



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: October 13, 2015
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Mona Miyasato, County Executive Officer, 568-3400
Director(s)
Contact Info: Martin Erickson, Deputy CEO, 568-3400

SUBJECT: Update on Proposition 47 – The Safe Neighborhoods and Schools Act

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

- a) Receive and file an update on impacts to departments of Proposition 47 – The Safe Neighborhoods and Schools Act; and
- b) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(5) of the CEQA Guidelines, because they consist of organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

Summary Text:

This item provides an update on the data and impacts of Proposition 47 (Prop 47), The Safe Neighborhoods and Schools Act, pursuant to an initial March 3, 2015 presentation to the Board by the County's public safety and justice departments. Prop 47 was passed November 4, 2014 and became effective immediately. At the March 3, 2015 meeting, three months following passage of the initiative, the impacts of Prop 47 were unclear. The Board received and filed the presentation, directing the CEO to form an ad-hoc committee of the impacted departments to analyze and track impacts as well as possible budget savings, and to update the Board on the administrative agenda with updates or as appropriate.

This update provides additional data as of August 31, 2015 from our public safety and justice departments. Highly summarized, some of the impacts to date are as follows:

- There has been a decrease in felony filings and an increase in misdemeanor filings.
- There has been a 45% increase in the number of Failure to Appear warrants being issued (6,344) when compared to the 3-year average (4,353).
- Immediately following the passage of Prop 47, there was an increase of workload associated with petitions for Prop 47 resentencing, which affected the Public Defender's Office, District Attorney's Office and Courts. The number has declined but is still significant.
- There has been a decline in adult offenders under Probation supervision, and a decline in the average daily population (ADP) in jail facilities. In recent months, however, there has been an increase in the ADP, so it is still too early to determine the long-term impact.
- In the Superior Court, caseloads of the trial departments temporarily increased while caseloads in the therapeutic courts began to fall. Many new, now misdemeanor offenders, opted out for terminal sentences instead of treatment programs.
- The California State Association of Counties (CSAC) indicates that it is still too early to make statewide findings on the effects of Prop 47; however CSAC's Administration of Justice Committee is putting together a panel on Prop 47 to discuss the impacts of Prop 47 at the December, 2015 Conference in Monterey.

Departments report that it is still too early to determine the longer-term impact of Prop 47, and whether these changes are temporary in nature or will have sustained impacts. While there is some new data, Prop 47 has not been in effect for a full year. Year to year data will be available for the next Board update (after November, 2015) which may reveal some clearer trends which staff can incorporate into planning strategies for the Board's consideration. Additionally, the ad-hoc committee of departments affected by Prop 47 will continue to meet and explore opportunities for budget savings and strategies that could mitigate some of the unintended consequences of Prop 47 (such as finding ways to reverse the drop in drug treatment programs).

Background:

Prop 47 reduces and modifies certain felonies (non-serious, non-violent crimes) to misdemeanors, and creates a fund (Fund) from anticipated State savings to assist with prevention and support programs in schools, victim services and mental health and drug treatment. Revenues from the Fund will be disbursed through competitive grant programs to counties beginning in 2016, and the process is still being established.

Anticipated State savings in reductions to corrections costs from conviction changes will not be initially calculated until July 31, 2016. Funding will not be distributed to the agencies below until August of 2016. The intended distribution of savings is as follows:

- 65% to the Board of State and Community Corrections for mental health and substance abuse treatment programs to reduce recidivism of people in the justice system,
- 25% to be provided to the State Department of Education for crime prevention and support programs in K-12 schools,
- 10% to the California Victim Compensation and Government Claims Board for trauma recovery services for crime victims.

These agencies will administer grant programs to counties, and the amount to be received by Santa Barbara is unknown at this time.

Santa Barbara County departments impacted by Prop 47 include: District Attorney, Public Defender, ADMHS, Probation, Sheriff, and Courts. Provided below are updates reported from each department as of August 31, 2015.

District Attorney

The Office of the District Attorney handled approximately 1,600 petitions requesting Prop 47 related resentencing or reclassification between November 5, 2014 and August 31, 2015, of which 1,100 were granted. Each petition must be thoroughly reviewed and processed in a manner similar to that of new law enforcement referrals for prosecution; as a result, these petitions require a similar level of attorney and legal support staff resources. Total case referrals are generally trending upward when compared to the average of the same Nov-August time frame for the 3 years preceding Prop 47. When comparing the same timeframe in 2011 – 2012, total case referrals reflect an increase of 15%, which includes Prop 47 petitions.

Period	Total Reviewed Cases	Felony Referrals	Warrants Issued	Misdemeanor Referrals
11/5/11 - 8/31/12	15,016	3,711	4,155	11,305
11/5/12 - 8/31/13	15,880	4,212	4,212	11,668
11/5/13 - 8/31/14	16,670	4,398	4,691	12,272
11/5/14 - 8/31/15	17,800*	3,386	6,344	12,832

(*Conservative estimate as many oral petitions were made immediately after Prop 47 passed)

A consequence of Prop 47 that is often overlooked is the effect of Penal Code 853.6 on subjects arrested for what are now misdemeanor offenses. In most misdemeanor arrests, the offender is given a citation to appear in court at a later date – in other words they are not held in county jail. As a result, District Attorney case data reflects a 45% increase in the number of Failure to Appear warrants being issued (6,344) when compared to the 3-year average (4,353).

Another consequence of Prop 47 involves the early release from drug treatment programs and supervised probation for many felony offenders. A significant number of offenders who were on supervised felony probation and in drug treatment courts were granted Prop 47 resentencing or reclassification. As a result, they were immediately released from the structured treatment program and supervision they were previously required to complete. Consequently, countywide enrollment in drug treatment programs has also declined by approximately 15% since November 2014 (1,368 participants in November 2014 compared to 1,129 participants in August 2015). While it is difficult to predict the

full and long-term impacts of Prop 47 on the Office of the District Attorney given the limited data, we anticipate a continued reduction in drug treatment court enrollments and a corresponding increase in those cases being handled by trial courts.

To determine the long-term impacts to public safety and criminal justice efficiency, additional data and resources dedicated to data analysis is needed. For example, it is currently unclear how the lack of enrollment in treatment programs, coupled with the increase in out-of-custody defendants and warranted defendants affected by Prop 47, will have on recidivism and the early resolution of these ‘new’ misdemeanor offenses. Traditionally, misdemeanor offenses have a higher rate of resolution at the arraignment stage, but this rate has declined slightly since the passage of Prop 47. It remains to be seen whether any or all of these “cite released” or “warranted” drug/theft offenders, who are already at high risk for recidivism, are committing new offenses while their cases are pending due to lack of interventions or custodial time. Careful analysis and tracking is required, and will need to occur with additional resources.

Public Defender

Since the passage of Prop 47, the Public Defender’s Office has experienced two significant impacts: A significant increase in the workload associated with evaluating, preparing, and filing Prop 47 Petitions; and an increase in misdemeanor filings associated with offenses formerly classified as felonies now filed as misdemeanors.

The Public Defender’s Office has filed over 1,450 Re-Sentencing petitions for the period November 4, 2014, to August 31, 2015. Additionally, we processed over 169 applications during that same time frame. For the four month period, November 4, 2014 to February 28, 2015 the Office handled a combined total of 674 petitions and applications. In the following six month period, March 1, 2015 to August 31, 2015, the Office handled an additional 1,020 petitions and applications. There are currently 65 petitions pending adjudication. The number of petitions filed has been declining since peaking in February 2015.

Like the District Attorney’s Office, if we were to compare statistics for fiscal year 2014-15 with those for fiscal year 2013-14, the Public Defender’s Office has seen a decline in felony filings, and an increase in misdemeanor filings. Finally, our Department, like the courts and law enforcement, continues to evaluate the consequences associated with the reduction of certain theft and drug felonies to misdemeanors. This change in the sentencing laws gives us the opportunity to examine what worked well in our treatment courts, and what we need to change to address the challenges brought to us by the offenders who appear before our courts. We need to expand the criteria for admission into the treatment courts to engage these offenders, and we need to re-define the treatment options available to them so that offenders realize that by taking advantage of these options they can take control of their lives in a way that minimizes or eliminates the involvement of the courts, probation, and law enforcement in their daily lives.

Alcohol, Drug and Mental Health Services (ADMHS)

Corresponding with the data from other departments on the reduction of participation in Alcohol or other Drug (AOD) treatment programs, ADMHS has noted that several AOD providers have reported experiencing a decline in the number of individuals enrolled in services. Anecdotally, it is believed by these providers that without a court mandate, fewer individuals are likely to attend treatment. Since

many Prop 47 clients no longer have to go to treatment, they appear not to be choosing to do so. If this trend persists, a new AOD treatment model will need to be developed that replaces the former leverage of the criminal justice system with other leverages, such as family, friends, employers, primary care physicians, clergy, etc. ADMHS will continue to monitor potential impacts to the department, particularly as future savings diverted into the Fund may be used to provide additional funding for mental health and drug abuse treatments, and other programs designed to keep offenders out of incarceration that may pertain to ADMHS.

Probation

Since the enactment of Prop 47, the Juvenile Division has seen a slow but steady increase in juveniles under supervision and housed in the Institutions. This is a trend that is isolated to the Santa Barbara region and although the change appears to have occurred in line with the passage of Prop. 47, there is no clear nexus to it. Changes related to reclassification and re-sentencing of Prop 47 cases remain unchanged since last reported. A total of 82 active juvenile cases have been reduced; of those, the Juvenile Court retained jurisdiction over 79 and closed 3. Due to the structure of the juvenile system, all cases are handled by Probation regardless of their final disposition or their offense level.

The Adult Division has been more directly impacted by Prop. 47. Since passage, there has been a reduction of 394 offenders under Probation’s supervision; of those, 249 received closures directly pursuant to Prop 47. It is anticipated that the balance of the reduction is related to offenses that are now being handled as misdemeanors through summary probation or terminal dispositions in jail in lieu of felony supervised probation. Additionally, the breakdown of misdemeanants versus felons on supervised probation has shifted from 69% felony offenders to 61%. Some of the County’s Collaborative Courts have seen reductions. Most notably, Substance Abuse Treatment Court (SATC), Dual Diagnosis (DDX) Court, and Reentry Drug Court (RDC), all of which have primarily served felons in the past, have declined markedly. Proposition 36 (Prop. 36), although serving both misdemeanors and felonies, has also seen reductions. Mental Health Treatment Court (MHTC) has actually increased and Veterans Treatment Court (VTC) has seen no change.

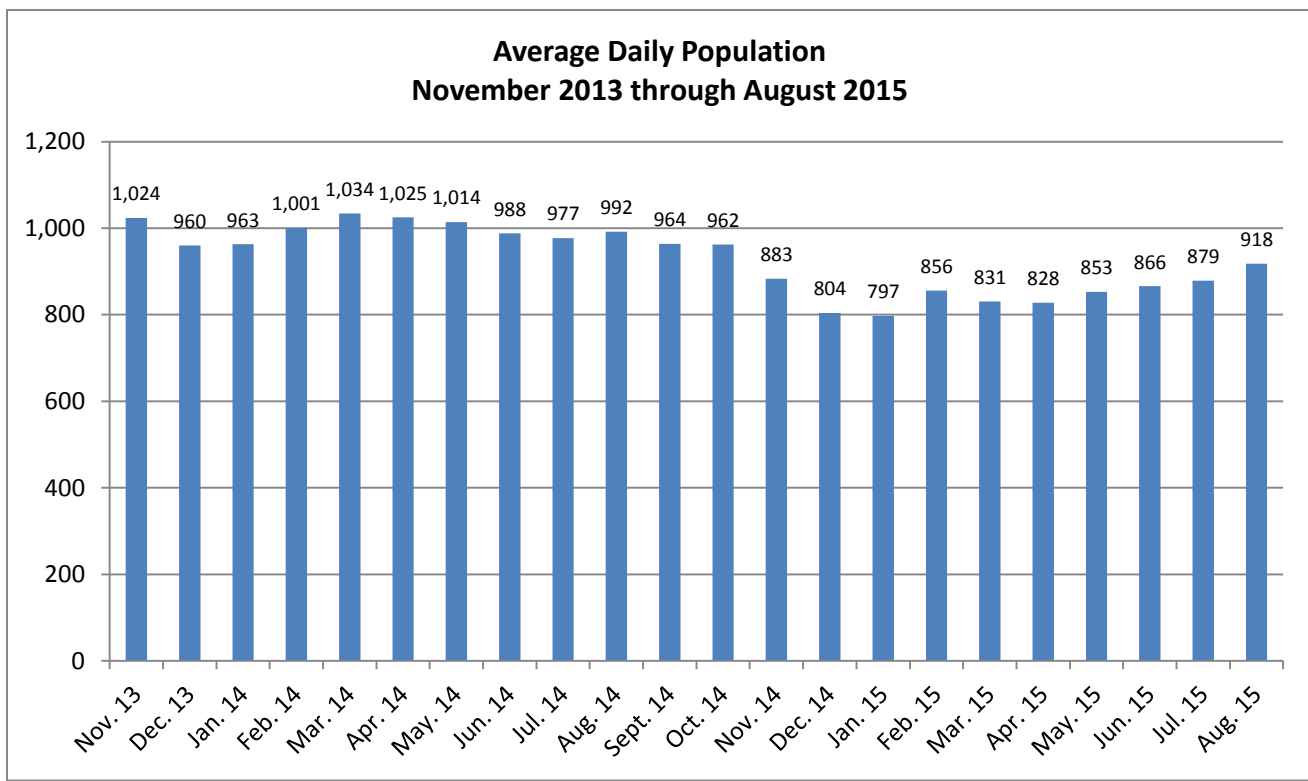
Santa Barbara County Data Comparison Pre/Post Prop. 47

		November 2014	August 2015
Juvenile Supervision		503	560
Juvenile Hall Average Daily Attendance (ADA)		55.37	69.35
Camp ADA		32.63	39.68
Home Sup/EM ADA		38.49	41.81
Adult Supervision	Cases	5,893	5,180
	Offenders	4,654	4,260
	Felons	3,201	2,600
Substance Abuse Treatment Court (SATC)		77	59
Proposition 36 (Prop. 36)		1,022	796
Dual Diagnosis (DDX) Court		55	43
Mental Health Treatment Court (MHTC)		70	100
Reentry Drug Court (RDC)		34	20
Veterans Treatment Court (VTC)		110	111

It is anticipated that the Juvenile Division may continue to see some slight increases, although not directly tied to Prop 47. The Adult Division anticipates continued decline in overall case numbers, assuming no changes in Court protocols. There are ongoing discussions relative to potential changes to the target population for the Collaborative Courts, which could boost enrollment.

Sheriff

Since the passage of Prop 47 in November, the Sheriff’s Department has seen a decrease of approximately 15% in the jail facilities Average Daily Population (ADP). However, in recent months, we have seen an increase in the jail’s ADP which has caused a pause in our thinking of Prop 47’s effect on our ADP. Nevertheless, the Sheriff’s Department maintains that it is still too early to draw definitive conclusions as to the long-term outcome of Prop 47.



Since the passage of Prop 47, there were 3,331 persons cited; of those 3,231 (97.5%) were arrested on non-Prop 47 drug charges only, 54 (1.6%) were cited on multiple charges with at least one being a Prop 47 drug charge; 28 (0.8%) were cited on only Prop 47 drug charges. During the same period a year ago (November 2013-August 2014) there were 4,013 persons cited; of those 3,993 (99.5%) were arrested on non-Prop 47 drug charges, 12 (0.3%) were cited on multiple charges with at least one charge being from a Prop 47 drug charge; 8 (0.2%) were cited on only a Prop 47 drug charge.

The Sheriff’s Office is particularly concerned about reports of declines in the numbers of persons seeking treatment. The long-term impact of Prop 47, if it is to be positive, must find a way to ensure that

people obtain treatment for challenges related to addiction. Without such treatment, we will likely find that the Proposition simply created a window in which addicted people avoided jail.

Courts

After the passage of Prop 47 the Court and justice partners quickly developed forms and procedures needed to handle petitions for resentencing and reclassification. Prop 47 was unfunded when passed. The Court had no additional resources to allocate to the additional workload. The added paperwork, hearings, and caseloads were absorbed by the existing judges and staff. With the Court already facing limited resources due to years of budget cuts, the excess workload created larger calendars and backlogs in case updates. As a result cases are now triaged. High priority cases, where defendants had served sufficient time in-custody and were eligible for release, are handled first; followed by cases eligible for reclassification.

The Court had the highest number of petitions filed in January (273) and February (301) of 2015; total petitions filed were 1,583 (including estimates for the oral petitions). The number of filed petitions began to decline in April 2015 (144) and as of August 2015 they continue to fall. While the caseloads of the trial departments temporarily increased, the caseloads in the therapeutic courts began to fall. Many new, now misdemeanor offenders, opted out for terminal sentences instead of treatment programs. The Court has also seen a reduction of felony filings; however, it is too early to predict the impact it will have on the possible increase of misdemeanor filings.

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