



COUNTY OF SAN MATEO

MEMORANDUM IN SUPPORT OF PROPOSITION 47

Date: August 28, 2014

To: Honorable Members, Board of Supervisors

From: John L. Maltbie, County Manager

Mike Callagy, Deputy County Manager

Subject: "The Safe Neighborhoods and Schools Act"

RECOMMENDATION:

Support Proposition 47, "The Safe Neighborhoods and Schools Act."

BACKGROUND:

While the United States has only 5 percent of the world's population, it houses 25 percent of the world's incarcerated population. Prisons and jails are expensive to build and operate. The new Maple Street Correctional Center will cost \$358,000 per bed to construct and \$86,806 per bed/year to operate. Space in correctional facilities is a scarce resource that should be used to house the most serious offenders.

DISCUSSION:

Although District Attorney Steve Wagstaffe and Sheriff Greg Munks, along with many of their colleagues, oppose California Proposition 47; we must respectfully disagree with that position. The adoption of Assembly Bill 109 has changed the landscape of the criminal justice system and allowed for the reduction of the state's prison population, while assigning California Counties the responsibility for addressing the alarming state recidivism rate of 70 percent through comprehensive rehabilitative programs.

Proposition 47 is the next logical step in reducing State and County incarceration rates, while providing more money for services that will prevent individuals from entering the criminal justice system and/or help reduce the recidivism rate for those already in the criminal justice system.

Proposition 47 requires criminal offenders who commit certain non-serious and nonviolent drug and property crimes be sentenced to reduced penalties. Currently, the District Attorney's Office has the ability to charge certain crimes as a misdemeanor or as a felony. These types of crimes are known as "wobblers." Felony convictions can result in incarceration in state prison for any length of time, while misdemeanor convictions can only result in incarceration in the County jail for up to one year.

Proposition 47 would reclassify certain nonviolent and/or non-serious low-level crimes (enumerated below). Some crimes which were previously “wobblers” would become straight misdemeanors, punishable by County jail time rather than a state prison sentence. This change could impact approximately 40,000 offenders a year throughout the State. Since these are non-serious and nonviolent crimes, most of these crimes are already being handled at the local level and would continue to be handled in this manner. What would change is the length of sentences - jail time and/or probation supervision would be reduced. The result should be the realization of substantial savings through reduced incarceration and supervision at both the state and local levels, allowing more resources for rehabilitation programs aimed at reducing recidivism.

The crimes that would become straight misdemeanors are:

Grand Theft: Currently, a theft \$950 or less can be charged as a misdemeanor or a felony. Proposition 47 would limit when theft of property worth \$950 or less could be charged as a felony.

Shoplifting: In most cases, shoplifting property \$950 or less is charged as a misdemeanor; however, under some circumstances it can be charged as a felony. Under Proposition 47, shoplifting property \$950 or less will always be charged as a misdemeanor.

Receiving Stolen Property: Under current law, individuals found with stolen property may be charged with receiving stolen property, which is a wobbler crime. Under this measure, receiving stolen property worth \$950 or less would always be a misdemeanor.

Writing Bad Checks: Writing a bad check is usually a misdemeanor. If the check is over \$450 and the offender has previously committed a crime related to forgery, the crime can be charged as a “wobbler.” Under Proposition 47, it would be a misdemeanor to write a bad check unless the check is over \$950 and the offender previously committed three forgery-related crimes, in which case the crime could be charged as a “wobbler.”

Check Forgery: Currently, it is a “wobbler” to forge a check of any amount. Under Proposition 47, it would be a misdemeanor if the forged check was \$950 or less, but would remain a “wobbler” if the check was forged in connection with identity theft.

Drug Possession: Currently, possession of drugs, such as cocaine and heroin, is a misdemeanor, “wobbler,” or a felony. Proposition 47 would make possession of drugs a straight misdemeanor and would not change the penalty for possession of marijuana.

Anyone with a previous history of committing certain violent crimes such as murder, some gun felonies, or sex crimes will not be eligible for the provisions of Proposition 47.

In addition, Proposition 47 includes a resentencing provision that would allow offenders currently serving time for these non-serious and nonviolent offenses to apply to the court to have their felony convictions changed to a misdemeanor. In addition, certain offenders who have already completed a felony sentence could apply to the court to have their felony convictions reclassified to a misdemeanor. This provision would not apply to offenders with a history of some violent crimes, murder, or sex offenses.

State savings from this proposition are estimated to be between \$100 million to \$250 million a year based on reduced prison and parole populations. The Courts, District Attorney's Office, Private Defender Program, and Probation should eventually see reduced caseloads as a result of this proposition. Additionally, the jail population should be reduced as offenders are sentenced to misdemeanors thus spending less time in jail.

The projected state savings will be redirected to locals through grant funding for preventative programs:

- 25 percent for truancy and dropout reduction in K-12 public schools
- 10 percent for victim services
- 65 percent for mental health and drug abuse treatment to stop recidivism

County savings could be used to augment state grants in an attempt to stop the continued level of recidivism that plagues these nonviolent and non-serious, low-level offenders, and state grant funding could be used to match federal funding for rehabilitative services. In addition, and most importantly, it is believed that a non-felony conviction will help these offenders assimilate back into society with increased job and housing opportunities; both key to successful reentry.

If building more jails and prisons reduces crime, why do we need to keep building more jails and prisons? It is said that insanity is doing the same thing over and over and expecting different results. What we have been doing is not working. For repeat offenders, what evidence is there to suggest that sending someone to prison for a minor crime rather than jail is likely to change that person's behavior? We need a new paradigm regarding crime and punishment. One that concentrates on the end result of having less crime and fewer victims, rather than more inmates. Making felons of minor criminals does not achieve this result.

Overcrowding of California prisons and local jails has resulted in thousands of prisoners being released early. Most of the prisoners released early have committed more serious offenses than those identified in Proposition 47. Is it good public policy to keep incarcerating those committing minor offenses while releasing early those who have committed more serious crimes? Wouldn't the public be better served if those who committed more serious offenses spent more time in jail and more time in rehabilitation?

Mass incarceration of offenders is now understood to be a bankrupt concept - both financially and intellectually. Proposition 47 is narrowly constructed to free up valuable

prison and jail space for serious and violent offenders, while at the same time providing funding to help reduce the recidivism rate of low-level offenders.

Primary supporters and opponents of Proposition 47 are:

Supporters:

Californians for Safe Neighborhoods and Schools (leading supporter)
California Democratic Party
AFL-CIO
George Gascon, District Attorney, San Francisco
Mary Jane Burke, Marin County Superintendent of Schools
William Landsdowne, Former San Diego Police Chief
B. Wayne Hughes, Jr., businessman and philanthropist
Reed Hastings, CEO Netflix

Opponents:

California State Sheriffs' Association
California District Attorneys' Association
California Police Chiefs' Association
California Peace Officers' Association
California Fraternal Order of Police
California Retailers Association
Crime Victims United
Crime Victims Action Alliance

c: Greg Munks, Sheriff
Steve Wagstaffe, District Attorney
Connie Juarez-Diroll, Legislative Director