



# Agenda Report

October 6, 2014

**TO:** Honorable Mayor and City Council  
**THRU:** Legislative Policy Committee (September 25, 2014)  
**FROM:** Police Department  
**SUBJECT:** PROPOSITION 47 ON THE NOVEMBER 2014 STATE BALLOT

## **RECOMMENDATION:**

It is recommended that the City Council oppose Proposition 47, the Safe Neighborhood and Schools Act (SNSA) of 2014.

## **LEGISLATIVE POLICY COMMITTEE RECOMMENDATION:**

At the regular meeting of September 25, 2014, the Legislative Policy Committee voted to forward this item to the City Council for consideration, without a recommendation.

## **BACKGROUND:**

The proposed ballot measure is supported by George Gascon, the San Francisco District Attorney, and former San Diego Police Chief William Landsdowne, with lead author Robert Myles Hertzberg, former State Assemblyman Van Nuys. The measure was qualified for the November 4, 2014 ballot.

Proposition 47 would add sections to the Government Code, add and/or modify sections in the California Penal Code, and amend sections of the Health and Safety Code to mandate reduced sentencing for non-serious and non-violent felony property and drug crimes from felony to misdemeanor criminal charges, unless the offender has a prior conviction for murder, rape, certain sex offenses and certain gun crimes.

The initiative would also permit re-sentencing for anyone currently serving a prison sentence for any of the offenses that the initiative reduces to a misdemeanor. Releases would be subject to review for unreasonable public safety concerns in the county originally sentencing the offender.

Property crimes for which reduced sentencing would apply include, but are not limited to, larceny below \$950, entering an open business with the intent to commit larceny and committing theft, receiving stolen property, and forging/writing bad checks with a value or amount \$950 or less and theft of a firearm valued at \$950 or below. The legislation also requires a misdemeanor sentence instead of a felony for criminal charges related to the personal possession/use of illegal drugs, including "date rape" drugs. Being prosecuted for multiple like offenses at one time would not automatically result in a felony sentencing, as it can presently.

The Legislative Analyst's Office (LAO) has estimated that about 40,000 offenders annually are convicted of the aforementioned crimes and would be affected by this measure. However, the estimate is based on limited available data. LAO stated that approximately 1/10<sup>th</sup> of the 40,000 offenders are currently sent to state prison. The estimated net state criminal justice system savings that could be achieved by this measure is in the low hundreds of millions of dollars annually. However, the Legislative Analyst's Office has also determined that the savings from Correction's cost may be offset by the costs associated with county jail sentences, community supervision and the number of crimes affected by the measure. LAO's report stated, "Thus, the fiscal effects of the measure described are subject to significant uncertainty."

Proposition 47 requires that a fund, known as the "Safe Neighborhoods and School Fund", be created within the State Treasury for moneys garnered from savings as a result of Prop 47. The funds would be considered General Fund revenues which may be appropriated pursuant to Article XIII B of the State Constitution. Each year, beginning on or before July 31, 2016, the Director of Finance shall calculate State savings from actual data, or best available estimates, to be allocated for Proposition 47 purposes. Once money is transferred from the General Fund to the SNSF account, funds are to be used exclusively for the purposes of the Act: 25% State Department of Education for reducing truancy and drop-out; 10% Victim Compensation; and 65% Board of State and Community Corrections to administer public agency grants for mental health and drug abuse treatment services.

Opponents noted that the measure was narrowly crafted to allow anyone previously convicted of violent or serious crimes, except murder, rape and sexual assault, to receive sentencing charges reduced to misdemeanor charges, effectively removing judicial discretion from the judges and District Attorney's Office. Numerous inmates with prior violent felony convictions would be eligible for reduced sentencing and release, including armed robbery, kidnapping, carjacking, shootings, domestic violence, child abuse, and vehicular manslaughter.

Currently, there are numerous judicial programs in place for individuals convicted of non-serious and non-violent property and drug crimes. Under California Penal Code 1000, individuals arrested for Health and Safety Codes (H&S) lower level narcotic

possession charges are not sent to jail, but placed in drug diversion programs. Upon successful completion of the program, the court “shall” dismiss the charges. Multiple low level violations of H&S offences can be referred to Drug Diversion, authorized under Proposition 36. Drug court is for individuals identified with a “drug problem” needing additional oversight with probation and a court approved drug treatment program. Successful completion dismisses the charges from the offender’s record as if charges were never filed. A defendant can participate in Prop 36 twice.

However, if an individual is identified as being a danger to public safety, necessitating incarceration for offenses once qualifying under felony conviction, incarceration would be hindered under the Proposition 47 language.

California realignment has identified and released from prison over 44,000 persons who were serving time for non-violent, non-serious crimes, such as theft and narcotic offense. Thousands more, likely reaching 50,000 by 2016, are projected to be released under the realignment structure. There are insufficient funds to manage, or provide resources, to these individuals as it is. If passed, individuals released under Proposition 47 may be placed on parole for one year following their release. There is currently a significant shortage of parole and probation officers resulting in an overburdened prison release system. Under Proposition 47, no new funding source was identified for parole or probation officers.

Proposition 47 contains provisions re-classifying a host of felony offenses or felony/misdemeanor offenses as simple misdemeanors, representing sweeping sentencing reform that would be better accomplished through the state legislative process; and the initiative would further burden local criminal justice systems by shifting responsibility for additional categories of offenders to already overcrowded county jails and local City Attorney’s offices verses County District Attorney’s Office.

### **Official Opposition to SNSA**

#### **League of California Cities Position: Oppose**

By reclassifying a series of what are felony or felony/misdemeanor offenses as outright misdemeanors, this measure will trigger significant public safety policy changes with respect to crimes such as theft of firearms and drug possession, including the possession of date-rape drugs. As drafted, it appears to be quite broad and treats nearly all instances of specified offenses with the same general rule, in a fashion that may not promote public safety. In addition, it will likely lead to changes in the prison inmate population, the county jail population, and what is known as the population of AB 109 offenders who are in and out of county jails.

**California Police Chiefs' Association- Oppose**

Proposition 47 is a dangerous and radical package of ill-conceived policies wrapped in a poorly drafted initiative which will endanger Californians. The proponents of this dangerous initiative have already admitted that Proposition 47 will make ten thousand felons eligible for early release. According to independents analysis, the vast majority of those ten thousand felons have violent criminal histories. This measure will overcrowd jails with dangerous felons who should be in state prison and jam California's courts with hearings to provide "Get Out of Prison Free" cards.

**Riverside County Supervisor Jeff Stone- Oppose**

Proposition 47 would give up to 100,000 state prison inmates a chance to be re-sentenced and is "an invitation for disaster."

**Former LA District Attorney Steve Cooley- Oppose**

Considered SNSA a "complete fraud" and something that "is going to endanger public safety" notwithstanding its title. Prop 47 would change the categorization of several felonies to misdemeanors, which thanks to AB109 carry no real risk of jail time. It would also allow convicted felons serving time in jail, to petition courts to re-sentence them as misdemeanor offenders, thereby releasing them into the community without any supervision.

California District Attorneys Association	Crime Victims United
Crime Victims Action Alliance	California State Sheriffs Association
California Peace Officers Association	California Retailers Association
California Correctional Supervisors Assoc.	Nine Individual County District Attorney
California Coalition Against Sexual Assault	California Republican Party
California Coalition Against Sexual Assault	Nine individual County Sheriffs
San Diego Police Chief Shelley Zimmerman	
California Center for Prevention of Crime	
John Scribner, Trustee at Sacramento Board of Education and many others.	
San Gabriel Valley Police Chief's Association stated their position is in agreement with the California Police Chiefs' Association- <b>Oppose</b>	

The Los Angeles County District Attorney Jackie Lacey has not taken a position.

**Official Supporters of SNSA**

California Democratic Party	American Civil Liberties Union
San Francisco District Attorney George Gascón (D)	Open Society Policy Center
Former San Diego Police Chief William Lansdowne	Women's Foundation of CA
B. Wayne Hughes Jr., businessman and philanthropist	
Marin County Superintendent of Schools Mary Jane Burke	
California's for Safe Neighborhoods	Atlantic Advocacy Fund
California Teachers Association	NAACP
Reed Hastings	M. Quinn Delaney

Refer to [www.ballotpedia.org](http://www.ballotpedia.org) for a full list of supporters.

**COUNCIL POLICY CONSIDERATION:**

Opposition of this bill would support the City Council's goal of Assuring a Safe and Secure Community.

**FISCAL IMPACT:**

Fiscal impact of Proposition 47 to the City of Pasadena is undetermined. It is likely that a significant cost increase to the City Prosecutor's Office may occur as a result of thousands of cases being redirected to local municipalities for misdemeanor prosecutions versus the County District Attorney's Office. It is also undetermined what the impact will be on public safety due to a potential number of increased calls for service by repeat offenses, community supervision impacts (verses jail sentences), and the cost for directed enforcement related to the monitoring of sentence offenders, as occurred with the implementation of AB 109.

Respectfully submitted,



PHILLIP L. SANCHEZ  
Chief of Police  
Pasadena Police Department

Prepared by:



Tracey J. Ibra, Lieutenant  
Chief's Office

Approved by:



for MICHAEL J. BECK  
City Manager