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Chapter 119: Bump Keys Break into the Penal Code

David Wiksell

Code Section Affected

Penal Code § 466 (amended).
SB 1554 (Dutton); 2008 STAT. Ch. 119.

I. INTRODUCTION

The popular Geico car insurance slogan, “[s]o easy a caveman can do it,”¹ could also be used to describe how easy it is to use a bump key to circumvent a lock.² The bump key, which is essentially a standard key with all of the cuts shaved down to the maximum depth,³ can be inserted almost all of the way into a lock.⁴ The lock can then be opened by knocking the back of the bump key with any tool that will apply enough force, such as a hammer.⁵

In addition to being very easy to use,⁶ a bump key leaves almost no evidence of its use.⁷ For example, over a three-day stretch in September of 2007, more than twenty apartments were burglarized in a northern Texas town; officials believed that the perpetrators used bump keys to gain entry into the apartments.⁸ However, with little or no indication of lock tampering, it was difficult to determine “whether a bump key was [indeed] used or whether the property owner simply left the[] door unlocked.”⁹ Because most homeowner’s insurance policies do not

1. Laura Petrecca & Theresa Howard, *Advertising/Marketing: From Caveman to Cult Hit*, USA TODAY, May 7, 2007, http://www.usatoday.com/money/advertising/2007-05-07-ad-track_N.htm?csp=34 (on file with the *McGeorge Law Review*).

2. *See Are Your Locks ‘Bump’ Proof? Key Sold Online May Give Thieves Quick Access to Your Home*, S. FLA. SUN-SENTINEL, May 24, 2008, at 1B [hereinafter *Are Your Locks ‘Bump’ Proof?*] (describing how lock-bumping “can be accomplished by a novice”).

3. *See* Barry Wels & Rop Gonggrijp, *Bumping Locks*, Jan. 26, 2005, at 4, <http://www.toool.nl/images/7/75/Bumping.pdf> (on file with the *McGeorge Law Review*) (“A bump key is a key in which all the cuts are at maximum depth.”).

4. *See id.* at 5 (explaining that there must be a small gap between the lock and the shoulder of the bump key).

5. *Id.* (“[A]nything with not too much weight and preferably also some swing, such as a dull bread-knife held by the blade or the handle of the hammer could . . . work.”).

6. *See Are Your Locks ‘Bump’ Proof?*, *supra* note 2 (explaining the few steps it takes to open a lock with a bump key); Wels & Gonggrijp, *supra* note 3, at 1 (describing how a bump key can open a variety of locks “without substantial damage, usually in under [thirty] seconds, with little training and using only inexpensive tools”).

7. Emma Cullwick, *Homes at Risk with Advice on Internet: CRIME: Warning as Videos Which Show Lock Picking Techniques Go on Sale*, BIRMINGHAM MAIL (U.K.), Apr. 10, 2008, at 32 (“[A] ‘bump’ key can easily open a locked door without leaving a trace of damage.”).

8. Wendy Hundley, *‘Bump Key’ Tool All Burglars Need to Stroll In*, DALLAS MORNING NEWS, Oct. 5, 2007, <http://www.dallasnews.com/sharedcontent/dws/news/localnews/stories/100507dnmetbumpkey.3569b9d.html> (on file with the *McGeorge Law Review*) (“Lewisville police believe ‘bump keys’ were used in more than [twenty] apartment burglaries that occurred during a three-day period in September.”).

9. *Id.*

cover burglaries that leave no evidence of forced entry, a burglary resulting from use of a bump key may leave homeowners uncompensated for their loss.¹⁰

Because bump keys can open more than ninety percent of locks,¹¹ the legislature decided to categorize the bump key as a burglary tool. Chapter 119 adds bump keys to the list of burglary tools, making it a crime to possess one with criminal intent to break and enter.¹²

II. BACKGROUND

The technique of bumping a lock open has been around “for at least the past fifty years,”¹³ but until recently, only locksmiths and other professionals knew of the technique.¹⁴ Today, the bump key is attracting a lot of attention in the media and on the Internet.¹⁵ For example, a quick YouTube search reveals more than thirty different videos demonstrating how to use a bump key.¹⁶ In addition, many websites sell bump keys, some for as little as one dollar.¹⁷ To obtain a bump key, however, one does not need to purchase a specially-made key through the internet; one can make a bump key by filing down all of the cuts on a regular key to its deepest depth.¹⁸ This practice makes the bump key readily available to nearly anyone.¹⁹

Additionally, bump keys work on nearly every tumbler pin lock.²⁰ A tumbler pin lock has springs that, when properly aligned by the correct key, allow the cylinder to turn and the lock to be opened.²¹ A bump key works by knocking the

10. Cullwick, *supra* note 7; *Experts: Bump Key Burglaries a Growing Threat*, KCRA.COM, Feb. 9, 2007, <http://www.kcra.com/news/10966483/detail.html> (on file with the *McGeorge Law Review*).

11. See Hundley, *supra* note 8.

12. See CAL. PENAL CODE § 466 (amended by Chapter 119) (“Every person having upon him or her in his or her possession a picklock, crow, . . . bump key[,] . . . or other instrument or tool with intent feloniously to break or enter into any building . . . is guilty of a misdemeanor.”).

13. Wels & Gonggrijp, *supra* note 3, at 4.

14. See Marc Weber Tobias, *The Lockdown: Locked, But Not Secure (Part I)*, ENGADGET, Aug. 25, 2006, <http://features.engadget.com/2006/08/24/the-lockdown-locked-but-not-secure-part-i/> (on file with the *McGeorge Law Review*).

15. See Hundley, *supra* note 8 (noting that “‘how-to’ videos that illustrate how easily doors can be opened through ‘lock-bumping’” have spread rapidly over the Internet and in the media).

16. See YouTube: Broadcast Yourself, http://www.youtube.com/results?search_query=bump+key&search_type= (last visited Dec. 30, 2008) (on file with the *McGeorge Law Review*) (returning numerous videos instructing people on the use of bump keys).

17. Ryan Block, *Bump Keying: \$1 Keys Open Any Lock*, ENGADGET, Aug. 7, 2006, <http://www.engadget.com/2006/08/07/bump-keying-1-keys-open-any-lock/> (on file with the *McGeorge Law Review*).

18. Hundley, *supra* note 8 (explaining how a regular key can be turned into a bump key by filing each cut to its maximum depth).

19. See *id.* (discussing the availability of bump keys through the modification of a regular key or by purchasing them over the Internet).

20. See Block, *supra* note 17 (explaining how tumbler pin locks can be opened “quietly, quickly, and easily” with a bump key); Tobias, *supra* note 14 (explaining how a tumbler pin lock works and how a bump key can knock the pins to open the lock).

21. Tobias, *supra* note 14.

pins upward for a split second, allowing the cylinder to turn freely, and opening the lock.²² This process can take as little as three seconds, and leaves hardly any visible signs of tampering.²³

Because bump keys are easily obtained and created, and because they are an effective and discreet tool, the recognition of a bump key as a burglary tool is helpful to law enforcement.²⁴ The Legislature enacted Chapter 119 for this precise reason.

III. CHAPTER 119

Existing law provides that every person in possession of specified tools,²⁵ with the intent to feloniously break or enter into any building or other specified place,²⁶ is guilty of a misdemeanor.²⁷ Chapter 119 adds bump keys to the list of burglary tools and other items that comprise an element of the offense.²⁸

IV. ANALYSIS OF CHAPTER 119

Chapter 119 eliminates ambiguity in the current provision of the Penal Code by adding bump keys to the list of burglary tools. Although it is possible that prior law already treated the bump key as a burglary tool, subjecting those who use it to commit burglary to a penalty, it was not specifically enumerated as such.²⁹ Indeed, prior to Chapter 119's enactment, the Penal Code listed fifteen specific burglary tools, as well as "other instrument[s] or tool[s]" intended to be used in a burglary.³⁰ In two cases—*People v. Kelly*³¹ and *Cook v. Superior Court*³²—the California appellate courts held that a device is a burglary tool if it is similar in design and application to a burglary tool that is specifically listed in Penal Code section 466.³³ Because the bump key is very similar in design and

22. *Id.*

23. *Experts: Bump Key Burglaries a Growing Threat*, *supra* note 10.

24. See SENATE PUBLIC SAFETY COMMITTEE, COMMITTEE ANALYSIS OF SB 1554, at G (Apr. 15, 2008) ("Because of the increasing use around the state and nationally, and the additional attention given to bump keys in the media, it would be helpful to law enforcement to add the bump keys to the code language.")

25. See CAL. PENAL CODE § 466 (West 1999 & Supp. 2008) (Specified tools and items are "a picklock, crow, keybit, crowbar, screwdriver, vise grip pliers, water-pump pliers, slidehammer, slim jim, tension bar, lock pick gun, tubular lock pick, floor-safe door puller, master key, ceramic or porcelain spark plug chips or pieces, or other instrument or tool").

26. See *id.* (including as other specified places a "railroad car, aircraft, vessel, trailer coach, or vehicle as defined in the Vehicle Code").

27. *Id.*

28. *Id.* (amended by Chapter 119).

29. SENATE PUBLIC SAFETY COMMITTEE, COMMITTEE ANALYSIS OF SB 1554, at G (Apr. 1, 2008).

30. CAL. PENAL CODE § 466.

31. 154 Cal. App. 4th 961, 965-69, 66 Cal. Rptr. 3d 104, 107-10 (1st Dist. 2007).

32. 4 Cal. App. 3d 822, 828, 84 Cal. Rptr. 664, 668-69 (4th Dist. 1970).

33. See SENATE PUBLIC SAFETY COMMITTEE, COMMITTEE ANALYSIS OF SB 1554, at G-H (Apr. 1, 2008) (explaining the appellate decisions of *Kelly*, 154 Cal. App. 4th 961, 66 Cal. Rptr. 3d 104, and *Cook*, 4 Cal. App.

application to a master key, key bit, or a lock pick device, all of which are specifically listed in Penal Code section 466,³⁴ “a bump key may well [have been] included in the [prior] statutory definition of a burglary tool.”³⁵

Penal Code section 466 continues to provide that any person who “make[s], alter[s], or repair[s] any instrument or thing, knowing or having reason to believe that it is intended to be used in committing a misdemeanor or felony, is guilty of a misdemeanor.”³⁶ Thus, if a person makes or alters a bump key with the requisite criminal intent, he or she may have violated Penal Code section 466, even prior to Chapter 119’s amendment of the Code section.³⁷

However, even if it is possible to interpret the former version of Penal Code section 466 to include the bump key in the list of burglary tools, Chapter 119 clarifies and codifies that presumptive interpretation by explicitly including the bump key in the list of burglary tools. This clarification aids law enforcement agencies, and is supported by many public and private groups, including the California Peace Officers’ Association, the California Police Chiefs’ Association, and the California State Sheriffs’ Association.³⁸

Law enforcement agencies nationwide are concerned about the increase in the use of bump keys in burglaries.³⁹ Because “bumping” offers a rapid and potentially covert method of entry, leaving little evidence behind,⁴⁰ police say that it is often difficult to determine who committed the crime unless the criminal is caught in the act.⁴¹ Many law enforcement agencies support the clarification of Penal Code section 466 because it will help police, prosecutors, and other affected government agencies to take a more proactive stance against the criminal possession and use of bump keys.⁴² Now, a burglar who possesses a bump key with the criminal intent to break and enter will not be able to avoid prosecution because Penal Code section 466’s list of burglary tools lacked sufficient specificity.

3d 822, 84 Cal. Rptr. 664).

34. *Id.* at H.

35. *Id.*

36. CAL. PENAL CODE § 466.

37. See SENATE PUBLIC SAFETY COMMITTEE, COMMITTEE ANALYSIS OF SB 1554, at H (Apr. 1, 2008) (“Arguably, any person who, with the requisite criminal knowledge or intent, makes or alters a bump key has violated Penal Code Section 466 under current law.”).

38. See ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 1554, at 2-3 (June 10, 2008) (listing the groups in support of SB 1554: “California Alarm Association, California Apartment Association, California Crime Prevention Officers Association, California District Attorneys Association, California [P]robation, Parole and Correctional Association, California State Sheriffs’ Association, Crime Victims United of California, Peace Officers Research Association of California, Sacramento County Sheriff’s Department, Watsonville Police Department, 12 Private Citizens”).

39. *Experts: Bump Key Burglaries a Growing Threat*, *supra* note 10.

40. Hundley, *supra* note 8.

41. *Id.*

42. SENATE PUBLIC SAFETY COMMITTEE, COMMITTEE ANALYSIS OF SB 1554, at 2 (Apr. 15, 2008).

V. CONCLUSION

While the bump key is not a new tool, its use has increased nationwide.⁴³ This increase could be attributed to the increased public awareness from the media and the Internet regarding how to use a bump key, as well as the relative ease of its purchase and creation.⁴⁴ Due to its rise in popularity, the California Legislature recognized that “[t]he bump key has the potential to become an increasingly common burglary” tool.⁴⁵ Chapter 119 addresses this concern by ensuring that the bump key is officially recognized as a burglary tool in Penal Code section 466.

43. *Id.*

44. *Id.*

45. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 1554, at 2 (June 10, 2008).