

No. 20-18

IN THE
Supreme Court of the United States

ARTHUR GREGORY LANGE,

Petitioner,

v.

CALIFORNIA,

Respondent.

On Writ of Certiorari
to the Court of Appeal of the State of California,
First Appellate Division

**BRIEF OF COURT-APPOINTED
AMICUS CURIAE AMANDA K. RICE
IN SUPPORT OF THE JUDGMENT BELOW**

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QUESTION PRESENTED

Does pursuit of a person who a police officer has probable cause to believe has committed a misdemeanor categorically qualify as an exigent circumstance sufficient to allow the officer to enter a home without a warrant?

TABLE OF CONTENTS

	Page
QUESTION PRESENTED.....	i
TABLE OF AUTHORITIES.....	v
INTEREST OF AMICUS CURIAE.....	1
INTRODUCTION.....	1
STATEMENT OF THE CASE	4
SUMMARY OF ARGUMENT	7
ARGUMENT	10
I. HOT PURSUIT OF A SUSPECTED MISDEMEANANT JUSTIFIES WARRANTLESS ENTRY.....	10
A. This Court Has Held that Hot Pursuit Categorically Justifies Warrantless Entry, Without Distinguishing Between Felonies and Misdemeanors	10
B. The Hot Pursuit Rule Reflects a Balance of Strong Government Interests in Acting Swiftly with Diminished Interests in Personal Privacy.....	13
1. The government has strong interests in swiftly apprehending fleeing suspects.....	13
2. A fleeing suspect has significantly diminished privacy interests.....	17

TABLE OF CONTENTS
(continued)

	Page
C. The Hot Pursuit Exception Has Common-Law Roots	20
II. A CASE-BY-CASE RULE CANNOT BE RECONCILED WITH PRECEDENT, HISTORY, OR GOOD POLICY	23
A. Many Exceptions to the Warrant Requirement—including for Hot Pursuit—Operate Categorically	25
1. This Court’s decisions establish that the hot pursuit exception, like several other warrant-requirement exceptions, is categorical.....	25
2. Case-specific interest- balancing is inappropriate in hot pursuit cases	31
3. The common law recognized categorical justifications, including hot pursuit, for warrantless entry of a home	33
B. The Hot Pursuit Exception Is Not Limited to Felonies	34
1. There is no precedential basis for a felony–misdemeanor distinction in the hot pursuit context	34

TABLE OF CONTENTS

(continued)

	Page
2. Interest-balancing does not support a misdemeanor limitation	36
3. The felony–misdemeanor line is unworkable and arbitrary	38
4. The common law does not support limiting the hot pursuit exception to felonies	41
C. Lange’s and California’s Policy Arguments Lack Merit	42
1. Limiting the hot pursuit exception would hinder effective policing	42
2. A categorical hot pursuit rule will not contribute to police abuse	44
III. IN THE ALTERNATIVE, THE COURT SHOULD AFFIRM THE JUDGMENT BELOW EVEN UNDER A CASE-SPECIFIC APPROACH	49
CONCLUSION	50
APPENDIX: CLASSIFICATION OF OFFENSES IN CALIFORNIA PENAL CODE PART 1	1a

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Arizona v. Gant</i> , 556 U.S. 332 (2009).....	19, 27
<i>Atwater v. City of Lago Vista</i> , 532 U.S. 318 (2001).....	<i>passim</i>
<i>Bailey v. United States</i> , 568 U.S. 186 (2013).....	18
<i>Bd. of Cnty. Comm’rs v. Umbehr</i> , 518 U.S. 668 (1996).....	40
<i>Berkemer v. McCarty</i> , 468 U.S. 420 (1984).....	39, 47
<i>Birchfield v. North Dakota</i> , 136 S. Ct. 2160 (2016).....	11, 29, 30
<i>Bishop Atterbury’s Case</i> (1723) 16 How. St. Tr. 323 (H.L.)	21
<i>Bodine v. Warwick</i> , 72 F.3d 393 (3d Cir. 1995)	43
<i>Brigham City v. Stuart</i> , 547 U.S. 398 (2006).....	1, 10, 11, 29
<i>Brown v. Texas</i> , 443 U.S. 47 (1979).....	47
<i>Cahill v. People</i> , 106 Ill. 621 (1883)	23
<i>California v. Acevedo</i> , 500 U.S. 565 (1991).....	32

TABLE OF AUTHORITIES
(continued)

	Page(s)
<i>California v. Carney</i> , 471 U.S. 386 (1985).....	27, 28
<i>California v. Hodari D.</i> , 499 U.S. 621 (1991).....	14, 15
<i>Carpenter v. United States</i> , 138 S. Ct. 2206 (2018).....	10
<i>Carroll v. Ellington</i> , 800 F.3d 154 (5th Cir. 2015).....	45
<i>Chimel v. California</i> , 395 U.S. 752 (1969).....	27
<i>City Council v. Payne</i> , 11 S.C.L. (2 Nott & McC.) 475 (1820).....	22
<i>City of Bismarck v. Brekhus</i> , 908 N.W.2d 715 (N.D. 2018).....	32
<i>City of Middletown v. Flinchum</i> , 765 N.E.2d 330 (Ohio 2002).....	32
<i>Collins v. Virginia</i> , 138 S. Ct. 1663 (2018).....	11, 21
<i>Commonwealth v. Jewett</i> , 31 N.E.3d 1079 (Mass. 2015).....	15, 19, 32
<i>County of Los Angeles v. Mendez</i> , 137 S. Ct. 1539 (2017).....	45
<i>Davis v. United States</i> , 564 U.S. 229 (2011).....	49
<i>Dunaway v. New York</i> , 442 U.S. 200 (1979).....	28

TABLE OF AUTHORITIES
(continued)

	Page(s)
<i>Est. of Saucedo v. City of North Las Vegas</i> , 380 F. Supp. 3d 1068 (D. Nev. 2019).....	45
<i>Ewing v. California</i> , 538 U.S. 11 (2003).....	39
<i>Ford v. Breen</i> , 173 Mass. 52 (1899)	34
<i>Franklin v. City of South Bend</i> , No. 3:13-cv-207, 2015 WL 5174060 (N.D. Ind. Sept. 3, 2015)	45
<i>Georgia v. Randolph</i> , 547 U.S. 103 (2006).....	28
<i>Illinois v. Gates</i> , 462 U.S. 213 (1983).....	43
<i>Illinois v. McArthur</i> , 531 U.S. 326 (2001).....	17
<i>Illinois v. Rodriguez</i> , 497 U.S. 177 (1990).....	14
<i>Illinois v. Wardlow</i> , 528 U.S. 119 (2000).....	16
<i>Jennings v. Stephens</i> , 574 U.S. 271 (2015).....	49
<i>Johnson v. United States</i> , 559 U.S. 133 (2010).....	41
<i>Kansas v. Glover</i> , 140 S. Ct. 1183 (2020).....	47

TABLE OF AUTHORITIES
(continued)

	Page(s)
<i>Kentucky v. King</i> , 563 U.S. 452 (2011).....	1, 10, 11, 44
<i>Knot v. Gay</i> , 1 Root 66 (Conn. Super. Ct. 1774).....	22
<i>Lentz v. Raum</i> , 21 Pa. D. 1116 (Pa. Ct. Com. Pl. 1912).....	42
<i>Luer v. St. Louis County</i> , No. 4:17-cv-00767, 2018 WL 6064862 (E.D. Mo. Nov. 19, 2018).....	45
<i>Macooh v. Queen</i> , [1993] 2 S.C.R. 802 (Can.)	<i>passim</i>
<i>Magruder v. United States</i> , 62 A.3d 720 (D.C. 2013).....	26
<i>Maryland v. Buie</i> , 494 U.S. 325 (1990).....	19, 27
<i>Maryland v. Wilson</i> , 519 U.S. 408 (1997).....	16
<i>Mascorro v. Billings</i> , 656 F.3d 1198 (10th Cir. 2011).....	45
<i>Michigan v. Chesternut</i> , 486 U.S. 567 (1988).....	31
<i>Michigan v. Fisher</i> , 558 U.S. 45 (2009) (per curiam)	29
<i>Michigan v. Tyler</i> , 436 U.S. 499 (1978).....	14, 29

TABLE OF AUTHORITIES
(continued)

	Page(s)
<i>Minnesota v. Olson</i> , 495 U.S. 91 (1990).....	11, 26
<i>Missouri v. McNeely</i> , 569 U.S. 141 (2013).....	<i>passim</i>
<i>Mitchell v. Wisconsin</i> , 139 S. Ct. 2525 (2019).....	17, 18, 38
<i>Payton v. New York</i> , 445 U.S. 573 (1980).....	20, 21
<i>People v. Johnson</i> , 48 N.W. 175 (Mich. 1891)	42
<i>People v. Lloyd</i> , 216 Cal. App. 3d 1425 (1989).....	7, 48, 49
<i>People v. Wear</i> , 867 N.E.2d 1027 (Ill. App. Ct. 2007)	21
<i>Plumhoff v. Rickard</i> , 572 U.S. 765 (2014).....	14
<i>Rakas v. Illinois</i> , 439 U.S. 128 (1978).....	18
<i>Richards v. Wisconsin</i> , 520 U.S. 385 (1997).....	30, 31
<i>Riley v. California</i> , 573 U.S. 373 (2014).....	13, 32
<i>Scher v. United States</i> , 305 U.S. 251 (1938).....	11, 12, 13, 34
<i>Scott v. Harris</i> , 550 U.S. 372 (2007).....	13, 14, 15, 18

TABLE OF AUTHORITIES
(continued)

	Page(s)
<i>Semayne’s Case</i> (1604) 77 Eng. Rep. 194 (K.B.).....	21
<i>Smith v. Stoneburner</i> , 716 F.3d 926 (6th Cir. 2013).....	37
<i>Stanton v. Sims</i> , 571 U.S. 3 (2013) (per curiam)	11, 34, 35, 36
<i>State v. Blake</i> , 468 N.E.2d 548 (Ind. Ct. App. 1984)	16
<i>State v. Davis</i> , 768 So. 2d 201 (La. Ct. App. 2000).....	43
<i>State v. Ionescu</i> , 937 N.W.2d 90 (Wis. Ct. App. 2019).....	32
<i>State v. Legg</i> , 633 N.W.2d 763 (Iowa 2001).....	17, 44
<i>State v. Markus</i> , 211 So. 3d 894 (Fla. 2017)	35
<i>State v. Ricci</i> , 739 A.2d 404 (N.H. 1999).....	15, 26
<i>State v. Thomas</i> , 124 P.3d 48 (Kan. 2005).....	16
<i>State v. Walker</i> , 953 So. 2d 786 (La. 2007).....	16
<i>State v. Weber</i> , 887 N.W.2d 554 (Wis. 2016)	18, 19, 43
<i>Steagald v. United States</i> , 451 U.S. 204 (1981).....	18, 26

TABLE OF AUTHORITIES
(continued)

	Page(s)
<i>Tennessee v. Garner</i> , 471 U.S. 1 (1985).....	<i>passim</i>
<i>Terry v. Ohio</i> , 392 U.S. 1 (1968).....	14, 46, 47
<i>Thomas v. State</i> , 658 S.E.2d 796 (Ga. Ct. App. 2008).....	18, 31
<i>Thompson v. City of Florence</i> , No. 3:17-cv-01053, 2019 WL 3220051 (N.D. Ala. July 17, 2019)	43, 46
<i>Trent v. Wade</i> , 776 F.3d 368 (5th Cir. 2015).....	26
<i>United States v. Corder</i> , 724 F. App'x 394 (6th Cir. 2018)	46
<i>United States v. Cruz</i> , 977 F.3d 998 (10th Cir. 2020).....	26
<i>United States v. Jones</i> , 204 F.3d 541 (4th Cir. 2000).....	32
<i>United States v. Myers</i> , 550 F.2d 1036 (5th Cir. 1977).....	16
<i>United States v. Robinson</i> , 414 U.S. 218 (1973).....	27, 32
<i>United States v. Santana</i> , 427 U.S. 38 (1976).....	<i>passim</i>
<i>United States v. Watson</i> , 423 U.S. 411 (1976).....	12, 13, 28

TABLE OF AUTHORITIES
(continued)

	Page(s)
<i>Voisine v. United States</i> , 136 S. Ct. 2272 (2016).....	38
<i>Warden v. Hayden</i> , 387 U.S. 294 (1967).....	26
<i>Washington v. Chrisman</i> , 455 U.S. 1 (1982).....	29
<i>Wells v. City of Dearborn Heights</i> , 538 F. App'x 631 (6th Cir. 2013)	44
<i>Welsh v. Wisconsin</i> , 466 U.S. 740 (1984).....	3, 35, 36
<i>Whren v. United States</i> , 517 U.S. 806 (1996).....	40, 47
<i>Wilson v. Arkansas</i> , 514 U.S. 927 (1995).....	20, 43
<i>Z.J. ex rel. Jones v. Kan. City Bd. of Police Comm'rs</i> , 931 F.3d 672 (8th Cir. 2019).....	44
 STATUTES	
Ala. Code § 13A-8-194.....	40
Cal. Health & Safety Code § 11360	39
Cal. Ins. Code § 11162.....	38
Cal. Penal Code § 17.....	39
Cal. Penal Code § 148.....	5, 6
Cal. Penal Code § 148.9.....	40
Cal. Penal Code § 156.....	38

TABLE OF AUTHORITIES
(continued)

	Page(s)
Cal. Penal Code § 171c.....	38
Cal. Penal Code § 241.....	38
Cal. Penal Code § 241.3.....	38
Cal. Penal Code § 243.25.....	38
Cal. Penal Code § 417.....	38
Cal. Penal Code § 417.4.....	38
Cal. Penal Code §§ 486–490.1.....	39
Cal. Penal Code § 528.....	38
Cal. Penal Code § 840.....	49
Cal. Veh. Code § 2800	5
Cal. Veh. Code § 23152	5
Cal. Veh. Code § 27001	4
Cal. Veh. Code § 27007	4, 5
Del. Code Ann. Title 21, § 4103	40
Fla. Stat. § 316.1935	40
Me. Stat. Title 17-A, § 4	40
N.J. Stat. Ann. § 2C:1-4	40
 OTHER AUTHORITIES	
Akhil Reed Amar, <i>Fourth Amendment</i> <i>First Principles</i> , 107 HARV. L. REV. 757 (1994)	21

TABLE OF AUTHORITIES
(continued)

	Page(s)
ROBERT BEVILL, A TREATISE ON THE LAW OF HOMICIDE AND OF LARCENY AT COMMON LAW (1799).....	22
1 WILLIAM BLACKSTONE, COMMENTARIES	23, 33
RICHARD BURN, THE JUSTICE OF THE PEACE (1772).....	22
1 JOSEPH CHITTY & RICHARD PETERS, A PRACTICAL TREATISE ON THE CRIMINAL LAW (1819)	21
WILLIAM J. CUDDIHY, THE FOURTH AMENDMENT: ORIGINS AND ORIGINAL MEANING (2009)	<i>passim</i>
W.F. Foster & Joseph E. Magnet, <i>The Law of Forcible Entry</i> , 15 ALTA. L. REV. 271 (1977).....	21
Dale Joseph Gilsinger, Annotation, <i>When Is Warrantless Entry of House or Other Building Justified Under “Hot Pursuit” Doctrine</i> , 17 A.L.R. 6th 327 (2006).....	26, 27, 37
MATTHEW HALE, THE HISTORY OF THE PLEAS OF THE CROWN (1736)	33
3 WAYNE R. LAFAVE, SEARCH & SEIZURE (6th ed. Sept. 2020)	26
1 LAWS OF THE COMMONWEALTH OF PENNSYLVANIA (1771) (J. Bioren ed. 1810).....	33

TABLE OF AUTHORITIES
(continued)

	Page(s)
WILLIAM J. NOVAK, <i>THE PEOPLE’S WELFARE</i> (1996).....	33
JAMES PARKER, <i>CONDUCTOR GENERALIS</i> (1788)	23
George C. Thomas III, <i>Stumbling Toward History: The Framers’ Search and Seizure World</i> , 43 <i>TEX. TECH L. REV.</i> 199 (2010)	22
Horace L. Wilgus, <i>Arrest Without A Warrant</i> , 22 <i>MICH. L. REV.</i> 541 (1924)	42
Horace L. Wilgus, <i>Arrest Without A Warrant</i> , 22 <i>MICH. L. REV.</i> 798 (1924)	23, 33

INTEREST OF AMICUS CURIAE

This Court invited Amanda K. Rice to brief and argue this case as amicus curiae in support of the California Court of Appeal’s judgment after the State of California declined to defend that court’s grounds for decision.¹

INTRODUCTION

The “touchstone of the Fourth Amendment is ‘reasonableness.’” *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006). And there is nothing reasonable about allowing an offender to defeat a lawful public arrest by fleeing into a home. That is true regardless of whether the underlying crime happens to be classified as a felony or a misdemeanor.

This Court has long recognized that the warrant requirement “is subject to certain reasonable exceptions,” *Kentucky v. King*, 563 U.S. 452, 459–60 (2011), and that those exceptions sometimes “apply categorically.” *Missouri v. McNeely*, 569 U.S. 141, 148–50 & n.3 (2013). In *United States v. Santana*, 427 U.S. 38 (1976), this Court held that “hot pursuit” is one of those categorical exceptions. The “act of retreating into [a] house,” the Court reasoned, cannot “thwart an otherwise proper arrest” that has been “set in motion in a public place.” *Id.* at 42–43. Although the drug-dealing offense in *Santana* happened to be a felony, *id.* at 40–42, the Court’s ruling turned neither on the classification of that offense nor on whether other exigent circumstances were present. Instead, the Court

¹ No counsel for a party authored this brief in whole or in part, and no person other than amicus curiae and her firm made a monetary contribution to this brief’s preparation or submission.

made clear that hot pursuit was itself “sufficient to justify the warrantless entry into [a] house.” *Id.* at 43.

The *Santana* rule reflects traditional interest-balancing, which categorically favors law enforcement’s side of the scales in hot pursuit cases. *On the one hand*, every time a suspect runs he triggers a weighty law enforcement interest in discouraging flight so that criminals do not think that reaching a home means they are “home free.” Flight also implicates several other law enforcement interests, including the needs to identify the offender, protect the public from harm, and prevent the destruction of evidence. Those interests are properly assessed categorically not only because they exist in some combination in most hot pursuit cases, but also because they are difficult for officers to assess in any particular case in the heat of pursuit. *On the other hand*, the fugitive significantly diminishes any privacy interests he may have in the home he enters—assuming it is even his own—when he decides to run inside with police hot on his heels.

The hot pursuit exception also has common-law roots. The common law generally permitted hot pursuit entries for crimes committed in an officer’s presence. And other doctrines—including for hue and cry, breach of the peace, and recapture of arrestees—also justified warrantless home entry in circumstances similar to hot pursuit. In reality, however, a common-law court would not have gotten even that far: There was no clear warrant requirement for home arrests, and no exclusionary rule regardless.

In the decision below, the California Court of Appeal adhered to precedent, interest-balancing, and the common law by treating hot pursuit as a categorical exception to the warrant requirement. Pet.App.15a–

20a. It applied that exception in upholding the drunk-driving conviction of Petitioner Arthur Lange, who failed to heed California Highway Patrol Officer Aaron Weikert's signal to pull over and instead continued driving into a garage. Because Lange decided to flee and Officer Weikert had probable cause to arrest him, Officer Weikert was justified in pursuing Lange into the garage to complete the arrest. Pet.App.15a–17a, 21a.

Lange and California disagree. Lange, for his part, claims there are *no* categorical exceptions to the warrant requirement for home entries. That argument fails at every turn. It disregards this Court's consistent treatment of hot pursuit and other exceptions as categorical. It ignores both that flight is itself dispositive of the interest-balancing in hot pursuit cases and that case-specific balancing is impractical in the heat of the moment. And it lacks any common-law grounding.

California heads down a different path, conceding that the hot pursuit exception operates categorically for felonies but inventing a different, case-by-case rule for misdemeanors. There is no precedential basis for that approach either. The main case on which it relies, *Welsh v. Wisconsin*, 466 U.S. 740 (1984), did not even involve hot pursuit, and *Atwater v. City of Lago Vista*, 532 U.S. 318 (2001), rejected a felony-only rule in a closely related context. Moreover, the justifications for the hot pursuit exception rest on the suspect's flight, not his underlying crime. And a felony–misdemeanor line is unworkable and arbitrary.

Lange and California make their last stand in policy territory. But their proposed alternatives—knock-

ing and seeking consent to enter (as if the fleeing suspect will turn around to answer the door) and waiting for a warrant (as if the fleeing suspect will take a timeout too)—would hinder effective policing. They are also unnecessary, because neither evidence nor logic suggests that the hot pursuit exception encourages police abuse. And if States don't like the Fourth Amendment balance, they may strike their own under state law.

At the end of the day, the hot pursuit rule reflects common sense. Whatever the classification of his initial crime, a fleeing suspect cannot graft the protections of the home onto a lawful arrest begun in public by running inside. The Court should adhere to this reasonable rule and affirm the judgment below.

STATEMENT OF THE CASE

1. Officer Weikert was on patrol late one evening when he noticed Lange drive by. Pet.App.2a. Lange would have been difficult to miss: He was blaring loud music and honking his horn repeatedly for no apparent reason. *Id.* California law prohibits operating a car's sound system at an excessive volume, and permits use of a horn only as necessary for safety. Cal. Veh. Code §§ 27001, 27007. So Officer Weikert pulled out after Lange, intending to conduct a traffic stop. Pet.App.2a. He caught up after following Lange through two turns, then activated his overhead lights to tell Lange to pull over. Pet.App.2a–3a.

But Lange kept driving. He pulled into a residential driveway, with Officer Weikert following close behind, and continued into a garage. Pet.App.3a. The garage door then began closing behind him. *Id.* To prevent Lange's escape, Officer Weikert exited his vehicle

and stuck his foot in front of the garage-door sensor, causing the door to go back up. *Id.* He then entered the garage and questioned Lange, who showed clear signs of excessive intoxication. *Id.*; C.T. 26, 136. A blood test later placed Lange’s blood-alcohol content at 0.245 percent, more than three times the legal limit. C.T. 20, 207.

2. The State charged Lange in Sonoma County Superior Court with driving under the influence of alcohol (DUI), a misdemeanor, Cal. Veh. Code § 23152(a), (b), and with operating a vehicle’s sound system at excessive levels, an infraction, *id.* § 27007. Pet.App.2a. Lange moved to suppress all evidence obtained after Officer Weikert entered his garage, arguing that the warrantless entry had violated the Fourth Amendment. *Id.*

The Superior Court denied the motion. Officer Weikert, it found, had lawfully directed Lange to pull over based on the apparent Vehicle Code violations. Pet.App.4a. And when Lange failed to stop, Officer Weikert had probable cause to believe he had committed the misdemeanor of willfully obstructing a peace officer or failing to comply with a peace officer’s order. Pet.App.3a–4a; *see* Cal. Veh. Code § 2800; Cal. Penal Code § 148. Officer Weikert’s hot pursuit of Lange, accordingly, justified his warrantless entry into Lange’s garage, and the evidence he subsequently obtained was admissible. Pet.App.4a.

3. Lange took an interlocutory appeal, and the Superior Court’s Appellate Division affirmed. Pet.App.26a–27a. “[A] reasonable person in [Lange’s] position,” the court explained, “would have known the officer intended to detain [Lange] when the officer activated his emergency lights from right behind

[Lange’s] vehicle and continued following [him].” Pet.App.26a. And Lange’s “failure to submit to the officer’s show of authority” gave Officer Weikert “probable cause to believe [Lange] was attempting to evade ... detention” in violation of Penal Code § 148. Pet.App.27a. Because Lange’s “detention ... was initiated in a public place,” the court held that Officer Weikert did not need a warrant to follow him into the garage. Pet.App.26a.

After that ruling, Lange pleaded no contest to the misdemeanor DUI offense. Pet.App.6a. Because this was not Lange’s first DUI conviction and because his blood-alcohol content had far exceeded the legal limit, the Superior Court sentenced him to thirty days in jail and three years’ probation. C.T. 208.

Lange appealed his conviction, and the Appellate Division again affirmed. Pet.App.23a–25a (explaining that defendants who plead no contest after an interlocutory appeal are entitled to postconviction review). As before, it found that Officer Weikert had probable cause to believe that Lange intended to evade a public detention, and that his pursuit of Lange into the garage had been lawful. *Id.*

4. The California Court of Appeal granted review and affirmed. Pet.App.1a–22a. Its logic was straightforward. First, “[t]here was evidence Lange was violating the Vehicle Code, which justified the officer’s attempt to stop Lange’s vehicle.” Pet.App.16a. Second, “a reasonable person in Lange’s position would have known the officer intended for him to pull over.” Pet.App.17a. Third, “[w]hen Lange failed to stop his car, the officer’s reasonable cause to detain Lange for traffic infractions ripened into probable cause to arrest him for misdemeanor offenses.” Pet.App.18a.

“[T]he officer’s ‘hot pursuit’ into the house to prevent the suspect from frustrating [that] arrest,” the court concluded, “constitutes a proper exception to the warrant requirement.” *Id.*; *see also* Pet.App.15a–16a (citing *Santana*, 427 U.S. at 42–43). And “the fact that the offenses justifying the initial detention or arrest were misdemeanors is of no significance in determining the validity of the entry without a warrant.” Pet.App.20a (quoting *People v. Lloyd*, 216 Cal. App. 3d 1425, 1430 (1989)).

The California Supreme Court denied review. Pet.App.28a.

5. This Court granted certiorari to resolve a division of authority about whether the hot pursuit exception applies to misdemeanors.

SUMMARY OF ARGUMENT

I. Precedent, interest-balancing, and history all confirm that an officer in hot pursuit of a suspected misdemeanant does not violate the Fourth Amendment by following him into a home without a warrant.

A. This Court has long held that hot pursuit of a fleeing suspect justifies warrantless entry. It did so most clearly in *Santana*. 427 U.S. at 42–43. And since then, it has repeatedly characterized hot pursuit as a categorical exigency. The Court has never said that the hot pursuit rule turns on the character of the underlying offense. Indeed, *Atwater*’s holding that the Constitution permits warrantless arrests of misdemeanants just as it permits warrantless arrests of felons confirms that there is no basis for treating misdemeanants differently if they resist by taking flight.

B. The hot pursuit exception appropriately balances the government’s strong interests in pursuing

fleeing suspects against those suspects' diminished privacy interests when they attempt to hide inside a home. On the government's side of the scales are strong interests in discouraging flight, identifying suspects, eliminating public-safety threats, and preventing destruction of evidence. All hot pursuit cases implicate the first of those interests, and most will implicate some (if not all) of the others. And the pursuit itself makes it difficult for officers to assess these interests in real time. By contrast, the fleeing suspect's interests are minimal. If he submits to a lawful public arrest, his home remains his castle. But if he chooses to resist by running inside, he invites the pursuing officer to follow for the limited purpose of completing that arrest and cannot reasonably expect the officer to stop at the threshold.

C. The hot pursuit exception developed from the common law. As an initial matter, it is far from clear that the common law had a rigid warrant requirement for home arrests, and it certainly had no exclusionary rule. So any complaint about hot pursuit would have provided no basis for disturbing a conviction. Regardless, various common-law doctrines justified warrantless home entry in connection with non-felony crimes.

II. A case-by-case approach to misdemeanor hot pursuit flouts precedent, has no basis in history, and is bad policy.

A. *Lange* attempts to defend that approach by arguing that, at least where the home is concerned, the Fourth Amendment's warrant requirement tolerates no categorical exceptions at all. But "traditional exceptions" to the warrant requirement are often categorical, *McNeely*, 569 U.S. at 150 n.3, and this Court has made clear that hot pursuit is one of them. Rightly

so, both because the interest-balancing calculus yields the same result in every hot pursuit case and because officers cannot reasonably be expected to undertake an individualized risk assessment in the midst of a chase. Moreover, the common law recognized categorical rules in the context of home entries, including for hot pursuit.

B. California, for its part, concedes that the hot pursuit exception is categorical for felonies but argues that misdemeanors should be treated differently. The felony–misdemeanor line does not withstand scrutiny. It finds no support in this Court’s precedents. It does not change the balance between government and private interests. It tracks no discernable common-law standard. And it yields arbitrary and unworkable results.

C. Lange’s and California’s policy arguments likewise lack merit. A case-by-case approach would hinder effective policing. And their suggestion that a categorical rule will enable police abuse lacks evidentiary or logical support. Indeed, the fact patterns they denounce either involve no hot pursuit, or involve harms resulting from excessive force. Many jurisdictions (including California) have long applied the hot pursuit exception to misdemeanors, and the sky has shown no signs of falling.

III. The Court should affirm even if it holds that the hot pursuit exception must be assessed case by case. There is no dispute as to Officer Weikert’s good-faith reliance on the categorical hot pursuit rule endorsed by California’s courts. And Officer Weikert’s pursuit of Lange into his garage was reasonable on its own terms anyway.

ARGUMENT

I. HOT PURSUIT OF A SUSPECTED MISDEMEANANT JUSTIFIES WARRANTLESS ENTRY.

The Fourth Amendment requires all searches and seizures to be reasonable. *King*, 563 U.S. at 459. Usually, police entries into residences are reasonable only when conducted pursuant to a warrant. *Brigham City*, 547 U.S. at 403. But in certain well-defined situations, compelling law enforcement needs make warrantless entry reasonable. “[T]raditional exceptions to the warrant requirement ... apply categorically and thus do not require an assessment of whether the policy justifications underlying the exception ... are implicated in a particular case.” *McNeely*, 569 U.S. at 148–50 & n.3.

Hot pursuit is such an exception. It applies when an officer has probable cause to make a public arrest, the suspect “retreat[s] into [a] house” to “thwart” that arrest, and the officer follows the suspect inside to apprehend him. *Santana*, 427 U.S. at 42–43. Precedent, Fourth Amendment interest-balancing, and common-law authorities all confirm that it covers felons and misdemeanants alike.

A. This Court Has Held that Hot Pursuit Categorically Justifies Warrantless Entry, Without Distinguishing Between Felonies and Misdemeanors.

This Court has recognized that “hot pursuit” of a fleeing suspect is “sufficient to justify ... warrantless entry.” *Santana*, 427 U.S. at 43. And it has consistently characterized the hot pursuit exception in categorical terms. *See, e.g., Carpenter v. United States*, 138 S. Ct. 2206, 2222–23 (2018) (listing “the need to pursue a fleeing suspect” as an “exigenc[y]” justifying

warrantless entry); *Birchfield v. North Dakota*, 136 S. Ct. 2160, 2173 (2016) (similar); *King*, 563 U.S. at 460 (similar); *McNeely*, 569 U.S. at 149 (similar); *Brigham City*, 547 U.S. at 403 (similar). Although “other factors”—like the “risk of danger, the gravity of the crime and likelihood that the suspect is armed”—may “justify[] ... entry” “*in the absence of hot pursuit*,” *Minnesota v. Olson*, 495 U.S. 91, 100 (1990) (emphasis added), no additional justification is necessary when hot pursuit occurs.

This Court has never indicated that the hot pursuit exception turns on the classification of the underlying crime. To be sure, *Santana* happened to involve a person police had probable cause to believe had committed a felony drug-dealing offense. *See* 427 U.S. at 40–41. But the Court’s reasoning hinged on the suspect’s flight, not her crime. *See id.* at 42 (explaining that the defendant’s “act of retreating into her house could [not] thwart an otherwise proper arrest”). The Court did not rely on the classification of *Santana*’s offense, much less “limit [its] holding based on that fact.” *Stanton v. Sims*, 571 U.S. 3, 9 (2013) (per curiam).

Although *Santana* is the Court’s most significant hot pursuit case, it does not stand alone. In *Scher v. United States*, 305 U.S. 251 (1938), for example, the Court did not even *mention* whether the underlying crime (transporting illegal whiskey) was a misdemeanor or a felony. *See Collins v. Virginia*, 138 S. Ct. 1663, 1674 (2018) (classifying *Scher* as a “hot pursuit” case). As in *Santana*, the suspect’s flight was the beginning and the end of the analysis. “[J]ust before [Scher] entered the garage,” the Court reasoned, “the following officers properly could have stopped [his]

car, made search and put him under arrest.” *Scher*, 305 U.S. at 255. “Passage of the car into the open garage closely followed by the observing officer did not destroy this right.” *Id.*

If the hot pursuit decisions themselves left any doubt about their applicability to misdemeanors, *Atwater* eliminated it. The Court had previously held in *United States v. Watson*, 423 U.S. 411, 423–24 (1976), that an officer does not need a warrant to arrest in public someone he has probable cause to believe committed a crime. The question presented in *Atwater* was whether that rule is limited to felonies, or whether it also applies to misdemeanors and minor offenses. 532 U.S. at 323. The Court answered unequivocally: The same “standard of probable cause applies to all arrests, without the need to balance the interests and circumstances involved in particular situations.” *Id.* at 354 (cleaned up). In support of that ruling, the Court cited the need for administrable rules that officers can apply “on the spur (and in the heat) of the moment”; the impracticality of expecting that officers will “know the details of frequently complex penalty schemes”; the danger of providing “a systematic disincentive to arrest in situations where ... arresting would serve an important societal interest”; and States’ ability to modify the rule through legislation. *Id.* at 347–52.

Those considerations apply with equal force to hot pursuit. Indeed, *Atwater*’s extension of *Watson* to misdemeanors compels the application of *Santana* in *Lange*. In *Santana*, the Court held that “a suspect may not defeat an arrest which has been set in motion in a public place, and is therefore proper under *Watson*, by the expedient of escaping to a private place.”

Santana, 427 U.S. at 43. Factor in *Atwater*, and the answer to the question presented follows directly: A “suspect may not defeat an arrest which has been set in motion in a public place, and is therefore proper under *Watson* [or *Atwater*], by the expedient of escaping to a private place.” *Id.*

B. The Hot Pursuit Rule Reflects a Balance of Strong Government Interests in Acting Swiftly with Diminished Interests in Personal Privacy.

The Court’s hot pursuit holdings were so commonsensical that they needed little elaboration. See *Santana*, 427 U.S. at 42–43; *Scher*, 305 U.S. at 255. But they reflect an appropriate balance between “the importance of the governmental interests,” on the one hand, and “the intrusion on the individual’s” privacy interests, on the other. *Scott v. Harris*, 550 U.S. 372, 383 (2007) (citation omitted). That balancing must be conducted categorically because flight implicates a consistent set of interests in all hot pursuit cases, and the pursuit makes it difficult for officers to assess those interests in real time. Officers need “readily administrable rules” “lest every discretionary judgment in the field be converted into an occasion for constitutional review,” often accompanied by the threat of personal liability. *Atwater*, 532 U.S. at 347; see, e.g., *Riley v. California*, 573 U.S. 373, 398 (2014).

1. The government has strong interests in swiftly apprehending fleeing suspects.

The government interests in hot pursuit cases are substantial. The government has a crucial interest in every hot pursuit case in deterring flight from arrest.

Beyond that, hot pursuit usually implicates additional interests in identifying the offender, eliminating safety threats, and preventing destruction of evidence. Because officers “need to act quickly,” *Santana*, 427 U.S. at 42, those additional interests are difficult to assess “on the spur (and in the heat) of the moment,” *Atwater*, 532 U.S. at 347. As a result, the flight of a criminal suspect is itself an “exigency [that] makes a warrantless search imperative to the safety of the police and of the community.” *Illinois v. Rodriguez*, 497 U.S. 177, 191–92 (1990) (Marshall, J., dissenting).

a. The cornerstone of the hot pursuit rule is the strong government interest—implicated by *every* hot pursuit case—in discouraging flight from arrest. “An arrest is the initial stage of a criminal prosecution,” “intended to vindicate society’s interest in having its laws obeyed.” *Terry v. Ohio*, 392 U.S. 1, 26 (1968). Apprehending a fleeing criminal suspect always presents a “compelling need for official action.” *McNeely*, 569 U.S. at 169 (Roberts, C.J., concurring) (quoting *Michigan v. Tyler*, 436 U.S. 499, 509 (1978)). And, as this Court has repeatedly recognized, flight itself is dangerous and must not be incentivized.

“Street pursuits always place the public at some risk,” *California v. Hodari D.*, 499 U.S. 621, 627 (1991), and vehicular pursuits, which may begin with just a traffic offense, are more dangerous still, e.g., *Plumhoff v. Rickard*, 572 U.S. 765, 768–69, 776–77 (2014) (reckless flight from routine traffic stop “posed a grave public safety risk”); *Scott*, 550 U.S. at 382 n.9, 385. Those dangers may escalate quickly. And with “no way to convey convincingly to [the fugitive] ... that the chase [i]s off,” de-escalation can prove impossible.

Scott, 550 U.S. at 385. For these reasons, “compliance with police orders to stop should ... be encouraged.” *Hodari D.*, 499 U.S. at 627.

Although officers may *decide* to call off a chase when a suspect escapes into a home, *requiring* them to do so would teach offenders that reaching home base means they are “home free.” But law enforcement is not “a child’s game,” “with apprehension and conviction depending upon whether the officer or defendant is the fleetest of foot.” *Commonwealth v. Jewett*, 31 N.E.3d 1079, 1089 (Mass. 2015) (quoting *State v. Ricci*, 739 A.2d 404, 408 (N.H. 1999)). Treating it as such would create “perverse incentives,” encouraging more—and more reckless—flight. *Scott*, 550 U.S. at 385.

Concerns about incentivizing flight are exactly what led this Court to reject a rule requiring police to abandon vehicular chases in *Scott*. Such a rule, the Court explained, would tell “[e]very fleeing motorist ... that escape is within his grasp, if only he accelerates to 90 miles per hour, crosses the double-yellow line a few times, and runs a few red lights.” *Id.* The hot pursuit exception recognizes that reaching the garage door ought be no more effective.

b. Hot pursuit typically implicates several additional government interests too. Although the strength of any one of those interests may vary from case to case, nearly every conceivable scenario implicates some of them. And they must be assessed categorically because a pursuing officer—acting in the heat of the moment and with incomplete information—cannot accurately assess them case by case.

First, an offender’s escape can make it impossible to identify him later. Suspects on foot are likely to display few identifying clues. And vehicular fugitives may be driving (or even have stolen) someone else’s car. Particularly in rural communities—where calling for backup to cover all exits may be impossible—an officer’s ability to continue the pursuit may mean the difference between accountability and impunity for offenders. *See, e.g., State v. Blake*, 468 N.E.2d 548, 553 (Ind. Ct. App. 1984) (identification “depended upon pursuit and arrest”); *State v. Thomas*, 124 P.3d 48, 55 (Kan. 2005) (high risk that offender would escape apprehension where quickly obtaining a search warrant at 2 a.m. was doubtful).

Second, fleeing suspects may pose a safety threat to officers, other residents of the home, or themselves. Such threats can be difficult to assess on the fly. The pursuing officer will usually be unaware of the suspect’s criminal history, any active arrest warrants, or the presence of a firearm or other weapon on his person or inside the home. The officer is also unlikely to know whether the suspect is fleeing into his own home or someone else’s. *See, e.g., State v. Walker*, 953 So. 2d 786, 790–91 (La. 2007) (defendant retreated into third-person’s residence, where he was unwelcome). These safety concerns are especially understandable, given that the flight is itself “suggestive” “of wrongdoing,” *Illinois v. Wardlow*, 528 U.S. 119, 124–25 (2000). The suspect’s decision to flee corroborates the State’s interest in apprehending him by suggesting not only that he is guilty of the underlying offense, *see, e.g., United States v. Myers*, 550 F.2d 1036, 1049 (5th Cir. 1977), but also that he may have even more to hide, *cf. Maryland v. Wilson*, 519 U.S. 408, 414 (1997)

("[T]he possibility of a violent encounter stems not from the ordinary reaction of a motorist stopped for a speeding violation, but from the fact that evidence of a more serious crime might be uncovered during the stop.").

Third, hot pursuit cases often present concerns about dissipation or destruction of evidence. *See Santana*, 427 U.S. at 43. Indeed, suspects may choose to run for precisely that reason. *Cf., e.g., Illinois v. McArthur*, 531 U.S. 326, 332 (2001) ("police had good reason to fear that" a suspect "suspecting an imminent search, would, if given the chance, get rid of the drugs fast"). Concerns about evidence recovery are particularly salient in DUI cases. For one thing, enforcing DUI laws "requires prompt testing because it is 'a biological certainty' that 'alcohol dissipates from the bloodstream at a rate of 0.01 percent to 0.025 percent per hour.'" *Mitchell v. Wisconsin*, 139 S. Ct. 2525, 2536–37 (2019) (plurality op.) (cleaned up; quoting *McNeely*, 569 U.S. at 169 (Roberts, C.J., concurring in part and dissenting in part)). "Evidence is literally disappearing by the minute." *Id.* For another, a fleeing DUI suspect may be seeking "the opportunity to drink alcohol in her home, thereby obscuring the source of the alcohol" and throwing off any subsequent testing. *State v. Legg*, 633 N.W.2d 763, 772 (Iowa 2001).

2. A fleeing suspect has significantly diminished privacy interests.

There is little stacked on the other side of the scales. To begin, the fleeing suspect has diminished interests because a "proper arrest" has "been set in motion in a public place," *Santana*, 427 U.S. at 42–43,

and hot pursuit into the home to complete it works little “additional intrusion,” *Bailey v. United States*, 568 U.S. 186, 193 (2013). See *Steagald v. United States*, 451 U.S. 204, 221 (1981) (“[A]n arrest warrant alone will suffice to enter a suspect’s own residence to effect his arrest.”).

The fleeing suspect’s interests are further weakened by his conduct, his expectations, and the scope of the resulting intrusion. Start with his conduct. If a suspect chooses to wrongfully enter someone else’s home, he has no privacy interests in that space at all. See *Rakas v. Illinois*, 439 U.S. 128, 141 (1978). And if he chooses to enter his own home, he invites the pursuing officer to follow him in, abandoning any reasonable expectation of privacy that the Fourth Amendment would otherwise provide. See, e.g., *State v. Weber*, 887 N.W.2d 554, 567 (Wis. 2016) (officers would not have entered garage had suspect “chosen to stop on the highway, or even in his driveway”). A fleeing suspect “intentionally place[s] himself and the public in danger,” *Scott*, 550 U.S. at 384, and “[i]t would be perverse if the more wanton behavior were rewarded” with greater constitutional protections, *Mitchell*, 139 S. Ct. at 2537.

Next, consider the fleeing suspect’s expectations. He can hardly be said to have been “bothered by the police unexpectedly while in domestic tranquility.” *Maccooh v. Queen*, [1993] 2 S.C.R. 802, 815 (Can.). Because he has “knowingly expose[d]” his house to police, their entry hot on his heels should come as no surprise. *Santana*, 427 U.S. at 42; see also, e.g., *Thomas v. State*, 658 S.E.2d 796, 801 (Ga. Ct. App. 2008) (“key”

to hot pursuit “is that the defendant is aware he is being pursued by the police”); *Jewett*, 31 N.E.3d at 1089; *infra* pp. 31–33.

Finally, consider the minimal scope of the intrusion. Hot pursuit justifies entry “not [for] a full search of the premises,” but only to inspect “those spaces where a person may be found,” and for “no longer than it takes to complete the arrest and depart the premises.” *Maryland v. Buie*, 494 U.S. 325, 335–36 (1990); *see also Arizona v. Gant*, 556 U.S. 332, 339 (2009) (scope of warrant requirement exception “is commensurate with its purposes”); *Weber*, 887 N.W.2d at 566 (“entry and apprehension” were appropriately “calculated to accomplish no more than was absolutely necessary to halt [the suspect’s] escape”).

* * *

With weighty government interests on one side, and minimal privacy interests on the other, the hot pursuit rule simply reflects “common sense,” as the Supreme Court of Canada put it. *Maccooh*, 2 S.C.R. at 816. In *Maccooh*, that court held that police may enter a home without a warrant in hot pursuit of a person suspected of committing either an indictable offense (analogous to a felony) or a provincial offense (analogous to a misdemeanor). *Id.* at 817–20. In so doing, the court relied on the same interests discussed above: not “reward[ing]” “[t]he flight of the offender”; “identify[ing] the offender”; avoiding the “[s]ignificant danger [that] may be associated with ... flight”; and preventing the loss of evidence. *Id.* at 815–16. These rationales, the court reasoned, apply equally as to indictable and provincial offenses. *Id.* at 820. And they categorically outweigh any privacy interests the fleeing suspect may retain. *See id.* at 822. “[A] person who

enters his house or that of someone else to get away from the police who are pursuing him in connection with an offence he has just committed and for which there is a power of arrest without a warrant cannot expect his privacy to be protected in such circumstances so as to prevent the police from making an arrest.” *Id.*

C. The Hot Pursuit Exception Has Common-Law Roots.

This Court is “guided” in Fourth Amendment cases not just by interest-balancing but also “by ‘the traditional protections against unreasonable searches and seizures afforded by the common law at the time of the framing.’” *Atwater*, 532 U.S. at 326 (quoting *Wilson v. Arkansas*, 514 U.S. 927, 931 (1995)). The weight afforded to Framing-era practice varies. To some questions, the common law provides clear answers, *e.g.*, *Wilson*, 514 U.S. at 933; as to others, “the common-law rule cannot be directly translated to the present day,” *Tennessee v. Garner*, 471 U.S. 1, 14 (1985); *see, e.g.*, *Payton v. New York*, 445 U.S. 573, 591 (1980) (“the common-law rules of arrest developed in legal contexts that substantially differ from the cases now”). This case falls somewhere in between: Although the present-day landscape differs significantly from the common-law map, common-law authorities generally considered warrantless entry to be justified in hot pursuit cases.

1. As an initial matter, *Lange*’s conviction would have been upheld at common law for two threshold reasons. *First*, “a warrant was not required to enter [a] house to make [an] arrest” in the first place, according to some authorities. *Santana*, 427 U.S. at 43–

44 (White, J., concurring); *see also* *Payton*, 445 U.S. at 604 (White, J., dissenting); Akhil Reed Amar, *Fourth Amendment First Principles*, 107 HARV. L. REV. 757, 761–63 (1994). To the contrary, “the common law had long recognized that forcible entry of the place containing a person to be arrested was a valid part of the arrest process, whether by warrant or without.” WILLIAM J. CUDDIHY, *THE FOURTH AMENDMENT: ORIGINS AND ORIGINAL MEANING* 768 (2009) (citing *Semayne’s Case* (1604) 77 Eng. Rep. 194 (K.B.)). *Second*, “[t]he exclusionary rule ... did not exist.” *Collins*, 138 S. Ct. at 1676 (Thomas, J., concurring); *see* CUDDIHY, *supra*, at 431 (citing *Bishop Atterbury’s Case* (1723) 16 How. St. Tr. 323 (H.L.)).

2. In any event, hot pursuit and several other doctrines justified warrantless entry in circumstances resembling the modern-day hot pursuit rule.

a. Hot pursuit, as a distinct justification for warrantless entry, has “deep roots in 17th- and 18th-century English common law.” *People v. Wear*, 867 N.E.2d 1027, 1045 (Ill. App. Ct. 2007). There is little dispute that constables could chase a fleeing felon into a home. *E.g.*, 1 JOSEPH CHITTY & RICHARD PETERS, *A PRACTICAL TREATISE ON THE CRIMINAL LAW* 23–31 (1819). “[T]he common law also more generally recognized a right to enter in hot pursuit for any misdemeanour provided it was committed in the presence of a police officer.” *Macooh*, 2 S.C.R. at 818 (citing W.F. Foster & Joseph E. Magnet, *The Law of Forcible Entry*, 15 ALTA. L. REV. 271 (1977)); *see also* CUDDIHY, *supra*, at 753 (“[c]ustomary procedure” at Founding “identified several reasons to enter ... dwellings,” including “warrantless arrests during hot pursuit”).

b. Common-law authorities also recognized several related justifications for warrantless entry in connection with felony and non-felony offenses.

First, the ancient doctrine of “hue and cry” required “pursuit of suspects by local citizens,” including, where necessary, into homes. CUDDIHY, *supra*, at 28. By the time of the Founding, the doctrine was often codified and was regularly applied to all manner of offenders, encompassing everything from “stolen livestock” to “Quakers,” “jail breakers, fugitives, murders, burglars, and thieves.” *Id.* at 201, 246; *see also* ROBERT BEVILL, A TREATISE ON THE LAW OF HOMICIDE AND OF LARCENY AT COMMON LAW 162–63, 261 (1799) (“hue and cry” could be raised “for ... misdemeanor[s]” and justified “break[ing] open the doors” “if the person pursued escape[d] into a house”). The practice persisted “for years after the ratification of the Bill of Rights in almost all of the justice of the peace manuals.” George C. Thomas III, *Stumbling Toward History: The Framers’ Search and Seizure World*, 43 TEX. TECH L. REV. 199, 227 (2010).

Second, “[f]rom time immemorial, constables and watchmen had authority, without warrant, to arrest those whom they saw engaged in an affray, or breach of the peace.” *City Council v. Payne*, 11 S.C.L. (2 Nott & McC.) 475, 478 (1820); *see, e.g., Knot v. Gay*, 1 Root 66, 66–67 (Conn. Super. Ct. 1774); *see also, e.g.,* RICHARD BURN, THE JUSTICE OF THE PEACE 101 (1772) (“If there be disorderly drinking or noise in a house, at an unreasonable time of night ... the constable or his watch ... may break open the doors, to see and suppress the disorder.”). And if the perpetrator fled into a home, the constable was entitled to follow. *See, e.g.,*

JAMES PARKER, CONDUCTOR GENERALIS 13 (1788) (affrays); Horace L. Wilgus, *Arrest Without A Warrant*, 22 MICH. L. REV. 798, 802–03 (1924) (breaches of peace); cf. 1 WILLIAM BLACKSTONE, COMMENTARIES *356 (noting constables’ “very large [inherent] powers, of arresting, ... of breaking open houses, and the like”).

Third, a warrantless arrest could always be made whenever a person was “lawfully arrested for any cause, and afterwards escape[d], and shelter[ed] himself in a[] house.” PARKER, *supra*, at 27–29 (emphasis added); see, e.g., *Cahill v. People*, 106 Ill. 621, 624–25 (1883).

To be sure, no single common-law doctrine maps precisely onto what we now call “hot pursuit.” See *Santana*, 427 U.S. at 42–43 (explaining that “hot pursuit” does *not* require an “extended hue and cry”); *infra* Part II.B.3. But they all reflect the same basic premise: Property and privacy interests are diminished, and warrantless entry justified, if a suspect attempts to thwart civil or criminal process by fleeing into a home.

II. A CASE-BY-CASE RULE CANNOT BE RECONCILED WITH PRECEDENT, HISTORY, OR GOOD POLICY.

In arguing that the hot pursuit exception does not apply to misdemeanants, *Lange* and California take different tacks. *Lange* argues that warrant requirements can *never* operate categorically with respect to the home. By his lights, hot pursuit is not a warrant exception at all, because warrantless entry is lawful only if *other* exigencies are also present. California, meanwhile, acknowledges that hot pursuit is a categorical exception to the warrant requirement where

the underlying offense is a felony. But if the underlying offense is a misdemeanor, California agrees with Lange that a case-specific showing of some other exigency is required.

Neither hits the mark. Lange's frontal attack on categorical exceptions cannot be reconciled with this Court's precedents. And his insistence that interests must be balanced in each case ignores that the defining feature of *every* hot pursuit case—the suspect's flight itself—is dispositive. California's attempt to distinguish between felons and misdemeanants fares no better. The constitutionality of a search or seizure should not turn on the happenstance of (or invite the manipulation of) a particular jurisdiction's labeling scheme. And a felony–misdemeanor distinction would be both unworkable and arbitrary anyway.

As a last resort, Lange, California, and their amici comb the casebooks for fact patterns they claim demonstrate the dangers of a categorical hot pursuit exception. But many of their cases do not even involve hot pursuit. And in those that do, it is misconduct (usually involving excessive force), not the hot pursuit rule, that is to blame. The truth is that jurisdictions like California and Canada have long recognized that hot pursuit categorically justifies warrantless entry, and no horrors have gone on parade. Although States are free to adopt a more restrictive rule if they so choose, the Constitution does not require them to allow suspects to defeat lawful public arrests by fleeing inside homes.

A. Many Exceptions to the Warrant Requirement—Including for Hot Pursuit—Operate Categorically.

Precedent, traditional interest-balancing, and the common law all belie Lange’s suggestion (at 7, 10–26) that every warrantless home entry—including those based on felony hot pursuit—must be justified on a case-by-case basis.

1. This Court’s decisions establish that the hot pursuit exception, like several other warrant-requirement exceptions, is categorical.

Lange distorts this Court’s Fourth Amendment jurisprudence beyond recognition in asserting that there can be *no* categorical exceptions to the warrant requirement for home entries. That is simply untrue. This Court has always treated hot pursuit categorically. And its approach to hot pursuit mirrors its bright-line treatment of other exceptions to the warrant requirement, including exceptions that apply to the home. The out-of-context quotations on which Lange relies are not to the contrary.

a. *Santana* itself makes clear that the hot pursuit exception applies categorically. Its holding—that the “act of retreating into [a] house” cannot “thwart an otherwise proper arrest,” 427 U.S. at 42—was unqualified. *Supra* pp. 10–11. And Lange’s suggestion (at 24–25) that the decision turned on a case-specific risk of evidence destruction ignores the Court’s plain statement that hot pursuit was itself “*sufficient* to justify the warrantless entry into Santana’s house.” *Santana*, 427 U.S. at 43 (emphasis added). Yes, the Court also mentioned the potential for evidence destruction—a

risk present in many hot pursuit cases. *Id.*; see also *supra* p. 17. But that was an additional reason why warrantless entry was justified, not an independent requirement. *Santana*, 427 U.S. at 42–43 (“Once Santana saw the police, there was *likewise* a realistic expectation that any delay would result in destruction of evidence.” (emphasis added)).²

Since *Santana*, this Court has repeatedly described hot pursuit in categorical terms. In *Steagald*, for example, the Court explained that “a warrantless entry of a home would be justified if the police were in ‘hot pursuit’ of a fugitive.” 451 U.S. at 221 (citing *Santana*, 427 U.S. at 42–43). And in many other decisions, the Court has noted that hot pursuit *or* case-specific exigencies can justify warrantless entry. See, e.g., *Olson*, 495 U.S. at 93, 100; *supra* pp. 10–11.

California reads those decisions that way, conceding that hot pursuit is categorical at least for felonies. Cal. Br. 12–15. And it is not alone. Lower courts apply the hot pursuit exception categorically. See *id.* at 14 n.10 (citing cases); see also, e.g., *United States v. Cruz*, 977 F.3d 998, 1009–10 (10th Cir. 2020); *Trent v. Wade*, 776 F.3d 368, 381–82 (5th Cir. 2015); *Magruder v. United States*, 62 A.3d 720, 724–25 (D.C. 2013); *Ricci*, 739 A.2d at 407. Treatise writers see it that way too. See, e.g., 3 WAYNE R. LAFAYE, SEARCH & SEIZURE § 6.1(d) (6th ed. Sept. 2020); Dale Joseph Gilsinger, Annotation, *When Is Warrantless Entry of House or*

² Lange suggests (at 24–25) that *Warden v. Hayden*, 387 U.S. 294 (1967), which predated *Santana*, supports a case-specific approach. Although the circumstances in *Hayden* implicated familiar law enforcement interests, that case did not involve a “true hot pursuit.” *Santana*, 427 U.S. at 42–43 & n.3.

Other Building Justified Under “Hot Pursuit” Doctrine, 17 A.L.R. 6th 327, § 2 (2006).

b. There is nothing anomalous about categorical exceptions to the warrant requirement, in the context of home entry or otherwise. Categorical exceptions are based on across-the-board assessments of the interests at stake and, accordingly, “do not require an assessment of whether the policy justifications underlying the exception ... are implicated in a particular case.” *McNeely*, 569 U.S. at 150 n.3. Such categorical assessments are justified where important government interests will predictably arise, *see Gant*, 556 U.S. at 338, or where it would be unreasonable to expect officers to balance interests in the heat of the moment, *Atwater*, 532 U.S. at 347.

Take the exception for searches incident to arrest. That exception balances strong “interests in officer safety and evidence preservation that are typically implicated in arrest situations” against an arrestee’s diminished interest in privacy. *Gant*, 556 U.S. at 338. Because arresting officers must make “quick *ad hoc* judgment[s],” the exception applies to all arrests—regardless “what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found.” *United States v. Robinson*, 414 U.S. 218, 235 (1973). Arrests inside the home are treated no differently. *E.g.*, *Chimel v. California*, 395 U.S. 752, 766 (1969); *see Buie*, 494 U.S. at 333–36 (protective sweep justified as well).

The automobile exception is another example. It follows from a categorical judgment about law enforcement and privacy interests relating to vehicles. *See California v. Carney*, 471 U.S. 386 (1985). The strength of those interests may vary in any particular

case, such as when a vehicle is being used as a home. But a bright-line rule is necessary all the same to “ensure that law enforcement officials are not unnecessarily hamstrung.” *Id.* at 393–94.

Officers’ authority to arrest suspects in public without a warrant is likewise categorical. Warrantless arrest authority exists for both felonies (*Watson*) and misdemeanors (*Atwater*). And it “applie[s] to all arrests, without the need to ‘balance’ the interests and circumstances involved in particular situations.” *Atwater*, 532 U.S. at 354 (quoting *Dunaway v. New York*, 442 U.S. 200, 208 (1979)).

Lange acknowledges that these exceptions are categorical, but he insists that exceptions applicable to the home cannot work the same way. Lange Br. 21–23. Although Lange is certainly right to point out that privacy interests are generally weightier in homes than in cars or public spaces, that speaks only to *how* interests should be balanced in assessing any particular exception—not *whether* they can be balanced categorically. This Court has never endorsed a categorical rule against categorical rules, whether in the context of the home or otherwise. To the contrary, it has recognized a number of circumstances that, where present, categorically justify warrantless home entry.

“[V]oluntary consent of an individual possessing authority,” for instance, is always sufficient to justify a warrantless entry. *Georgia v. Randolph*, 547 U.S. 103, 109 (2006). Determining *whether* an individual has voluntarily consented may require a case-specific analysis. But once such consent is tendered no further showing is necessary.

An officer’s right to accompany an arrestee who asks to return to his home is similarly clear-cut. *Washington v. Chrisman*, 455 U.S. 1, 6–7 (1982). No showing of “exigent circumstances” is required, and “the nature of the offense for which the arrest was made” is irrelevant. *Id.* Regardless the facts of any particular case, “[e]very arrest must be presumed to present a risk of danger to the arresting officer”—particularly since “[t]here is no way for an officer to predict reliably how a particular subject will react to arrest,” “the degree of the potential danger,” or “the possibility that an arrested person will attempt to escape.” *Id.* at 7.

Other exigency-related circumstances can also suffice, without more, to make “warrantless entry onto private property” reasonable. *Brigham City*, 547 U.S. at 403. In particular, officers can enter a home without a warrant where there is a need for emergency assistance, *e.g.*, *Michigan v. Fisher*, 558 U.S. 45, 47–48 (2009) (per curiam), or to put out a fire, *Tyler*, 436 U.S. at 509–10. To be sure, a case-specific inquiry may be required to determine whether there was a need to provide emergency aid or put out a fire in the first place. But once such an exigency is established, nothing more is required.

c. Lange constructs his alternate Fourth Amendment universe primarily from out-of-context quotations. In particular, Lange repeatedly quotes *Birchfield*, 136 S. Ct. at 2180, for the proposition that exigency “always requires case-by-case” interest-balancing. Lange Br. 2, 7, 11. That is not what *Birchfield* says. Again, courts may need to assess case-specific facts to determine whether a “traditional exception to the warrant requirement” (like hot pursuit) applies.

McNeely, 569 U.S. at 150 n.3. If one does not, *Birchfield* makes clear that a “case-by-case determination” is necessary to determine whether other exigent circumstances nevertheless justified the entry. 136 S. Ct. at 2180. But if one does, the Fourth Amendment is satisfied. No case-specific interest-balancing or additional justification is required. *See supra* p. 29. Indeed, *Birchfield* itself acknowledged that “the warrantless entry of private property” is permitted “when police are in hot pursuit of a fleeing suspect.” 136 S. Ct. at 2173.

Lange’s two supposed counterexamples—deadly force and knock-and-announce, *see* Lange Br. 20–21—are not to the contrary. “The intrusiveness of a seizure by means of deadly force is unmatched.” *Garner*, 471 U.S. at 18. And society has a critical, centuries-old interest in “*judicial* determination of guilt and punishment.” *Id.* at 9 (emphasis added). For those reasons, the Court in *Garner* rejected “the [old] rule that deadly force may be used against any fleeing felon,” instead requiring case-specific justifications for that most drastic of measures. *Id.* at 18. The hot pursuit rule, by contrast, merely prevents suspects from evading lawful public arrests, *see Santana*, 427 U.S. at 43, thereby *promoting* judicial determination of guilt and punishment.

The knock-and-announce rule is no help to Lange, either. In *Richards v. Wisconsin*, 520 U.S. 385, 387–88 (1997), this Court rejected the proposition that “police officers are *never* required to knock and announce their presence when executing a search warrant in a felony drug investigation.” Such a categorical rule, the Court concluded, would “contain[] considerable overgeneralization” because, for example, officers could

choose to search “when the only individuals present in a residence have no connection with the drug activity.” *Id.* at 393. The hot pursuit exception is different. It requires no “overgeneralization” because it is the suspect’s flight that both triggers and justifies the exception. *Supra* pp. 13–19. And whereas in the knock-and-announce context police can come prepared, and in numbers, officers in hot pursuit must make difficult decisions quickly and cannot mitigate risks in advance.

2. Case-specific interest-balancing is inappropriate in hot pursuit cases.

Lange argues that hot pursuit justifies warrantless entry only if some other case-specific emergency leaves no time to seek a warrant. Lange Br. 13–17. But as already explained, a suspect’s flight *itself* implicates strong government interests, diminishes personal privacy interests, and leaves officers with no time to conduct case-specific analyses or wait for a warrant. *Supra* pp. 13–19. Accordingly, hot pursuit entries are categorically reasonable, regardless of whether a particular flight-based risk ultimately materializes in a particular case.

Lange’s efforts to minimize the strong public interest in discouraging flight fall flat. Lange first argues that that interest cannot support an across-the-board exception because it is implicated “only in the subset of cases where the suspect knows he is being pursued by police.” Lange Br. 36–37. But that’s the whole set. Hot pursuit occurs only where a reasonable person in the fleeing suspect’s shoes would know the police were pursuing him. *See, e.g., Thomas*, 658 S.E.2d at 801; *cf. Michigan v. Chesternut*, 486 U.S. 567,

573–74 (1988) (test for seizure is whether “a reasonable person would have believed that he was not free to leave”).³

Lange further contends that criminal sanctions for disobeying the police are sufficient to discourage flight. Lange Br. 37. But if that were true, we would not be here. Hot pursuit occurs precisely because (and only when) suspects *do* attempt to evade detention, notwithstanding the criminal consequences that may follow. One can reasonably assume that they do so because they believe the possibility of escape or the chance to destroy evidence is worth the risk of additional sanctions.

Finally, Lange’s case-by-case rule ignores the need for “readily administrable” bright-line rules where officers must act “on the spur (and in the heat) of the moment.” *Atwater*, 532 U.S. at 347; *see, e.g., Riley*, 573 U.S. at 398; *Robinson*, 414 U.S. at 234–35. Categorically balancing the relevant interests gives officers the “clear and unequivocal’ guidelines” they need to do their jobs. *California v. Acevedo*, 500 U.S. 565, 577 (1991). Lange’s rule, in contrast, would force officers to make split-second decisions based on rapidly unfolding facts, turning “every discretionary judgment

³ Even when they do not address this objective awareness-of-pursuit requirement, lower court decisions are nearly uniformly consistent with it. *See, e.g., City of Bismarck v. Brekhus*, 908 N.W.2d 715, 719–21 (N.D. 2018); *Jewett*, 31 N.E.3d at 1089; *City of Middletown v. Flinchum*, 765 N.E.2d 330, 332 (Ohio 2002); *United States v. Jones*, 204 F.3d 541, 542–43 (4th Cir. 2000). The one allegedly contrary case Lange cites (at 33), *State v. Ionescu*, 937 N.W.2d 90 (Wis. Ct. App. 2019), involved flight from a crime scene, not from a pursuing officer, *id.* at 91–92.

in the field ... into an occasion for constitutional review” and potential civil liability. *Atwater*, 532 U.S. at 347, 350.

3. The common law recognized categorical justifications, including hot pursuit, for warrantless entry of a home.

Lange’s assault on categorical exceptions lacks any common-law footing. Common-law authorities are rife with categorical justifications for warrantless searches and entries. *See, e.g.*, CUDDIHY, *supra*, at 768 (search incident to arrest). Indeed, California concedes that “[t]he founding-era history supports a categorical hot-pursuit exception for suspected felons.” Cal. Br. 18; *see also, e.g.*, 1 MATTHEW HALE, THE HISTORY OF THE PLEAS OF THE CROWN 583 (1736). And while the precise boundaries of doctrines like “hue and cry” and “breach of the peace” may be fairly debatable, *see supra* pp. 22–23, their categorical application is not.

Nor is their applicability to the home—notwithstanding Edward Coke’s oft-quoted “adage” that a man’s home is a castle. *See, e.g.*, WILLIAM J. NOVAK, THE PEOPLE’S WELFARE 157 (1996) (describing that saying as “[o]ne of the most sacred and enduring myths in Anglo-American constitutionalism”); *see also* Wilgus, *supra*, at 800 (adage “applies [only] to civil process”). Constables historically possessed “very large powers, of arresting, ... of breaking open houses, and the like,” BLACKSTONE, *supra*, at *356, and their practice, often codified, illustrated the boundaries of the common law, CUDDIHY, *supra*, at 417; *see also, e.g.*, 1 LAWS OF THE COMMONWEALTH OF PENNSYLVANIA ch.

DCXXXVI (1771) (J. Bioren ed. 1810) (watchmen could arrest “all night-walkers, malefactors, rogues, vagabonds and disorderly persons”).⁴ And constables exercised their broad powers pursuant to many categorical rules. *See supra* pp. 21–23.

B. The Hot Pursuit Exception Is Not Limited to Felonies.

California, unlike *Lange*, accepts that the hot pursuit exception is categorical. But California joins *Lange* in contending that it should apply only to suspected felons. That limitation finds no support in precedent, interest-balancing, or history.

1. There is no precedential basis for a felony–misdemeanor distinction in the hot pursuit context.

This Court’s decisions provide no support for distinguishing between misdemeanor and felony hot pursuits. *Supra* pp. 10–13. The rule is simply that “a suspect may not defeat an arrest” by fleeing into a home. *Santana*, 427 U.S. at 43. “[T]hough *Santana* involved a felony suspect, [it] did not expressly limit [its] holding based on that fact.” *Stanton*, 571 U.S. at 9. And *Scher*, 305 U.S. 251, did not even mention whether the underlying offense was a felony or misdemeanor.

⁴ For example, one officer in 1691 Massachusetts asserted the inherent authority “to search an entire town” house by house—without a warrant—for two women who had escaped home confinement. CUDDIHY, *supra*, at 416. Two centuries later, two officers in Massachusetts argued successfully that they had the statutory authority to enter and arrest—without warrant or invitation—a woman who was “intoxicated,” and thus “committing a breach of the peace,” “in a dwelling house where she resided.” *Ford v. Breen*, 173 Mass. 52, 53 (1899).

The line between felonies and misdemeanors is irrelevant for other exceptions to the warrant requirement as well. *See supra* pp. 25–29. Indeed, *Atwater* specifically rejected a felonies-only rule for warrantless public arrests. 532 U.S. at 345–54. The causal link between public arrests and hot pursuits—*i.e.*, that hot pursuits begin when public arrests are thwarted—makes that holding all the more applicable here. *Supra* pp. 10–13.

The sole precedential hook for the felony limitation (and thus the circuit split) appears to be *Welsh v. Wisconsin*. *See, e.g., State v. Markus*, 211 So. 3d 894, 907–09 (Fla. 2017). At issue there was the constitutionality of a “warrantless, nighttime entry into [Welsh’s] home to arrest him for a civil traffic offense.” *Welsh*, 466 U.S. at 754. It all started when a trucker saw Welsh driving erratically before coming “to a stop in an open field” and asked a passerby to call the police. *Id.* at 742. Welsh walked away before the police arrived. *See id.* But after running the car’s plates, police determined that Welsh, the registered owner, lived “within walking distance.” *Id.* And “[w]ithout securing any type of warrant,” they entered the home, found Welsh “lying naked in bed,” and arrested him for a vehicular infraction. *Id.* at 743.

As those facts should make clear, *Welsh* “did not involve hot pursuit” at all. *Stanton*, 571 U.S. at 8. To the contrary, the Court acknowledged that “hot pursuit” is an “exception[] to the warrant requirement” that authorizes “arrests in the home,” but held that the exception *did not apply* “because there was no immediate or continuous pursuit of the petitioner from the scene of a crime.” *Welsh*, 466 U.S. at 749–50, 753.

Only then did the Court conduct a case-specific exigency analysis, in which “the gravity of the underlying offense”—a mere “civil traffic offense”—played a role. *Id.* at 753–54. “[N]othing in [*Welsh*] establishes that the seriousness of the crime is equally important *in cases of hot pursuit*.” *Stanton*, 571 U.S. at 9 (emphasis in original).

2. Interest-balancing does not support a misdemeanor limitation.

The fact that an offense is labeled a misdemeanor rather than a felony does not alter the balance of interests in hot pursuit cases. “[T]here is no logical connection between the fact that an offence falls in one or the other of these categories and the need there may be to make an arrest in hot pursuit in residential premises.” *Maccooh*, 2 S.C.R. at 819. And an offense’s classification has no impact whatsoever on the privacy side of the scale.

a. California’s unsupported assertion (at 26) that suspected misdemeanants implicate lessened law enforcement interests because they are less likely to flee misses the point: Every hot pursuit case involves a suspect who *has* decided to flee. So the relevant set of suspects is not all misdemeanants, but only the fleeing ones. Once this fundamental denominator problem is corrected, many of California’s arguments collapse. Indeed, the choice to flee is at least arguably *more* indicative of heightened law enforcement interests—such as the suspect’s propensity for violence, willingness to destroy evidence, or likelihood of guilt—in the misdemeanor context. If the consequences of submission are less serious, that only

makes the suspect's choice more suspicious. *See supra* pp. 16–17.

Similarly, only by ignoring flight can California suggest (at 26) that an individual who has stolen a \$15 phone charger is unlikely to destroy it while police seek a warrant. That might be true as to a charger thief who does *not* flee, like the culprit in the case California cites. *See Smith v. Stoneburner*, 716 F.3d 926, 931 (6th Cir. 2013) (“neither a ‘pursuit’ nor ‘hot’”). But there is likely more to the story when that individual decides to run the risk of additional criminal penalties associated with flight rather than own up to a minor shoplifting offense.

Lange's case is illustrative: Had Lange merely been playing loud music and honking for no reason, any consequences—had he simply pulled over—would surely have been minor. *See Pet.App.2a*. But it was not fear of a “loud music” citation that kept Lange's foot on the gas. It was his desire to avoid the more serious consequences of a repeat DUI offense. And Lange's case—along with the serious dangers it presents to other motorists—is not unique. *See, e.g., Gilsinger, supra*, § 12 (collecting cases).

b. The suggestion that States always have lesser interests in apprehending misdemeanants, *see, e.g., Br. for Illinois et al.* 4–8, likewise misses the mark. The law enforcement interests supporting the hot pursuit exception relate to *flight*, not the underlying offense. *Supra* pp. 10–13. And “the assumption that a ‘felon’ is more dangerous than a misdemeanant” is “untenable” anyway. *Garner*, 471 U.S. at 14. The distinction between felonies and misdemeanors “is minor and often arbitrary,” and “numerous misdemeanors involve conduct more dangerous than many felonies.”

Id.; cf. *Atwater*, 532 U.S. at 347–49 (rejecting assumption that only certain types of offenders will “pose a danger”).

The codebooks bear that out. Driving under the influence, often a misdemeanor, kills with “chilling” frequency. *Mitchell*, 139 S. Ct. at 2535–36. Serious assault, battery, domestic-violence, and weapons-related offenses may be charged as misdemeanors too. See, e.g., Br. for the United States at Apps. B & C, *Voisine v. United States*, 136 S. Ct. 2272 (2016) (No. 14-10154); Cal. Penal Code §§ 171c, 241, 241.3, 243.25, 417, 417.4. Many felony offenses, such as producing a spurious heir, Cal. Penal Code § 156, marriage by false personation, *id.* § 528, or borrowing funds from a fraternal benefit society, Cal. Ins. Code § 11162, certainly present no greater exigency. See also *infra* App.

c. On the other side of the scales, neither Lange nor California even attempts to argue that fleeing misdemeanants have greater privacy interests than fleeing felons. For good reason: A misdemeanant who chooses to evade arrest by fleeing into a home has no greater interest in the privacy of that space than does a felon who makes the same choice. See *supra* pp. 18–19.

3. The felony–misdemeanor line is unworkable and arbitrary.

A hot pursuit exception applicable only to felonies would be difficult for officers to apply, produce inconsistent results, and be readily circumventable.

a. “[T]he highly technical felony/misdemeanor distinction is ... difficult”—and oftentimes impossi-

ble—“to apply in the field.” *Garner*, 471 U.S. at 20. Police officers are not lawyers, much less walking codebooks. They cannot be expected to know by heart “the details of frequently complex penalty schemes.” *Atwater*, 532 U.S. at 348 (citing *Berkemer v. McCarty*, 468 U.S. 420, 431 n.13 (1984)). And even an officer with perfect statutory recall still would struggle to accurately classify offenses on the fly. State law often makes penalties for “ostensibly identical conduct ... vary on account of facts difficult (if not impossible) to know at the scene of an arrest.” *Atwater*, 532 U.S. at 348–49 & nn.18–20; *see, e.g.*, Cal. Health & Safety Code § 11360 (classifying a drug-related offense as a felony, misdemeanor, or infraction based on drug quantity, age of offender, and offender’s prior convictions); Cal. Penal Code §§ 486–490.1 (classifying theft as one of four offenses—infraction, misdemeanor, wobbler, or felony—depending on value of stolen item). Moreover, a single course of conduct may “implicate more than one criminal prohibition,” including both a misdemeanor and a felony. *Atwater*, 532 U.S. at 348–49 & n.20.

And that is only the half of it. Some States have what Californians call “wobblers”: offenses that can be charged as either felonies or misdemeanors depending on the prosecutor’s prerogative, judicial discretion, or the presence of certain aggravating factors. *Ewing v. California*, 538 U.S. 11, 16–17 (2003); *see infra* App. (identifying classifications of many California offenses). That means that, in some cases, whether an offense is a felony or a misdemeanor will not be determined until sentencing. *See* Cal. Penal Code § 17(b)(1). In other States, offenses are classified by degree, rather than as felonies or misdemeanors. *See*,

e.g., N.J. Stat. Ann. § 2C:1-4 (classifying offenses as crimes of the first, second, third, or fourth degree, or as disorderly persons offenses); Me. Stat. tit. 17-A, § 4 (classifying offenses other than murder as Class A through E offenses). In such jurisdictions, a misdemeanor–felony line makes no sense at all.

b. A felony-only hot pursuit rule would also make “the search and seizure protections of the Fourth Amendment” “vary” from State to State, *Whren v. United States*, 517 U.S. 806, 815 (1996), based solely on the crime-labeling regime each State happens to select. States classify similar misconduct differently. *Compare, e.g.*, Cal. Penal Code § 148.9 (classifying false representation as a misdemeanor), *with* Ala. Code § 13A-8-194 (classifying false representation as a felony). Indeed, Lange’s vehicular flight likely would have been classified as a felony in many states. *See, e.g.*, Fla. Stat. § 316.1935; Del. Code Ann. tit. 21, § 4103. The fact that he was driving in California rather than Delaware should not change the constitutional analysis.

c. Finally, a felony-only rule would be easily circumventable. States desiring a broad rule would need only to classify all flight from a crime scene or an officer’s lawful order to stop as a felony, and voilà!: no Fourth Amendment violation. That is not how constitutional rights are supposed to work. *See, e.g., Bd. of Cnty. Comm’rs v. Umbehr*, 518 U.S. 668, 679–80 (1996) (for “constitutional claims,” Court has “consistently eschewed” “formal distinctions, which can be manipulated”).

4. The common law does not support limiting the hot pursuit exception to felonies.

Lange and California rely on out-of-context treatise statements to suggest that the common law limited hot pursuit to felonies. It did not.

For starters, neither Lange nor California identifies any common-law analog for the modern-day felony–misdemeanor line. Nor could they: At common law, the term “felony” was generally reserved for capital crimes, *Garner*, 471 U.S. at 13–14, and the term “misdemeanor” reached “many very serious crimes, such as kidnaping and assault with the intent to murder or rape,” *Johnson v. United States*, 559 U.S. 133, 149–50 (2010) (Alito, J., dissenting). Those categories bear little resemblance to today’s complex taxonomies.

Moreover, Lange and California identify no authority affirmatively showing that “the Fourth Amendment, as originally understood, *forbade* peace officers” from making warrantless entries in cases like Lange’s. *Atwater*, 532 U.S. at 340 (emphasis added). Instead, they rely primarily on negative inferences from stray treatise statements about what officers *were* allowed to do under various common-law doctrines that justified hot pursuit into a home. *See, e.g.*, Lange Br. 29–30; Cal. Br. 19–21. That is not enough to establish a common-law consensus—particularly given that individual treatise writers may have had their own views and agendas. *See* CUDDIHY, *supra*, at 115–21 (explaining how Coke “distorted” cases “to suit his theoretical purposes,” including with respect to “forcible entry” and “felonies”); *cf. Atwater*, 532 U.S. at 328 (noting that “common-law commentators ... reached divergent conclusions” on the same subject).

In any event, common-law doctrines permitting warrantless entry into a home, *see supra* pp. 21–23, developed to cover many crimes that would be classified as misdemeanors today. For instance, breach of the peace covered “blowing [a] horn on the streets ... after 10 o’clock at night,” *Lentz v. Raum*, 21 Pa. D. 1116, 1117 (Pa. Ct. Com. Pl. 1912), or “shouting in a village street at night so as to be heard 150 feet away,” Horace L. Wilgus, *Arrest Without A Warrant*, 22 MICH. L. REV. 541, 575 (1924) (citing *People v. Johnson*, 48 N.W. 175, 870–71 (Mich. 1891))—perhaps the best olden-days equivalents of Lange’s conduct here. And escaped arrestees could be pursued regardless of their crimes. *See supra* p. 23. At a minimum, these doctrines “riddle [any] supposed common-law rule with enough exceptions to unsettle any contention ... that it would necessarily have been unreasonable” to enter a home without a warrant while in hot pursuit of a misdemeanor. *Atwater*, 532 U.S. at 335.

C. Lange’s and California’s Policy Arguments Lack Merit.

Limiting hot pursuit will impede effective policing—and for naught, as the abuses with which Lange and California are concerned are not actually attributable to hot pursuit.

1. Limiting the hot pursuit exception would hinder effective policing.

Restricting hot pursuit entries would take an important policing tool from officers’ toolkits. And Lange’s proposed alternatives—knocking and seeking consent or waiting for a warrant, *Lange Br.* 35–36—are poor substitutes.

First of all, “[s]ince the suspect knows what the police are attempting to do,” there would be “little purpose” in knocking. *Bodine v. Warwick*, 72 F.3d 393, 399 (3d Cir. 1995) (Alito, J.). Why would a suspect in flight “simply ... turn[] around and open[] the door” for the pursuing officer? *Weber*, 887 N.W.2d at 567. This Court has previously recognized that “it would be a ‘senseless ceremony’ to require an officer in pursuit of a recently escaped arrestee to make an announcement prior to breaking the door to retake him.” *Wilson*, 514 U.S. at 936. So too here.

A warrant is not an adequate alternative either. Contrary to Lange’s contention (at 36), it almost always takes far longer than five minutes to secure a warrant. “Processing times,” California acknowledges, “can vary depending on ... the availability of a magistrate,” the time of day, and other factors. Cal. Br. 33–34 & n.26. And only “sometimes” can warrants “be obtained in under an hour.” *Id.* “[S]treamline[d]” “standard-form warrant applications” may be available for run-of-the-mill blood draws of DUI suspects in custody. *McNeely*, 569 U.S. at 155. But in a pursuit case, the officer’s affidavit would have to provide “[s]ufficient information” to allow a magistrate “to determine probable cause.” *Illinois v. Gates*, 462 U.S. 213, 239 (1983). Officers without backup—like Officer Weikert here—can hardly take their attention away from the scene to compose a competent warrant affidavit.

In the meantime, dangers and complications multiply. The suspect may retrieve a firearm, or even summon armed help. *See, e.g., State v. Davis*, 768 So. 2d 201, 206 (La. Ct. App. 2000) (suspect “reached for a handgun” inside); *Thompson v. City of Florence*, No. 3:17-cv-01053, 2019 WL 3220051, at *4 (N.D. Ala. July

17, 2019) (at fleeing suspect’s urging, resident grabbed a loaded handgun). Or the suspect may exit the back door, blend into the crowd at a party, or disappear behind another door inside a residential building. And destroying evidence can be the work of as little as “15 to 20 seconds.” *King*, 563 U.S. at 460 n.3; *see also, e.g., Legg*, 633 N.W.2d at 772.

2. A categorical hot pursuit rule will not contribute to police abuse.

Accepting the costs of a case-by-case hot pursuit rule would yield few benefits. *Lange* and California assert that such a rule will prevent abuse and decrease racial disparities. But those interests, while weighty, are not directly implicated by misdemeanor hot pursuit. To the extent any State or police department disagrees, it is free to limit the circumstances in which officers may pursue suspects as a matter of state law or departmental policy.

a. *Lange* contends that hot pursuit entries “risk[] confrontations that can end in tragedy.” *Lange* Br. 37, 42. But *any* home entry—with or without a warrant—can result in trauma or tragedy where individuals are armed or police use excessive force. *See, e.g., Z.J. ex rel. Jones v. Kan. City Bd. of Police Comm’rs*, 931 F.3d 672, 677 (8th Cir. 2019) (police with warrant for wrong home threw a flash-bang grenade inside before homeowner could open the door, traumatizing toddler); *Wells v. City of Dearborn Heights*, 538 F. App’x 631, 633–35 (6th Cir. 2013) (dog shot and homeowner beaten and tased during execution of search warrant). The same could be said of traffic stops and other interactions between citizens and police.

Lange’s and his amici’s cases—drawn from a skewed sample, because unremarkable cases are unlikely to appear in 42 U.S.C. § 1983 decisions—do not show that hot pursuit entry causes the harms they decry. Indeed, many of Lange’s cases (at 42–43) do not involve hot pursuit at all. In one, officers entered a home at night to search for a taxi-fare evader. *Luer v. St. Louis County*, No. 4:17-cv-00767, 2018 WL 6064862, at *5 (E.D. Mo. Nov. 19, 2018). In another, the officer “acknowledge[d] he saw no evidence of criminal wrongdoing” yet “rushed onto the property” anyway after someone in the driveway asked who he was. *Est. of Saucedo v. City of North Las Vegas*, 380 F. Supp. 3d 1068, 1074, 1081 (D. Nev. 2019). And in a third, officers did not witness the misdemeanor and the suspect had already left the scene when they arrived. *Franklin v. City of South Bend*, No. 3:13-cv-207, 2015 WL 5174060, at *1, 6 (N.D. Ind. Sept. 3, 2015).

Most of those cases that do involve hot pursuit are “egregious” not for that reason, but rather because officers used excessive force. *See, e.g., Mascorro v. Billings*, 656 F.3d 1198, 1202–04 (10th Cir. 2011) (affirming denial of qualified immunity on use of excessive force claim); *Carroll v. Ellington*, 800 F.3d 154, 163–66 (5th Cir. 2015) (recounting egregious use of force separate from officer’s entry). Excessive force is excessive (and unconstitutional) *wherever* it occurs. *Cf. County of Los Angeles v. Mendez*, 137 S. Ct. 1539, 1547–49 (2017) (courts must assess harms as proximately caused by particular Fourth Amendment violations). And Lange has not shown that officers with a propensity for using excessive force are likely to be deterred by a case-specific rule addressing a different issue.

Still other cases involve unreasonable behavior by the suspect or residents. In *Thompson*, for example, police repeatedly displayed badges and identified themselves while attempting to apprehend a man they had just seen urinating in public. But the offender responded that “that badge don’t mean shit to me,” and his partner drew a gun and called 911 to complain about “two black men ‘posing as police officers.’” 2019 WL 3220051, at *3–4 & n.4.

Having failed to identify real cases of police abuse caused by hot pursuit, Lange tries to hypothesize some instead. Lange Br. 39–40. But police are permitted to “tail a suspect” or “lure a known suspect out of his house.” *Id.* at 39. And the hot pursuit rule allows an officer to follow the suspect into a home *only if* he refuses to stop and a reasonable person in his shoes would know police were pursuing. *See supra* pp. 31–32 & n.3. Moreover, police who gin up false pursuits risk disciplinary consequences up to and including criminal prosecution. *See United States v. Corder*, 724 F.App’x 394, 397–98 (6th Cir. 2018) (affirming officer’s conviction).

All told, Lange’s and his amici’s surveys of cases, plus their active imaginations, have produced only non-hot pursuit cases and cases in which any harm is attributable to excessive force or other unreasonable behavior. Just as in *Atwater*, there is “a dearth of horrors demanding redress.” 532 U.S. at 353. And just as in *Atwater*, isolated instances of bad behavior should not drive the constitutional rule. *Id.*

b. Lange’s bootstrapping concerns are similarly overblown. Lange first contends that a categorical rule would allow mere *Terry* stops “to escalate into ...

warrantless entr[ies]” because all States make resisting apprehension a crime. Lange Br. 38. But there is no risk of escalation unless the suspect chooses to flee. Even then, the order initiating the *Terry* stop must rest on an “individualized suspicion” of “a particular crime” in the first place, *Kansas v. Glover*, 140 S. Ct. 1183, 1190 n.1 (2020), because the State cannot criminalize failure to stop where such suspicion is lacking, see *Brown v. Texas*, 443 U.S. 47, 52–53 (1979).

Lange further suggests that the probable cause standard will allow entry “even if it turns out the citizen did not realize the officer was trying to make a stop.” Lange Br. 38–39. Again, however, hot pursuit requires that a reasonable person in the suspect’s shoes would know he was being pursued. *Supra* pp. 31–32 & n.3. And any difference between the reasonable suspect and the actual one is, at best, a complaint about the probable cause standard itself. Here, too, Lange’s case is illustrative. A motorist is expected to pull over “when he sees a policeman’s light flashing behind him.” *Berkemer*, 468 U.S. at 437. And Officer Weikert could have reasonably presumed that Lange saw his signal to stop. If Lange was too inebriated to see those flashing lights, that only underscores the strong public interest in pursuing him.

c. Lange also argues that the costs of a categorical hot pursuit rule will be borne disproportionately by “communities that already bear the brunt of discretionary enforcement of misdemeanor laws.” Lange Br. 37. Concerns about racial and other disparities in law enforcement are serious, and may provide reason to question the proliferation of criminal offenses making “virtually everyone ... guilty.” *Whren*, 517 U.S. at 818.

But that is a subject for legislative change or other reforms, not evidence of any defect inherent in hot pursuit doctrine.

d. In the end, *Lange* and California offer a solution in search of a problem. As California concedes, there is no evidence of increased police abuse in jurisdictions with categorical misdemeanor pursuit rules. Cal. Br. 23 n.17. And California would know, since it has long had a categorical misdemeanor pursuit rule. *See Lloyd*, 216 Cal. App. 3d at 1428–30.

To the extent States supporting *Lange* are still concerned, they are free to limit hot pursuit entries—based on the classification of the underlying offense or otherwise—as a matter of state law. Statutes and regulations, rather than constitutional doctrine, are the appropriate vehicles for nuanced policy judgments of that sort. *See Atwater*, 532 U.S. at 352 (“It is of course easier to devise a minor-offense limitation by statute than to derive one through the Constitution.”). Indeed, some police departments have already adopted policies instructing officers to abandon pursuits in certain circumstances. *See Br. of Illinois et al.* 12–14. The existence of those policies only confirms that this Court need not constitutionalize *Lange*’s or California’s preferred approach. *See Atwater*, 532 U.S. at 351–52 (citing state laws “limiting warrantless arrests for minor offenses” as reason to doubt that “warrantless misdemeanor arrests need constitutional attention”).

III. IN THE ALTERNATIVE, THE COURT SHOULD AFFIRM THE JUDGMENT BELOW EVEN UNDER A CASE-SPECIFIC APPROACH.

The Court should affirm the judgment of the California Court of Appeal even if it holds that the hot pursuit exception must be assessed on a case-by-case basis. *See Jennings v. Stephens*, 574 U.S. 271, 276 (2015) (Court may affirm on any ground “appearing in the record”).

First, as California observes (at 34–35), Officer Weikert arrested Lange in good-faith reliance on “binding appellate precedent,” *Davis v. United States*, 564 U.S. 229, 232 (2011)—namely, the categorical misdemeanor pursuit rule stated in *Lloyd*, 216 Cal. App. 3d at 1428–30.

Second, Officer Weikert’s pursuit of Lange into his garage was reasonable even if assessed on its own terms. Officer Weikert was patrolling alone at night without any sure means of identifying Lange as the driver or securing all exits to the home. He could reasonably have suspected inebriation, evidence of which would have dissipated over time. And as California concedes, it would have been difficult (if not impossible) to get an arrest warrant before morning. *See* Cal. Br. 34 n.26 (citing Cal. Penal Code § 840(4)). Accordingly, a reasonable officer in Weikert’s shoes would have understood that allowing the garage door to close posed a real risk that Lange would evade detention altogether—a result that would have reinforced exactly the perverse incentives the hot pursuit rule exists to combat. Lange, for his part, made the choice to flee rather than submit to a traffic stop. And he had diminished privacy interests in his garage, which was already open for the world (and Officer Weikert’s

dashboard camera) to see. *See Santana*, 427 U.S. at 42.

CONCLUSION

The decision below should be affirmed.

January 8, 2021

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APPENDIX

**CLASSIFICATION OF OFFENSES IN
CALIFORNIA PENAL CODE PART 1¹**

Felony:	<i>See</i> Cal. Penal Code § 17(a).
Misdemeanor:	<i>See id.</i>
Infraction:	<i>See id.</i>
Wobbler:	<i>See</i> Cal. Penal Code § 17(b); <i>Ewing v. California</i> , 538 U.S. 11, 16 (2003). ²

¹ This table is limited to offenses contained in Part 1 of the California Penal Code, which is the primary repository of California offenses. Other offenses (not listed here) may be found in different Parts of the Penal Code and in various other California Codes, such as the Health and Safety Code. This table, accordingly, contains a large sample of California offenses, but is not an exhaustive list.

² Determining whether any particular offense is a felony, misdemeanor, or infraction often requires comparing the punishment prescribed to the definitions in Penal Code § 17. Where a single statutory section includes more than one offense, the table identifies the different types of offenses the provision contains. Additionally, offenses marked with an asterisk require reference to California Penal Code §§ 486, 489, 490, 490a, and/or 490.1.

Code	Description of Offense(s)	Type of Offense(s)
§§ 32, 33	Accessories to Crimes	Wobbler
§ 38	Misprision of Treason	Felony
§ 67	Bribing Executive Officer	Felony
§ 67.5	Bribing Executive Officer	Felony Misdemeanor
§ 68	Asking for or Receiving Bribes	Felony
§ 69	Resisting or Deterring Officer	Wobbler
§ 70	Asking for or Accepting Gratuity for Official Act	Misdemeanor
§ 70.5	Accepting Gratuity for Performing Marriage	Misdemeanor
§ 71	Threatening Officer	Wobbler
§ 72	Presenting False Claim	Wobbler
§ 72.5	Presenting Unauthorized Claim for Reimbursement	Wobbler
§ 73	Offering Gratuity for Appointment to Office	Misdemeanor
§ 74	Receiving Gratuity for Appointment to Office	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 76	Threatening Public Official, Staff, or Member of Immediate Family	Felony Wobbler
§ 85	Bribing Legislators	Felony
§ 86	Accepting Bribes	Felony
§ 92	Bribing Judicial Office	Felony
§ 93	Accepting Bribes	Felony
§ 94	Receiving Emolument by Judicial Officer	Misdemeanor
§ 94.5	Accepting Gratuity for Performing Marriage	Misdemeanor
§ 95	Influencing Jurors, Referees, or Umpires	Wobbler
§ 95.1	Threatening Jurors	Wobbler
§ 95.2	Providing Sealed Information to Defendant	Misdemeanor
§ 95.3	Providing Criminal Defendant with Juror Information	Misdemeanor
§ 96	Making Promise of Decision for or Against Party	Wobbler
§ 96.5	Obstructing Justice by Judicial Officer	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 99	Interest in Public Contracts by State Printer	Wobbler
§ 100	Collusion by State Printer	Wobbler
§ 102	Retaking Property from Officer	Misdemeanor
§ 107	Escape from Hospital or Reformatory	Wobbler
§ 109	Assisting Escape from Reformatory	Felony
§ 110	Supplying Aid to Escape from Reformatory	Felony
§ 112	Manufacturing or Selling False Government Document to Conceal True Citizenship	Misdemeanor
§ 113	Manufacturing, Distributing, or Selling Documents to Conceal True Citizenship	Wobbler
§ 114	Using False Documents to Conceal True Citizenship	Wobbler
§ 115	Attempting to Record False or Forged Instrument	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 115.1	Using Unauthorized Signature in Campaign Advertisement	Wobbler
§ 115.2	Publishing Campaign Advertisement Containing False Depiction or Representation	Misdemeanor
§ 115.25	Producing or Distributing Inaccurate Emergency Service Phone Numbers	Misdemeanor Infraction
§ 115.3	Alteration of Official Record	Misdemeanor
§ 115.5	Forgery of Real Property Documents	Felony
§ 116	Tampering with Jury Lists or Jury Box	Felony
§ 116.5	Jury Tampering	Misdemeanor
§ 117	Certifying False Jury List	Felony
§ 118	Perjury	Felony
§ 118.1	Filing False Report	Wobbler
§ 118a	Submitting False Statement in Affidavit	Felony
§ 127	Subornation of Perjury	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 128	Procuring Conviction of Innocent Person by Perjury	Felony
§ 129	Perjury	Felony
§ 131	Concealing Material Fact	Misdemeanor
§ 132	Offering Forged or Altered Document	Felony
§ 132.5	Accepting Payment for Information	Misdemeanor
§ 133	Making False Representation to Witness	Misdemeanor
§ 134	Falsifying Documents to be Used in Evidence	Felony
§ 135	Destroying or Concealing Evidence	Misdemeanor
§ 135.5	Tampering with Evidence	Misdemeanor
§ 136.1	Preventing or Dissuading Testimony	Felony Wobbler
§ 136.2	Violating Court Order	Wobbler Misdemeanor
§ 136.5	Carrying Deadly Weapon to Prevent Testimony	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 136.7	Releasing Personal Information of Witness or Victim	Wobbler
§ 137	Bribing Witness; Attempting to Induce or Inducing False Testimony	Felony Misdemeanor
§ 138	Bribing Witness; Receiving Bribe Not to Attend Trial	Felony
§ 139	Threatening Witness	Wobbler
§ 140	Threatening Individual Because of Assistance in Prosecution	Wobbler
§ 141	Altering, Planting, or Concealing Evidence	Felony Misdemeanor
§ 142	Refusing to Receive or Arrest Criminal	Wobbler
§ 145	Delay in Taking Arrestee Before Magistrate	Misdemeanor
§ 146	Officer Acting Without Regular Process	Misdemeanor
§ 146a	Impersonating Deputy, Clerk, or Public Officer	Wobbler Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 146b	Simulating Official Inquiries	Misdemeanor
§ 146c	Using Misleading Designation of Nongovernmental Organization	Misdemeanor
§ 146d	Selling or Conferring a Misleading Membership Card or Badge	Misdemeanor
§ 146e	Disclosing Personal Information of Officer or Agency Personnel	Felony Misdemeanor
§ 146g	Disclosing or Soliciting Information for Financial Gain	Misdemeanor
§ 147	Inhumane Treatment or Oppression of Prisoner	Misdemeanor
§ 148	Resisting or Obstructing Officer or Technician	Felony Wobbler Misdemeanor
§ 148.1	Falsely Reporting Planting of a Bomb	Wobbler
§ 148.2	Interfering with Emergency Personnel	Misdemeanor
§ 148.3	Falsely Reporting Emergency	Wobbler Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 148.4	Tampering with Fire Alarm or Giving False Alarm	Wobbler Misdemeanor
§ 148.5	Falsely Reporting Crime	Misdemeanor
§ 148.6	Falsely Alleging Misconduct, Civil Claims, or Property Liens Against Officer	Misdemeanor
§ 148.7	Serving Sentence of Another	Misdemeanor
§ 148.9	Giving False Identification	Misdemeanor
§ 148.10	Resisting Peace Officer and Causing Death or Serious Bodily Injury	Wobbler
§ 149	Assault and Battery by Officer	Wobbler
§ 151	Advocating Injury or Death of Peace Officer	Felony Misdemeanor
§ 152	Concealing Accidental Death	Misdemeanor
§ 152.3	Failing to Report Offense Against Minor	Misdemeanor
§ 153	Compounding or Concealing Crime	Wobbler Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 154	Defrauding Creditors by Selling or Concealing Property	Felony Misdemeanor
§ 155	Fraudulently Concealing, Selling, or Disposing of Property	Felony Misdemeanor
§ 155.5	Disposing of Property to Avoid Making Restitution	Felony Misdemeanor
§ 156	Producing Spurious Heir	Felony
§ 157	Substituting Child	Felony
§ 158	Exciting Groundless Judicial Proceedings	Misdemeanor
§ 160	Soliciting Bail	Misdemeanor
§ 165	Giving or Offering Bribe to Councilman or Supervisor	Felony
§ 166	Contempt of Court	Wobbler Misdemeanor
§ 167	Recording Jury Proceedings	Misdemeanor
§ 168	Disclosing Warrant Prior to Execution	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 169	Picketing Near Court to Obstruct Administration of Justice	Misdemeanor
§ 170	Maliciously Procuring Warrant	Misdemeanor
§ 171	Unauthorized Communication with Inmate	Misdemeanor
§ 171b	Bringing Weapon into Public Building	Wobbler
§ 171c	Bringing Loaded Firearm into State or Public School Grounds	Wobbler Misdemeanor
§ 171d	Bringing Loaded Firearm into Residence of Governor or Officer	Wobbler
§ 171f	Disrupting Official Business Within State Capitol	Misdemeanor
§ 171.5	Possessing Prohibited Item Within Sterile Area of Airport or Passenger Vessel Terminal	Misdemeanor
§ 171.7	Possessing Prohibited Item Within Sterile Area of Public Transit Facility	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 172	Selling Liquor in Prohibited Area	Misdemeanor
§ 172a	Selling Liquor in Prohibited Area	Misdemeanor
§ 172b	Selling Liquor in Prohibited Area	Misdemeanor
§ 172d	Selling Liquor in Prohibited Area	Misdemeanor
§ 172g	Selling Liquor in Prohibited Area	Misdemeanor
§ 173	Importing Foreign Convict	Misdemeanor
§ 181	Holding Person in Involuntary Servitude or Selling Slaves	Felony
§ 182	Conspiracy	Felony Wobbler
§ 182.5	Conspiracy – Participants of Street Gang	Felony Wobbler
§ 185	Wearing Mask or Disguise While Committing Offense	Misdemeanor
§ 186.10	Laundering Money	Wobbler
§ 186.11	Aggravated White Collar Crime	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 186.22	Criminal Street Gang Activity	Wobbler
§ 186.26	Coercing Minor to Participate in Gang	Felony
§ 186.28	Supplying or Selling Firearm Used in Gang Activity	Wobbler
§ 186.33	Failing to Register	Misdemeanor
§ 190	First and Second Degree Murder	Felony
§ 190.03	First Degree Murder – Hate Crime	Felony
§ 190.05	Subsequent Murder Offense	Felony
§ 190.2	Aggravated First Degree Murder	Felony
§ 190.25	First Degree Murder – Special Circumstances	Felony
§ 191.5	Vehicular Manslaughter While Intoxicated	Felony Wobbler
§ 192.5	Fleeing Scene After Committing Vehicular Manslaughter	Felony
§ 193	Manslaughter	Felony Wobbler Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 193.5	Manslaughter Committed During Operation of Vessel	Felony Wobbler Misdemeanor
§ 193.8	Relinquishing Possession of Motor Vehicle to Minor	Misdemeanor
§ 203	Mayhem	Felony
§ 205	Aggravated Mayhem	Felony
§ 206	Torture	Felony
§ 207	Kidnapping	Felony
§ 209	Kidnapping for Ransom or Extortion, or to Commit Further Crime	Felony
§ 209.5	Kidnapping During the Commission of a Carjacking	Felony
§ 210	Posing as Kidnapper	Felony
§ 210.5	Taking Hostages	Felony
§ 213	Robbery	Felony
§ 214	Train Robbery	Felony
§ 215	Carjacking	Felony
§ 217.1	Assaulting Public Official; Murder of Same	Felony Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 218	Derailing or Wrecking Train	Felony
§ 218.1	Interfering with Railroad Track Resulting in Damage or Injury	Wobbler
§ 219	Wrecking Train or Firing Bridge	Felony
§ 219.1	Throwing Missile at Vehicle of Common Carrier	Felony
§ 219.2	Throwing Missile or Shooting at Trains, Streetcars, or Vessels	Wobbler
§ 219.3	Throwing Missile from Toll Bridge	Misdemeanor
§ 220	Assault with Intent to Commit Mayhem or Sex Crimes	Felony
§ 222	Administering Drug to Aid Felony	Felony
§ 236.1	Human Trafficking	Felony
§ 236.4	Aggravated Trafficking	Felony
§ 237	False Imprisonment	Felony Misdemeanor
§ 241	Assaulting Officer or Other Specified Person	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 241.1	Assaulting Custodial Officer	Wobbler
§ 241.2	Assaulting Any Person on School or Park Property	Misdemeanor
§ 241.3	Assault Occurring on Public Transportation Property or Vehicle	Misdemeanor
§ 241.4	Assaulting School Police Officer	Wobbler
§ 241.5	Assaulting Highway Worker	Misdemeanor
§ 241.6	Assaulting School Employee	Misdemeanor
§ 241.7	Assaulting Juror	Wobbler
§ 241.8	Assaulting Service Member	Misdemeanor
§§ 242, 243	Battery	Felony Wobbler Misdemeanor
§ 243.1	Battery Against Custodial Officer	Felony
§ 243.2	Battery on School, Park, or Hospital Property	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 243.25	Battery Against Elder or Dependent Adult	Misdemeanor
§ 243.3	Battery Against Public Transit Employee or Passenger	Wobbler Misdemeanor
§ 243.35	Battery Against Public Transit Driver	Wobbler Misdemeanor
§ 243.4	Sexual Battery	Wobbler Misdemeanor
§ 243.6	Battery Against School Employee	Wobbler Misdemeanor
§ 243.65	Battery Against Highway Worker	Misdemeanor
§ 243.7	Battery Against Juror	Wobbler
§ 243.8	Battery Against Sports Official	Misdemeanor
§ 243.83	Disruptive Behavior at a Sporting Event	Infraction
§ 243.9	Aggravated Battery	Wobbler
§ 243.10	Battery Against Service Member	Misdemeanor
§ 243.15	Battery by Detainee	Wobbler
§ 244	Throwing Acid or Flammable Substance	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 244.5	Committing Assault with Stun Gun or Taser	Wobbler
§ 245	Committing Assault with a Deadly Weapon	Felony Wobbler
§ 245.2	Committing Assault with Deadly Weapon Against Public Transit Employee	Felony
§ 245.3	Committing Assault with Deadly Weapon Against Custodial Officer	Felony
§ 245.5	Committing Assault with Deadly Weapon Against School Employee	Wobbler
§ 245.6	Hazing	Wobbler Misdemeanor
§ 246	Discharging Firearm at Inhabited Dwelling, Vehicle, or Aircraft	Wobbler
§ 246.3	Negligently Discharging Firearm	Wobbler Misdemeanor
§ 247	Discharging Firearm at Unoccupied Aircraft, Vehicle, or Building	Felony Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 247.5	Discharging Laser at Aircraft	Wobbler
§ 248	Shining Light at Aircraft with Intent to Impair Operation	Misdemeanor
§ 261	Rape	Felony
§ 261.5	Unlawful Sexual Intercourse with Minor	Wobbler Misdemeanor
§ 262	Marital Rape	Felony
§ 264.1	Acting in Concert to Commit Rape	Felony
§ 265	Abduction to Force Marriage or Defilement	Felony
§ 266	Luring Minor into House of Prostitution	Wobbler
§ 266a	Procuring Person by Force or False Inducement	Felony
§ 266b	Compelling Illicit Relation by Menace	Felony
§ 266c	Inducing Commission of Sexual Act by Creating Fear	Wobbler
§ 266d	Paid Procurement of Person	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 266e	Hiring Panderer	Felony
§ 266f	Selling Person for Illicit Use	Felony
§ 266g	Prostituting Wife	Felony
§ 266h	Pimping	Felony
§ 266i	Pandering	Felony
§ 266j	Providing or Transporting Child Under 16 for Lewd or Lascivious Act	Felony
§ 267	Abduction for Prostitution	Felony
§ 269	Aggravated Sexual Assault of Child	Felony
§ 270	Child Neglect	Wobbler Misdemeanor
§ 270.1	Encouraging Truancy	Misdemeanor
§ 270.5	Refusing to Accept Minor Child into Home	Misdemeanor
§ 270.6	Failing to Pay Spousal Support	Misdemeanor
§ 270a	Abandoning Spouse in Destitute Condition	Misdemeanor
§ 270c	Failing to Provide Food or Shelter for Indigent Parent	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 271	Abandonment	Wobbler
§ 271a	Failure to Provide	Wobbler
§ 272	Contributing to Delinquency of Minor	Misdemeanor
§ 273	Paying Parent for Adoption of Child	Misdemeanor
§ 273a	Abusing or Endangering Health of Child	Wobbler Misdemeanor
§ 273ab	Assaulting Child with Force Likely to Produce Great Bodily Injury Resulting in Death	Felony
§ 273d	Inflicting Corporal Injury Upon Child	Wobbler
§ 273e	Permitting Minor to Enter House of Prostitution or Variety Theater	Misdemeanor
§ 273f	Sending Minor to Saloon, Gambling House, or House of Prostitution	Misdemeanor
§ 273g	Exhibiting Lewdness or Drunkenness in Presence of Child	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 273i	Publishing Minor's Personal Information	Misdemeanor
§ 273j	Failing to Notify Regarding Death of Minor	Misdemeanor
§ 273.4	Enhancement for Female Genital Mutilation	Felony
§ 273.5	Domestic Violence	Wobbler
§ 273.6	Violating Protective Order	Wobbler Misdemeanor
§ 273.65	Violating Protective Order	Wobbler Misdemeanor
§ 273.7	Disclosing Location of Domestic Violence Shelter	Misdemeanor
§ 278	Taking, Withholding, or Concealing Child without Right of Custody	Wobbler
§ 278.5	Taking, Withholding, or Concealing Child to Deprive Lawful Custodian of Rights	Wobbler
§ 280	Removing or Concealing Child Involved in Adoption Proceedings	Wobbler Misdemeanor
§ 281	Bigamy	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 284	Marrying Spouse of Another	Wobbler
§ 285	Incest	Felony
§ 286	Sodomy Involving Minor or Against Will	Felony Wobbler
§ 286.5	Sexual Contact with an Animal	Misdemeanor
§ 287	Oral Copulation Involving Minor	Felony Wobbler
§ 288	Sexual Offense Against a Child	Felony Wobbler
§ 288.2	Distributing or Exhibiting Lewd Material to Minor	Wobbler
§ 288.3	Attempting to Commit Offense Against Nature Against a Minor	Felony
§ 288.4	Arranging a Meeting with a Minor for Lewd Purposes	Felony Misdemeanor
§ 288.5	Continuous Sexual Abuse of a Child	Felony
§ 288.7	Committing Sexual Offense Against Child Under 10 Years of Age	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 289	Unlawful Sexual Penetration	Felony Wobbler
§ 289.5	Fleeing State to Avoid Prosecution	Misdemeanor
§ 289.6	Engaging in Sexual Activity with Confined Consenting Adult	Felony Wobbler
§ 290.018	Violating Registration Requirement	Felony Wobbler Misdemeanor
§ 290.01	Failing to Register with Campus Police	Misdemeanor
§ 290.4	Unauthorized Disclosure of Information	Felony Misdemeanor
§ 290.45	Improper Use of Information	Felony Misdemeanor
§ 290.46	Improper Use of Information	Felony Misdemeanor
§ 290.95	Failing to Disclose Sex Offender Registration	Misdemeanor
§ 298.1	Refusing to Provide DNA Sample	Misdemeanor
§ 298.2	Knowingly Interfering with Collection	Felony
§ 299.5	Improper Use of DNA Profile	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 302	Disorderly Conduct at Church Service	Misdemeanor
§ 303	Encouraging Sale of Alcoholic Beverage	Misdemeanor
§ 303a	Soliciting Purchase of Alcoholic Beverage	Misdemeanor
§ 307	Furnishing Foods Containing Alcohol to Persons Under 21	Misdemeanor
§ 308	Selling Cigarettes or Tobacco to Minor	Misdemeanor
§ 308.1	Selling, Distributing, or Importing “Bidis” or “Beedies”	Misdemeanor
§ 308.2	Selling Cigarettes in Improperly Sealed or Labeled Package	Infraction
§ 308.3	Selling Cigarette(s) in Package Containing Less than 20	Infraction
§ 308.5	Selling or Offering Video Game to Minor that Contains Alcohol or Tobacco Advertising	Misdemeanor
§ 308b	Unsolicited Delivery of Tobacco	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 309	Admitting or Keeping Minor in House of Prostitution	Misdemeanor
§ 310	Attendance of Minor at Prizefight or Cockfight	Misdemeanor
§ 310.2	Furnishing Diet Pills, Diuretic, or Laxatives to Minor Athletic Team Members	Misdemeanor
§ 310.5	Entering into Contract to Pay Minor Victim for Unlawful Sex Act	Misdemeanor
§ 311.1	Bringing Matter Depicting Child Pornography into State	Wobbler
§ 311.2	Bringing Obscene Matter into or Distributing Within State	Felony Wobbler Misdemeanor
§ 311.3	Sexual Exploitation of a Child	Felony Misdemeanor
§ 311.4	Hiring, Employing, or Using a Minor to Perform Prohibited Acts	Felony Wobbler
§ 311.5	Advertising Obscene Matter	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 311.6	Engaging in Obscene Live Conduct	Misdemeanor
§ 311.7	Requiring Acceptance of Obscene Matter as Condition for Receiving Other Merchandise	Misdemeanor
§ 311.9	Prescribing Additional Punishment for Violation of §§ 311.2, 311.4, 311.5	Felony Wobbler Misdemeanor
§ 311.10	Advertising Obscene Matter Depicting Minor	Wobbler
§ 311.11	Possessing or Controlling Matter Depicting Sexual Conduct of Minor	Felony Wobbler
§ 313.1	Distributing Harmful Matter to Minors; Failing to Restrict Access to Harmful Matter	Felony Misdemeanor
§ 314	Indecent Exposure; Indecent Exposure After Unauthorized Entry into Home or Building	Felony Wobbler Misdemeanor
§ 315	Keeping or Living in House of Prostitution	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 316	Keeping Disorderly or Assignment House	Misdemeanor
§ 318	Pimping, Capping, or Soliciting Patrons	Misdemeanor
§ 320	Contriving, Preparing, or Drawing a Lottery	Misdemeanor
§ 321	Selling Chances, Shares, or Tickets	Misdemeanor
§ 322	Assisting by Printing or Advertising	Misdemeanor
§ 323	Maintaining Agency for Sale or Registration of Tickets	Misdemeanor
§ 324	Insuring for or Against Drawing	Misdemeanor
§ 326	Renting Premises for Lottery Purposes	Misdemeanor
§ 326.5	Receiving Pay or Profit from Any Bingo Game	Misdemeanor
§ 327	Preparing or Operating Endless-Chain Scheme	Wobbler
§ 330	Playing or Betting Against a Prohibited Game	Misdemeanor
§ 330a	Possessing Gambling Device	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 330b	Manufacturing or Possessing Slot Machine	Misdemeanor
§ 330.1	Possessing Slot Machine	Misdemeanor
§ 330.4	Mere Possession or Control of a Slot Machine	Misdemeanor
§ 330.8	Displaying or Selling Permissible Gambling Devices	Misdemeanor
§ 331	Liability of Owner or Lessor of Gaming House	Misdemeanor
§ 332*	Obtaining Money or Property by Use of Card-Monte, Trick, or Sure-Thing Games	Felony Wobbler Misdemeanor Infraction
§ 333	Witness in Prosecution Refusing to Attend	Misdemeanor
§ 334*	Using Hidden Device or Obstruction; Manufacturing Such Device; Razzle-Dazzle Game	Felony Wobbler Misdemeanor Infraction
§ 335	Failing to Inform Against or Prosecute Offenders	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 336	Permitting Minors to Play Games Where Liquor is Sold	Misdemeanor
§ 336.9	Betting	Infraction
§ 337	Receiving “Protection-Money” or Granting Privileges	Felony
§ 337a	Pool Selling, Bookmaking, or Wagering	Wobbler Misdemeanor
§ 337b	Bribing Participant to “Throw” Sporting Event	Wobbler
§ 337c	Accepting Bribe to “Throw” Sporting Event	Wobbler
§ 337d	Bribing Judge of Sporting Event	Wobbler
§ 337e	Accepting Bribe by Any Person Involved in Event	Wobbler
§ 337f	Stimulating or Depressing Race Horse; Entering Horse Under Unregistered Name	Wobbler
§ 337h	Administering Drug to Competition Animal	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 337i	Transmitting Race Information for Gambling Purposes	Wobbler
§ 337j	Maintaining a Controlled Game Without Proper License	Wobbler Misdemeanor
§ 337k	Advertising Wagering on Horse Races	Misdemeanor Infraction
§ 337s	Conducting a Game of Draw Poker	Misdemeanor
§ 337u	Altering Lawful Game	Misdemeanor
§ 337v	Using or Possessing Device Intended to Project Outcome of Gambling Game	Misdemeanor
§ 337w	Using Counterfeit Chips	Misdemeanor
§ 337x	Cheating	Misdemeanor
§ 337y	Manufacturing a Device to Cheat	Misdemeanor
§ 337.1	Touting	Misdemeanor
§ 337.3	Touting – Falsely Using Name of Official	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 337.4*	Touting – Obtaining Money in Excess of \$950	Felony Wobbler
§ 337.5	Refusing to Leave Race Track When Ordered	Misdemeanor
§ 337.7	Misrepresentation by Wrongful Use of Credential or License	Felony Wobbler
§ 337.8	Using Credential for Purpose of Touting	Misdemeanor
§ 343	Withholding Register of Gold Bars from Officer	Misdemeanor
§ 346	Unauthorized Sale of Tickets to Entertainment Events	Misdemeanor
§ 347	Mingling Harmful Substance with Food or Drink	Felony Wobbler
§ 347b	Furnishing Poisoned Alcohol	Misdemeanor
§ 350	Manufacturing or Selling Counterfeit Mark	Wobbler Misdemeanor
§ 351a	Misrepresenting Maker of Goods Sold	Misdemeanor
§ 355	Removing Identifying Marks on Wreckage	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 356	Altering Brands on Logs or Lumber	Misdemeanor
§ 359	Solemnizing Illegal Marriage	Misdemeanor
§ 360	Solemnizing Marriage in Absence of License	Misdemeanor
§ 362	Disobeying Habeas Corpus Writ	Misdemeanor
§ 363	Restraining Person Discharged by Writ	Misdemeanor
§ 364	Evading Service of Writ of Habeas Corpus	Misdemeanor
§ 365	Refusing to Accommodate Hotel Guest or Passenger for Hire	Misdemeanor
§ 365.5	Preventing Equal Access for Disabled Person with Service Dog	Misdemeanor
§ 365.6	Interfering with Service Dog	Misdemeanor
§ 365.7	Fraudulently Representing to be Owner of Service Dog	Misdemeanor
§ 367f	Selling Human Organs for Transplantation	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 367g	Improper Use of Gamete and Embryo	Wobbler
§ 368	Committing Crimes Against an Elder or Dependent Adult	Felony Wobbler Misdemeanor
§ 369d	Entering Upon Private Passway	Misdemeanor
§ 369g	Trespass on Railroad or Rail-Line Track	Misdemeanor
§ 369i	Trespass on Railroad or Rail Transit Property	Misdemeanor
§ 372	Maintaining Public Nuisance	Misdemeanor
§ 373a	Maintaining Public Nuisance After Notice to Discontinue	Misdemeanor
§ 374.2	Dumping Matter Harmful to Operation of Public Sewer	Wobbler Misdemeanor
§ 374.3	Dumping Refuse on Roads or Property	Misdemeanor Infraction
§ 374.4	Littering on Public or Private Property	Infraction
§ 374.5	Dumping Contents from Grease Trap	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 374.7	Dumping Rubbish in Water	Misdemeanor
§ 374.8	Depositing Hazardous Substance	Wobbler
§ 374c	Shooting a Firearm From or Upon a Public Road or Highway	Misdemeanor
§ 374d	Leaving Carcass of Animal on Highway	Misdemeanor
§ 375	Gassing Theater, Restaurant, or Store	Felony Misdemeanor
§ 377	Making False Representation to Procure Drug	Misdemeanor
§ 379	Selling or Distributing Salvia divinorum/Salvinorin A to a Minor	Misdemeanor
§ 380	Selling or Distributing Toluene to Minor	Misdemeanor
§ 381	Possessing Toluene with Intent to Become Intoxicated	Misdemeanor
§ 381a	Misrepresenting Quality of Dairy Products	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 381b	Possessing Nitrous Oxide with Intent to Cause Intoxication	Misdemeanor
§ 381c	Selling Nitrous Oxide to Minor	Misdemeanor
§ 381d	Dispensing Nitrous Oxide for Wrongful Use	Misdemeanor
§ 381e	Failing to Record Nitrous Oxide Transactions	Misdemeanor
§ 382	Selling Adulterated Food or Drink	Misdemeanor
§ 382.4	Administering Succinylcholine to Animal	Misdemeanor
§ 382.5	Selling, Dispensing, Administering, or Prescribing Dinitrophenol	Wobbler
§ 382.6	Selling, Dispensing, Administering, or Prescribing Preparations Containing Diphenylamine, Paraphenylenediamine, or Paratoluylenediamine	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 382.7	Prescribing, Dispensing, Administering, or Furnishing Silicone Implants	Misdemeanor
§ 383	Selling or Disposing of Adulterated Food, Drink, or Drugs	Misdemeanor
§ 383a	Selling or Possessing Renovated Butter	Misdemeanor
§ 383b	Falsely Representing Meat as Kosher	Misdemeanor
§ 383c	Falsely Representing Meat as Halal	Misdemeanor
§ 384	Failing to Relinquish Line for Emergency	Misdemeanor
§ 384.5	Removing and Transporting Forest Products	Misdemeanor
§ 384a	Cutting or Destroying Shrubs	Misdemeanor
§ 384c	Failing to Receive Transportation Tag for Plant Material	Misdemeanor
§ 384d	Failing to Validate Transportation Tag	Misdemeanor
§ 384e	Failing to Produce Transportation Tag Upon Demand	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 384h	Killing or Injuring Domestic Animal While Hunting	Misdemeanor
§ 385	Placing or Operating Certain Implements Near High Voltage Overhead Conductor	Misdemeanor
§ 386	Construction or Maintenance of Inoperable or Unsafe Fire Protection System	Felony
§ 387	Concealing Dangerous Business Practices	Wobbler
§ 395	Making False Statement to Affect Market Price of Goods	Misdemeanor
§ 396	Increasing Prices for Goods or Services During Emergency	Misdemeanor
§ 396.5	Selling Unauthorized Goods or Services in Exchange for CalFresh Benefits	Misdemeanor
§ 397	Selling Intoxicants to Common Drunkards or Incompetents	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 398	Failing to Provide Information After Dog Bite Occurs	Infraction
§ 399	Allowing Vicious Animal at Large	Felony Wobbler
§ 399.5	Failing to Exercise Ordinary Care with Dog Known to Attack	Wobbler
§ 401	Advising or Encouraging Suicide	Felony
§ 402	Sightseeing at Scene of Emergency; Impeding Emergency Personnel	Misdemeanor
§ 402a	Adulterating Candy with Deleterious Substances or Selling Same	Misdemeanor
§ 402b	Abandoning Appliance in Place Accessible to Children	Misdemeanor
§ 402c	Selling Appliance Without Integral Lock	Misdemeanor
§ 403	Disturbing Assembly	Misdemeanor
§ 404.6	Incitement to Riot	Wobbler Misdemeanor
§ 405	Participating in Riot	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 405a	Taking Person From Lawful Custody by Means of Riot	Felony
§ 408	Participating in Rout or Unlawful Assembly	Misdemeanor
§ 409	Refusing to Disperse when Ordered	Misdemeanor
§ 409.5	Entering Closed Area and Remaining Therein After Receiving Notice to Evacuate	Misdemeanor
§ 409.6	Entering Closed Area and Remaining Therein After Receiving Notice to Evacuate	Misdemeanor
§ 410	Failing to Suppress or Arrest Participants in Riot	Misdemeanor
§ 412	Engaging in or Encouraging Prizefight	Misdemeanor
§ 413	Presence at Prizefight	Misdemeanor
§ 415	Fighting, Causing Loud and Unreasonable Noise, or Using Offensive Words in Public	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 415.5	Fighting on School Grounds	Misdemeanor
§ 416	Assembling to Disturb Public Peace	Misdemeanor
§ 417	Drawing or Exhibiting Weapon Other than Firearm	Wobbler Misdemeanor
§ 417.25	Drawing or Exhibiting Laser Scope	Misdemeanor
§ 417.26	Drawing or Exhibiting Laser Scope at Peace Officer	Misdemeanor
§ 417.27	Selling Laser Pointer to Minor; Improper Use of Laser Pointer	Infraction
§ 417.3	Drawing or Exhibiting Firearm in Presence of Person in Vehicle	Felony
§ 417.4	Drawing or Exhibiting an Imitation Firearm	Misdemeanor
§ 417.6	Inflicting Great Bodily Injury with Weapon	Wobbler
§ 417.8	Exhibiting Firearm or Weapon to Prevent Arrest or Detention	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 418	Forcible Entry or Detainer of Land	Misdemeanor
§ 419	Reentering Land After Legal Ouster	Misdemeanor
§ 420	Obstructing Entry on Government Lands	Misdemeanor
§ 420.1	Obstructing Entry on Lands of Another	Infraction
§ 422	Threatening to Commit Crime Resulting in Death or Injury	Wobbler
§ 422.4	Disclosing Information About Academic Researcher	Misdemeanor
§ 422.6	Using Force, Threats, or Destruction of Property to Interfere with Exercise of Civil Rights	Misdemeanor
§ 422.7	Commission of Hate Crime to Interfere with Exercise of Civil Rights	Wobbler
§ 422.75	Committing Felony Hate Crime	Felony
§ 422.77	Violating Order Issued Pursuant to Civil Code	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§§ 423.2, 423.3	Interfering with Reproductive Health Services or Exercise of Religion	Misdemeanor
§ 424	Misappropriating Public Funds	Felony
§ 425	Neglecting to Keep and Pay Over Public Funds	Felony
§ 428	Hindering Collection of Revenue	Misdemeanor
§ 429	Failing to Collect State Imposed Fees	Misdemeanor
§ 431	Misusing Tax or License Receipt	Misdemeanor
§ 432	Selling License or Tax Receipt	Felony
§ 436	Acting as an Auctioneer in Violation of Laws	Misdemeanor
§ 439	Procuring Insurance From Unlicensed Company	Misdemeanor
§ 440	Refusing to Permit Inspection of Books	Misdemeanor
§ 451	Arson	Felony
§ 451.5	Aggravated Arson	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 452	Unlawfully Causing a Fire	Wobbler Misdemeanor
§ 453	Possessing or Manufacturing Combustible Material or Incendiary Device for Malicious Use	Wobbler
§ 454	Burning Within Area of Insurrection or Emergency	Felony
§ 455	Attempting to Set Fire	Felony
§ 457.1	Failing to Complete Required Registration	Misdemeanor
§ 459	Burglary	Felony Wobbler
§ 459.5	Shoplifting	Felony Misdemeanor
§ 463	Looting	Felony Wobbler Misdemeanor
§ 464	Opening a Secure Place by Torch or Explosive	Felony
§ 466	Possessing Burglar Tools	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 466.1	Failing to Record Information After Sale of Burglar Tools	Misdemeanor
§ 466.3	Possessing Burglar Tool with Intent to Commit Theft from Vending Machine	Misdemeanor
§ 466.5	Possessing or Using a Master Key to Commit Unlawful Act	Misdemeanor
§ 466.6	Improper Duplication of Ignition Key	Misdemeanor
§ 466.65	Bypassing Factory-Installed Ignition	Misdemeanor
§ 466.7	Possessing Key Not Made by Duplication	Misdemeanor
§ 466.8	Duplicating Key Involving Onsite Inspection	Misdemeanor
§ 466.9	Possessing Code Grabbing Device with Intent to Unlawfully	Misdemeanor
§ 468	Buying or Selling a Sniperscope	Misdemeanor
§ 469	Duplicating Keys to State Buildings	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 470a	Forging Driver's License	Wobbler
§ 470b	Possessing Forged License or Identification Card	Wobbler
§ 471	Altering Entries in Books and Records	Felony Wobbler Misdemeanor
§ 471.5	Altering Medical Records	Misdemeanor
§ 472	Counterfeiting State or Official Seal	Felony Wobbler Misdemeanor
§ 474	Sending False Message by Phone or Telegraph	Wobbler
§ 475	Possessing, Receiving, or Uttering Forged Paper	Felony Wobbler Misdemeanor
§ 476	Making, Passing, or Publishing Fictitious Bill or Note to Defraud	Felony Wobbler Misdemeanor
§ 476a	Making, Drafting, or Passing a Worthless Check, Draft, or Order	Felony Wobbler Misdemeanor
§ 477	Counterfeiting	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 479	Possessing Counterfeit Gold or Silver	Felony
§ 480	Making or Having Counterfeit Die or Apparatus	Felony
§ 481	Counterfeiting or Altering Passenger Ticket	Wobbler
§ 481.1	Counterfeiting or Altering Public Transit Fare	Wobbler Misdemeanor
§ 482	Removing "Cancel" Mark from Ticket	Misdemeanor
§ 483	Ticket Scalping	Misdemeanor
§ 483.5	Using Deceptive Identification Document	Wobbler Misdemeanor
§ 484*	Theft	Felony Wobbler Misdemeanor Infraction
§ 484.1*	Providing False Identification to Pawnbroker to Obtain Money or Valuables	Felony Wobbler Misdemeanor Infraction
§ 484b	Diverting Construction Funds	Wobbler Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 484c*	Obtaining Construction Funds by False Voucher	Felony Wobbler Misdemeanor Infraction
§ 484e*	Acquiring Access Card Without Consent	Felony Wobbler Misdemeanor Infraction
§§ 484f, 473	Forging Access Card or Cardholder's Signature	Felony Wobbler Misdemeanor
§ 484g*	Using Access Card or Account Information to Obtain Items of Value Without Consent	Felony Wobbler Misdemeanor Infraction
§ 484h*	Honoring Illegally Obtained Access Card; Receiving Payment for Items Not Furnished	Felony Wobbler Misdemeanor Infraction
§§ 484i, 473	Counterfeiting or Altering Access Card	Felony Wobbler Misdemeanor
§ 484j	Publishing Card Number or Code to Defraud	Misdemeanor
§ 485*	Appropriating Lost Property	Felony Wobbler Misdemeanor Infraction

Code	Description of Offense(s)	Type of Offense(s)
§ 487a*	Theft of an Animal	Felony Wobbler
§ 487b	Conversion by Severance	Felony
§ 487c	Conversion by Severance from Real Property – Less \$250	Misdemeanor Infraction
§ 487d	Grand Theft – Gold Dust, Amalgam, or Quicksilver	Felony
§ 487e*	Theft of Dog – Value of \$950 or More	Felony Wobbler
§ 487f*	Theft of Dog – Value of \$950 or Less	Misdemeanor Infraction
§ 487g	Taking Animal for Commercial Use	Wobbler
§ 487h*	Taking Cargo of Another in Excess of \$950	Felony Wobbler
§ 487i*	Defrauding Housing Program	Felony Wobbler
§ 487j	Taking Copper Materials of Another	Wobbler
§ 487k*	Taking Agricultural Equipment of Another	Felony Wobbler
§ 490.2	Subsequent Theft Offense	Felony Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 490.4	Organized Retail Theft	Wobbler Misdemeanor
§ 490.5	Petty Theft – Item Taken from Merchant’s Premises or Library Facility	Misdemeanor
§ 490.7	Taking More than 25 Free Newspapers	Misdemeanor Infraction
§ 496	Buying or Receiving Stolen Property	Wobbler Misdemeanor
§ 496a	Criminally Receiving Property – Wire, Copper, Brass, Etc.	Wobbler
§ 496b	Criminally Receiving Property – Books	Misdemeanor
§ 496c*	Copying Contents of File Containing Information Relating to Title to Real Property	Felony Wobbler Misdemeanor Infraction
§ 496d	Buying or Receiving Stolen Vehicle or Vessel	Wobbler
§ 496e	Possessing or Failing to Report Stolen Public Property	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 498	Diverting, Tampering with, Connecting, or Using Utility Services	Wobbler Misdemeanor
§ 499	Enhancement for Repeat Offenses Involving Vehicles and Vessels	Wobbler
§ 499b	Temporarily Taking Bicycle or Vessel	Misdemeanor
§ 499c*	Stealing Trade Secrets; Bribing or Soliciting Employee to Release Trade Secrets	Felony Wobbler Misdemeanor Infraction
§ 499d	Stealing, Taking, or Operating Aircraft Without Consent	Wobbler
§ 500	Receiving Money for Transmittal to Foreign Countries Without Proper Disclosure	Wobbler Misdemeanor
§ 502	Computer-Related Crimes	Wobbler Misdemeanor Infraction
§ 502.5*	Taking or Disposing of Part of Freehold Attached or Affixed to Mortgaged Property	Felony Wobbler Misdemeanor Infraction

Code	Description of Offense(s)	Type of Offense(s)
§ 502.6	Possessing Scanning Device with Intent to Defraud	Misdemeanor
§ 502.7	Avoiding Lawful Charge from Telephone or Telegraph Service	Felony Wobbler Misdemeanor
§ 502.8	Advertising, Possessing, or Using Illegal Telecommunications Equipment	Felony Wobbler Misdemeanor
§ 504*	Embezzlement by Public Officer	Felony Wobbler Misdemeanor Infraction
§ 504a*	Embezzlement by Lessee or Bailee	Felony Wobbler Misdemeanor Infraction
§ 504b*	Failing to Pay Secured Party Amount Due	Felony Wobbler Misdemeanor Infraction
§ 505*	Embezzlement by Carrier	Felony Wobbler Misdemeanor Infraction

Code	Description of Offense(s)	Type of Offense(s)
§ 506*	Embezzlement by Fiduciaries of Trust	Felony Wobbler Misdemeanor Infraction
§ 506a*	Embezzlement by Collector	Felony Wobbler Misdemeanor Infraction
§ 506b	Violating Civil Code Relating to Real Property Sales Contracts	Wobbler
§ 507*	Embezzlement by Bailee, Tenant, or Lodger	Felony Wobbler Misdemeanor Infraction
§ 508*	Embezzlement by Clerk, Agent, or Servant of Another	Felony Wobbler Misdemeanor Infraction
§ 520	Extortion by Force or Threat of Force	Felony
§ 521	Extortion Under Color of Official Right	Misdemeanor
§ 524	Attempting or Threatening Extortion	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 526	Delivering Document Intended to Obtain Property of Another	Misdemeanor
§ 527	Printing, Publishing, or Selling a Document Falsely Claiming to be Court Order	Misdemeanor
§ 528	Marriage by False Personation	Felony
§ 528.5	Impersonating Another	Misdemeanor
§ 529	Committing Acts in Assumed Character	Wobbler
§ 529a	Manufacturing, Selling, or Possessing False Birth Certificate	Wobbler Misdemeanor
§ 529.5	Manufacturing, Selling, or Possessing False Identification Card or Driver's License	Misdemeanor
§ 529.6	Falsely Representing Oneself as or Assuming Activities of Census Taker	Misdemeanor
§ 529.7	Obtaining False Identification Card	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 530*	Receiving Property through False Personation	Felony Wobbler Misdemeanor Infraction
§ 530.5	Unlawfully Using Personally Identifiable Information	Wobbler Misdemeanor
§ 531	Participating in Fraudulent Conveyance	Misdemeanor
§ 531a	Making or Recording Deed Without Proper Title	Misdemeanor
§ 532*	Obtaining Property, Labor, or Services Under False Pretenses	Felony Wobbler Misdemeanor Infraction
§ 532a	Making False Financial Statement	Wobbler Misdemeanor
§ 532b	Fraudulently Representing Oneself as a Veteran	Misdemeanor
§ 532c	Offering Winning Numbers at a Drawing	Misdemeanor
§ 532d	Falsely Advertising Purpose of Charitable Organization	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 532e	Offering Unauthorized Trade Rebate	Misdemeanor
§ 532f	Committing Mortgage Fraud	Wobbler
§ 533	Resale of Land with Intent to Defraud	Felony
§ 534	Falsely Representing Competence to Sell or Mortgage Real Estate	Felony
§ 535	Obtaining Money or Property by Mock Auction	Wobbler
§ 536	Making False Statement as to Price Obtained for Property	Misdemeanor
§ 536a	Improper Accounting	Misdemeanor
§ 537	Obtaining Food, Fuel, Services, or Accommodations with Intent Not to Pay	Wobbler Misdemeanor Infraction
§ 537b	Receiving Livery Hire Without Payment	Misdemeanor
§ 537c	Permitting Unauthorized Custody of Horse	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 537e	Possessing Property with Defaced Identification Mark	Wobbler Misdemeanor
§ 537f	Improperly Labelling Storage Battery	Misdemeanor
§ 537g	Destroying National Crime Information Center ID Number	Misdemeanor
§ 538*	Assigning or Removing Mortgaged Property Without Written Consent of Mortgagee	Felony Wobbler Misdemeanor Infraction
§ 538a	Signing Letter to Newspaper with Name Other than Own	Misdemeanor
§ 538b	Wearing Badge of Society to Deceive	Misdemeanor
§ 538c	Theft of Advertising Services	Misdemeanor
§ 538d	Wearing Uniform or Insignia of Officer to Impersonate	Misdemeanor
§ 538e	Wearing Uniform or Insignia of Firefighter to Impersonate	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 538f	Impersonating Public Utility Employee	Misdemeanor
§ 538g	Wearing Badge of Public Employee to Impersonate	Misdemeanor
§ 538h	Wearing Government Uniform or Insignia to Impersonate	Misdemeanor
§ 538.5	Transmitting Communication to Obtain Proprietary Information	Wobbler
§ 539	Falsely Certifying Community Service Hours	Misdemeanor
§ 548	Defrauding Insurer	Felony
§ 549	Soliciting or Referring Business for Purposes of Insurance Fraud	Felony Wobbler
§ 550	Making False or Fraudulent Claims	Wobbler Misdemeanor
§ 551	Unlawful Referrals to Auto Repair Dealers	Wobbler Misdemeanor
§ 555	Remaining on Property Without Permission	Misdemeanor
§ 555.1	Removing Posted Sign	Misdemeanor
§ 555.2	Loitering in Vicinity of Posted Property	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 556	Placing Advertisement on Public Property Without Permission	Misdemeanor
§ 556.1	Placing Sign on Property Without Consent	Misdemeanor
§ 558	Trespass at Scripps Institution	Misdemeanor
§ 560	Issuing False Title	Wobbler
§ 560.1	Issuing False Receipt	Misdemeanor
§ 560.2	Transferring Goods with Outstanding Title	Misdemeanor
§ 560.3	Fraudulent Negotiation of Document Title	Misdemeanor
§ 560.4	Issuing Fraudulent Duplicate Title	Wobbler
§ 560.5	Failing to Show Warehouseman's Ownership on Title	Misdemeanor
§ 560.6	Negotiating Fraudulent Warehouse Receipt	Misdemeanor
§ 565	Unauthorized Possession or Use of Dairy Equipment Over \$950	Misdemeanor
§ 566	Unauthorized Possession or Use of Dairy Equipment	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 570	Unlawfully Subleasing a Motor Vehicle	Wobbler
§ 577	Delivering Bill of Lading, Receipt, or Voucher for Merchandise Not Shipped or Delivered	Wobbler
§ 578	Issuing Receipt for Merchandise Not Received	Wobbler
§ 580	Failing to Show that Receipt is "Duplicate"	Wobbler
§ 581	Selling or Pledging Chattel Without Written Consent	Wobbler
§ 587	Injuring or Obstructing Tracks, Rights-of-Way, or Structures	Wobbler
§ 587.1	Moving a Locomotive Without Permission	Wobbler Misdemeanor
§ 587a	Manipulating Air Brakes	Misdemeanor
§ 587b	Riding Engine or Train Without Authority	Misdemeanor
§ 587c	Fraudulently Evading Payment of Fare	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 588	Injuring Public Road or Bridge	Misdemeanor
§ 588a	Depositing Substance on Highway Likely to Cause Injury	Felony Misdemeanor
§ 588b	Removing or Destroying Barrier, Notice, or Danger Signal	Misdemeanor
§ 590	Injuring Road Signs or Guide Posts	Misdemeanor
§ 591	Injuring or Obstructing Electrical Line	Wobbler
§ 591.5	Removing or Injuring Wireless Communication Device	Misdemeanor
§ 592	Taking Water Without Authority	Wobbler Misdemeanor
§ 593	Injuring Electric Power Line	Wobbler
§ 593a	Driving Iron or Other Hard Substance into Tree Intended to be Harvested	Felony
§ 593b	Disturbing Line System	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 593c	Obstructing Flow of Gas or Other Hazardous Liquids	Felony
§ 593d	Unauthorized Connection with Multichannel Video or Information Services Provider	Wobbler Misdemeanor
§ 593e	Maintaining Unauthorized Connection	Misdemeanor
§ 593f	Distributing Device Meant to Interfere with Air Transmission	Misdemeanor
§ 593g	Possessing Device Meant to Interfere with Tree Harvesting	Misdemeanor
§ 594	Vandalism	Wobbler Misdemeanor
§ 594.1	Giving or Selling Aerosol Containers to Minor	Misdemeanor
§ 594.2	Possessing Tools or Substance to Commit Vandalism	Misdemeanor
§ 594.3	Vandalism – Place of Worship	Felony Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 594.35	Vandalism – Monument, Memorial, Cemetery	Wobbler
§ 594.37	Picketing Targeted at Funeral	Misdemeanor
§ 594.4	Vandalizing Structure with Butyric Acid	Wobbler
§ 594.7	Subsequent Conviction for Vandalism	Wobbler
§ 596	Poisoning Animals	Misdemeanor
§ 596.5	Elephant Abuse	Misdemeanor
§ 597	Killing, Maiming, or Abusing Animals	Wobbler
§ 597.1	Keeping Animal Without Proper Care	Misdemeanor Infraction
§ 597.3	Improper Operation of a Live Animal Market	Infraction
§ 597.4	Selling or Giving Away Animal on Roadway	Misdemeanor Infraction
§ 597.5	Dog Fights – Training, Conducting, Attending	Wobbler Misdemeanor
§ 597.6	Performing Surgical Claw Removal	Misdemeanor
§ 597.7	Confining Animal in Dangerous Conditions	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 597a	Cruelty in Transporting Animals	Misdemeanor
§ 597b	Causing Animals to Fight; Worrying Animals	Wobbler Misdemeanor
§ 597c	Training Animals to Fight; Attending Fight	Misdemeanor
§ 597e	Impounding Animal with Insufficient Care	Misdemeanor
§ 597f	Animal Neglect	Misdemeanor
§ 597g	Poling or Tripping Horses	Misdemeanor
§ 597h	Attaching Animal to Machine	Misdemeanor
§ 597i	Manufacturing, Selling, or Possessing Gaffs or Slashers	Misdemeanor
§ 597j	Owning or Possessing Animal with Intent to Engage in Fighting	Misdemeanor
§ 597k	Using Bristle or Tack Bur on Animals	Misdemeanor
§ 597l	Failing to Properly Maintain Pet Shop	Misdemeanor
§ 597m	Conducting Bullfights	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 597n	Docking Horses/Cattle	Misdemeanor
§ 597o	Failing to Meet Requirements for Slaughter Transport	Misdemeanor
§ 597s	Abandoning Domestic Dog or Cat	Misdemeanor
§ 597t	Mistreating Confined Animal	Misdemeanor
§ 597u	Using Prohibited Method for Euthanizing Animal	Misdemeanor
§ 597v	Using Prohibited Method for Euthanizing Newborn Animal	Misdemeanor
§ 597x	Selling or Transporting Disabled Animal for Slaughter Out of State	Misdemeanor
§ 597z	Selling Dog Under Eight Weeks of Age	Misdemeanor Infraction
§ 598	Killing Birds or Robbing Nests in Cemetery	Misdemeanor
§ 598a	Killing or Possessing Dog or Cat with Intent to Sell Pelt	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 598b	Possessing, Importing, Exporting, Buying, or Selling of Pet for Food	Misdemeanor
§ 598c	Possessing, Importing, Exporting, Buying, or Selling a Horse for Human Consumption	Felony
§ 598d	Selling Horse Meat	Felony Misdemeanor
§ 599	Mistreating Poultry or Rabbits	Misdemeanor
§ 599e	Violating Order to Euthanize Animal	Misdemeanor
§ 599f	Receiving a Non-ambulatory Animal	Misdemeanor
§ 600	Harming, Interfering with, or Obstructing Peace Officer's Animal	Felony Wobbler Misdemeanor
§ 600.2	Permitting Dog to Injure Guide Dog	Misdemeanor Infraction
§ 600.5	Causing Injury to or Death of Guide Dog	Misdemeanor
§ 601	Trespass – Threat to Cause Serious Bodily Injury	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 602	Trespass – Cutting or Carrying Away Wood	Misdemeanor Infraction
§ 602.1	Interfering with Lawful Business	Misdemeanor
§ 602.3	Failing to Exit Premises After Notice Terminating the Hiring	Infraction
§ 602.4	Unauthorized Sales at Airports	Misdemeanor
§ 602.5	Unauthorized Entry of Dwelling	Misdemeanor
§ 602.6	Unauthorized Entry of Fairgrounds	Misdemeanor
§ 602.7	Peddling on Transit Property or Vehicle	Infraction
§ 602.8	Trespass – Entering Cultivated, Fenced, or Posted Land	Misdemeanor Infraction
§ 602.9	Renting a Dwelling Without Authorization	Misdemeanor
§ 602.10	Obstructing Attendance at University of California	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 602.11	Obstructing Entry or Exit of Health Care Facility, Place of Worship, or School	Misdemeanor
§ 602.12	Entering Residence of Academic Researcher	Misdemeanor
§ 602.13	Unauthorized Zoo Entry	Misdemeanor Infraction
§ 603	Unauthorized Entry and Injury to Dwelling House	Misdemeanor
§ 604	Injuring Crops	Misdemeanor
§ 605	Injuring Survey Marks or Monuments	Misdemeanor
§ 607	Injuring Hydro-Power Equipment	Wobbler Misdemeanor
§ 610	Endangering Navigation by Masked or False Light	Felony
§ 615	Tampering with U.S. Coast Survey Monument	Misdemeanor
§ 616	Tampering with Posted Legal Notice	Misdemeanor
§ 617	Mutilating Writings	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 618	Opening or Disclosing Contents of Sealed Letter	Misdemeanor
§ 620	Altering Telegram or Phone Message	Wobbler
§ 621	Vandalizing Law Enforcement or Fire-fighter's Memorial	Wobbler
§ 622	Destroying Monuments or Civic Improvements	Misdemeanor
§ 622 ½	Injuring Archaeological or Historical Object	Misdemeanor
§ 623	Injuring Cave and Contents	Misdemeanor
§ 624	Injuring Water Pipes	Misdemeanor
§ 625	Using Water After Line Closed or Shut	Misdemeanor
§ 625b	Tampering with Aircraft or Removing Parts	Wobbler Misdemeanor
§ 625c	Tampering with Passenger Transit Vehicle or System	Felony
§ 626.2	Entering Campus After Suspension	Misdemeanor
§ 626.4	Remaining on Campus While Unauthorized	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 626.6	Interfering with Campus Conduct; Failing to Leave or Reentering Campus	Misdemeanor
§ 626.7	Interfering with Peaceful Campus Activities	Misdemeanor
§ 626.8	Disrupting Peaceful School Activities	Misdemeanor
§ 626.81	Presence of Sex Offender on School Grounds	Misdemeanor
§ 626.85	Presence of Drug Offender on School Grounds	Misdemeanor
§ 626.9	Bringing or Possessing Firearm on School Grounds	Felony Wobbler
§ 626.95	Violating §§ 417, 25400, or 25850 on Playground	Wobbler
§ 626.10	Possessing Prohibited Instrument on Campus	Wobbler Misdemeanor
§ 627.7	Failing or Refusing to Leave School Grounds	Misdemeanor
§ 627.8	Subsequent Offense – Failure to Leave School Grounds	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 628	Providing Massage Therapy Without Proper Certification	Misdemeanor
§ 629.84	Violating Any Provision of Title 15, Chapter 1.4	Wobbler
§ 631	Wiretapping	Wobbler
§ 632	Eavesdropping or Recording Confidential Communication	Wobbler
§ 632.01	Disclosing Communication Obtained by Eavesdropping	Wobbler
§ 632.5	Intercepting or Receiving Cellular Radio Telephone Communication	Wobbler
§ 632.6	Intercepting or Receiving Cordless Telephone Communication	Wobbler
§ 632.7	Recording Communications Without Consent	Wobbler
§ 634	Trespassing to Invade Privacy	Wobbler
§ 635	Manufacturing or Selling Eavesdropping Device	Wobbler

Code	Description of Offense(s)	Type of Offense(s)
§ 636	Eavesdropping on or Recording Conversation Between Person in Custody and Attorney	Felony Wobbler
§ 636.5	Incepting and Divulging Public Safety Radio Service Communication	Misdemeanor
§ 637	Disclosing Telegraphic or Telephonic Communication	Wobbler
§ 637.1	Obtaining Telegraphic or Telephonic Communication	Wobbler
§ 637.5	Invasion of Privacy by Person Who Manages Cable	Misdemeanor
§ 637.6	Disclosing Information Obtained Through Carpool or Rideshare Program	Misdemeanor
§ 637.7	Using Electronic Tracking Device	Misdemeanor
§ 637.9	Unauthorized Use of Mailing List	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 638	Purchasing or Selling Calling Pattern Record or List	Misdemeanor
§ 638.51	Installing or Using Pen Register or Trap and Trace Device Without Court Order	Wobbler
§ 639	Bribing Financial Institution Employee	Felony
§ 639a	Accepting Bribe by Financial Institution Employee	Felony
§ 640	Committing Specified Offense on or in Public Transit Facilities or Vehicles	Misdemeanor Infraction
§ 640.2	Altering Any Product or Box Offered for Sale	Misdemeanor
§ 640.5	Defacing Government Vehicles	Misdemeanor Infraction
§ 640.6	Defacing Personal Property	Misdemeanor Infraction
§ 640.7	Defacing Property Within 100 Feet of Highway	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 640.8	Defacing Property on a Freeway	Misdemeanor
§ 640a	Beating Vending or Slot Machine	Misdemeanor
§ 640b	Beating Pay Phone	Misdemeanor
§ 641	Inducing Disclosure of Phone Message or Telegram by Bribery	Felony
§ 641.3	Commercial Bribery	Wobbler
§ 641.4	Commercial Bribery	Misdemeanor
§ 641.5	Improperly Maintaining Dry Cleaner	Misdemeanor
§ 641.6	Using Carbon Tetrachloride While Dry Cleaning	Misdemeanor
§ 642	Removing or Keeping Articles from Corpse	Felony Misdemeanor
§ 643	Improper Disposal of Fetal Remains	Misdemeanor
§ 646	Soliciting Personal Injury Claims with Intent to Sue Out of State	Misdemeanor
§ 646.5	Employment Solicitation to Obtain Authorization as Investigator	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 646.6	Solicitation for Sale of Accident Photographs	Misdemeanor
§ 646.9	Stalking	Felony Wobbler
§ 647	Disorderly Conduct	Misdemeanor
§ 647.6	Committing Child Molestation	Felony Wobbler Misdemeanor
§ 647.7	Subsequent Violation of §§ 647(i) or 647(j)	Misdemeanor
§ 647.9	Capturing Photograph of Deceased Person for Unofficial Purpose	Misdemeanor
§ 647b	Loitering Around Adult School	Misdemeanor
§ 647c	Obstructing Movement on Street or Public Place	Misdemeanor
§ 648	Circulating Unauthorized Ticket, Certificate, Note, or Bank Paper	Felony Misdemeanor
§ 648a	Making, Selling, or Possessing Nonconforming Slug or Token	Misdemeanor
§ 649	Misdirecting a Prospective Guest of a Hotel	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 649a	Fraud in Procuring Hotel Guest	Misdemeanor
§ 651	Buying or Selling Food Stamps	Misdemeanor
§ 652	Piercing a Minor	Infraction
§ 653	Tattooing a Minor	Misdemeanor
§ 653b	Loitering About a School	Misdemeanor
§ 653c	Sex Offender on Grounds of Day Care	Misdemeanor
§ 653d	Failing to Keep Records on Sale of Mining Machinery	Misdemeanor
§ 653f	Solicitation to Commit an Offense	Felony Wobbler Misdemeanor
§ 653h	Transferring Recording Without Consent	Wobbler Misdemeanor
§ 653i	Leaving Scene of Skiing Accident	Infraction
§ 653j	Soliciting Minor to Commit Felony	Felony
§ 653m	Harassing by Telephone	Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 653n	Installing or Maintaining Two-Way Mirror	Misdemeanor
§ 653o	Importing Dead Animal for Commerce	Misdemeanor
§ 653p	Possession of Dead Animal for Commerce	Misdemeanor
§ 653q	Importing or Possessing Dead Seal for Commerce	Misdemeanor
§ 653r	Possession with Intent to Sell Dead Endangered Animal or Products Made from Same	Misdemeanor
§ 653s	Selling or Transporting Live Performance Recorded Without Consent	Wobbler Misdemeanor
§ 653t	Interfering with Radio Frequency or Emergency Communication	Felony Misdemeanor
§ 653u	Recording Article with Intent to Sell Without Consent	Wobbler Misdemeanor
§ 653w	Failing to Disclose Origin of Recording or Audiovisual Work	Wobbler Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 653x	Using 911 Emergency System to Annoy	Misdemeanor
§ 653y	Using 911 Emergency System for Non-Emergency	Misdemeanor Infraction
§ 653z	Operating Recording Device in Theater	Misdemeanor
§ 653aa	Failing to Make Disclosure Before Recording or Audiovisual Work	Misdemeanor
§ 653.1	Releasing Balloons Made of Electrically Conductive Material	Misdemeanor Infraction
§ 653.2	Online Harassment	Misdemeanor
§ 653.22	Loitering with Intent to Commit Prostitution	Misdemeanor
§ 653.23	Directing Prostitution and Collecting Profits	Misdemeanor
§ 653.55	Misrepresentation in Immigration Matter	Misdemeanor
§ 654.1	Providing Transportation Without Permit	Misdemeanor
§ 664	Punishing Attempt Where Law Does Not Provide Otherwise	Felony Wobbler Misdemeanor

Code	Description of Offense(s)	Type of Offense(s)
§ 666	Conviction of Petty Theft after Serving Term for Other Theft	Wobbler
§ 666.5	Enhancements for Repeat Offenders	Wobbler
§ 667	Enhancements for Repeat Felony Offenders	Felony
§ 667.51	Enhancement for Prior Offense Under Specified Sections	Felony
§ 667.61	Punishment for Various Offenses Under Special Circumstances	Felony
§ 667.7	Punishment for Habitual Offenders	Felony
§ 667.71	Punishment for Habitual Sexual Offender	Felony
§ 667.75	Enhancement for Prior Health and Safety Code Violations	Felony
§ 667.8	Enhancement for Felony Sexual Offense Involving Kidnapping	Felony
§ 667.85	Enhancement for Kidnapping	Felony

Code	Description of Offense(s)	Type of Offense(s)
§ 673	Inflicting Cruel or Unusual Punishment in Jail or Institution	Misdemeanor
§ 675	Enhancement for Offense Committed with a Minor	Felony