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February 27, 2015

To: Mayor Michael D. Antonovich
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Supervisor Don Knabe

From: Sachi A. Hamai
Interim Chief Executive Officer

PRELIMINARY ASSESSMENT OF PROPOSITION 47 IMPLEMENTATION, RECLASSIFICATION OF CERTAIN FELONIES TO MISDEMEANORS (ITEM 70-C, AGENDA OF NOVEMBER 5, 2014)

On November 5, 2014, the Board of Supervisors directed the Chief Executive Officer, in consultation with the Sheriff, Superior Courts, District Attorney, Public Defender, and Alternate Public Defender, to identify the policy implications of Proposition 47 (Prop 47) on jail population management. In addition, existing evidence-based truancy prevention, mental health and drug abuse programs are to be identified which could be potential candidates for new grants from the State.

OVERVIEW OF THE LAW

On November 4, 2014, California voters approved Prop 47 which immediately enacted the reclassification of the following drug and theft related crimes from felonies to misdemeanors:

- Shoplifting, check forgery, grand theft, and receiving/concealing stolen goods – value not more than $950.
- Simple possession (for personal use) of heroin, cocaine, listed controlled substances, concentrated cannabis, methamphetamine, ecstasy, and GHB.

The Prop 47 reclassification applies to both the first-time offender and those who may have more extensive criminal backgrounds, including prior convictions for a serious or violent crime ("strike" offense) such as armed robbery, kidnapping, assault with a deadly weapon, carjacking, etc. The reclassification also overlaps with offenses considered non-serious, non-violent, and non-sexual (N3) under Assembly Bill 109 - Public Safety Realignment Act of 2011 (AB 109) which already reduced those felony convictions from a State prison sentence to a local jail sentence.

The Prop 47 reduction to a misdemeanor does not apply to an offender who has a prior "super strike" conviction under Penal Code 667(e)(2)(c)(iv), such as a sexually violent offense, attempted homicide, homicide, etc., or someone who is required to register as a sex offender under Penal Code 290(c). An offender with this criminal background will face felony charges that are subject to the pre-existing sentencing guidelines.

The legislation anticipates generating savings as fewer individuals are arrested and incarcerated for the aforementioned crimes. Prop 47 requires anticipated State criminal justice savings resulting from the measure to be directed into a new State fund to be allocated for grant programs, including local recidivism and truancy prevention programs beginning in FY 2016-17. However, there has been no indication from the State as to the amount, distribution formula for allocating to the counties, and any use restrictions of this potential Prop 47 revenue.

MANDATORY SPLIT SENTENCES

In addition to Prop 47, the criminal justice system is being affected by AB 1468 which makes mandatory split sentences for individuals convicted under AB 109 for non-serious, non-violent, and non-sex (N3) crimes, effective January 1, 2015. Previously, the Los Angeles Superior Courts have been sentencing N3s to straight jail time without any subsequent probation supervision period upon release. Approximately 4% of N3s were sentenced to a split sentence. This is primarily the result of offenders accepting a plea for a longer jail sentence with no probation rather than a shorter jail sentence followed by a probation term. Offenders may be hesitant to accept a probation term because they are subject to law enforcement search and seizure, unannounced visits, probation hold for violations, and additional court sanctions for violations.

Mandatory split sentencing will now require the courts to sentence all convicted N3s to jail with a probation term, "unless the court finds that it is not in the best interest of justice not to do so." Since each criminal case is unique, how the courts apply the dynamics between the length of jail time and the mandatory probation period has yet to be determined. For example, courts may impose a sentence of two years in jail and

add a one-year probation period, or a two-year sentence could be split between one year in jail and one year of probation.

SHORT TERM IMPACT OF PROP 47 AND MANDATORY SPLIT SENTENCES

During the Board's meeting on January 27, 2015, the County departments' AB 109 presentation led to a discussion of the impact of Prop 47 and split sentencing on their respective operations. Although County departments are experiencing an impact from these significant policy shifts, it is too early to determine the long term impact that they will have on crime, on the jail population, and on community-based diversion programs and alternatives to custody. We have summarized the operational adjustments and concerns raised at the Board meeting and during our discussions with the departments in Attachment I. With respect to potential Prop 47 funding, we have provided the County departments' assessment of programs that could be expanded, enhanced, or piloted in Attachment II.

SUMMARY AND NEXT STEPS

Prop 47 and mandatory split sentences are the latest in an unprecedented series of shifts in the criminal justice system which began with AB 109. Through these measures, the State has transferred significant responsibility for inmate and post-release populations from the State to local counties, and the County has been adjusting accordingly. Periodic reports to the Board from this office, the Countywide Criminal Justice Coordinating Committee (CCJCC), and County Departments (including the Sheriff, the District Attorney, the Probation Department, and the Departments of Mental Health and Public Health) have revealed profound impacts on people and populations resulting from these external policy shifts.

These shifts have required County departments to operate differently and, with input and direction from the Board, they have responded to these new challenges as opportunities to work collaboratively and creatively. As more experience is gathered, and more is known from the impacts of these shifts, there is an opportunity to begin examining the County's jail population in a more data-driven manner, and to more precisely identify and predict trends in, and characteristics of, the County's jail population.

At the same time, the Board has proactively directed a comprehensive policy examination of all programs that could divert people from encountering the criminal justice system – especially in the area of mental health services – and the development of an array of other alternatives to custody. While the County's criminal justice system is adapting to the externally-imposed policy shifts described above, it is concurrently

exploring the Board's policy directives to consider the appropriateness of treating certain people in jail who might be better supported with services in their communities.

The District Attorney is expected to present the recommendations of her Mental Health Taskforce at the end of March. As directed by the Board, the Chief Executive Office will report on the costs of implementing those recommendations, along with the alternatives to custody recommendations outlined in the Sheriff's Population Management Solutions report.

If you have any questions, please contact Brence Culp at (213) 974-1104 or at bculp@ceo.lacounty.gov .

SAH:BC:DT:cg

Attachments

c: Executive Office, Board of Supervisors
County Counsel
District Attorney
Sheriff
Alternate Public Defender
Countywide Criminal Justice Coordinating Committee
Los Angeles County Office of Education
Mental Health
Probation
Public Defender
Public Health
Superior Court

PROPOSITION 47 COUNTY DEPARTMENT IMPLEMENTATION OVERVIEW
(February 2015)

SHERIFF IMPLEMENTATION

The immediate short-term impact of Prop 47 has been a decline in arrest rates resulting in reduced jail overcrowding which subsequently has allowed the Sheriff to increase the percentage of time served for traditional County sentenced inmates. However, the long term sustainability of the population reductions is unknown. Prop 47 offenders, who would have previously been booked into jail, are now cited and released back into the community awaiting their court date. The Sheriff has expressed two major concerns: 1) these individuals may commit additional crimes while waiting for their court date, and 2) the jail population may increase as Prop 47 cases are adjudicated and those convicted are sentenced to jail. In addition to Prop 47, the Sheriff's population management operation is complicated by the January 1, 2015 implementation of mandatory split sentences for convicted non-serious, non-violent, non-sex offenders which created another unknown with respect to jail sentence lengths. .

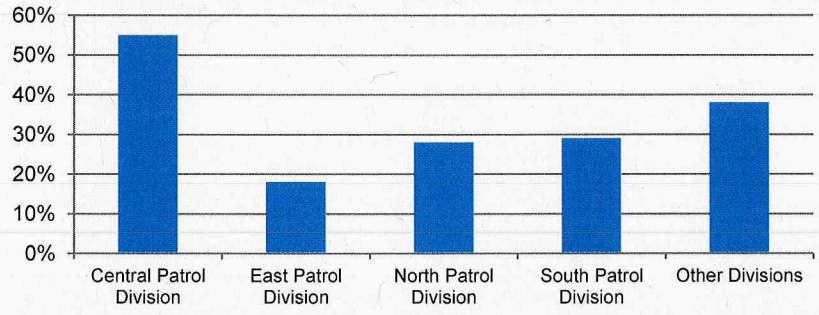
With respect to jail construction planning, additional time is needed for the Sheriff and County departments to assess the long term consequences of Prop 47 and split sentences on the demand for jail beds, inmate demographics, and the level and type of treatment services required.

Patrol Operations

Within the Sheriff's jurisdiction, offenders arrested on Prop 47 charges are transported to the local sheriff's station and processed for positive identification and verification of Prop 47 eligibility. Upon confirmation of eligibility and providing the offender does not meet the criteria to remain in custody on a misdemeanor hold or additional criminal charge, the offender is issued a promise to appear (citation) and released.

The Sheriff is closely monitoring the overall crime data within in their patrol areas in order to evaluate Prop 47's influence and deployment of resources. A preliminary analysis of narcotic related arrests (Health and Safety Code 11350, 11357(A), and 11377) for the period of November 5, 2014 through January 5, 2015, revealed a 38% decrease compared to the same timeframe a year earlier. The chart below reflects the decrease in narcotics arrests per division during the comparative time frames:

Chart 1: Decrease in Narcotics Arrests
(11/5/13 through 1/5/14 compared to 11/5/14 through 1/5/15)



With respect to other law enforcement agencies within Los Angeles County, implementation is varied with some jurisdictions conducting cite and release in the field while others mirror the Sheriff's Department protocol.

Custody Operations

Based on the Sheriff's 2013 statistics, approximately 32% of arrests were felonies that led to booking and jail detention. A small minority of misdemeanor arrests lead to booking and housing in County jail, attributable to the offender's criminal background. The majority of arrests in Los Angeles County were misdemeanor offenders who were cited and released. With Prop 47 reclassifying certain felonies to misdemeanors, the proportion of misdemeanor offenders who are cited and released is anticipated to increase this year.

PROPOSITION 47 COUNTY DEPARTMENT IMPLEMENTATION OVERVIEW
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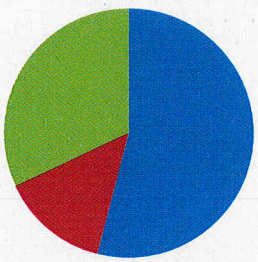

TABLE 1: Annual Arrests and Detention (2013 statistics)	No. Individuals	% of Population
Misdemeanor arrested and released (misdemeanants are typically not booked)	195,024	54%
Misdemeanor booked and housed in County jail (misdemeanant's priors prohibit release)	51,307	14%
Felony booked and housed in County jail	113,853	32%
TOTAL ARRESTS	360,184	

The decline in the number of arrests since the implementation of Prop 47 has corresponded to an overall 15% decrease in the average daily jail population: 18,008 pre-Prop 47 inmates (January 5, 2014) versus 15,360 post-Prop 47 inmates (January 5, 2015). Within the current population, approximately 1,035 (7%) inmates have Prop 47 eligible charges/convictions, including inmates identified with mental illness.
Note: Inmates are directed to consult with their attorney regarding Prop 47 eligibility.

Jail Population
(as of 1/5/15)

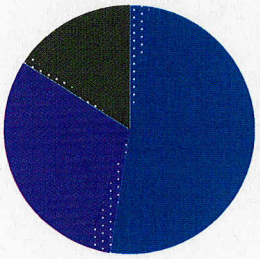

TABLE 2: Jail Population - Estimated Prop 47 Eligible Inmates	Males	Females	Total	Males	Females	Total	% of Population
	As of 1/5/14			As of 1/5/15			
Pre-Trial (Prop 47 Eligible)	8,492	1,195	9,687	338	53	391	3%
Pre-Trial (Other Charge)				6,792	877	7,669	50%
AB109 Sentenced (Prop 47 Eligible)	5,394	1,081	6,475	402	67	469	3%
AB109 Sentenced (Other Conviction)				3,686	687	4,373	28%
County Sentenced (Prop 47 Eligible)	1,667	179	1,846	143	32	175	1%
County Sentenced (Other Conviction)				2,002	281	2,283	15%
Total Jail Population*	15,553	2,455	**18,008**	13,363	1,997	**15,360**	

** Total population count does not include inmates who are sentenced and await transportation to State Prison.*

The continued jail population decline resulting from Prop 47 has allowed the Sheriff to increase the percentage of time served by high risk inmates (M7) from 40% to 100%, County sentenced females from 10% to 90%, and County sentenced males to 90%. All N3 inmates continue to serve 100% of their statutory sentence. As the effects of Prop 47 continue to unfold, the Sheriff will determine the need to further adjust the percentage of time served formula and/or other housing and program options.

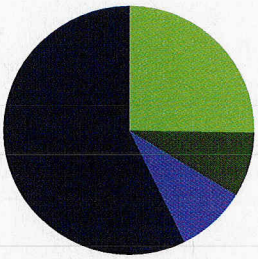

TABLE 3: Jail Population - Sentenced Inmate's Percentage of Time Served	% Time Served*	Males	Females	**Total**	% of Sentenced Population
		Population as of 1/5/15			
Misdemeanor Sentenced**	90%	1,592	252	**1,844**	25%
Misdemeanor Enhanced Sentenced (M7)**	100%	553	61	**614**	8%
Parole Revocation (N3)	100%	617	44	**661**	9%
AB109 Felony Sentenced (N3)	100%	3,471	710	**4,181**	57%
Total Sentenced Population		6,233	1,067	**7,300**	

** Pursuant to the Rutherford decision, the Sheriff has discretion to establish the percentage of time served by inmates in order to mitigate jail overcrowding.*
*** Total jail system population decrease resulting from Prop 47 has allowed the Sheriff to increase to 90% of the percentage of time served for males and females and also has increased the percentage of time served by M7s from 40% to 100%.*

Currently, the Sheriff's percentage of time served policy is applied across the board to all sentenced inmates. The Sheriff is working with the University of California, Irvine to develop and pilot the "Los Angeles Risk Assessment" (LARA) which is an assessment tool that will be used to determine an inmate's risk of recidivism based on unique identifiers. This tool will assist in identifying potential inmates for community based alternatives to custody (CBAC) programs.

The Sheriff's Department is also assessing the impact the inmate demographic change will have on in-custody and alternative custody programs. Education Based Incarceration (EBI) will continue to be the

Sheriff's principal in-custody rehabilitation program with all inmates encouraged to participate. However, Prop 47 could adversely impact the Fire Camp program with the decline of its candidate pool (incoming low level offenders) and an estimated 30% of participants who are potentially eligible for resentencing under Prop 47. In addition to Prop 47, the implementation of mandatory split sentences for AB 109 convictions on January 1, 2015 will further reduce the eligible pool within the jail population.

COURT IMPLEMENTATION

For perspective on the impact Prop 47 will have on the Los Angeles Superior Courts' Criminal Division (Courts), during 2013 there were 70,700 felony, 313,600 misdemeanor, 34,300 non-traffic infraction, and 1,370,400 traffic infraction filings.

Immediately following the November 4, 2014 implementation of Prop 47, there was a decline in the number of felony sentences. However, it is unknown at this time what percentage of this number may be due to the corresponding Prop 47 reduction of certain felony crimes to misdemeanors and what percentage could be due to holiday court schedules or other extraneous factors. Until there is more experience on the long term impact of Prop 47 on the criminal justice system, the courts do not currently intend to restructure trial court operations since the total workload of current cases upon the courts has not changed, albeit Prop 47 offenses are now misdemeanor cases.

Resentencing Petitions and Reclassification Applications

In the short-term, the criminal justice system is absorbing a new workload as trial courts are required to process and adjudicate petitions/applications from individuals requesting their eligible felony conviction to be reduced to a misdemeanor. Individuals eligible for a sentence reduction under Prop 47 fall under three categories: Pending Case (pre-trial), Serving Sentence, and Completed Sentence. In all cases, the District Attorney, Public Defender, and Alternate Public Defender conduct their respective due diligence to confirm each individual's criminal background does not exclude them from Prop 47 eligibility. For those who are determined to be eligible for resentencing or reclassification, the complexity of the case will determine the length of the proceedings. The Courts estimate more than 60,000 Prop 47 filings annually.

TABLE 4: Court Estimate of Prop 47 Cases

Resentencing Petitions/Reclassification Applications (Offender's Status)	Potential Cases	Actual Petitions/Applications (11/5/14 through 12/31/14)
Pending Case	4,000 – 14,000	4,800
Serving Sentence	20,000	5,400
Completed Sentence	300,000+	2,100

At this time, priority is given to individuals who are incarcerated and eligible for Prop 47 resentencing. Individuals who have a Pending Case or are currently Serving Sentence are directed to consult with their defense attorney regarding eligibility and assistance with filing a Prop 47 "resentencing petition" with the trial court that entered the judgment of the felony conviction. If the original sentencing trial court is "not available" then the Presiding Judge will designate the petition to another trial court. In addition, individuals who are serving their sentence in State prison may be transported back to County jail by the Sheriff for their court hearing. Also, individuals who were convicted under AB 109 but subsequently resentenced under Prop 47 still have to return to the AB 109 revocation court to release them from Probation supervision.

During the next three years, individuals who are Completed Sentence may submit a "reclassification application" to have their conviction reclassified as a misdemeanor which may affect their eligibility for certain jobs and licensure that exclude felony convictions. They are also advised to consult with their defense attorney to determine their Prop 47 eligibility and assistance with filing a reclassification application with the court. Prop 47 does not have a statute of limitations which means, for instance, individuals convicted of a Prop 47 eligible felony in the 1960s may submit a reclassification application. Given the Courts' estimate that over 300,000 reclassification applications may potentially be submitted

during the three year filing period, the processing and adjudication of these cases may actually take several years to complete.

DISTRICT ATTORNEY IMPLEMENTATION

The District Attorney (DA) assigns Deputy District Attorneys (DDA) to prosecute felony cases at each trial court. Although Prop 47 has reduced the current felony caseload, it has added a new workload for DDAs who now have to handle resentencing petitions and reclassification applications. Due to the need to assign DDAs to each open courtroom, the immediate staffing need for DDAs has not diminished following Prop 47 implementation. Similar to the Courts, the DA is continuing to assess Prop 47's long-term impact on resources and organizational structure.

Review of Resentence Petitions and Reclassification Applications

As of January 31, 2015, all current Prop 47 eligible Pending Cases have been transferred to local city attorneys, except for resentencing petitions and applications which will continue to be handled by the District Attorney. The city attorneys will also assume responsibility for all new cases stemming from a Prop 47 charge. The DA will continue to prosecute, to its conclusion, any Prop 47 eligible Pending Cases that may be in the midst of trial.

Resentencing petitions for individuals who are Serving Sentence and reclassification applications for those who have Completed Sentence are handled by the DDA that prosecuted the case. However, if that DDA is unavailable (transferred, retired, etc.) then the petition will be handled by a DDA who is currently assigned to the trial court that the individual was sentenced. There are currently no plans for the DA to consolidate Prop 47 caseloads to a single unit which is deemed impractical due to the extremely high volume of petitions and applications.

Victim Witness Assistance Program

The DA's Victim Witness Assistance Program (VWAP) is the County's major services provider for all the County's crime victims. The consistently high volume of victims each year creates a huge demand for services throughout the County's large geographic area and diverse demographics. Additionally, the DA's Restitution Enhancement Program (REP) assists victims to obtain restitution orders upon conviction. The DA has identified the following resource needs that would benefit from Prop 47 funding:

- Additional victim advocates to fully staff existing offices.
- Additional offices in underserved communities to assist victims.
- Additional staff should be hired for specialized advocacy for vulnerable victims at existing Victim Sites, especially family violence, sex crimes, child abuse, elder abuse and gang violence. These services should also be expanded to emerging victim classes, especially human trafficking, hate crimes, and major financial/fraud crimes victims.
- Additional REP paralegals should be hired to assist victims who wish to enforce their constitutional right to restitution.
- Prepay Witness Parking Fees at Downtown Criminal Court.
- Non-English speaking victims should be provided with interpreters who can translate the criminal proceedings for them and allow them to meaningfully participate in the criminal justice process.

The following sections highlight the impact Prop 47 has on VWAP and REP:

Victims' Rights: Restitution

As authorized by statute, Probation and the Treasurer and Tax Collector have an established victim restitution collection/distribution system for convicted felons. Unfortunately, the reclassification of Prop 47 crimes to misdemeanors, which are not subject to formal supervision by the Probation Department, excludes these victims from engaging the County's victim restitution collection system.

Therefore, the only option available to these victims is the added burden of enforcing an existing court restitution order as if it was a civil judgment. (Penal Code section 1214).

Note: AB 109 did not provide legal authority to collect victim restitution from N3s. Legislative changes were recently enacted to provide that authorization under Penal Code sections 2085.5 and 2085.6. However, just as the County is working to implement a restitution collection mechanism based on these new laws, some victims will still not be able to access the County's restitution collection system because certain AB 109 felonies have now been classified as Prop 47 misdemeanors.

Victims' Rights: Victim Services and the State Restitution Fund

The State Restitution Fund supports Victim Witness Assistance Programs in every California county. It also supports the Victim Compensation Fund which helps victims to pay for expenses related to a crime, such as medical bills, mental health services, income loss, funeral and burial expenses, etc.

The State Restitution Fund is solely funded by court ordered restitution fines which are required by law in every criminal case in which an adult offender is convicted of a crime, unless a judge finds compelling and extraordinary reasons that the offender should not pay a fine. Per Penal Code section 1202.4(b), restitution fines for adults convicted of misdemeanors range from $120 to $1,000. Adults convicted of felonies must pay between $240 to $10,000.

Prop 47's reclassification of certain felonies to misdemeanors, which has a lower restitution fine schedule, will have a direct impact on the level of services available to victims. However, it is too early to quantify the amount of revenue shortfall on the State Restitution Fund. It should be noted that collection of court ordered restitution fines has already been seriously reduced during the past three years as a consequence of AB 109 which, as previously noted, did not provide legal authority to actually collect from N3s.

PUBLIC DEFENDER IMPLEMENTATION

The Public Defender has indicated that most Prop 47 resentencing petitions have resulted in felonies being reduced to misdemeanors. The Public Defender also observed that some trial courts are working more swiftly than others.

There are a large number of Public Defender clients who are eligible for Prop 47 resentencing/reclassification. The Public Defender will represent all current and former Public Defender clients in these matters and has placed a notice on their public website with information about Prop 47 and how to contact Public Defender offices, Alternate Public Defender offices, and the Indigent Criminal Defense Appointments Program. The Post-Conviction Assistance Center is also listed, as they may eventually represent some Petitioners.

Public Defender paralegal resources office-wide are being shifted to assist with Prop. 47 client calls and case processing. The Public Defender anticipates that the Department will be processing Petitions and Applications throughout the three year period mandated by Prop. 47.

The Public Defender has created a Prop 47 database to track Los Angeles County cases that may be eligible for Prop 47 relief. The database contains cases dating back to 2004; however, since there is no statute of limitations, the Public Defender will likely receive reclassification applications for older cases. Recently, records from the California Department of Corrections & Rehabilitation (CDCR), the Sheriff, and the Public Defender's Defense Management System were merged into the database. It now contains over 292,700 cases, although some are certain to be duplicate records. All employees have been trained to access the database and input information, including the steps taken to handle individual cases. The Public Defender is creating processes to sort and distribute the data among staff so that all Public Defender matters are handled.

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ALTERNATE PUBLIC DEFENDER IMPLEMENTATION

The Alternate Public Defender's Office (APD) has noted that it is extremely difficult to provide a definitive estimate of the number of eligible Prop 47 cases since each client has unique circumstances that may factor into their eligibility. Resentencing petitions and reclassification applications are handled in each branch according to the policies that have been developed by the court, prosecutorial agency, and the APD office in each branch. Essentially, validated Prop 47 eligible cases are assigned to the branch where the conviction took place with the Head Deputy tasked with the responsibility for assigning the case to an attorney, handling the case themselves if staff is not available, dealing with inquiries in their respective branches, and tracking the cases to ensure they are handled as expeditiously as possible. The APD has prioritized clients who are Serving Sentence in State prison and County jail, as well as those who remain on parole or probation supervision.

Similar to the Public Defender, the APD has received a huge number of calls from current and former clients, who are seeking to have their Prop 47 eligible felony conviction reduced to a misdemeanor, with no less than 1,000 calls within just the first few weeks. The workload of administrative staff has significantly increased as they respond to calls and validate Prop 47 eligibility. The APD developed an internal protocol so callers could be quickly identified as an APD client or, if not, directed to the PD's office, or to a specific court. Once the caller is identified as an APD client, the team manager will direct the information to the appropriate branch Head Deputy. The APD has also developed a system so that anyone can go into their Case Management System and see what Prop 47 cases are on calendar on a daily basis and check the status of Prop 47 cases.

At this time, the APD has no plans to form a special unit to handle Prop 47 cases. While Prop 47 requires their attorneys to take on additional work in the short term, Prop 47 is predominately a caseload shift from felonies to misdemeanors. The APD plans to absorb this shift without the need for additional staff. As the Prop 47 landscape continues to develop, the APD will remain flexible and may reassign some attorneys from felonies to misdemeanors, or assign some attorneys to a "mixed" caseload of felonies and misdemeanors.

PROBATION IMPLEMENTATION

Probation's supervision caseload is comprised of general felony probationers, N3 split-sentence probationers, and individuals on Post-Release Community Supervision (PRCS) who have completed their State prison term and are now under local supervision under AB 109. Summary probationers, those who are convicted of a misdemeanor, report directly to the court and are typically not under Probation supervision.

While there has been a decline in felony sentencing, Probation is still analyzing the data trends to determine the impact on direct supervision operations and community based programs.

TABLE 5: Probation Caseload	No. Probationers (as of 1/5/2014)	No. Probationers (as of 1/5/2015)	Estimated No. Eligible for Resentencing	% of Current Caseload
General Felony Probationer	43,085	41,110	13,671	33% of felony probationers
N3 Split-Sentence/PRCS	8,427	8,365	1,108	13% of N3/PRCS
Total Probationers	51,512	49,475	14,779	30% of total supervised

It is important to highlight that Probation has not seen any Prop 47 impact on their high risk offender and intensive supervision caseloads which remain unchanged.

The Drug Court, Proposition 36 and the lowest risk probationers on the automated caseload system appear to be the general felony probationer populations most directly affected by the reduction in felony sentencing. In addition, the CDCR estimates statewide there are 3,400 PRCS pending release from prison and who may be eligible for Prop 47 resentencing, including approximately 950 PRCS who will return to Los Angeles County. State prison inmates pending release on PRCS or those currently in the

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community under PRCS who are resentenced, pursuant to Prop 47, may be ordered by the sentencing court to Parole supervision for one year following their release from CDCR custody.

Any Prop 47 related caseload reductions will be tempered by the January 1, 2015 implementation of mandatory N3 split sentences which encompasses jail time and a post-release period of probation supervision. Trial courts retain their discretion to impose a straight jail time sentence but they must provide case-by-case justification for not imposing a split sentence. Prior to January 1, 2015, only 4% of N3 convictions were split sentences while the remaining 96% of N3 convictions were straight jail time sentences with no post-release probation supervision. A preliminary recidivism analysis by Probation identified split sentence N3s were significantly less likely to be rearrested compared to an offender who only served a straight jail sentence. As with Prop 47, more experience with split sentences with the broader N3 population is needed to determine the long term impact on the jail population, probation caseloads, and recidivism.

Today, the majority of N3 convictions will likely be split sentences. Probation is still developing split sentence caseload projections based on the complex emerging dynamics between Prop 47 and mandatory N3 sentencing. Should Probation realize a significant caseload reduction and the number of felony sentences remains consistently reduced, the department will take the opportunity to strengthen intensive supervision strategies, expand cognitive behavior therapy administered by probation deputies, create more specialized services, and enhance collaborative partnerships by expanding co-located probation deputies at treatment providers and law enforcement agencies.

DEPARTMENT OF MENTAL HEALTH IMPLEMENTATION

The Department of Mental Health (DMH) directly provides mental health treatment in the jails with clinicians conducting mental health assessments upon intake and working with the Sheriff to identify appropriate housing. DMH's Jail Mental Health Evaluation Team (JMET) also monitors the overall jail population to identify inmates who may decompensate later during their jail stay. Diagnoses range from Adjustment Disorders, Mood Disorders and Psychotic Disorders. Based on their clinical needs, mental health inmates are housed within four levels of care: forensic inpatient care (FIP), High Observation Housing (HOH), Moderate Observation Housing (MOH), and general population on psychotropic medications. Mental health inmate housing is dynamic as clients transition between these levels of care in accordance with their clinical needs. Services include assessment, individual and group treatment, crisis intervention, release and community re-entry planning.

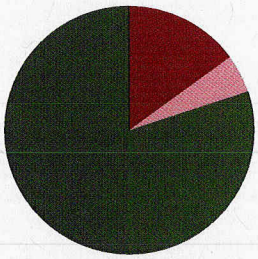

TABLE 6: Mental Health Population within the Jail System (as of 11/24/14)

	Total	% of Jail System Population
Mental Health Inmate: Mental Health Housing	2,600	15.0%
Mental Health Inmate: General Population	870	5.0%
Non-Mental Health Inmates (General Population)	13,933	80.0%
Total Jail Population	17,403	

DMH's Jail Mental Health (JMH) has historically served approximately 18% of the total jail population. Unlike the general inmate population, Prop 47 has actually increased the census of mental health inmates to 20% of the total jail population. In addition, the current mental health acuity levels for males and females has also increased with a corresponding number in HOH: 186 females compared to pre-Prop 47 average of 140 mental health inmates and 533 males compared to a pre-Prop 47 average of 470 mental health inmates. There has been no reduction in MOH clients. While Prop 47 may have reduced the overcrowding issues among the general population inmates, the mental health units have yet to see any relief.

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In addition, Prop 47 eligible individuals no longer have an incentive (jail time) to participate in mental health diversion and rehabilitation programs. DMH anticipates the potential long term impact to include:

- Higher recidivism rates for the mentally ill population.
- DMH will need to increase the number of mental health clinicians who patrol with law enforcement.
- DMH funded mental health programs may be impacted by individuals in need of community-based treatment who otherwise would have been incarcerated. This includes urgent care centers, acute inpatient units, IMDs, and State Hospitals.
- There are currently up to 400 felony inmates who are incompetent to stand trial (IST) who may be eligible for release to the community from criminal courts under Prop 47. Many of these individuals may require acute inpatient services, conservatorship proceedings, and treatment in Institutions for Mental Diseases (IMDs) or State Hospitals. Approximately 25 IST felony inmates in State Hospitals may be reclassified as misdemeanants and subsequently be transferred to the county jail IST misdemeanants program. Note: IST misdemeanants can be held up to 1 year in jail and felons up to 3 years in State Hospitals.

DEPARTMENT OF PUBLIC HEALTH IMPLEMENTATION

The Department of Public Health, Substance Abuse Prevention and Control (DPH) anticipates a similar situation as DMH on the loss of incentives to participate in diversion and rehabilitation programs.

TABLE 7: Court Based Substance Use Treatment Programs	New Enrollments		Program Terminations**	
	Pre-Prop 47*	Post-Prop 47*	Pre-Prop 47*	Post-Prop 47*
Adult Drug Court	99	49	54	85
Co-Occurring Disorders Court	11	4		

** Pre-Prop 47 period: 11/5/13-1/5/14 and Post-Prop 47 period: 11/5/14-1/5/15*

*** Terminations refer to both terminations ordered by the Court and voluntary terminations from the programs. Also, the numbers reflect all terminations from drug court programs that occurred during the time periods, not just those resulting from Prop 47. Finally, termination from a drug court program does not necessarily result in a return to jail or a jail sentence. Termination could also result in probation, a return to probation, transfer to another program, being terminated with time served, or other orders from the Court.*

As reflected in the table above, Prop 47 has significantly decreased voluntary participation in court-supervised treatment programs as misdemeanants may decide to accept brief jail time or less demanding conditions rather than intensive and lengthy commitments for substance use disorder treatment.

DPH anticipates a shift in substance use disorder (SUD) funding allocations from programs focused on felons to those servicing the needs of misdemeanants. SUD programs for felons predominately use traditional outpatient and residential SUD treatment programs. Misdemeanant SUD programs are primarily diversion-focused approaches. DPH will continue to monitor the impact of Prop 47 and adjust SUD program referrals, operations, and funding as necessary.

COUNTY DEPARTMENTS' PRELIMINARY ASSESSMENT OF PROGRAMS THAT MAY BENEFIT FROM PROPOSITION 47 FUNDING (February 2015)

The following is a preliminary list of programs identified by County departments that may either be enhanced, expanded or piloted using potential Prop 47 funds. Several departments have indicated that more experience with Prop 47 is required to identify which programs would be suitable for funding.

DISTRICT ATTORNEY

The District Attorney supports the enhancement of victim services and restitution collection. Further analysis is needed to identify which truancy prevention, mental health and drug abuse treatment programs would be most competitive for future grant funding, given that these are all DA priorities.

PROBATION

Probation will need to assess which existing programs can be enhanced or expanded by any potential Prop 47 funding. Possible candidates include truancy/school-based programs and expanded support to the courts. e.g. drug-testing.

DEPARTMENT OF MENTAL HEALTH

DMH does not anticipate additional staff will be required within the jails. However, DMH anticipates funding will be required to provide community based mental health services to those released under Prop 47, the cost is subject to the volume of individuals released and the need for higher levels of psychiatric care. Programs that can immediately benefit by potential Prop 47 funding include urgent care centers in the Long Beach area and Antelope Valley.

DEPARTMENT OF PUBLIC HEALTH

DPH substance use disorder programs which could be enhanced by Prop 47 funding include educational and engagement models, sobering centers, support and transitional programs, and integrated multi-disciplinary programs to address the high prevalence of co-occurring mental health, physical health, and SUD conditions. Such approaches will require the departments of Health Services, Mental Health and Public Health to work with the County's criminal justice system to develop greater collaborative strategies to support integrated care programs.

Additionally, the use of future expanded Drug Medi-Cal benefits to build a fuller continuum of SUD treatment and recovery services is essential. Expanded Medi-Cal eligibility allows most low-income individuals access to Drug Medi-Cal services. With anticipated expansion of Drug Medi-Cal benefits in 2015, current federal Substance Abuse Prevention and Treatment Block Grant and State SUD realignment funds can be freed to support allowable services not covered by the Drug Medi-Cal benefits, allowing a fuller continuum of SUD treatment and recovery support services for County residents.

LOS ANGELES COUNTY OFFICE OF EDUCATION

The Los Angeles County Office of Education (LACOE) has identified two juvenile truancy programs that could potentially be funded by Prop 47:

- New Direction Early Intervention and Diversion Pilot Program (New Direction) is designed for first-time offender youth assigned to informal probation, ages 17 and under, who reside in Supervisorial District 1 and are willing to participate in the six month program. Under the case management of a Deputy Probation Officer, the New Direction pilot will provide at-risk youth and their families with the coordinated mental health and substance use disorder treatment services, health, and educational support services necessary to decrease the likelihood of ongoing delinquency and increase the potential for keeping these youth out of the delinquency system.

COUNTY DEPARTMENTS' PRELIMINARY ASSESSMENT OF PROGRAMS THAT MAY BENEFIT FROM PROPOSITION 47 FUNDING (February 2015)

- Expansion of the LACOE Aftercare Model which is the multi-disciplinary partnership with Probation and the departments of Health Services, Mental Health, and Public Social Services within the Probation camps. The Aftercare Model is focused on initiating reintegration planning with youth and their families upon entry into the system and following them for 90 days upon release