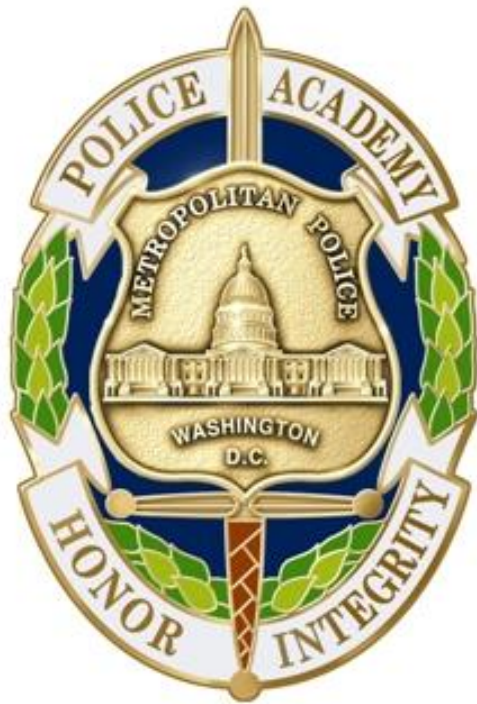


Metropolitan Police Academy



7.2 Theft Offenses

May 29, 2025

Introduction

Patrol officers regularly report and investigate theft offenses. While doing so, officers must be able to classify the offenses appropriately. This lesson provides definitions of terms related to theft offenses and reviews the elements of each distinct offense. Officers must understand the terms and their subtle differences between them to accurately classify offenses while in the field.

Theft offenses, fraud offenses, and related property crimes seriously impact the community and should be thoroughly investigated by police officers in each unique case. Trends and patterns will often be detected in these offenses, which patrol officers can use to investigate and deter using aggregation and repeat offender statutes taught in this lesson.

7.2.1 Define terms related to Theft, Fraud, and Forgery offenses in the DC Code

The following terms are used and defined in the DC Code when describing theft offenses. Recruit officers need to understand these terms and how they are used to comprehend the offenses taught in this lesson.

Aggregation

Aggregation is a tool patrol officers and detectives use to classify a theft offense as a misdemeanor or felony based on the value of property or amounts received according to a single scheme or systematic course of conduct.

Consider this example: A suspect enters the locker room of a health and fitness club's locker room and breaks into numerous lockers. He steals \$600 in US currency and \$800 worth of jewelry from ten lockers. Gym employees observe him and call 911. Police officers stop him as he leaves the gym. In this case, although he committed ten (10) misdemeanor thefts with ten (10) different victims. Using aggregation, he may be charged with a felony theft offense. This is because the thefts were all part of a single course of criminal conduct, and the total value of the stolen property exceeds \$1,000.

Appropriate

Appropriate means "to take or make use of something without the authority or right to do so." For example, in the previous example, when the suspect opened the lockers and took possession of the jewelry and currency from gym patrons without the right to do so, he was appropriating those items.

Deprive

Deprive means "to withhold property or cause it to be withheld from a person permanently or for so extended a period or under such circumstances as to acquire a substantial portion of its value." Deprive also means to "dispose of the property, or use or deal with the property to make it unlikely that the owner will recover it."

Prima Facie Evidence

Prima facie means *at first look*, and Prima Facie Evidence means evidence, creating a rebuttable presumption that the evidence is true. For example, ordering food from a restaurant typically involves seeing a menu with prices, and riding in a taxi cab involves seeing a fare chart or meter. In both situations, the circumstances suggest that the service received requires a payment in return. This basic

understanding that the service is not free, combined with a lack of payment after receiving the service, is prima facie evidence of theft of service.

Property

Property means *anything of value*. It “includes, but is not limited to: [r]eal property including things growing on, affixed to, or found on land; [t]angible and intangible personal property; [s]ervices; [c]redit; [d]ebt; and [a] government-issued license, permit, or benefit.”

Property of Another

Property of another consists of “any property in which a government or a person other than the accused has an interest which the accused is not privileged to interfere with or infringe upon without consent, regardless of whether the accused also has an interest in that property.” For example, in the earlier scenario, the US currency and jewelry items taken by the suspect were all property of another.

Services

Theft cases may involve the taking of services rather than merchandise or personal property that is appropriated. Theft involving services is often a refusal to pay for something voluntarily provided and received. Eating at a restaurant and then refusing to pay and refusing to pay a taxi cab fare after receiving a ride to one’s destination are both examples of services provided and received, after which a theft occurs when the suspect refuses to pay.

The types of services at issue are:

- Labor, whether professional or nonprofessional;
- The use of vehicles or equipment;
- Transportation, telecommunications, energy, water, sanitation, or other public utility services, whether provided by a private or governmental entity;
- The supplying of food, beverage, lodging, or other accommodation in hotels, restaurants, or elsewhere;
- Admission to exhibitions or places of entertainment; and
- Educational and hospital services, accommodations, and other related services.

Stolen Property

Stolen property includes any property obtained by theft, larceny, fraud, and embezzlement.

Tangible vs. Intangible

Tangible property, the most common type of property encountered by police officers, refers to physical property which can be held or touched. In contrast, intangible property refers to concepts, thoughts, electronically stored information, patents, copyrights, etc. Intangible property lacks a physical presence and cannot be perceived by a person’s sense of touch.

7.2.2 Classify the elements of Theft offenses

Theft in the First Degree (referred to as Theft I) - DC Code § 22-3211

Theft I occurs when:

- A person wrongfully obtains or uses the property of another with intent:
 - To deprive the other of a right to the property or a benefit of the property; or

- To appropriate the property to his or her own use or the use of a third person.
- And the value of the property obtained or used is **\$1,000 or more**
 - When two or more thefts occur within a 6 month period and the aggregate value of property obtained is \$1000 or more, the thefts will be combined and charged as a single offense.

Theft I is a felony punishable by a period of incarceration for no more than ten (10) years , a \$25,000 fine, or both.

In the context of these elements, the phrase *wrongfully obtains or uses* means:

- “taking or exercising control over property;”
- “making an unauthorized use, disposition, or transfer of an interest in or possession of property;” or
- “obtaining property by trick, false pretense, false token, tampering, or deception.”

Consider this example: Joe wanders around the bicycle storage racks near a bus stop in DuPont Circle and finds a red Specialized touring bicycle locked to the rack. Joe cuts the cable lock, separates the bike from the rack, and rides off on the bicycle, leaving the lock on the ground. The owner later returns and reports the bicycle stolen. The complainant provides documentation of ownership and value with a recent receipt showing that he purchased the bicycle for \$2,200. Joe has committed Theft I because the property he wrongfully appropriated is worth more than \$1,000.

Theft in the Second Degree (known as Theft II) - DC Code § 22-3211:

The elements of Theft II are identical to those of Theft I. The main factor distinguishing the two offenses is the value of the item or property appropriated. With Theft II, the property obtained or used must have a value of **less than \$1,000**.

Theft II is a misdemeanor punishable by imprisonment for no more than 180 days, a fine, or both.

Consider this example: Joe enters a restaurant and orders a meal from a waitress. Joe eats the meal and receives a check from the server for \$35. Joe gets up and leaves the restaurant without paying the check. Once outside, Joe enters a taxi cab and requests to be dropped off at Union Station. Once there, Joe exits the cab and refuses to pay the \$13 cab fare. In both cases, Joe could be charged with Theft II because he failed to pay for services received, and the value of each service was less than \$1,000.

Felony Theft – DC Code § 22-3212 (c)

Felony theft is an offense charged in cases involving repeat offenders. According to the D.C. Code, subjects arrested for Theft I or Theft II who have two (2) or more prior convictions for theft can be charged with Felony Theft regardless of the value of the property appropriated in the current case. This includes convictions in other jurisdictions for theft or similar statutes such as Larceny.

Felony Theft is punishable by of imprisonment for not less than one (1) year and not more than fifteen (15) years in prison, a fine, or both.

NOTE: The prior convictions must be documented in the Arrest/Prosecution Report. Prior arrests may be verified through Mark43, Justis, or other database systems.

For example:

The defendant has been convicted of Theft in two prior cases. (05/01/2011 DC Superior Court Docket # 2011CMD001002 Theft II) and (09/02/2012 DC Superior Court Docket # 2012CMD285934 Theft I). Pursuant to the D.C. Code, the defendant has been charged with Felony Theft.

Notes on Theft:

- Theft of a vehicle requires a notification to Teletype so that the registration information can be entered into WALES as a stolen vehicle.
- Theft of property from within an automobile is classified as “Theft I from Auto: or “Theft II from Auto,” depending on the value of the property taken.
- In cases involving theft of property from an automobile, officers trained to process crime scenes should be notified when:
 1. The case is closed with an arrest.
 2. The case involves a known suspect.
 3. The value of the property stolen exceeds \$5,000.
 4. The property stolen includes sensitive materials or weapons.
 5. The theft is from a government vehicle.
 6. The case is part of a larger scheme or serial offense pattern.
 7. The Watch Commander has made the order.
- If a government agency owns the stolen property, that fact should be indicated in the offense report.
- Theft involving the US Mail (not UPS, FedEx, etc.) requires notification to a US Postal Inspector through the dispatcher or RTCC.
- Electronic devices and other items of property that can be tracked (e.g., cell phones, iPads, etc.) must be thoroughly documented before tracking can be used. Officers must obtain a complete description of the item, including its serial number, make, model, carrier, and other unique identifiers.

Consider this example: MPD stops Joe at Union Station, and MPD Officers investigate the theft of services that occurred at the restaurant and after his cab ride. The taxi driver is still on the scene and has identified Joe as the offender. A check reveals that Joe has previously been convicted of Theft II twice and Theft I once. As a result, the arresting officer would charge Joe with felony theft and document the previous cases in his arrest/prosecution report.

Receiving Stolen Property (RSP) - DC Code § 22-3232

This offense occurs when a person:

- “Buys, receives, possesses, or obtains control of stolen property,
- Knowing or having reason to believe that the property was stolen.”

The property involved in the offense does not actually have to have been stolen to constitute Receiving Stolen Property, so long as the accused “engages in conduct which would constitute the crime” and believes he or she did so.

RSP can be a felony or misdemeanor. Like Theft, the determining factor is the value of the stolen property: the felony offense is for property worth \$1,000 or more, and the misdemeanor is for property of any value under \$1,000.

Felony Receiving Stolen Property is punishable by imprisonment for not more than seven (7) years, a fine, or both.

Misdemeanor Receiving Stolen Property is punishable by imprisonment for not more than 180 days, a fine, or both.

Consider this example: While on patrol, you observe Mr. Smith walking northbound on the sidewalk. You have interacted with Mr. Smith before and know he has a history of committing property crimes in the area. When Mr. Smith sees you, he drops a cardboard Amazon package to the ground, turns around, and immediately walks southbound, away from you. Moments later, you observe that the package is addressed to Martha Saunders. You then stop Mr. Smith due to his suspicious behavior. A partner responds to Martha Saunders's address and confirms that she reported an Amazon package, containing a \$55 bath towel, stolen from her porch earlier that day. Although Mr. Smith may or may not have committed the package theft, he can be charged with misdemeanor Receiving Stolen Property as he had reason to believe that the package was stolen and had a value of less than \$1,000.

Shoplifting – DC Code § 22-3213

Shoplifting most commonly occurs when:

- “with intent to appropriate without complete payment any property of another that is offered for sale” that person:
 - “knowingly conceals or takes possession of such property;”
 - or “knowingly removes or alters the price tag, serial number, or other identification mark imprinted on or attached to such property;”
 - “or knowingly transfers any such property from the container in which it is displayed or packaged to any other display container or sales package.”

Shoplifting is a misdemeanor offense punishable by a period of imprisonment for not more than ninety (90) days or a fine of no more than \$300.

Organized Retail Theft – DC Code § 22-3211.01

Organized retail theft occurs when an individual:

- “Act[s] in concert with one or more other persons to commit theft of any merchandise with a value greater than \$1,000 aggregated over a 90-day period with the intent to:
 - “Sell, barter, or trade the merchandise for monetary or other gain”; or
 - “Fraudulently return the merchandise to a retail merchant.”

Directing organized retail theft occurs when an individual “acts as an organizer by recruiting, directing, or coercing individuals to commit organized retail theft.” This offense is punishable by incarceration for up to 15 years, a fine of \$37,500, or both.

Offered for Sale

Shoplifting is specific to merchandise and other items of property for sale to the public.

Intent

The criminal act must be committed with the intent to commit theft.

Attempt

There is no attempt to commit shoplifting.

Consider this example: John is shopping in an electronics store and has a basket containing a few random items of merchandise in it. While browsing, he views a portable Bluetooth speaker system and removes the security device, which sounds an alarm if removed from the store. John then leaves the security device on the shelf and puts the speaker system in his waistband, covering it with his jacket. Although John is still shopping and has not left the store with any merchandise, he has committed shoplifting by showing intent to appropriate the item without payment, removing the security device, and concealing the item in his waistband. If John successfully leaves the store without paying for the merchandise, a theft has occurred.

However, John doesn't need to have left the store to be theft. Officers must be able to articulate the totality of the circumstances of John's behavior while in the store. Officers should note the store's layout when considering the charge. Big stores like Target, Walmart, and groceries stores may have a customer service desk, Starbucks, etc., in front of the store, past all "points of sale" (cash registers). The key is where the offender is when they are stopped.

7.2.3 Define the terms related to and the offense of forgery in the DC Code

In describing forgery, D.C. Code uses and defines the following terms. Officers need to have a thorough understanding of these terms and how they are used to prove the elements of fraud offenses.

Written Instrument

A written instrument is a legal document that defines rights, duties, entitlements, or liabilities. The DC Code states that written instruments include, but are not limited to, any:

- "Security, bill of lading, document of title, draft, check, certificate of deposit, and letter of credit...;"
- or "Stamp, legal tender, or other obligation of any domestic or foreign governmental entity;"
- or "Stock certificate, money order, money order blank, traveler's check, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, transferable share, investment contract, voting trust certificate, certification of interest in any tangible or intangible property, any certificate or receipt for or warrant or right to subscribe to or purchase any of the foregoing items;"
- or "Commercial paper or document, or any other commercial instrument containing written or printed matter or the equivalent;"
- or "Other instrument commonly known as a security or so defined by an Act of Congress or a provision of the District of Columbia Official Code."

Forged Written Instrument

Any written instrument that purports to be genuine but is not because it:

- "Has been falsely made, altered, signed, or endorsed;"
- or "Contains a false addition or insertion;"
- or "Is a combination of parts of 2 or more genuine written instruments."

For example, a personal check is a document instructing a bank to provide payment upon its presentation to the person whose name is on the check when endorsed. Checks are, therefore, considered to be written instruments. Forging a check by changing or altering the value to be paid out or forging a signature for the endorsement would thus make the check a forged written instrument under the Fraud statute. Such a document is illegal to pass as authentic and legitimate.

Uttering

Utter means “to issue, authenticate, transfer, publish, sell, deliver, transmit, present, display, use, or certify” a forged written instrument.

Forgery – DC Code § 22-3241

Forgery always involves a written instrument. It occurs when a person:

- makes,
- or draws,
- or utters

a forged written instrument with intent to defraud or injure another.

Falsely making or altering a written instrument makes the document a forged written instrument. At that point, the offense of forgery has been committed as long as the offender intended to defraud or injure another when they made or altered the forged written instrument.

Uttering is defined as using a forged written instrument as though it is real, authentic, and legitimate, regardless of who made it. It also requires the offender to have the intent to defraud or injure another at the time.

Both the act of making a forged written instrument and the act of uttering it constitute the crime of Forgery.

Forgery is a felony punishable by a term of imprisonment **of up to ten (10) years, a fine, or both** when the written instrument purports to be a stamp, legal tender, bond, check, stock certificate, public record, written instrument of a public office or government, payroll check, deed, will, contract, commercial instrument, codicil, or any written instrument having a value of \$10,000 or more.

Forgery is a felony that is punishable by **up to five (5) years in prison, a fine, or both** when the written instrument purports to be a token, fare card, prescription, or any instrument worth \$1,000 or more.

In any other case of forgery that does not meet the criteria already described, Forgery is a felony punishable by up to **three (3) years in prison, a fine, or both**.

Notes on Forgery:

- The intent to defraud or injure another by Forgery does not have to be directed at any specific or known person. Rather, all that is required is that the offender intends to defraud someone (anyone).
- “Injure another” refers to monetary injury, not physical injury.
- The government need not prove that the whole written instrument was falsified or altered, only that it contains some material misrepresentation of fact.
- The offender and victim may be located in different jurisdictions.

Consider this example: Joe has been mowing lawns and doing housework around the neighborhood. Ms. Jones gives Joe a check for \$65 for cleaning her porch and mowing the lawn. She makes the check out to Joe. Joe alters the check so that it now appears to be made out for \$650, and he then attempts to cash at a local bank. Employees suspect that the written instrument has been altered and call MPD. Ms. Smith is contacted and reports that she made the check out to Joe for \$65, not \$650. At this time, Joe has both made a forged a written instrument and uttered a forged written instrument, so he can be charged with Forgery.

7.2.4 Classify the elements of offenses relating to fraud

Jurisdiction

Unlike other crimes in which the offender and victim must be in close physical proximity when the crime is committed, fraud offenses, like forgery, often involve an offender and a complainant located in various jurisdictions. Fraud offenses may be committed on networks, apps, and the internet, none of which have a physical presence in any particular jurisdiction. For instance, banking and shopping are frequently conducted online, and this availability has led to increased crimes committed through electronic devices.

Fraud offenses shall be deemed to have occurred in the District of Columbia, regardless of whether the offender is physically present in the District of Columbia, if:

- The person to whom a credit card was issued or in whose name the credit card was issued is a resident of or located in the District of Columbia;
- The person who was defrauded is a resident of or located in the District of Columbia at the time of the fraud;
- The loss occurred in the District of Columbia; or
- Any part of the offense takes place in the District of Columbia.

It is important to ask questions while on the scene of a fraud investigation to determine whether the offense occurred in the District of Columbia in any of the manners described above.

MPD has a Financial and Cyber Crimes section that can be contacted when investigating these types of offenses. The section can be reached through the dispatcher, RTCC, or by phone at (202) 727-4159.

Fraud in the First Degree (known as Fraud I) - DC Code § 22-3221

Fraud I occurs when any person “engages in a scheme or systematic course of conduct”:

- with intent to defraud or to obtain property of another
- by means of a false or fraudulent pretense, representation, or promise
- and thereby obtains property of another or causes another to lose property.”

Fraud I can be a felony or misdemeanor offense. Like other offenses described in this lesson, the determining factor is the value of the stolen property. The felony offense involves property worth \$1,000 or more, and the misdemeanor involves property under \$1,000.

Felony Fraud I is punishable by imprisonment for not more than ten (10) years, a fine, or both

Misdemeanor Fraud I is punishable by imprisonment up to 180 days, a fine, or both.

Consider this example: Joe has been posing as a professional painter and offering to paint homes in the neighborhood. Numerous homeowners have agreed to hire Joe to paint their homes. Joe says the cost is \$1,000 and requests a \$500 deposit, with the remainder upon completion. Joe receives and cashes fifteen (15) deposits but never paints any homes. Months later, homeowners begin filing reports about Joe, who has not returned. Several months later, he returns to the neighborhood, offering to paint homes again. When confronted, he denies receiving payment and refuses to complete the work. Joe has committed Fraud I.

Fraud II – DC Code § 22-3221

Fraud II occurs when any person:

- “engages in a scheme or systematic course of conduct
- with the intent to defraud or to obtain property of another
- by means of a false or fraudulent pretense, representation, or promise.”

Fraud II can also be a felony or misdemeanor offense, and the determining factor is the value of the property involved in the offense. The felony offense involves property worth \$1,000 or more, and the misdemeanor offense is for property of any value under \$1,000.

Felony Fraud II is punishable by not more than three (3) years of imprisonment, a fine, or both.

Misdemeanor Fraud II is punishable by imprisonment of not more than 180 days, a fine, or both.

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

- Felony Theft
- Forgery
- Fraud I
- Fraud II
- Receiving Stolen Property
- Shoplifting
- Theft I
- Theft II

Summary

You learned in this lesson about theft, forgery, and fraud offenses, the latter of which have evolved and increased in frequency due to technological advances. Understanding of all these offenses and their elements will enable you to better detect, deter, and enforce them. The scenarios you have worked through and discussed are similar to those you will encounter as a patrol officer. These offenses affect community members and businesses, and with this training, you can improve your ability to perform patrol duties.

References

GO-SPT-401.01	Field Reporting System	07/19/2012
GO-SPT-302.01	Calls for Service	02/28/2023
CIR-24-01	Secure DC Omnibus Emergency Amendment Act of 2024	03/12/2024
GO-HSC-803.06	Real Time Crime Center Operations	03/28/2024
GO-PER-201.26	Code of Conduct	06/12/2024