



To: Members of the RCRC Board of Directors
From: Paul A. Smith, Senior Vice President Governmental Affairs
Date: June 9, 2020
Re: Public Safety Ballot Initiative - **ACTION**

Summary

This memo provides an analysis of the Public Safety Ballot Initiative (commonly referred to as the “Cooper Initiative,” given Assembly Member Jim Cooper’s involvement in advancing these changes) which would, among others, restrict parole for non-violent offenders, and authorize felony sentences for certain offenses currently treated as misdemeanors. RCRC staff recommends adopting a “Support” position on this measure.

Background

Criminal offenses involving the Penal Code are generally classified as infractions, misdemeanors, and felonies. Prior to 2011, offenders convicted of committing felonies generally served time in state prison and, upon release, were supervised by state parole. With the enactment of the 2011 criminal justice realignment (commonly known as AB 109), offenders convicted of specified low-level felonies serve their sentences in county jail, and certain offenders exiting state prison now are supervised on a county probation caseload (in a new status called Post-Release Community Supervision).

Over the past twenty years, the voters have enacted a variety of measures relating to criminal justice. These include:

- Proposition 8, 1982 - “The Victims’ Bill of Rights” related to sentencing
- Proposition 184, 1994 - “Three Strikes – You’re Out” sentencing requirements
- Proposition 21, 2000 - “The Gang Violence & Juvenile Crime Prevention Act”
- Proposition 9, 2008 - “Marsy’s Law”
- Proposition 36, 2012 - revised the “Three strikes” law, more restrictive
- Proposition 47, 2014 – reclassifying certain misdemeanors/felonies
- Proposition 57, 2016 - “Governor’s Criminal Justice Initiative” – changed parole consideration processes, credit earning, and policies on juvenile prosecution

In 2014, voters considered Proposition 47, the Safe Neighborhoods & Schools Act, which reduces criminal penalties (from felonies to misdemeanors) for certain specified crimes and dedicates the state 'savings' from these penalty reductions to a variety of programs. The RCRC Board of Directors voted to "Oppose" Proposition 47. Proposition 47 was approved statewide with 59.6 percent. As a result of the election, RCRC members were divided on the measure – voters in 18 RCRC member counties supported while voters in 16 RCRC member counties opposed.

In 2016, voters considered Proposition 57, the "Governor's Criminal Justice Initiative," which allows certain nonviolent felons to seek early parole, returns discretion to judges for determining which juveniles may be tried in adult court, and accelerated credit earning associated with an inmate's participation in rehabilitative programming. The RCRC Board of Directors adopted a "No Position" on Proposition 57. Proposition 57 was approved statewide with 63.7 percent. Voters in RCRC member counties were divided in that 22 counties supported the measure while 13 opposed. Of the RCRC member counties, Napa supported Proposition 57 with 69.3 percent, while it received only 34 percent in Lassen.

Issue

The Public Safety Ballot Initiative would make changes in four primary areas: 1) increase criminal penalties for certain theft-related crimes (serial theft and organized retail theft); 2) change aspects of how offenders are supervised in the community; 3) modify the process created by Proposition 57 for considering the release of certain offenders from prison; and, 4) expand DNA collection requirements to include adults who commit specified misdemeanors.

Important aspects of the Public Safety Ballot Initiative to note for counties include the following. The measure would enact various changes to community supervision of persons exiting the state prison system, including requiring (1) probation departments to ask a judge to change the terms of a PRCS offender's supervision if that person has violated them for a third time and (2) state parole and county probation departments to exchange more information about the offenders they supervise. Also, the initiative authorizes felony charges for specified theft crimes currently chargeable only as misdemeanors, including some theft crimes where the value is between \$250 and \$950. Finally, the measure requires persons convicted of specified misdemeanors to submit to collection of DNA samples for state database.

Opponents of the initiative, mainly the reform groups that advocated for passage of Proposition 47 and Proposition 57, have characterized the Public Safety Ballot Initiative as a rollback of successfully enacted and needed reforms.

RCRC has supported two components of the Public Safety Ballot Initiative when it has appeared as bills in the legislative process. Assembly Bill 390 (Cooper, 2015) would have allowed for the restoration of DNA sample collection for crimes which were previously felonies but were reclassified as misdemeanors by Proposition 47. Assembly Bill 1869 (Melendez, 2016) would have allowed for the restoration of criminal penalties associated with stealing a firearm which were previously classified as felonies. These two bills, and nearly every legislative attempt to modify/address both Proposition 47 and

Proposition 57, have been defeated in the Legislature.

Staff Recommendation

RCRC staff recommends the RCRC Board of Directors adopt a “Support” position for the Public Safety Ballot Initiative.

Attachments

- Copy of the Public Safety Ballot Initiative
- Copy of RCRC Support Letter for Assembly Bill 390 (Cooper)
- Copy of RCRC Support Letter for Assembly Bill 1869 (Melendez)