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Written Testimony, 2011
House Bill 1707

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony regarding H.B. 1707. This bill offers a unique opportunity to increase fairness and flexibility in the Penal Code for theft penalties. It is a policy initiative that has been implemented in other states and will be most effective for Texas.

PROBLEM

Under Section 31.03 of the Penal Code, the offense of theft carries penalties according to a series of escalating monetary thresholds. The penalties go up a ladder of value thresholds from Class C misdemeanors to felonies, with each penalty delineated via the value of the amount of property stolen. **These threshold amounts, however, have not been adjusted or indexed for inflation since 1993.**

Inflation in general is the upward price movement of goods and services within an economy. Because of this trend, units of currency become less valuable, as they can purchase fewer goods and services in the economy. **Due to inflation, the penalty grades for theft offenses may not reflect the actual value of the property that has been stolen** due to increases in prices. Therefore, there is a fundamental disconnect in the Penal Code between the severity of the crime and the severity of the penalty.

KEY FINDINGS: OTHER STATES' EXAMINATION OF PENALTY THRESHOLDS

- **Ohio:** The Executive Budget Recommendations for FY 2009-2010 from Gov. Strickland recommended raising felony theft thresholds. Projected savings were \$1,294,290 annually.¹
- **Alabama:** Alabama passed legislation raising theft thresholds in 2003. The Alabama Sentencing Commission projected elimination of 3,000 prison beds over five years.²

SOLUTION: SUPPORT H.B. 1707 BY REPRESENTATIVE GUTIERREZ

H.B. 1707 amends penalty thresholds for the first time in over a decade to account for the dynamics of inflation and to more accurately reflect the value of property when considering theft offenses. This adjustment increases fairness in our justice process to ensure more appropriate penalties for theft offenses. The proposed penalty ladder is as follows:

- Class C misdemeanor:** less than \$100
- Class B misdemeanor:** more than \$100 but less than \$1,000
- Class A misdemeanor:** more than \$1,000 but less than \$3,000
- State jail felony:** more than \$3,000 up to \$20,000

This amended penalty ladder is especially important given the following findings:

- According to the United States Department of Labor's Consumer Price Index, consumer goods with a value of \$49 in 1993 are worth \$75.05 today³.
- Theft of \$49 worth of goods in 1993-equivalent dollars is now a Class B misdemeanor.
- Each Class A and Class B misdemeanor entails costly incarceration and requires the appointment of counsel for indigent defendants.

Please consider this information in your analysis of H.B. 1707, and support this bill to increase fairness and flexibility in the Penal Code.

Citations on reverse side.

¹ Vera Institute of Justice, *Memorandum to South Carolina Sentencing Commission*, June 26, 2009.

<http://www.scstatehouse.gov/citizensinterestpage/SentencingReformCommission/RetreatPresentations/WilhelmFinalVersionSRCRetreat.pdf>, 2.

² *Ibid.*

³ http://www.bls.gov/data/inflation_calculator.htm.