

SANTA ANA POLICE DEPARTMENT

DAVID VALENTIN · CHIEF OF POLICE

TRAINING BULLETIN

"Education promotes professional and responsive law enforcement"

Robbery Investigations

Purpose

This training bulletin is designed to define the elements of robbery and assist officers conducting initial robbery investigations.

Introduction

The initial reporting and investigation of robberies is critical to the eventual successful prosecution of robbery suspects. This training bulletin will clarify the elements of robbery and provide the reporting officer with guidelines on reporting procedures.

I. Robbery Defined

A. PC 211

Robbery is 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**.

II. Force or Fear Element

A. Force

The victim's resistance is involuntarily overcome and is more than the force necessary to simply remove the property. Merely "feeling" the suspect take property from the victim does not constitute a robbery.

1. Example 1

A victim is walking down the street when two suspects walk up from behind. One suspect grabs the victim's purse from her hand and flees. Although the victim *felt* the property being taken from her, this is *not a robbery* because the suspect did not have to overcome resistance and there is no fear element. This is more properly reported as a Grand Theft Person, 487 (B) (c) PC.

2. Example 2

A victim is approached by a suspect who grabs the gold chain that was around the victim's neck. The suspect pulls on the chain in an attempt to steal it. The victim resists by stepping away from the suspect in an attempt to retain his property. The victim lost balance and fell because the suspect was pulling the chain. The victim has a 2" scratch on his neck. This report can be taken as a *robbery* because "resistance" is proven by the victim stepping away and losing balance as the suspect pulled on the chain.

B. Fear

Fear of an unlawful injury to the victim, family member or person in the company of the victim. It is necessary that a *reasonable apprehension of danger* be felt. A reasonable apprehension of danger means *a reasonable person under the same set of circumstances would be in fear for his or her life, feel danger or injury, or fear his or her property may be injured or damaged.*

1. Example 1

A victim puts his cell phone down on the counter of a restaurant. The suspect walks by, picks up the cell phone and runs out the door. When officers arrive, the victim says she was frightened of the suspect. This does *not* meet the fear element of robbery. Even though the victim is legitimately frightened, the fear must be reasonable and connected to the completion of the theft.

2. Example 2

A victim is walking down the street and is approached by what he believes is a homeless man. The man holds out his hand and says, "I need some money." With this limited information, there is no robbery even if the victim says he is "afraid."

This may be a robbery if the reporting officer documents that the suspect is 6' 4", muscular, stood on the sidewalk preventing the victim from walking past, has gang tattoos and spoke in a loud, demanding voice. These factors would lead to a "reasonable apprehension of danger."

III. Documentation

As always, it is imperative that facts supporting a robbery prosecution are included in initial crime reports. Many "grab and run" incidents can be reported as robberies as long as the report contains details which communicate the elements of robbery. Consider the following:

1. Provide specific details about the event.
 - a. *"I spoke to Jones who told me the suspect pulled his gold chain with his right hand. Jones said the suspect pulled hard enough to cause him to lose his*

balance and bend over at the waist. He told me he braced himself with his left hand on his car as the suspect continued to pull on the chain. Jones said the suspect jerked his chain off his neck after about 3-4 seconds of pulling. He said this caused a 4" scratch on the left side of the victim's neck. Jones told me he can still feel the pain in his neck..."

2. Do not summarize several witnesses.
 - a. Do not write, "Witnesses 2, 3, and 4 essentially told me the same thing." Victims and witnesses always have different recollections of events. Every witness should provide an independent account of what occurred.
 - b. Provide detailed suspect descriptions from every victim / witness.

IV. Robbery Victim Cooperation

Sometimes, robbery and carjacking victims are somehow involved in nefarious or illegal activity prior to being robbed. Another common occurrence is for a victim to say they don't "want" prosecution or don't "want" to testify. Under each of these scenarios, *a thorough report/investigation is required by the handling officer*. Criminal activity by a victim, (i.e. prostitution or narcotic activity), or the willingness of a victim to testify *will not prevent the prosecution of the suspect*.

V. Robbery Ins and Outs

1. If an event starts out as a petty theft, then security gets in a fight with the suspect in order to apprehend him, this is a robbery only if the suspect is *still in possession of the property*. If the suspect discards the stolen property prior to force/fear with security, it is a theft (or burglary) and assault.
2. Kidnap for Robbery (209 PC) is a life sentence. For a 209 PC prosecution, the movement of the victim must be "substantial" and not incidental to the commission of the underlying robbery. Also, the movement must increase the "risk of harm" to the victim. Kidnap for Robbery prosecutions are common in scenarios where a store clerk is ordered at gunpoint to the rear of a business or a victim is ordered to drive to an ATM to pick up cash.
3. On Commercial Robberies, every employee is in "constructive" possession of the property taken. Therefore, if a suspect enters a business, orders four employees to the ground before fleeing with money from the register, there are four victims and the suspect will be charged with four counts of robbery.
4. For a carjacking conviction (215 PC), the motor vehicle must be taken from the immediate presence of the person in control of the vehicle.

Summary

To serve the public, it is important to prosecute violent robbery suspects. The initial interview and reporting of a robbery is the most important step in the apprehension and prosecution of robbery offenders. This training bulletin provides guidelines on when to take a robbery report and defines the elements of robbery.

Acknowledgment:

Researched and prepared by: Sergeant Ron Grace

Published Date: October 2009