



El Segundo Police Department

Training Section

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TRAINING BULLETIN

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When is it illegal to wear a mask?

Penal Code § 185 – It shall be unlawful for any person to wear any mask, false whiskers, or any personal disguise (whether complete or partial) for the purpose of: One—Evading or escaping discovery, recognition, or identification in the commission of any public offense. Two—Concealment, flight, or escape, when charged with, arrested for, or convicted of, any public offense. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

Penal Code § 185 as written was established into law in 1874 to aid in the identification and apprehension of suspects engaging in criminal activity. In the years since the COVID pandemic, wearing various styles of “facemasks” has become relatively commonplace among the public as a perceived means of personal protection from the COVID virus. As wearing a facemask became a normal occurrence, law enforcement agencies saw an increase in suspects benefiting from the added anonymity provided by the masks. Knowing when Penal Code § 185 can be applied could be a valuable tool to utilize when detaining or arresting a suspect who was engaged in recent criminal activity.

Penal Code § 185 applies when a suspect has committed an underlying criminal offence, such as theft, vandalism, assault, or has escaped from arrest and attempts to use any technique to obscure their appearance and avoid identification or capture.

For example:

- A suspect steals merchandise from a retail store and puts on a facemask to conceal or obscure their identity.
- A suspect is able to escape from police custody, then dons a wig and fake mustache to change their appearance.

Penal Code § 185 is a specific intent crime that requires that the suspect knowingly and intentionally use items in an attempt to avoid their identification and capture by authorities. Thus, additional questions may be needed during an investigation to show the suspect’s intent to conceal their identity before Penal Code § 185 can be applied to a booking. Simply wearing a mask during a crime would not meet the elements of the crime. It is worth noting, Penal Code § 185 **does not apply** when subjects are engaging in otherwise lawful first amendment activities.