

STATE CAPITOL
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January 11, 2021

The Honorable Xavier Becerra
Attorney General
California Department of Justice
1300 I Street
Sacramento, CA 95814

The Honorable Todd Spitzer
Orange County District Attorney
401 Civic Center Dr. W
P.O. Box 808
Santa Ana, CA 92701

Re: Prosecution of Californians Who Participated in the Assault on the U.S. Capitol Building

Dear Attorney General Becerra and District Attorney Spitzer:

I am writing to urge you and your offices to swiftly and forcefully investigate and prosecute any and all Californians who took part in the planning and execution of the horrific, unlawful assault on the U.S. Capitol last week, and to request a private briefing as to the status of your efforts in this regard.

As the State Senator representing California's 37th District, located in the heart of Orange County, I am deeply concerned about the [numerous reports](#) indicating that [OC residents](#) were [involved in this attempted coup](#). I know these extremists do not represent the values of Orange County, but I also know that many of my constituents are fearful of the terroristic threats that these extremists pose to our country, our state, and our community. Indeed, [as the Orange County Register reported](#), one local Huntington Beach resident (who lives in my district) who participated in the assault on the U.S. Capitol [threatened "local capitol buildings" \(presumably including our State Capitol in Sacramento\) on social media](#).

As you know, the events of January 6, 2021 were shocking and dispiriting to all patriotic Americans, and indeed to people around the world. Supporters of outgoing President Donald Trump, urged on by the President and his allies, violently attacked the United States Capitol Building, the seat of our federal republic and the symbol of American democracy to the rest of the world. After a violent standoff in which federal elected officials, including our Orange County Congressional delegation, were besieged by armed rioters, at least five people were killed, including one Capitol Police officer. The Capitol Building itself was vandalized, with windows broken, offices ransacked, and feces smeared on the walls. At least two improvised explosive devices (IEDs) were found strategically placed to kill or maim elected officials, and a wide array of armaments, including a load of Molotov cocktails, were later found. This was an attack on the United States of America unlike any we have seen since 1812, when the British invaded Washington, DC and burned down the White House and Capitol Building.

But as we are beginning to learn, as bad as this assault on the Capitol was, it could have been far worse. Evidence being compiled from social media, websites, and elsewhere makes clear that supporters of the President planned this attack on the Capitol for months. [As one expert on extreme Trump supporters described](#), there were a wide array of websites—including 4Chan, 8Chan, 2Chan, and Reddit—in which domestic terrorists laid out detailed plans as to how they could invade the Capitol, discussing the firearms they would bring, the likely police presence and perimeter, and the potential escape routes for members of Congress that would need to be blocked. Mass executions of Congressional members were discussed as part of these plans, and indeed a working gallows was erected outside the Capitol building, presumably for that purpose. As we all know, when the assault on the Capitol Building began, numerous threats were made to assassinate Vice President Mike Pence and House Speaker Nancy Pelosi.

While I am confident that the U.S. Department of Justice will identify and prosecute those responsible for this terrorist attack, it is critical that our state’s law enforcement agencies also investigate and charge those who planned and participated in this attack on our country under California’s criminal statutes. I am eager to learn more about what your agencies are doing in this regard, to protect our communities and the sanctity of our rule of law.

Given the unprecedented, violent, and barbarous nature of the attempted coup in Washington, DC and the crimes that accompanied this, I believe it is appropriate and important for your offices to swiftly and forcefully investigate, charge, and prosecute any and all participants in this attempted coup. While the actual criminal acts accompanying the assault on the Capitol took place in Washington, DC, based on the aforementioned media reports, it seems nearly certain that Californians, including some residing in Orange County and the 37th Senate District I represent, took part in the planning of these crimes. If this is the case, as you are aware, they are subject to California criminal prosecution for Conspiracy under Section 182 of the California Penal Code, which makes it a crime for two or more people to conspire to commit “any act to pervert or obstruct the administration of the laws” or to commit any crime against the Vice President or any senior federal official. (Penal Code § 182, subd. (a)(5) and (a)(6)). Section 182 also punishes any individuals who conspire to commit any crime, which, in this case, appears to include murder (Penal Code § 187), kidnapping (Penal Code § 207), assault with a deadly weapon (Penal Code § 245), threatening or obstructing government officials (Penal Code § 69 et seq.), rioting (Penal Code § 404), and vandalism (Penal Code § 594).

With that stated, I believe it is imperative that you and your offices fully and forcefully prosecute Californians who participated in the planning of this attack, using your criminal jurisdiction under Section 182 and any other provisions of the California Penal Code you deem appropriate. I would also appreciate the opportunity to have a private briefing to discuss the status of such efforts, including answers to the following questions.

- Are your offices currently investigating any criminal allegations against residents of California, and/or Orange County, based on Section 182 of the Penal Code, as to their planning and execution of an assault on the U.S. Capitol building?
- What is the status of any investigation(s) into the online websites, chat rooms, and social media sites where the planning of the assault on the Capitol took place?

- Have you identified any residents of California, and/or Orange County, as suspects or persons of interest in any criminal investigations relating to the assault on the U.S. Capitol Building?
- What are your offices doing to coordinate with federal law enforcement authorities to help identify those who took part in the assault on the Capitol building?

These are dangerous and trying times for our democracy, with a President who is apparently hellbent on spreading false and baseless claims of election fraud and encouraging violence by his supporters in a desperate attempt to avoid leaving office. It is imperative that our California law enforcement work closely with federal authorities to uphold our rule of law.

Thank you for your prompt attention to this matter, and for your service to our great state and country. I am grateful for your strong vigilance in upholding our laws. Please do not hesitate to reach out to me or my staff with any questions or concerns. We are ready and eager to provide legislative support you may need to uphold the law and bring these terrorists to justice.

Very truly yours,

A handwritten signature in black ink, appearing to read 'DM', with a long horizontal flourish extending to the right.

Dave Min
Senator, State Senate District 37