

Memorandum

TO: ALL DEPARTMENT PERSONNEL **FROM:** Anthony Mata
Chief of Police

SUBJECT: LAW CHANGES FOR 2022

DATE: December 23, 2021

Memo# 2021-048

INFORMATION

The following is a summary of relevant law changes and additions for the year 2022, as referenced in the following documents:

- [California District Attorneys' Association - 2021 Legislative Digest \(link\)](#)
- [California Peace Officers' Association – 2022 CA Legal and Legislative Digest \(link\)](#)

Officers should review the complete code sections to ensure all elements are met prior to taking any enforcement action under the new provisions. A complete copy of the digests with all law changes are available online at the above links. Unless otherwise indicated, all the following law changes go into effect January 1, 2022.

ELECTIONS CODE

Elections C. 18370 (Amended) (Ch. 318) (SB 35) (Eff. 1/1/22)	Expands the list of misdemeanor election crimes to include: 1. Soliciting a vote, circulating a petition, or electioneering within 100 feet of an outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot. 2. Soliciting a vote, speaking to a voter about marking the voter's ballot, or disseminating visible or audible electioneering information, to a person on election day or at any time the voter is casting a ballot, within the immediate vicinity of a voter in line to cast a ballot or drop off a ballot.
Elections C. 18541 (Amended) (Ch. 318) (SB 35) (Eff. 1/1/22)	Expands the list of felony crimes of prohibiting dissuading another person from voting, by adding the following: 1. Obstructing ingress, egress, or parking, within 100 feet of a polling place, elections official's office, election satellite location, or curbside voting area. 2. Soliciting a vote, speaking to a voter about marking the voter's ballot, or disseminating visible or audible electioneering information, with the intent of

	dissuading another person from voting and within the immediate vicinity of a voter in line to cast a ballot or drop off a ballot.
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GOVERNMENT CODE

Gov't C. 7286 (Amended) (Ch. 403) (AB 26) (Eff. 1/1/22)	Adds the following to the list of things that a law enforcement agency's policy on the use of force must include: 1. Procedures to prohibit an officer from training other officers for a period of at least three years from the date that an "abuse of force" complaint against the officer is substantiated. 2. A requirement that an officer who has received all required training on the requirement to intercede and fails to act, be disciplined up to and including in the same manner as the officer who committed the excessive force. (Existing language in this section requires an officer to intercede when he or she observes another officer "using force that is clearly beyond that which is necessary.") 3. A prohibition on retaliation against an officer who reports a suspected violation of a law or regulation by another officer, to a supervisor or other person at the agency that has the authority to investigate the violation. Adds a definition of "retaliation:" a demotion, failure to promote, denial of access to training, denial of access to resources necessary to properly perform duties, intimidation, harassment, or threat of injury. Adds a definition of "excessive force:" a level of force that is found to have violated existing P.C. 835a, the requirements on the use of force in this section, or any other law or statute. Adds a definition of "intercede:" Physically stopping the excessive use of force; recording the excessive force if equipped with a body-worn camera; documenting efforts to intervene or efforts to de-escalate; confronting the officer about the excessive force during the use of force; and, if the officer continues the excessive use of force, reporting to dispatch or the watch commander the offending officer's name, unit, location, time, and situation.
Gov't C. 7286.5 (Amended) (Ch. 407) (AB 490) (Eff. 1/1/22)	Prohibits a law enforcement agency from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia. Continues to prohibit a law enforcement agency from authorizing the use of a carotid restraint or choke hold. Defines "positional asphyxia" as situating a person in a manner that compresses the airway and reduces the ability to sustain adequate breathing. Provides that this

	includes the use of a physical restraint that causes a person's respiratory airway to be compressed or impairs breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia.
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PENAL CODE

P.C. 118.1 (Repealed & Added) (Ch. 267) (AB 750) (Eff. 1/1/22)	Repeals the existing felony crime of a peace officer filing a false report, which prohibits a peace officer from intentionally making a statement in a report about a material matter that the officer knows to be false. Adds a new version of P.C. 118.1 to expand this crime to also apply to an intentional and false material statement made by one peace officer to another peace officer, and the statement is included in a peace officer report. Provides that P.C. 118.1 does not apply to the officer who writes the report and who includes statements from another officer in the report, unless the writing officer knows that the statement from the other officer is false and includes the false statement in the report in order to present it as true.
P.C. 186.22 (Amended) (Ch. 699) (AB 333) (Eff. 1/1/22)	Creates P.C. 1109, which requires P.C. 186.22(b) or (d) be tried separately from the underlying charges if the defense requests this. This also provides that if a defendant is charged with P.C. 186.22(a) (the crime of actively participating in a criminal street gang), this count must be tried separately from all other counts that do not require gang evidence as an element of the crime, and may be tried in the same proceeding with a P.C. 186.22(b) or (d) enhancement. P.C. 186.22 amendments include: 1. Changes the definition of "pattern of criminal gang activity" to <i>require that any benefit to the gang be more than reputational and prohibits the currently charged offense from being used to establish the pattern.</i> 2. Removes the following offenses from the list of those that may qualify as a pattern of criminal gang activity: A. Looting (P.C. 463) B. Felony vandalism (P.C. 594(b)(1)) C. Felony theft of access card or account information (P.C. 484e) D. Counterfeiting, designing, using, or attempting to use an access card (P.C. 484f) E. Fraudulent use of an access card or account information (P.C. 484g)

	F. Unlawful use of personal identifying information to obtain (P.C. 530.5) G. Wrongfully obtaining Department of Motor Vehicles documentation (P.C. 529.7) 3. Prohibits the currently charged offense from being used to establish a pattern of criminal gang activity. 4. Changes the definition of “criminal street gang” to require proof that a gang is an <i>organized</i> association. 5. Where it must be proved that conduct promoted, furthered, assisted, or benefited a criminal street gang, requires that the benefit, promotion, furthering, or assisting provide a common benefit that is more than reputational.
P.C. 236.23 (Amended) (Ch. 695) (AB 124) (Eff. 1/1/22)	Requires a law enforcement agency to use due diligence to identify victims of human trafficking. It requires a peace officer who comes into contact with a person who has been deprived of personal liberty, a minor who has engaged in a commercial sex act, a person suspected of violating P.C. 647(a) (lewd act in public) or P.C. 647(b) (prostitution), or a victim of domestic violence or sexual assault, to consider whether specified indicators of human trafficking are present, such as trauma, fatigue, injury, being afraid to talk, being withdrawn, living and working in one place, owing a debt to an employer, and security measures being used to control who has contact with the person.
P.C. 261 (Amended) P.C. 262 (Repealed) (Ch. 626) (AB 1171) (Eff. 1/1/22)	Repeals P.C. 262 (rape of a spouse) and incorporates it into subdivisions of P.C. 261, except for P.C. 261(a)(1), which is the crime of raping a person who is incapable of giving legal consent because of a mental disorder or developmental or physical disability. All other types of rape in P.C. 261(a)(2)–(7) apply regardless of whether the perpetrator and victim are spouses.
P.C. 409.7 (New) (Ch. 759) (SB 98) (Eff. 1/1/22)	A violation of this new section is not a crime. However, this new section does <i>not</i> prevent a law enforcement officer from enforcing other applicable laws if the news representative engages in unlawful activity. Allows members of the press to enter areas that have been closed by law enforcement due to a demonstration, march, protest, or rally, and prohibits members of the press from being cited for the failure to disperse, for a curfew violation, or for P.C. 148(a)(1) (resisting, delaying, or obstructing a peace officer). Provides that if peace officers close the area surrounding a command post or establish a police line or rolling closure at a demonstration, march, protest, or rally where people are engaging in activity protected by the First Amendment, a

	duly authorized representative of any news service, online news service, newspaper, or radio or television station or network may enter the closed area. Prohibits a law enforcement officer from intentionally assaulting, interfering with, or obstructing an authorized news representative who is gathering, receiving, or processing information for communication to the public. Prohibits law enforcement from citing an authorized news representative who is in a closed area, for failing to disperse, violating curfew, or committing a violation of P.C. 148(a)(1). Provides that if a news representative is detained by law enforcement, the representative must be permitted to contact “a supervisory officer” immediately for the purpose of challenging the detention, unless circumstances make it impossible to do so.
P.C. 422.56 (Amended) (Ch. 295) (AB 600) (Eff. 1/1/22)	Clarifies that “immigration status” is included in the definition of “nationality” for purposes of hate crimes. Nationality also includes country of origin, immigration status including citizenship, and national origin.
P.C. 490.4 (New) (Ch. 113) (AB 331) (Eff. 7/21/21)	Re-enacts P.C. 490.4, the felony/misdemeanor crime of organized retail theft, which had a sunset date of July 1, 2021, with the same language. P.C. 490.4 will now sunset on January 1, 2026. Provides that Organized Retail Theft Can Be Committed in Four Different Ways: 1. Acting in concert with one or more persons to steal merchandise from one or more merchant’s premises or online marketplace, with the intent to sell, exchange, or return merchandise for value; or 2. Acting in concert with two or more persons to receive, purchase, or possess merchandise, knowing or believing it to have been stolen; or 3. Acting as an agent of another individual or group of individuals to steal merchandise from one or more merchant’s premises or online marketplaces as part of an organized plan to commit theft; or 4. Recruiting, coordinating, organizing, supervising, directing, managing, or financing another person to undertake any of the acts described in #1 or #2, above, or any other statute defining theft of merchandise.
P.C. 13652.1 (New)	Limits law enforcement’s use of kinetic energy projectiles and chemical agents and requires a law enforcement agency to publish on its website a summary of all instances in which a kinetic energy projectile or chemical agent is used for crowd control.

P.C. 13652 (Ch. 404) (AB 48) (Eff. 1/1/22)	Defines “kinetic energy projectile” as a device designed to be launched as a projectile that may cause bodily injury and blunt force trauma, including, but not limited to, items commonly referred to as rubber bullets, plastic bullets, beanbag rounds, and foam tipped plastic rounds. Defines “chemical agent” as a chemical that can rapidly produce sensory irritation or disabling physical effects, which disappear within a short time, including, but not limited to, CN tear gas, CS gas, and items commonly referred to as pepper spray, pepper balls, and oleoresin capsicum. Authorizes the use of kinetic energy projectiles and chemical agents only by a peace officer who has received training on their proper use for crowd control by the Commission on Peace Officer Standards and Training (POST), if the use is objectively reasonable to defend against a threat to life or serious bodily injury, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and the following requirements are met: 1. De-escalation techniques or other alternatives to force were attempted and failed. 2. Repeated, audible announcements are made about the intent to use kinetic energy projectiles and chemical agents, and the announcements are made in multiple languages, if appropriate. 3. Persons are given an objectively reasonable opportunity to disperse and leave the scene. 4. An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and projectiles and chemical agents are targeted toward those engaging in violent acts. Prohibits projectiles from being “aimed indiscriminately into a crowd or group of persons”. 5. Projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat. 6. The possible incidental impact of projectiles and chemicals on bystanders, medical personnel, journalists, and other unintended targets is minimized. 7. An objectively reasonable effort has been made to extract individuals in distress. 8. Medical assistance is promptly provided, if properly trained personnel are present, when it is reasonable and safe to do so.
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	9. If the chemical agent to be deployed is tear gas, only a commanding officer at the scene of the assembly, protest, or demonstration may authorize its use. Prohibits aiming projectiles at the head, neck, or vital organs. Prohibits the use of projectiles and chemicals solely due to a curfew violation, a verbal threat, or noncompliance with a law enforcement directive.
P.C. 13670 (New) (Ch. 408) (AB 958) (Eff. 1/1/22)	Requires every law enforcement agency to maintain a policy that prohibits participation in a law enforcement gang and to make a violation of the policy grounds for termination. Requires a law enforcement agency to disclose the termination of a peace officer for participation in a law enforcement gang to another law enforcement agency that is conducting a pre-employment background investigation of the former peace officer. Defines “law enforcement gang” as a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, such as matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state anti-discrimination laws; engaging in or promoting conduct that violates the rights of other employees or members of the public; violating agency policy; the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified; falsifying police reports; fabricating or destroying evidence; targeting persons for enforcement based solely on protected characteristics of those persons; theft; unauthorized use of alcohol or drugs on duty; unlawful or unauthorized protection of other members from disciplinary actions; and retaliation against other officers who threaten or interfere with the activities of the group.
P.C. 16520 (Amended) (Ch. 682) (AB 1057) (Eff. 7/1/22)	Expands the definition of firearms for purposes of gun violence restraining orders (GVROs) by providing that for the purposes P.C. 18100–18205 (GVROs), “firearm” includes the frame or receiver of the weapon and includes a precursor part. Therefore, pursuant to a GVRO, law enforcement is authorized to seize an intact firearm or parts of a firearm (which could be used to assemble a ghost gun). Provides that “firearm precursor part” has the same meaning as in P.C. 16531(a): a component of a firearm that is necessary to build or assemble a firearm and is either an unfinished receiver or an unfinished handgun frame. This bill creates Family C. 6216 to expand the definition of firearm for purposes of DVROs. See the Family Code section for more information.
P.C. 16590 (Amended)	Eliminates nunchaku (a martial arts weapon consisting of two sticks joined by a chain or cord) from the list of prohibited weapons.

(Ch. 434) (SB 827) (Eff. 1/1/22)	
P.C. 25555 (Amended) (Eff. 1/1/22)	Adds another exception to the crime in P.C. 25400 of carrying a concealed firearm: the transportation of a firearm in order to comply with Family C. 6389—the relinquishment of a firearm by a person subject to a DVRO.
P.C. 26379 (Amended) (Eff. 1/1/22)	Adds another exception to the crime in P.C. 26350(a)(1) of openly carrying an unloaded handgun: the relinquishment of a firearm in order to comply with Family C. 6389 because the person is subject to a DVRO.
P.C. 26537 (New) (Ch. 250) (SB 715) (Eff. 1/1/22)	Provides that P.C. 26500 (the misdemeanor crime of selling, leasing, or transferring a firearm without a license), does not apply to the sale, delivery, or transfer of a firearm under either of these circumstances: 1. The transaction is made by a licensed ammunition manufacturer to a dealer or wholesaler; or 2. The transaction is done between or to a licensed ammunition manufacturer, where the firearm is to be used in the course and scope of the licensed activities.
P.C. 29610 P.C. 29615 P.C. 29700 (Amended) (Ch. 250) (SB 715) (Eff. 1/1/22)	P.C. 29610 Beginning July 1, 2023, this law prohibits a minor from possessing any firearm by expanding the current prohibition to also prohibit the possession of a semiautomatic centerfire rifle. Adds language in new subdivision (d): “The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.” P.C. 29615 Continues to provide several exceptions to the crime in P.C. 29610, including, the minor possesses a firearm other than a handgun or semiautomatic centerfire rifle, with the express permission of a parent or legal guardian, and both of the following conditions are met: 1. The minor is actively engaged in, or in direct transit to or from, a lawful, recreational sport or hunting education; and 2. The minor is at least 16 years of age or is always accompanied by a responsible adult while in possession of the firearm.

	P.C. 29700 Continues to provide that a violation of P.C. 29160, where the minor possessed a handgun is a felony, punishable by 16 months, two years, or three years in jail under P.C. 1170(h). If the possession is of a firearm that is not a handgun, the crime is a misdemeanor. However, if the minor has been found guilty previously of a specified crime, the possession of any type of firearm is a felony punishable pursuant to P.C. 1170(h).
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