

# Agenda Report

**TO:** City Council

**DATE:** September 22, 2008

**THROUGH:** Legislative Committee (September 17, 2008)

**FROM:** City Manager

**SUBJECT:** Oppose Proposition 5 – the Nonviolent Offender Rehabilitation Act

## **RECOMMENDATION**

It is recommended that the City Council oppose Proposition 5 (the Nonviolent Offender Rehabilitation Act of 2008).

## **BACKGROUND**

Proposition 5, by its title, appears to be a viable alternative to prison overcrowding by providing a humane and productive alternative to incarceration. The passage of this proposition would mandate criminal offenders who reasonably claim that their crimes are caused by substance addiction to probation programs instead of incarceration.

Upon analyzing this proposition, it appears that there are exceptional loopholes that will allow numerous felons to get out of jail on the guise of drug diversion programs no matter how extensive or violent their past criminal record indicates. According to the Los Angeles District Attorney's Office, nearly 80% of the felony cases they review for prosecution would be subject to Proposition 5, leaving known felons on the streets.

Law enforcement is adamantly opposed to this legislation. Defendants who commit arson of a structure or forest land, commercial burglary, vandalism, sell drugs, steal cars and identities, possess and sell child pornography, drive under the influence of drugs or alcohol, sexually exploit teenagers deserve incarceration. Under Proposition 5, if these criminals "appear" to have a problem with substance abuse or addiction they will get probation and treatment, not incarceration.

According to the Los Angeles County District Attorney's Office, the passage of Proposition 5 would allow more than 50,000 criminals in Los Angeles County to

escape prosecution each year. In 2007, approximately 18,000 Los Angeles County defendants received treatment under Deferred Entry of Judgment, Proposition 36. If Proposition 5 were to pass, the number of defendants entitled to treatment in lieu of incarceration could increase by more than 2 ½ times inundating Los Angeles County courts with thousands of additional appearances, clogging the system, and straining limited court resources.

Under Proposition 5, prisoners may serve as little as one-third of their original sentence. Once released, all but the most serious offenders will be supervised on parole for only six months. While on parole, these convicted criminals can test positive for drugs and commit new misdemeanor offenses.

Proposition 5 uses taxpayer money to provide convicted criminals with housing assistance, childcare, education stipends for college or trade school, transportation to and from drug treatment, and “harm reduction therapy” aimed at teaching responsible drug use.

Lastly, alterations to Proposition 5 may only be made by a four-fifths (80%) vote of the legislature.

### **FISCAL IMPACT**

According to the Legislative Analyst’s Office, the cost of Proposition 5 could exceed \$1 billion a year.

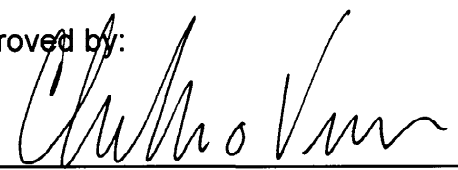
Respectfully Submitted,

  
for BERNARD K. MELEKIAN  
City Manager

Prepared by:

  
Janet A. Pope Givens for  
Adjutant to the Chief of Police

Approved by:

  
Christopher O. Vicino  
Acting Chief of Police