After 01/01/2019)
- PC 273.6 DV R.O. Violation (NOT 166!)

PC 2980!

SPECIFIED MISDEMEANOR GUN BAN

- PC 417 Brandishing (all types)
- PC 417.6 Brandishing w/ Serious Injury
- PC 422 Criminal Threats
- PC 422.6 Hate Crime Threats
- PC 626.9 Gun In School Zone
- PC 646.9 Stalking
- PC 830.95 Wearing A Police Uniform While Picketing
- PC 17500 Armed with deadly weapon with intent to assault
- PC 17510 Carrying deadly weapon while picketing
- PC 25300 Carrying firearm while masked
- PC 25800 Carrying a loaded firearm with intent to commit a felony

- PC 30315 Possession of armor-piercing ammo
- PC 32625 Possession of machine gun
- PC 26100(a) Driver or owner of vehicle permits illegal firearm in vehicle
- PC 26100(b) Driver or owner of vehicle permits drive-by shooting
- PC 27510 Dealer selling firearm to minor
- WIC 8100 & 8103 Possession of firearm by mental disordered person (WIC 5150 and NGI/SVP/etc)
- WIC 8101 Giving firearm to mentally disordered person
- WIC 871.5 & 1001.5 Firearms in penal institutions
- PC 490.2 Theft of firearm
- PC 27500 et seq Firearms transfer violations







PC 29820 JUVENILE GUN BAN

- PC 25850 Carrying Loaded Firearm
- PC 25400 Carrying Concealed Firearm
- HS 11351/11352, sale/transport of more than 1 oz of cocaine (only)
- HS 11378/11379, sale/transport of more than 1 oz of meth (only)
- HS 11379.6 manufacturing controlled sub.
- HS 11353/11380 soliciting a minor to sell/make cocaine or heroin
- HS 11382 furnishing meth to minors, with specified priors
- PC 187, murder
- PC 451(a) & (b), arson of dwelling
- · Any completed robbery

- Any rape by force, violence, or threat
- Any sodomy by force, violence, or threat
- PC 288(b), lewd act on minor/dependent by force
- Any oral cop. by force, violence or threat
- PC 289(a), forcible sexual penetration
- PC 209, kidnapping for ransom or robbery (only)
- Any kidnapping with bodily harm
- PC 664/187, attempted murder
- Any assault with a firearm or destructive device
- Any assault by means likely to produce GBI (includes ADW by case law)
- PC 246, discharge firearm at inhabited building

PC 29820 JUVENILE GUN BAN

- Specified serious and violent crimes where GBI is inflicted against people over 60, as defined in PC 1203.09
 - Includes all kidnappings and carjackings against persons over 60 with GBI
 - Includes PC 459/460(a) residential burglary against person over 60 when GBI is inflicted
- Crimes with PC 12022.5 and 12022.53 personal use of firearm enhancements
- Any felony where a "generally prohibited weapon" under PC 16590 is personally used
 - · Including use of a concealed dirk or dagger
 - Including use of metal knuckles
- PC 136.1, dissuading a witness (felony only)
- PC 137, falsifying evidence/bribing a witness (felony only)
- Manufacturing or selling more than 0.5 oz of opiates
- Any violent felony which has a 186.22(b) gang allegation

- WIC 871(b), escape, if there is GBI on an employee
- PC 206/206.1, torture
- PC 205, aggravated mayhem
- PC 215, carjacking, only when armed with a weapon
- PC 209(b), kidnapping for sexual assault
- PC 209, kidnapping for ransom or robbery (only)
- PC 209.5, kidnapping for carjacking
- PC 26100(c), drive-by shooting
- PC 18745, exploding a bomb with intent to murder
- PC 192(a), voluntary manslaughter
- · Any PC 29805 specified misdemeanor

PC 29820

JUVENILE GUN BAN

- Juvenile gun ban is until age 30
- Note that many common offenses are not on this list!
 - PC 664/211, attempted robbery
 - PC 459/460(a), residential burglary
 - PC 215, carjacking when no weapon is used
 - PC 207, simple kidnapping
 - · PC 33215, possession of short-barreled shotgun
 - PC 30605, possession of assault weapon
 - Felony grand theft of a firearm (though misdemeanor firearm theft triggers a ban)

PC 29820

JUVENILE GUN BAN

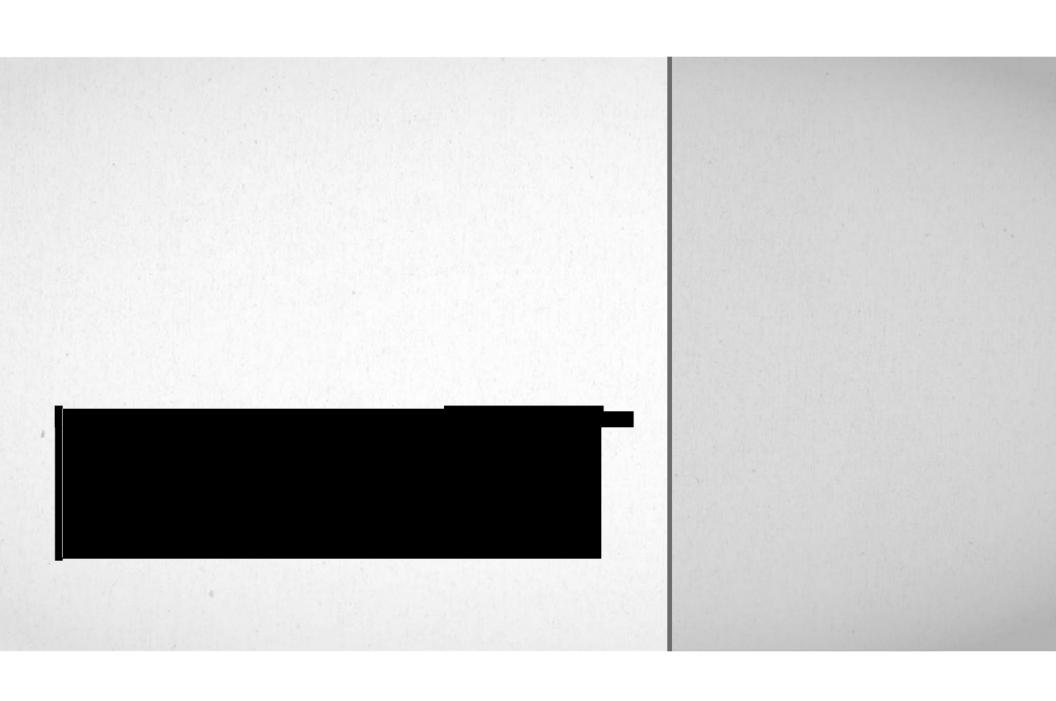
- Many juvenile
- Note that many common offenses are not on this list!
 - PC 664/211, attempted robbery
 - PC 459/460(a), residential burglary
 - · PC 215, carjacking when no weapon is used
 - PC 207, simple kidnapping
 - PC 33215, possession of short-barreled shotgun
 - PC 30605, possession of assault weapon
 - Felony grand theft of a firearm (though misdemeanor firearm theft triggers a ban)

PC 25850 – CARRYING LOADED FIREARM PC 25400 – CARRYING CONCEALED FIREARM

- Both of these statutes are misdemeanors, unless special circumstances apply. Common elevators include:
 - Gun is loaded and not registered to owner PC 25850(c)(6) and PC 25400(c)(6)
 - They have any prior conviction for almost any gun offense (those listed in PC 16580), including prior misdemeanor convictions for 25850 (Loaded Firearm), PC 25400 (Concealed Firearm), PC 33215 (short-barreled shotgun), and PC 30605 (assault weapon) PC 25850(c)(1) and PC 25400(c)(1)
 - Firearm is stolen and person knew or should have known it was stolen PC 25850(c)(2) and PC 25400(c)(2)
 - Person is active participant in street gang PC 25850(c)(3) and PC 25400(c)(3)
 - Person has previously been convicted of any crime against person or property PC 25850(c)(5) and PC 25400(c)(5)

OTHER GUN CHARGES

- PC 30305 Prohibited person in possession of ammunition
 - Same requirements as the primary gun prohibitions
 - Empty magazines are "ammunition" under the statute
- PC 18205 Gun Violence restraining orders
 - Misdemeanor charges, no other statute has been updated to reference them
- PC 29825 Person prohibited by restraining order
 - · Purchasing or receiving is a felony
 - · Possession is a misdemeanor
 - Note: **possession of ammunition** is still a felony under PC 30305



PRIMARY DOMESTIC VIOLENCE STATUTES

- Penal Code 273.5
- Penal Code 646.9
- Penal Code section 243(e)(1)
- Penal Code 166(c)(1)
- Penal Code 273.6

PC 273.5 - CORPORAL INJURY TO A SPOUSE

- PC 273.5(a) wobbler 2-3-4 state prison
 - 1203.097 offense
 - 1109 for future cases involving DV
 - Automatic lifetime firearm ban
 - Felony PC 29800(a)(1) (state prison non-wobbler)
 - Misdemeanor PC 29805(b) (state prison wobbler)

PC 273.5 - CORPORAL INJURY TO A SPOUSE

- PC 273.5(f)(2) wobbler 2-3-4 state prison
 - PC 273.5 +
 - Prior Conviction within 7 years for:
 - PC 243(e)(1)
- Difference between (a) and (f)(2) court can fine you up to \$10,000 for an (f)(2) violation.

PC 273.5 - CORPORAL INJURY TO A SPOUSE

- PC 273.5(f)(1) wobbler 2-4-5 state prison
 - PC 273.5 +
 - Prior Conviction within 7 years for:
 - PC 243(d) serious bodily injury
 - PC 243.4 sexual battery
 - PC 244 assault with a caustic chemicals
 - PC 244.5 assault with stun gun or less lethal weapon
 - PC 245 assault with a deadly weapon / means likely to cause GBI
 - PC 273.5 corporal injury to a spouse
 - It does not matter whether the prior convictions are misdemeanors or felonies.

PC 646.9 - STALKING

- PC 646.9(a)
 - Wobbler 16-2-3 state prison
 - Court preference towards 10 year CPO [PC 646.9(k)]
 - Court may consider 290 [PC 646.9(d)]
- PC 646.9(b)
 - Non-Wobbler 2-3-4
 - Violation of PC 646.9(a) + CPO or ANY R/O in effect.
- PC 646.9(c)
 - Not a substantive charge / sentencing enhancement for 646.9(a)
 - Wobbler 2-3-5
 - Violation of PC 646.9(a) + **FELONY** violation of 273.5, 273.6, or 422

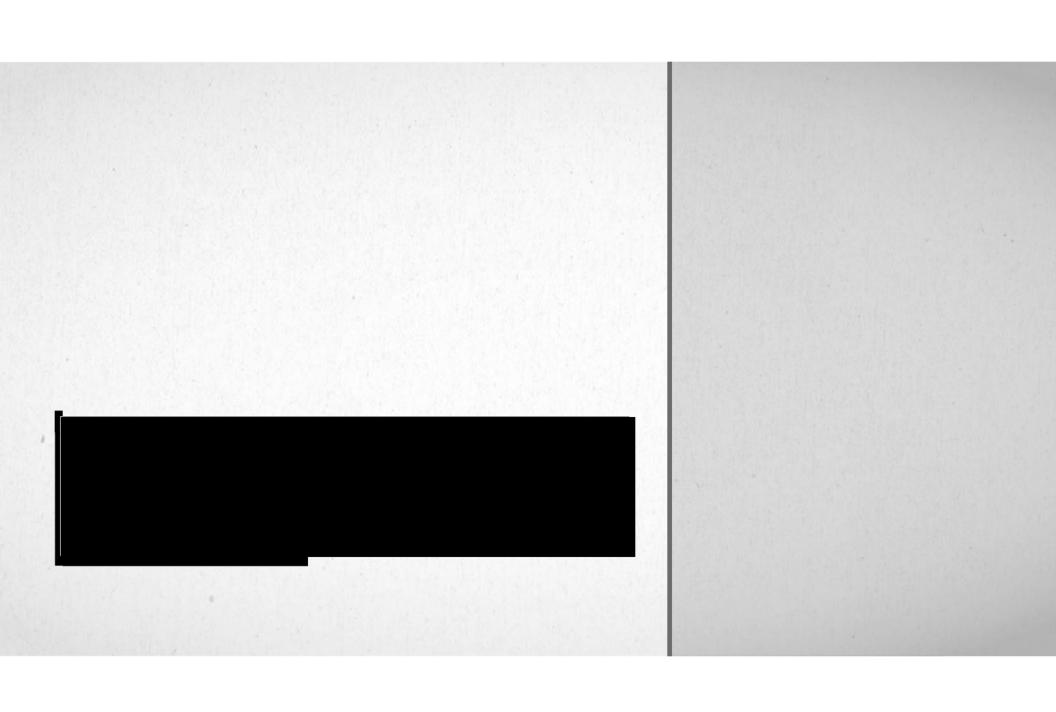
PC 273.6 – DOMESTIC RESTRAINING ORDER VIOLATION

- PC 273.6(a) misdemeanor offense
 - 10 year firearm ban per PC 29805
 - 1109 evidence
 - 1203.097 offense [PC 273.6(h)(1)]
- PC 273.6(d)
 - Prior PC 273.6(a) conviction within 7 years and the violation involved an act of violence or a "credible threat of violence"
 - Wobbler 16-2-3 1170(h) offense.

PC 166(C)(1) – DOMESTIC RESTRAINING ORDER VIOLATION

- PC 166(c)(1) misdemeanor offense
 - Firearm ban ONLY while order is in effect (Per PC 29825). No firearm ban for conviction.
 - 1109 evidence
 - 1203.097 offense [PC 273.6(h)(1)]
- PC 166(c)(4)
 - Prior PC 166(c)(1) conviction within 7 years and the violation involved an act of violence or a "credible threat of violence"
 - Wobbler 16-2-3 STATE PRISON offense.





AUTO THEFT - VC 10851 / PC 666.5

- PC 666.5
 - Prior felony violation of VC 10851
 - Prior felony violation of 487(d) to wit: automobile
 - Prior felony violation of PC 496d
- Sentencing enhancement Makes auto theft crimes a 2-3-4, 1170(h) stealth wobbler.

IDENTITY THEFT PRIMARY STATUTE

- PC 530.5
 - PC 530.5(a) \rightarrow Use of PII's 16-2-3, 1170(h)
 - PC 530.5(c)(3) \rightarrow Possession of 10 or more individuals PII's w/ intent to defraud 16-2-3, 1170(h)
 - PC 530.5(c)(1) \rightarrow Possession of PII w/ intent to defraud \rightarrow Misdemeanor
 - PC 530.5(c)(2) \rightarrow Possession of PII w/ intent to defraud with prior 530.5

IDENTITY THEFT PII

- PC 530.55
 - Personal Identifying Information has an exhaustive list, most common are:
 - · Name
 - Address
 - Telephone Number
 - · Date of Birth
 - · School identification number
 - · Driver's license
 - · Social security number
 - · Credit Card Number
 - But statute includes many others including:
 - Biometric Data
 - · Health insurance number





WHAT IS A CRIMINAL STREET GANG?

- Penal Code section 186.22(e) & (f)
- Association of three or more individuals
- · With a common name, sign or symbol
- One of its primary activities is the commission of specified crimes
- Members of the gang have committed at least two "pattern priors" among a set of specified crimes
- The list of "pattern crimes" both for primary activities and pattern priors is called informally the "Dirty 33"
 - 28 of these crimes can be used to show the primary activity of the gang "primary offenses"
 - 5 can only be used to show a pattern of criminal activity "secondary offenses"

Primary Offenses

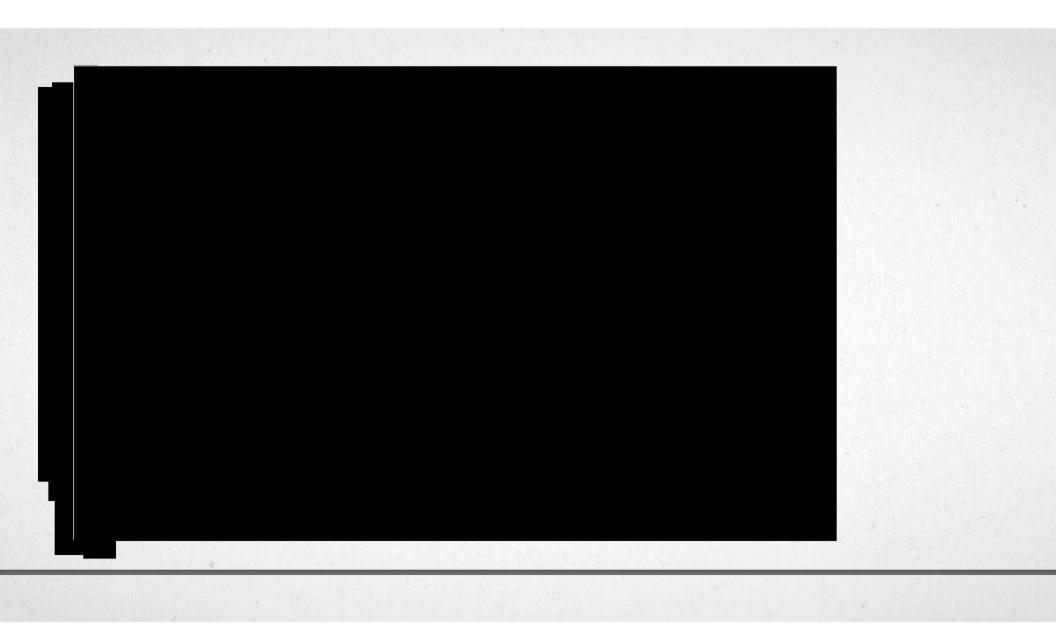
- · PC 245, any subsection weapon, means, firearm
- · CC 211 et seq, any robbery
- · Any murder or manslaughter
- Any sale, possession for sale, or manufacture of a controlled substance
- PC 246, shooting at occupied dwelling or vehicle
- PC 26100(a)&(b), discharge/permitting discharge from motor vehicle
- · Any arson
- PC 136.1, dissuading a witness
- PC 487(a)&(c), grand theft

- PC 487(d), grand theft firearm/vehicle
- PC 459, burglary (any degree)
- PC 261, rape
- PC 463, looting
- · PC 186.10, money laundering
- · PC 207, kidnapping
- · PC 203, mayhem
- · PC 205, aggravated mayhem
- PC 206, torture
- PC 518 & 520, felony extortion
- PC 594(b)(1), felony vandalism

- PC 215, carjacking
- PC 27500 et seq, delivery of firearm to unauthorized person
- PC 29610, minor in possession of handgun
- PC 422, criminal threats
- VC 10851, unlawful taking or driving of a vehicle
- PC 29800 et seq, prohibited person with firearm
- PC 25850, carrying loaded firearm
- PC 24500, carrying concealed firearm

Secondary Offenses

- PC 484e, access card theft (felonies only)
- · PC 484f, access card counterfeiting
- PC 484g, fraudulent use of an account (felonies only)
- PC 530.5, unlawful use of personal identifying information
- PC 529.7, wrongfully obtaining DMV documents



THANK YOU