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March 16, 2021

*By Electronic Mail*

The Honorable Senator Steven Bradford (Chair), *Senator.Bradford@sen.ca.gov*

The Honorable Senator Rosilicie Ochoa Bogh (Vice Chair), *Senator.Ochoa-Bogh@sen.ca.gov*

The Honorable Senator Sydney Kamlager, *Senator.Kamlager@sen.ca.gov*

The Honorable Senator Nancy Skinner, *Senator.Skinner@sen.ca.gov*

The Honorable Senator Scott D. Wiener, *Senator.Wiener@sen.ca.gov*

Senate Public Safety Committee  
California State Capitol, Room 2031  
Sacramento, CA 95814

Re: Letter of Opposition for Senate Bill 82, "Petty-Theft"

Dear Public Safety Committee Members,

I write to strongly oppose Senate Bill 82. I was shocked to learn of it yesterday, too late to meet your deadline for input prior to today's hearing. The proposed legislation is dangerous to the safety of all communities in California. This bill essentially decriminalizes the ageless violent crime of robbery<sup>1</sup> by declaring it a misdemeanor "petty theft" where a guilty party could only be required to serve a maximum of six months actual time in county jail.

Since 1872, California's Penal Code section 211 has defined robbery as "the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear." (Enacted 1872.)<sup>2</sup>

So, as you can see, the crime of robbery has never required a weapon or actual bodily injury – nor should it. The bullying and terrorizing act of taking property by fear is harrowing for its victims. That is a violent crime. And I strongly believe it must continue to be treated as a violent crime. If not, I am very concerned it will send a message to the community that the authorities don't really care if a criminal inflicts terror when forcibly stealing from another human being.

With the utmost respect for the legislative process, it is hard to imagine that any person who cares about crime victims would ever considering such a reckless change to the penal code. I must conclude that the proponents are naive about the reality of violent crime and of how our justice system functions. Perhaps this is because we have called it the "criminal justice" system for too long and not the "victim justice" system.

<sup>1</sup> Robbery was established as a common law crime as, "the unlawful taking of property from the person of another through the use of threat or force." <https://www.law.cornell.edu/wex/robbery>

<sup>2</sup> [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PEN&sectionNum=211](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=211)

Other states treat unarmed robbery just as seriously as California does:

The Commonwealth of Massachusetts defines unarmed robbery as a felony subject to a prison sentence, up to life in prison: Section 19<sup>3</sup> of the Massachusetts crimes against persons reads: *(b) Whoever, not being armed with a dangerous weapon, by force and violence, or by assault and putting in fear, robs, steals or takes from the person of another, or from his immediate control, money or other property which may be the subject of larceny, shall be punished by imprisonment in the state prison for life or for any term of years.*

Similarly, Section 160 of the New York Penal Code, robbery simply means "forcible stealing." To convict a person charged with robbery, the prosecution must establish three elements: (1) the defendant committed larceny and (2) used or threatened the immediate use of physical force upon another person (3) with the intent of either effectuating the taking of the property or its retention. Establishing these three elements is sufficient for a conviction of third-degree robbery, the lowest degree of the crime – punishable in prison from 2 to 7 years. Robbery is distinguishable from the separate crime of larceny in its additional requirement of the threat of physical force upon the owner or possessor of the property.<sup>4</sup>

Finally, the way SB 82 is drafted and labeled as only pertaining to "petty theft" is deceiving to the People of California as nothing on its face indicates that its effect will be to redefine the violent crime of unarmed robbery. If this bill passes and is signed into law, it will essentially eliminate the crime of unarmed robbery by replacing it with "petty theft in the first degree" – a straight misdemeanor with a maximum sentence of 6 months actual custody in county jail.

What could be the logic in departing from our traditional definition of robbery, if it is not just to make life easier for violent criminals in California? I urge you to soundly reject this reckless bill that, if made law, will allow gang members, organized criminal organizations, and other violent criminals to commit terrorizing robbery with only receiving a passing glance and a yawn from our legislature and the justice system.

I strongly advocate that you make 2021 the year when we turn our focus back to the victims and survivors of crime. We could start by referring to our system as the "***Criminal & Victim Justice System***" not just the "criminal justice" system.

Please vote no on Senate Bill 82.

Sincerely yours,



DAN DOW  
District Attorney  
County of San Luis Obispo, State of California

cc: The Honorable Senator John Laird, [Senator.Laird@sen.ca.gov](mailto:Senator.Laird@sen.ca.gov)

<sup>3</sup> <https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter265/Section19>

<sup>4</sup> <https://statelaws.findlaw.com/new-york-law/new-york-robbery-laws.html>