

Metropolitan Police Academy



7.1 Property Offenses

Introduction

As a police officer, you will be called upon to respond to a multitude of varying property offenses. Many of the offenses have elements that are similar or seem to overlap. However, there may be slight deviations that change the nature of the investigation to the point where it may no longer be classified as an offense and may be an incident, instead. Your preliminary investigation will determine the elements for offenses that have been committed. This means that you must have a clear understanding of the elements of the offense and gather all the information necessary to make an informed decision.

This lesson will teach you the elements of destructive property crimes while also teaching you how to handle offenses that involve the presence of an individual on property where they have no lawful right to be present, rather than the actual destruction of the property, itself.

7.1.1 Classify the elements of offenses involving property

There will be multiple times throughout your career when you are dispatched to the scene of a fire. The fire could be inside an occupied structure, involve a vehicle that is in flames, or be something as seemingly simple as a trashcan fire. When you are dispatched to a fire, the dispatcher will come over the air and say something similar to, *"5041, respond for the local at 1602 Otis Street NE. The complainant states that flames can be seen from the roof of the building. Respond Code 1, use caution, and advise when you mark on scene."*

The term "local" will be used whenever you are sent to the scene of a potential fire.

When you are dispatched to a local, the District of Columbia Fire and Emergency Medical Services (DCFEMS) is also dispatched. If you arrive on scene prior to DCFEMS, you must work as quickly and safely as possible to determine what happened, if there are any people who are trapped and/or injured, and if you are able to determine the severity and type of injuries. Your quick assessment of a scene will save valuable time and has the potential to save lives as you can provide critical information to the firefighters and Emergency Medical Technicians (EMTs) once they arrive on scene.

Outside of exigent circumstances, **do not** enter a burning building as you will not be equipped to deal with the potential hazards that may present themselves during a fire. If you find yourself in a situation in which you must enter, notify a DCFEMS official, MPD official, or the dispatcher upon entering and exiting the building.

Arson - § 22-301

This offense is a felony punishable by not less than one (1) and not more than ten (10) years in prison. It is defined as the *malicious* burning or *attempted* burning of any:

- Dwelling
- House, barn, or adjoining stable
- Store
- Barn
- Outhouse
- Shop
- Office
- Stable

- Warehouse
- Any other type of building
- Vessel
- Canal Boat
- Any other type of watercraft
- Railroad Car
- The property, in whole or in part, of any person
- Church
- Meetinghouse
- Schoolhouse
- Any public building in the District of Columbia

For the crime to be Arson, the building that is burned or attempted to be burned *must* belong to another person or entity and cannot belong to the suspect believed to have started the fire.

Railroad cars, canal boats, vessels, and other watercraft are included in the arson statute as they can serve a dual purpose as a dwelling. Other types of vehicles are not included in the arson statute which means that whenever you have a vehicle which has been intentionally set on fire you *cannot* classify it as Arson. The malicious burning or attempted burning of a vehicle should be classified as **Destruction of Property**, the elements of which we will cover later in this lesson.

Pay close attention to the fact that *attempt* is included within the statute for Arson. This means that the fire must be set and the offense is committed regardless of whether the building burns or not. In order to make the arrest for Arson, your investigation must reveal that the dwelling or similar building did not belong to the suspect and that the person in question *intended* to set the fire.

When you are on the scene of a fire that the fire investigator has deemed to be suspicious due to criminal activity or arson, you must complete an offense report. The preliminary investigation you conduct must be thorough, which means you must document within your field notebook not only the basic information that you have learned (**3.1 Basic Report Writing**) but additionally:

- What property was burned
- Which DCFEMS Engine and Ambulance or Medic responded to the scene
- The Battalion Chief on scene (if applicable)
- The Fire Investigator on scene
- The evidence that led to the Fire Investigator's conclusion (placed in the non-public portion of the report)
- The deaths or injuries that resulted from the fire (if applicable)
- To which hospital those who were injured or succumbed to their injuries were transported

If the fire was deemed suspicious by the Fire Investigator on scene, consult with your official and notify the Arson and Explosives Task Force of the Special Investigations Branch. Once notified, they will take over the investigation.

In the event an arson case leads to a homicide or you find yourself dealing with a serial arsonist, you must notify the Department of Forensic Science (DFS).

An incident report must be filled out for the following as long as no criminal activity is suspected: injuries or death, the displacement of people, and fires that cause you to take property into the custody of the department.

You must ensure that you properly document witness information and attempt to determine if there are any security cameras in the vicinity of the fire that may have captured how the fire started and the suspects and/or suspect vehicles. The thoroughness of your preliminary investigation will have a direct impact on the solvability of the case.

Many of the individuals who fall victim to arson will need aid of some sort and they will ask you if any assistance is available. As a police officer, you will need to know all of the varying forms of assistance available as you are required by law and general order to provide that information as soon as possible to the victim.

One of the services that you must familiarize yourself with is the **Crime Victim Compensation Program (CVCP)**. This program is administered and presided over by the DC Superior Court and provides financial assistance to victims and witnesses of violent crimes, including arson, if the crime is reported within seven (7) days. When you arrive on a scene and it is later determined to be arson, inform any victims of the arson that the Crime Victim Compensation Program may be able to provide financial assistance for temporary shelter or any moving expenses the victim may incur as a result.

Every district has an Investigative Review Officer (IRO), generally a detective, who is the point of contact for the Crime Victim Compensation Program. You must know who fulfills that role in your district so you can give the victim his or her contact information. You must also let the Investigative Review Officer know there is an individual who needs assistance, as they are the one responsible for ensuring the proper information is compiled and passed along to the CVCP.

There will be times when you respond to a local radio run and your preliminary investigation reveals that an individual burned his or her own property, an act that is not illegal *unless* it was done with the intent to defraud or injure another person. The elements of the crime are written in D.C. Code.

Burning One's Own Property with Intent to Defraud or Injure Another - §22-302

This offense is a felony punishable by up to fifteen (15) years in prison. In the District of Columbia, it is unlawful to maliciously burn or set fire to any:

- Dwelling
- Shop
- Barn
- Stable
- Store
- Warehouse
- Other type of building
- Steamboat
- Vessel
- Canal Boat
- Other watercraft
- Goods
- Wares

- Merchandise

if it is his or her own property, in whole or in part, and the burning or setting fire is done with intent to defraud or injure any other person.

Document the complainant, victim, and witness information:

- Name - Full name; ask for an identification card from which you can copy down the information. If he or she does not have one, verbal identification will suffice.
- Address - Home and work
- School Information - Name and address
- Phone number - Mobile, Home, Work and note which is easiest to get hold of the individual
- E-mail accounts

NOTE: Complainants for offenses are not always a person; the victim of a crime could be a business entity.

Fire is not the only way in which property can be destroyed. You will also respond to numerous calls where one individual has unlawfully destroyed the property of another, an act that is against the law within the District of Columbia.

Malicious Burning, Destruction, or Injury of Another’s Property (Destruction of Property) - § 22-303

The DC Code defines commission of this offense as:

“Whoever maliciously injures or breaks or destroys, or attempts to injure or break or destroy, by fire or otherwise, any public or private property, whether real or personal, not his or her own, of the value of \$1,000 or more...shall be imprisoned for not more than ten years ... and if the property has some value shall be imprisoned for not more than 180 days...”

Destruction of property is classified either as a felony offense or a misdemeanor based on the value of what is destroyed. Remember that in most instances, the monetary difference between a misdemeanor and a felony is \$1,000. Anything that is worth \$1,000 or more will be a **felony** and the suspect will face up to **ten (10) years** in prison. Any property valued less than \$1,000 will be a **misdemeanor**, with the suspect facing up to **six (6) months**, which is **180 days**, in jail. When attempting to determine if the charge will be felony or misdemeanor Destruction of Property, the cost of repairs or replacement of what was maliciously damaged should be taken into consideration.

Pay attention to the fact that attempt of this offense is written within the statute for Destruction of Property. This means that you cannot charge someone with *attempted* Destruction of Property. If the suspect made the attempt to break or destroy the property of another person, regardless of whether they succeeded in doing so, the appropriate charge is Destruction of Property.

Destruction of Property also covers types of property not listed in the Arson statute that is destroyed by fire. As such, this statute is used to place a charge when someone injures, breaks, or destroys by fire another’s vehicle.

While working in the city, you may have seen promotional stickers placed on store front windows or on the glass paneling of metro bus stops. You may even recall seeing graffiti drawn with a pen on bathroom

walls. When done without the permission of the owner of the property in question, all of these actions are against the law.

Defacing Public or Private Property - § 22-3312.01

This offense is a misdemeanor punishable by up to 180 days in jail, civil fines, and/or community service. The statute defines commission of this offense as:

It shall be unlawful for any person or persons willfully and wantonly to

- disfigure, cut, chip, cover, rub with or otherwise place filth or excrement of any kind; OR
- to write, mark, or print obscene or indecent figures representing obscene or objects upon; OR
- to write, mark, draw, or paint without the consent of the owner or proprietor thereof, or, in the case of public property, of the person having charge, custody, or control thereof, any word, sign, or figure upon:

(1) any

- property, public or private
- Building
- Statue
- Monument
- Office
- Public passenger vehicle
- Mass transit equipment or facility
- Dwelling or structure or any kind including those in the course of erection

OR

(2) the

- Doors
- Windows
- Steps
- Railing
- Fencing
- Balconies
- Balustrades
- Stairs
- Porches
- Halls
- Walls
- Sides of any enclosure thereof
- Any moveable property

The statute for Defacing Public or Private Property covers the willful and wanton damage to property that does not rise to the level of Destruction of Property because the damage to the property in question can be easily cleaned or repaired. In contrast, if the damage cannot be repaired without special tools or if chemicals are necessary to restore the property to its original condition, then the proper charge is Destruction of Property.

Unlike a suspect maliciously throwing a brick through an individual's home window, Defacing Public or Private Property requires that the suspect engages in the offense "willfully and wantonly." This means the offender committed the act *intentionally* and *deliberately* and *without regard to the owner's interest*. Despite the nature of the damage done to the property, the act causing the damage cannot be accidental or unintentional for a crime to be charged.

Across the District of Columbia, you have no doubt seen the multitudes of parking meters that are alongside the streets of the city. You may have also seen a few that appeared to have been broken open and money within stolen. The act of breaking open the parking meters is unlawful and the statute that forbids such action is set forth next.

Breaking and Entering Vending Machines and Similar Devices - § 22-601

This offense is a felony punishable by up to three (3) years in prison. The statute states that the offense is committed when:

Whoever in the District of Columbia breaks open, opens, or enters without right any:

- Parking meter
- Coin telephone
- Vending machine dispensing goods or services
- Money changer
- Device designed to receive currency

with the intent to carry away any part of such device or anything contained therein...

You must be careful not to confuse the elements of this statute with those of Destruction of Property. While both require the willful intent to break property that does not belong to the suspect, the Breaking and Entering Vending Machines and Similar Devices statute focuses specifically on the type of device that is *designed to receive currency and provide a service in return*. In addition, it requires the intent to take something from inside the machine.

Not all property offenses involve the destruction or damaging of property. **Unlawful Entry** is one such property offense. In order to fully understand the Unlawful Entry statute, there are some definitions with which you need to be familiar.

- **Prima Facie Evidence**

This is "evidence that will establish a fact or sustain a judgment unless contradictory evidence is produced." For example, the fact that a building is boarded up, has "No Trespassing" signs placed on the exterior, and/or has other indicators that would inform a reasonable person that he or she is not allowed within the premises is viewed as prima facie evidence as any of these things establish the fact that there is to be no entry onto, or into, the property.

- **Barring Notice**

You will assist with the serving of barring notices during your career as a police officer. A barring notice is "an important civil tool that is used to prevent individuals from entering private property" (See: **Circular 16-04 Barring Notices**). The notice is a paper form that will have the following information on it:

- Name
- Nickname

- Height
- Identifying Marks
- Address
- Employment
- Reason for the Issuance of the Barring Notice
- Date of Birth
- Method of Identification
- Weight
- Sex
- Phone Number
- Social Security Number

- **Private Dwelling**

This term is defined within the Unlawful Entry statute as including “a privately owned house, apartment, condominium, or any building used as living quarters, or cooperative or public housing ...” The definition includes that dwellings owned or operated by the Department of Housing and Urban Development and the District of Columbia Housing Authority are private dwellings.

Unlawful Entry on Property - § 22-3302

This offense is a misdemeanor punishable by up to 180 days in jail. The statute states that:

Any person who, without lawful authority

- shall enter or attempt to enter any private dwelling, building, or other property or part of such dwelling, building, or other property against the will of the lawful occupant or of the person lawfully in charge thereof
- OR being therein or thereon without lawful authority to remain therein or thereon shall refuse to quit the same on the demand of the lawful occupant or of the person lawfully in charge thereof

shall be guilty.

When you are dispatched to a location for an unlawful entry, you will have to conduct a preliminary investigation to determine the identity of the lawful owner or a person who has the legal authority to speak on the owner’s behalf. You must then ascertain whether the individual in question has the lawful right to be present on or within the property. If your investigation reveals that the individual entered the building without the right to do so and against the will of the lawful owner or one able to speak on his or her behalf, and the individual refused to leave when asked by the owner or person in charge to do so, then you can charge Unlawful Entry.

The statute explains that:

“The presence of a person in any private dwelling, building, or other property that is otherwise vacant and boarded-up or otherwise secured in a manner that conveys that it is vacant and not to be entered, or displays a no trespassing sign, shall be prima facie evidence that any person found in such property has entered against the will of the person in legal possession of the property.” (Emphasis added.)

This portion of the statute describes property that is vacant but has physical barriers that would inform a reasonable person that the premises are off limits. Such barriers could be posted signs that state “No

Trespassing,” “Do Not Enter,” or other clues such as the windows and doors being boarded. As a result of this statutory presumption, someone stating he or she simply did not know they weren’t allowed to be in the house is not a valid defense. The signs or boarded up windows are prima facie evidence, and any reasonable person would understand that he or she is not allowed on or within the property.

In terms of public buildings, the Unlawful Entry statute states that:

Any person who, without lawful authority

- shall enter or attempt to enter any public building or other property, or part of such building or other property, against the will of the lawful occupant or of the person lawfully in charge thereof or their agent
- OR being therein or thereon without lawful authority to remain therein or thereon shall refuse to quit the same on the demand of the lawful occupant or of the person lawfully in charge thereof or their agent

shall be deemed guilty.

There will be times when you will have no complainant or prima facie evidence when dealing with an unlawful entry. This is why your documentation and articulating the facts surrounding the offense is vitally important. Even without prima facie evidence or a complainant, if you can still articulate why an individual should have known that he or she was not allowed within a vacant or abandoned building, an arrest for can still be made. Document all of the facts surrounding the offense and how you knew the person within the premises was not the property owner.

The Fire Marshal can be useful when dealing with abandoned and vacant property within your PSA when you are unable to locate an owner. Contact the Fire Marshal and request he or she respond to the location to inspect the building for safety. If the building is found to be unsafe, then the Fire Marshal will post a sign alerting individuals that there is to be no entry into the building.

When you arrive on the scene for an unlawful entry to or within a *public building*, the suspect must have been informed in some way that he or she was not allowed on or within the property or that he or she stayed after being told to leave. This means you must discern how the suspect should have known.

- Was the person told that they could not be within the premises by the proprietor or someone authorized to speak on their behalf?
- If there was no verbal communication, were there physical barriers in place that would have informed a reasonable person that his or her presence was not allowed? An example of this would be a person needing a key card to gain access to a secured part of a public building. Did the suspect bypass this security measure in order to gain access?

As noted, the individual does not have to be explicitly informed that he or she should not enter a portion of a public or semi-public building as long as a reasonable person in his or her position would have understood that certain areas were off limits. The District of Columbia Superior Court is an example of a semi-public building. While it is open to the public, there are areas to which one cannot gain entry without keycard access or having the required government-issued identification.

Barring Notice

Often, unlawful entry calls for service will give you the opportunity to exercise discretion. If you arrive on scene and after conducting your preliminary investigation come to the conclusion that the individual in

question needs to be arrested, then do so. However, if you believe the person would instead benefit from being advised, you may do so along with a barring notice. Remember that a barring notice is a tool used to do just as its name states. It bars an individual from further entry onto a specific property, and it is effective for five (5) years. If the individual returns to the property after the issuance of a barring notice, he or she is to be placed under arrest. When you make an arrest for Unlawful Entry on the basis of a previously issued barring notice, you must obtain a copy of the notice as it must be included as part of your arrest package.

If a barring notice is issued, it is the responsibility of the owner of the property or the person authorized to speak on his or her behalf to fill out the notice. If they do not have a barring notice form, you may provide a copy of the notice approved by the U.S. Attorney's Office and the Office of the Attorney General (See: **Circular 16-04 Barring Notices**). You may also sign the barring notice as a witness, though a witness signature is not mandatory nor is it necessary to enforce the notice.

As a police officer and member of the Metropolitan Police Department, you are not the party barring an individual in these instances. It is the owner of the property or one elected to speak on his or her behalf who is barring another person. You are simply there to maintain the peace, ensure the individual barred understands what the barring notice means and the consequences for violation, and in some cases act as a witness to the notice.

NOTE: There are times when members are asked to create, draft, or serve a barring notice:

- "The Department is barring an individual from an MPD facility or District of Columbia Housing Authority (DCHA) complex; or"
- You are "serving the notice in response to a recommendation by the Office of the Attorney General (OAG) Nuisance Task Force; or"
- You are "serving the notice at a District of Columbia (DC) park or facility (i.e.: *not* a federal park or facility) at the request of the Department of Parks and Recreation (DPR); or"
- You are "serving the notice while working at an approved outside employment location at the request of the outside employer."

You are prohibited from creating or allowing anyone to create a barring notice that uses the phrase "MPD Barring Notice" or includes the MPD insignia or departmental letterhead.

Landlord-Tenant Disputes

During the course of your career, you will be dispatched to locations for unlawful entry only to arrive and discover a landlord that wishes to request your assistance in evicting a tenant. As an officer of the Metropolitan Police Department, you **must not** participate in the eviction. You must ensure the peace is maintained. You can refer both the landlord and the tenant to the Office of Tenant Advocate for assistance (See: **Circular 22-02 Landlord Tenant Evictions**). The United States Marshals is the only entity that can legally effect an eviction.

Buildings are not the only property involved with unlawful entry. There is also a statute that deals with entering a vehicle without the permission of the owner.

Unlawful Entry of a Motor Vehicle - § 22-1341

This offense is a misdemeanor punishable by up to ninety (90) days in jail and a fine of no more than \$500. The statute states that, "It is unlawful to enter or be inside of the motor vehicle of another person

without the permission of the owner or person lawfully in charge of the motor vehicle.”

For example: A man walking past a vehicle with the windows down places a hand through the window but takes no further action. Has he violated the law? Yes. It does not matter whether he entered the passenger compartment, trunk or cargo area, or engine compartment of the vehicle. Once the man placed any part of his person within any portion of the vehicle without the owner’s permission, he broke the law.

NOTE: This offense does not apply to:

- An employee of District government in connection with official duties
- A tow crane operator who has valid authorization from the District government or from the property owner on whose property the motor vehicle is illegally parked
- A person with a security interest in the motor vehicle who is legally authorized to seize the motor vehicle

Unlawful Entry of a Motor Vehicle is a *probable cause misdemeanor*.

7.1.2 Complete an Event Report and Arrest/Prosecution Report for the offenses in this instructional unit

Fill out online forms.

Summary

You have just learned the elements of several types of property offenses. As you were able to gather during the lesson, though many of the destructive property offenses have similar elements, *what* was destroyed, *how* it was destroyed, and *the intent of the person* who destroyed the property is where the distinction between many of the property crimes lies.

You also learned about unlawful entry, what it means, and the criteria that must be met in order to sustain an Unlawful Entry charge. You will discover when you begin to patrol that many unlawful entry calls for service can be mediated by exercising discretion, advising the individual who has broken the law, and seeing that a barring notice is issued. As you exercise discretion, when it is reasonable to do so, this will help mark you as an officer who is willing to afford others the ability to make mistakes. If the individual that was barred violates the barring notice and is arrested, the odds are high that the community will still view you as an officer who exercised restraint and believed in giving second chances, something which goes a long way in developing connections with the community you are oath bound to protect and serve.

REFERENCES

CIR 22-02	Landlord – Tenant Evictions	05/05/2022
SO 01-26	Illegal Posters on Public Space	10/10/2001
GO 204.06	Victim/Witness Services	06/13/2003
GO 302.01	Calls for Service	02/16/2022
GO 201.26	Duties, Responsibilities, and Conduct of Members of the Department	04/05/2011
CIR 16-04	Barring Notices	06/09/2016