



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Sheriff's Office



**Date:** August 28, 2014  
**Board Meeting Date:** September 9, 2014  
**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Greg Munks, Sheriff  
Steve Wagstaffe, District Attorney

**Subject:** Opposition to Proposition 47

**RECOMMENDATION:**

Adopt a Resolution opposing Proposition 47 on the California General Election Ballot on November 4, 2014.

**BACKGROUND:**

Earlier this year, the required number of signatures of registered voters in the State of California was submitted to the California Secretary of State to qualify a measure for the upcoming general election dealing with the sentencing and release of criminal offenders in the State of California. Titled the "Safe Communities and Schools Act" (Proposition 47), this measure purports to make neighborhoods safer, reduce prison and jail populations, make schools safer, reduce government waste, help find jobs and housing for offenders and protect public safety. Supporters, which include the authors, former San Diego Police Chief William Lansdowne and San Francisco District Attorney George Gascon claim these goals will all be accomplished by the Proposition. We strongly disagree. While there is some merit to some of the components of the Proposition, we believe that the Proposition will have unintended consequences that will place the community at significant and unnecessary risk as described below.

**DISCUSSION:**

The primary effect of Proposition 47 is to convert a number of criminal offenses from felonies to misdemeanors. The Proposition prohibits the District Attorney from charging shoplifting, forgery, check fraud, grand theft and receipt of stolen property as a felony if the value at issue is less than \$950. It does the same for possession of certain narcotics. It is of note that the changes would not apply to certain violent felons and sex offenders, e.g., those who have been convicted of murder. However the changes would apply to most violent felons, e.g., those convicted of assault with a deadly weapon, and

almost all other felons, e.g., someone convicted of fraud or burglary, regardless of the number of prior offenses.

The second major component of Proposition 47 is that it allows most inmates who have already been sentenced, and who might have benefitted from Proposition 47 had it been enacted at the time of their sentencing, to seek a resentencing and release (if still in custody) or a “re-designation” of their crime as a misdemeanor (if not still in custody). There is a small exception which is discussed below.

The third major component of Proposition 47 is that it creates a fund with the savings to the State resulting from implementation of Proposition 47 and a spending allocation with the majority of funding to mental health and substance abuse treatment.

We have multiple concerns regarding the consequences, both intended and unintended of Proposition 47.

- We believe that the proponents of the Proposition may not have recognized that Proposition 47 will prevent the District Attorney from charging many gun possession crimes as a felony. As you know, the District Attorney has a zero tolerance policy for gun thieves and those in possession of stolen guns; these offenders are currently charged as felons. Most guns are valued at less than \$950. Therefore, the District Attorney will no longer be able to charge theft or possession offenses as felonies. This is specifically concerning as applied to gang members, those who engaged in domestic violence and those with prior violent felonies like robbery and assault with a deadly weapon. By having discretion to charge these individuals with felonies in appropriate circumstances, the District Attorney has an important tool available to prevent serious gun crimes before they happen. Proposition 47 removes that tool.
- We also believe that the proponents of the proposition may not have recognized that Proposition 47 applies to possession of “date rape” drugs. Possession of certain drugs that are used largely to commit rape currently can be charged as a felony. But under Proposition 47 even if a person were found with those drugs on multiple occasions in situations where a reasonable person would believe that there was an intention to commit rape, the person could still only be charged with a misdemeanor.
- We believe that the second component, the resentencing component, of the Proposition, while intentional, is misguided. Often when the District Attorney offers a plea deal, the District Attorney does so based on what is deemed a fair sentence for the group of offenses charged. As part of the plea, the District Attorney then dismisses other (sometimes more serious) charges. The resentencing provision ignores that reality and will result in the release of inmates that the District Attorney and the judge believed should be in prison. The Proponents of the bill suggest that the judge will be able to affirm the sentence in appropriate cases. However, Proposition 47 only allows the judge to do that when the judge has evidence that would support a conclusion that the person will

likely commit certain very specific serious crimes, e.g., murder. It is a very limited exception. Even if the judge believes the person would commit most serious crimes, e.g., burglary or assault with a deadly weapon, the judge would still have to reduce the charge. And if the former inmate has already been released, the judge has no discretion at all.

- The resentencing component is also of concern as it is reasonable to expect that it will result in a flood of petitions to the court all at once (of all the persons currently in custody on Proposition 47 charges) into a court system that is already over-burdened and under-funded.
- We believe that the third component, the spending component, is also problematic. While the projects Proposition 47 seeks to fund with “savings” are certainly important, much of the “savings” that will result will come at the expense of the County. Those savings will likely be attributable largely to misdemeanor inmates being housed in the County jail rather than in State prison. Yet, Proposition 47 does not provide any reimbursement to the counties for the additional costs of housing those new inmates.

While there may be some positive aspects to Proposition 47, as a whole, it is too flawed. We believe that it will create new and serious public safety threats that are significantly greater than any benefits Proposition 47 will provide. We strongly recommend the Board of Supervisors oppose Proposition 47.

**FISCAL IMPACT:**

None.