

**LOS ANGELES COUNTY
BLUE RIBBON COMMISSION ON PUBLIC SAFETY**

MINUTES OF THE March 28, 2018 MEETING

Hall of Justice
Media Conference Room
211 West Temple Street
Los Angeles, California 90012

COMMISSION MEMBERS PRESENT

Chair Pro Tem: Judge Scott Gordon, Supervising Judge – Criminal Division,
Los Angeles Superior Court

Peter Bibring, Director of Police Practices/Senior Staff Attorney,
ACLU of Southern California
Jenny Brown, Acting Chief Deputy, Public Defender's Office
Kellyjean Chun, Bureau Director – Prosecution Support Operations,
District Attorney's Office
Judge Peter Espinoza, Director, Office of Diversion and Reentry
Dr. Barbara Ferrer, Director, Department of Public Health
Josh Green, Criminal Justice Program Manager, Urban Peace Institute
Chief Bob Guthrie, President, Los Angeles County Police Chiefs Association
Mark Holscher, Partner, Kirkland & Ellis
Dr. Brian Hurley, Medical Director of Substance Use Related Care Integration,
Department of Mental Health
Chief Stephen Johnson, Custody Services Division, L.A. County Sheriff's Department
*Michelle Kim for Erika Anzoategui, Chief Deputy, Alternate Public Defender's Office
*Lynne Lyman for Troy Vaughn, Executive Director, Los Angeles Regional Reentry
Partnership
Chief Probation Officer Terri McDonald, Los Angeles County Probation Department
Brian Moriguchi, President, Professional Peace Officers Association (PPOA)
Priscilla Ocen, Professor, Loyola Law School
Robert Sass, Vice President, Association for Los Angeles Deputy Sheriffs
Brendon Woods, President, California Public Defenders Association

***Designated proxy**

COMMISSION MEMBERS NOT PRESENT

Judge Stephen Larson, Partner, Larson O'Brien
Hon. Michael Davitt, President, California Contract Cities Association
Deputy Chief Justin Eisenberg, Los Angeles Police Department
Cherylynn Hoff, Human Services Administrator II, Los Angeles County Department of
Workforce Development, Aging and Community Services
Jamie Kyle, Community Advocate, The Reverence Project

Jose Osuna, Principal Consultant, Osuna Consulting
John Raphling, Senior Researcher, Human Rights Watch

I. CALL TO ORDER/INTRODUCTIONS

The meeting was called to order at 1:38 p.m. by Mark Delgado, Executive Director of the Countywide Criminal Justice Coordination Committee (CCJCC).

Self-introductions followed.

II. SELECTION OF CHAIR PRO TEM FOR THE MARCH 28, 2018 MEETING

As both the Chair and Co-Chair were not in attendance at this meeting, Mr. Delgado asked for a motion to select a Chair Pro Tem to serve as Chair for this meeting, per the bylaws of this Commission.

Judge Peter Espinoza nominated Judge Scott Gordon to serve as Chair Pro Tem for this meeting. Commission member Mark Holscher seconded this motion.

There were no additional nominations.

ACTION: The motion to approve Judge Scott Gordon as Chair Pro Tem for this meeting was approved without objection.

III. APPROVAL OF THE MINUTES OF THE FEBRUARY 28, 2018 MEETING

There were no requests for revisions to the minutes of the February 28, 2018 meeting. A motion was made to approve the minutes.

ACTION: The motion to approve the minutes of the February 28, 2018 meeting was seconded and approved without objection.

IV. INFORMATIONAL PRESENTATION / DISCUSSION ON THE CURRENTLY CIRCULATING INITIATIVE: "REDUCING CRIME AND KEEPING CALIFORNIA SAFE ACT OF 2018"

California State Assemblymember Jim Cooper of the 9th District appeared before the Commission to provide an informational presentation on the currently circulating initiative: ["Reducing Crime and Keeping California Safe Act of 2018."](#)

The Commission contacted Assemblymember Cooper pursuant to discussion at a meeting of the Subcommittee on Violent Crimes Statutes to support its information gathering efforts. Following consultation with the Chair, the presentation and discussion on the proposed initiative was agendaized for the full Commission so that all members could participate and have an opportunity to ask questions, particularly as the proposed

initiative pertains to multiple subject matter areas that the Commission and its subcommittees are tasked with reviewing. Impacts of the initiative include:

- Proposition 57 – Would expand the list of violent crimes that are ineligible for early parole consideration under Proposition 57.
- Proposition 47 – Would reinstate DNA collection for certain crimes that were reduced to misdemeanors as part of Proposition 47.
- Proposition 47 – Would revise the theft threshold by adding a felony for serial theft, specifically for when a person is caught for the third time stealing and the third theft is for a value that exceeds \$250.
- Proposition 57 & AB 109 – Would require the Board of Parole Hearings to consider an inmate’s entire criminal history when deciding upon release, not just the person’s most recent commitment offense.
- AB 109 – Would require a mandatory hearing to determine whether Post Release Community Supervision (PRCS) should be revoked for any individual who violates the terms of his or her supervision for the third time.

Presentation By Assemblymember Jim Cooper

Assemblymember Cooper stated that this proposed initiative does not overturn AB 109, Proposition 47, or Proposition 57. Instead, it is intended to fix the existing laws by addressing various issues.

The proposed ballot measure makes changes to these laws so that they correspond to the expectations that the public had when they went into effect. As an example, crimes that are not classified as violent felonies under Proposition 57 include trafficking of a child, abducting a minor for prostitution, rape of an unconscious person, rape by intoxication, drive-by-shooting, and felony domestic violence. The initiative would make these and other specified crimes ineligible for early release under Proposition 57.

With regard to Proposition 47, the reduction of certain crimes from felonies to misdemeanors resulted in DNA no longer being collected from individuals convicted of these crimes. Since the passage of Proposition 47 in 2014, cold case hits have dropped by over 2,000 and fewer crimes are solved. The collection of DNA evidence has been responsible for solving many cold case crimes.

The proposal to reinstate the DNA collection requirement for the crimes that were reduced to misdemeanors under Proposition 47 would address this concern.

The proposed initiative also seeks to address the issue of serial thefts. Proposition 47 changed the dollar threshold for theft to be considered a felony from \$450 to \$950.

However, there is no provision in place for repeat offenders as long as the thefts remain under \$950.

Imposing a felony for a third conviction for theft, if the value exceeds \$250, is intended to stop the ability of someone to commit multiple thefts with little or no penalty.

Another change that would be made is that the Board of Parole Hearings (BPH) would need to consider an inmate's entire criminal history when deciding upon release, not just the person's most recent commitment offense.

Another concern with current law is that individuals released from prison on supervision may commit many violations before there is a revocation. The requirement in the proposed initiative that a mandatory hearing be held to determine whether supervision should be revoked for an individual who violates the terms of his or her supervision for the third time is intended to address this.

This provision does not mean that there must be a revocation on the third violation. It would, however, serve as a way for the Court to determine if there are problems with supervision that need to be dealt with before something more serious happens. This also provides an opportunity to determine if any programs that are serving the individual have been effective or not with respect to the person's rehabilitation.

Assemblymember Cooper also expressed concern that current law does not give victims reasonable notice of the potential release of an inmate. The proposed initiative would provide for a 90-day period for notice and response (versus the current 30 days), and victims would not be required to pre-register in order to receive notice.

The Assemblyman reported that a number of these proposed changes have been presented for consideration in the State Legislature, but they have not been able to get through subcommittee or committee. The proposed ballot measure is intended to address this.

Questions and Comments

Lynne Lyman, proxy for Commission member Troy Vaughn, inquired about Assembly Bill 1065 (AB 1065), which addresses serial theft, and whether misdemeanants serve time in County Jail.

Assemblyman Cooper responded that AB 1065 states that there must be 3 convictions of theft for the purposes of resale, in a 12-month period, and that the prosecutor must prove conspiracy, which is very rarely charged for theft. As a result, he believes that AB 1065 will not do much to address the repeat offender problem with thefts.

Chief Stephen Johnson of the Los Angeles County Sheriff's Department said that the County Jail currently has a population of about 17,000. About 1,000 of those are

sentenced misdemeanants that are serving sentences because of their previous criminal history for a conviction(s) of a serious or violent offense.

The Sheriff has discretion to provide early release due to jail overcrowding in the county. This results in most misdemeanants that don't have a prior serious or violent criminal offense being released upon conviction.

Commission member Priscilla Ocen noted that, given that there is a lot of data that Commission members don't have, it is difficult to assess the necessity for this proposed ballot initiative, or its effects in this county. She also noted that Proposition 57 makes individuals charged with qualifying offenses eligible for early release, but it does not mandate release.

Assemblymember Cooper reported that there is a potential ruling from a Court that could result in the early release of low level offenders, possibly including low level sex offenders. This is a pending case.

Chief Probation Officer Terri McDonald confirmed that Proposition 57 does not mandate release on "lifer hearings," where the BPH makes those decisions. However, she explained that there is a second component to Proposition 57 that deals with milestone credits.

Milestone credits may be earned through various accomplishments such as finishing school or a drug treatment program. Proposition 57 didn't allow eligibility for milestone credits for individuals convicted of sex offenses, but the pending Court case referenced by the Assemblyman may change that.

Mr. Green stated that preventing inmates from being allowed to earn milestone credits could serve as a disincentive to them taking courses or participating in rehabilitation services in prison.

Chief McDonald confirmed that compliance in custodial operations generally increases when inmates believe that they have more to gain.

Commission member Brian Moriguchi inquired as to the process needed in order to get these changes passed through the legislative process.

Assemblyman Cooper stated that any proposed bill would need to be passed out of the Public Safety Committee first. A bill could be double or even triple referred to other committees as well. It would next go through the Appropriations Committee, then be approved on the floor of the Assembly, and then go to the State Senate and go through the same circumstances.

Chief Bob Guthrie noted that last year a bill that addressed some of the issues discussed at this meeting made it through both the Assembly and Senate, but it was vetoed by the Governor. He noted that a bill can also be stopped at that point as well.

Assemblymember Cooper emphasized that the reason why this ballot initiative is being proposed is because these changes have not been able to get through the legislative process and signed into law.

Commission member Peter Bibring inquired whether there was any data to show that the proposed increase in the number of crimes that are considered to be violent felonies would have an effect on public safety.

Assemblymember Cooper stated that there isn't, and he is not aware of data on either side of this issue. He stated that the intent of the change is to make existing law correspond to the expectations of voters as to what the criminal justice reform laws do and don't do.

Ms. Ocen expressed concern that some of the changes in the proposed initiative would make it more difficult for people to get out of prison or not go back to prison. Ms. Ocen added that there are a number of states that don't have parole because it can cause people to go back into the prison system, often for very technical violations.

Assemblymember Cooper stated that he has been told in his conversations with Parole personnel that parolees are not being returned to prison for violations. The proposed ballot measure would not mandate a return to prison upon the third violation, but would have the matter go to Court to determine what steps to take next, which may include a change to the supervision for the better.

He added that victims deserve to be heard about a possible early release, particularly in cases of sexual assault. Many victims don't know to pre-register so there is no victim statement considered by BPH. Further, he maintained that past conduct can be a predictor of future conduct, and therefore should be taken into account in deciding upon release. BPH should have a comprehensive record of the person that they are considering for release, and that doesn't currently exist.

Dr. Barbara Ferrer inquired as to whether there is data to show if the individuals convicted of the crimes that would be added to violent felonies have been found to be reoffending at a rate that would justify the proposed change. She also inquired as to how much sentences are being reduced as a result of the credit earning system.

Assemblyman Cooper stated that the proposed initiative would not say that those convicted of the crimes added to the violent crimes list are ineligible for parole. It would say that they must serve a majority of their sentence and not be released early. With respect to data, he said that information from the California Department of Corrections and Rehabilitation (CDCR) for Fiscal Year 2012-13 states that there is a recidivism rate of 50% among all parolees.

Commission member Brendon Woods commented that the proposal to address serial thefts could result in an individual with petty thefts from many years past committing an act of petty theft for over \$250 and being sent to prison for several years.

He added that Proposition 57 is relatively new and there isn't an ability to measure its effect yet. He stated that it reduces time in prison by small increments but helps to manage the state's prison population.

Judge Peter Espinoza noted that 20% of release requests under Proposition 57 are granted. He inquired as to how many of this 20% are registered sex offenders or have committed crimes that would be added to the violent crime list under the proposal.

Commission member Kellyjean Chun stated that there have been inmates released that she does not believe met the qualifying criteria under Proposition 57. This happened over objections from the District Attorney's Office.

She stated that this was not the result of receiving credits that shouldn't have been received, but rather because they were placed in the non-violent felony category.

Judge Gordon thanked Assemblymember Cooper for taking time to speak this Commission.

Public comments on this Agenda Item were made by Mr. Adam Siegel, Mr. Tom Hoffman, Mr. Joseph Maizlish, and Ms. Michele Hanisee.

ACTION: For information only.

V. INFORMATIONAL PRESENTATION/DISCUSSION ON PROSECUTION OPERATIONS AND VICTIMS RIGHTS

The District Attorney's Office had been asked by the Chair to present information on how criminal justice reform laws have impacted crime victims. Ms. Chun serves as the Bureau Director of Prosecution Support Operations for the District Attorney's Office. This Bureau handles post-conviction matters, including many of the matters that relate to AB 109, Proposition 47, and Proposition 57.

Ms. Chun introduced Lydia Bodin, Special Assistant for the Bureau of Victim Services, and Kraig St. Pierre, Deputy-in-Charge of the Parole Revocation Section, to address the Commission about issues that are impacting victims and the rights of victims.

Bureau of Victim Services

Ms. Bodin addressed the impact of AB 109, Proposition 47, and Proposition 57, and provided a [handout](#) summarizing the information.

When AB 109 was implemented in 2011, it shifted certain portions of the prison and state parole population to the counties, but did not give counties the authority to collect restitution from them. A series of legislative fixes in 2015 created the ability of counties to collect from these individuals. After the legislative fix was made, Los Angeles County had to create mechanisms for collecting from those in county jail and those on supervision.

This county now currently collects from individuals on PRCS and mandatory supervision. Implementation of collection from inmates sentenced to county jail pursuant to PC 1170(h) is still in progress, but this may begin in the summer of this year. That will still mean that there will have been nearly seven years of no restitution collection from those inmates that would have had to pay restitution had AB 109 not passed. Ms. Bodin reported that a conservative estimate is that \$1.3 million has not been collected and distributed to victims of crime.

Proposition 47 reduced certain felonies to misdemeanors. This impacted victims in that there is institutionalized restitution collection on behalf of victims of felonies, but not for victims of misdemeanors.

Many of the felonies that were reduced to misdemeanors are monetary crimes that result in a loss of less than \$950. If a victim of a misdemeanor wants their restitution, they must begin civil collection procedures pursuant to P.C. 1241, which is very difficult to do. As a result, most victims do not try to get their restitution civilly.

One impact of Proposition 57 is that inmates may be released back into the community earlier than victims may have anticipated. In some cases, this may be several years earlier.

If the victims have pre-registered, they will receive a letter from CDCR informing them of the possible early release. This has resulted in the need for additional victim services to assist victims in lodging their opposition to the release and assisting them with managing their fear through crisis intervention related to the potential release of the individual.

In addition, given that early release under Proposition 57 is an administrative process involving a review of documentary information, victims cannot be present in the same manner as they are in a regular parole hearing. Also, some victims have an expectation that the person sentenced will serve the full term, so they may not think to pre-register and request a release notification in anticipation that they would need to speak in opposition to an early release.

Parole Revocation Section

Mr. St. Pierre provided the following data:

Nonviolent Parole Release (NVPR) Total as of March 28, 2018

- Notification Letters Received from BPH: 2,155
- BPH Release Denials: 1,354
- BPH Release Approvals: 376
- BPH Pending Release Decisions: 185
- Ineligible: 240

- Statewide Grant Rate: Approximately 20%

- Los Angeles County percent of statewide parole population: 38%

NVPR is the Proposition 57 process. Thus far, about 20% of those considered for release under Proposition 57 have been granted release. However, Mr. St. Pierre noted that those individuals that are not granted release are eligible to be considered in the following year and in the years after that.

In addition, given that Proposition 57 is still relatively new, Mr. St. Pierre stated that it is too early to say what the data will look like in the coming years. For example, most of the individuals that have been considered for early release have not been through the new process long enough to receive the new credits that are available.

Marsy's Law Compliance Efforts

- Potential release notification letters sent to victims: 3,325
- Number of victim responses received: 84
- Number of return to senders received: 788

When the District Attorney's Office is notified that a person is being considered for early release under Proposition 57 and that the Office has 30 days to respond, the Office will work to let victims know that the inmate is eligible for release and will try to get their feedback. As noted, many victims do not pre-register to receive notice, so it is sometimes difficult to locate the victims.

If feedback from the victim is obtained, it is incorporated into the BPH response letter from the District Attorney's Office.

Nonviolent second strike (NVSS) totals as of March 28, 2018

- Notification Letters Received from BPH: 887
- BPH Release Denials: 659
- BPH Release Approvals: 228

In addition to the NVPR Proposition 57 process, there is the NVSS process whereby inmates that have served at least half of their sentence are considered for early release.

NVSS was instituted by CDCR in an attempt to cooperate with the federal judicial oversight ruling to reduce prison population numbers.

With Proposition 57, the eligible inmates can be considered for release earlier than at the mid-way point of their total sentence. NVSS is no longer used much since the passage of Proposition 57, and it will no longer exist after June 30th of this year.

Recidivism

The District Attorney's Office plans to begin collecting recidivism data on the population that is released under Proposition 57.

Questions and Comments

Dr. Ferrer stated that an important service for a victim includes providing an inmate with the necessary services while in custody to rehabilitate the individual so that he or she will not reoffend upon release.

Chief McDonald inquired about the 240 individuals found to be ineligible under Proposition 57. Mr. St. Pierre stated that the number of inmates considered for early release that have been determined to be ineligible has decreased in the past six months as the process has been refined.

Ms. Lyman asked about data on who receives victim services, including by race or prior criminal history.

Ms. Bodin reported that the Bureau of Victims Services provided assistance to 21,000 people last year. Many of those served are poor and/or individuals of color.

In addition to the Bureau of Victims Services (BVS) in the District Attorney's Office, there is also the California Victim Services Compensation Board (CVSCB).

The BVS provides a wide range of services. In addition to direct services, victims may also be directed to outside services. Ms. Bodin noted that BVS administers a SAMHSA grant that provides funding to Community Based Organizations (CBOs) that offer services to victims of crime.

There is also another level of services that BVS administers but on a fee-for-service contract for CVSCB. The CVSCB has very stringent rules with regard to when services are provided to individuals with criminal backgrounds or those that have been tangentially involved in crime.

Ms. Bodin emphasized that CVSCB is a state agency. The BVS does not have the rules pertaining to prior criminal conduct that the CVSCB has. BVS does assist victims with a criminal past.

Jenny Brown of the Public Defender's Office remarked that she is encouraged that the District Attorney's Office will be collecting information on the recidivism rate. She stated that, while not minimizing the fear factor that may exist for victims, there isn't enough information currently available to evaluate Proposition 57. Obtaining this data is therefore very important.

Mr. Green stated that the presentations reinforce for him the challenge of having these discussions at a full meeting when data does not yet exist to demonstrate the impact on public safety, particularly with Proposition 57. Additionally, the proposed ballot initiative may create a disincentive to rehabilitation. He requested to hear from victims of crime that have had positive interactions with the justice system as well as hear from the perspective of Proposition 57 advocates as to why it would be premature to push back on that law at this time.

Mr. Moriguchi cautioned that while everyone would like to have more information to help with decision-making, data can also be manipulated.

Mr. Moriguchi thanked the presenters and noted that criminal justice policies are not just about programs or incarceration, but also about real people that have been victimized and may continue to be fearful.

Michelle Kim of the Alternate Public Defender's Office inquired as to whether restitution is being collected on misdemeanors in Court.

Ms. Chun stated that this occurs in some cases where the prosecutor and defense attorney reach an agreement for the defendant to make regular restitution payments, but this does not happen often. Ms. Bodin added that the Court is not collecting the restitution. She also agreed that this practice is rare.

Ms. Ocen stated that she would like to hear of other experiences and perspectives with respect to AB 109, Proposition 47, and Proposition 57. She also expressed concern about a rush to judgement with respect to Proposition 57.

With Proposition 47, she stated that she would like to know how many individuals are impacted by the inability to collect restitution due to the change in law, and how many would apply for restitution.

A public comment was made by Mr. Joseph Maizlish.

ACTION: For information only.

VI. UPDATES AND REPORT BACKS FROM AD HOC SUBCOMMITTEES

Mr. Delgado provided a brief update on the work of the subcommittees:

Ad Hoc Subcommittee on Analysis of Violent Crimes Statutes

Much of the discussions from today's meeting will be continued at the next meeting of this subcommittee.

Ad Hoc Subcommittee on Flash Incarceration and Revocation Policies

This subcommittee is considering the following areas for potential recommendations:

- Information sharing with CDCR;
- Expanding the availability of services for those coming through the Revocation Court;
- Custody liaison for individuals in custody on revocation; and
- Information/data sharing with Probation on new arrests of individuals who are on supervision.

Ad Hoc Subcommittee on Very High Risk AB 109 Supervised Persons & Ad Hoc Subcommittee on the Analysis of 100 Misdemeanants Under Proposition 47

There are ongoing discussions with the County CEO's Office to identify data resources that can be used to support the analysis of these subject populations.

Ad Hoc Subcommittee on Model Programs and Best Practices

A survey is being conducted to identify current services in the county, any gaps or challenges that exist, and any notable programs and best practices from other jurisdictions.

Public comments were made by Mr. Ken Mendoza, Mr. Daniel Valdez, and Ms. Ingrid Archie.

ACTION: For information only.

VII. CONSIDERATION AND DISCUSSION OF INFORMATIONAL DOCUMENTS DISTRIBUTED TO THE COMMISSION

A [fact sheet](#) was made available on a recent study conducted by the University of California at Irvine (U.C. Irvine) on the impact of Proposition 47. The full study is targeted for release in late summer/early fall.

Public Comments were made by Ms. Michele Hanisee and Ms. Bridget Cervelli.

ACTION: For information only.

VIII. ITEMS NOT ON THE POSTED AGENDA TO BE PRESENTED OR PLACED ON THE AGENDA FOR ACTION AT A FUTURE MEETING

Mr. Bibring asked if the individuals who conducted the U.C. Irvine study could be invited to speak to this Commission. Ms. Ocen agreed with this request. She also requested that the Commission hear from CBOs that can speak to the effects of the criminal justice reform laws.

ACTION: For information only.

IX. PUBLIC COMMENT

There were no public comments.

X. ADJOURNMENT

The meeting was adjourned at 3:49 p.m.

The next meeting is scheduled for Wednesday, April 25, 2018, at 1:30 p.m.