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Date: June 4, 2024

To: Honorable Mayor and City Council

From: Councilmember Kristina Duggan
Councilmember Dr. Joni Ricks-Oddie
Councilmember Mary Zendejas

Subject: Report on Proposed Legislation Related to Retail Theft, Drug Use, and “Smash and Grab” Crimes

RECOMMENDATION

Recommendation to request the City Manager, through the Governmental Affairs team and in coordination with the City Prosecutor, Police Department, and Health and Human Services Department, provide an overview of proposed legislation that serves to address retail theft, drug use, and “smash and grab” crimes in California, within 30 days. This overview, provided as a Council letter and presented to the Public Safety Committee, should include a description of the Homelessness, Drug Addiction, and Theft Reduction Act, Californians Together Against Retail Theft package, Working Together for a Safer California Plan package, #SmartSolutions Policy Platform, and other related proposals as appropriate.

Recommendation to request the City Manager, through the Governmental Affairs team and in coordination with the City Prosecutor, Police Department, and Health and Human Services Department, provide policy position recommendations, through a Council letter and presented to the Public Safety Committee, on proposed legislation that furthers priorities included in the City Council-approved 2024 Legislative Agenda¹ including the following legislative priorities:

- Support legislation that allows for higher penalties for repeat offenders of property crimes such as purchase, sale or theft of precious metals such as copper and those found in catalytic converters.
- Support legislation and seek funding to assist in preventing and reducing the number of deaths from illicit sales of opioids, including fentanyl, by holding drug traffickers accountable.
- Support legislation for stronger sentencing of those using motor vehicles to evade peace officers, committing residential burglary, and/or habitual, repeat offenders of

¹ [Microsoft Word - TFF Adopted 2024 Legislative Agenda .docx \(longbeach.gov\)](#)

property crimes such as automobile theft, automobile burglary, package theft, and theft from an automobile.

DISCUSSION

In 2014, Proposition 47 was approved by voters to reduce over-incarceration and allow for our justice system to focus on serious offenses. This well-intended initiative was aimed to keep non-violent offenders out of our prison system, therefore avoiding the long-term impacts a felony record can have on their futures. It is important for us to recognize the lasting impacts over-incarceration has had on marginalized communities and uplift the City's effort to right past wrongs. This includes creating the [Office of Equity](#) and [Office of Police Oversight](#) as well as using the [Framework for Reconciliation](#) to guide our decision making.

Prop 47 aligns with our reconciliation effort, and it was aimed to avoid imposing harsh punishments for petty crimes, which overwhelmingly impacted low-income communities of color. Along with this effort, diversion programs have been expanded greatly in the last decade, and it is important to highlight the work of our [City Prosecutor](#) who has led in this area including establishing the first Law Enforcement Assisted Diversion (LEAD) Program which allows officers to make direct referrals to case managers without involvement of the courts.

These programs are critical, but there is a desire throughout the State to find a better balance between having compassion for people and having accountability for illegal activities. Currently, punitive sentences are more attractive than treatment for individuals addicted to hard drugs who repeatedly commit non-violent offenses, and this has led to people not getting the help they need.

Drug Courts and Overdoses

A study by the Center for Court Innovation surveyed 67 adult drug courts across California and found that 67% of drug courts saw a reduction in caseloads after 2014 and over half reported a significant reduction.² In over half of the courts, eligible defendants were more likely to refuse participation with the most common reason being the treatment was too long and intensive. Other reasons were that better legal outcomes were available outside of drug court and that the defendant was not ready to commit to treatment.³

During this same period, California has seen an increase in overdose related deaths, and a spike in overdose related deaths related to fentanyl.⁴

In Los Angeles County, accidental fentanyl overdose deaths increased 1,652% from 109 in 2016 to 1,910 in 2022. From 2016 to 2021, fentanyl overdose Emergency Department visits increased 621% from 133 to 959, and fentanyl overdose hospitalizations increased 225% from 102 to 332 cases.⁵

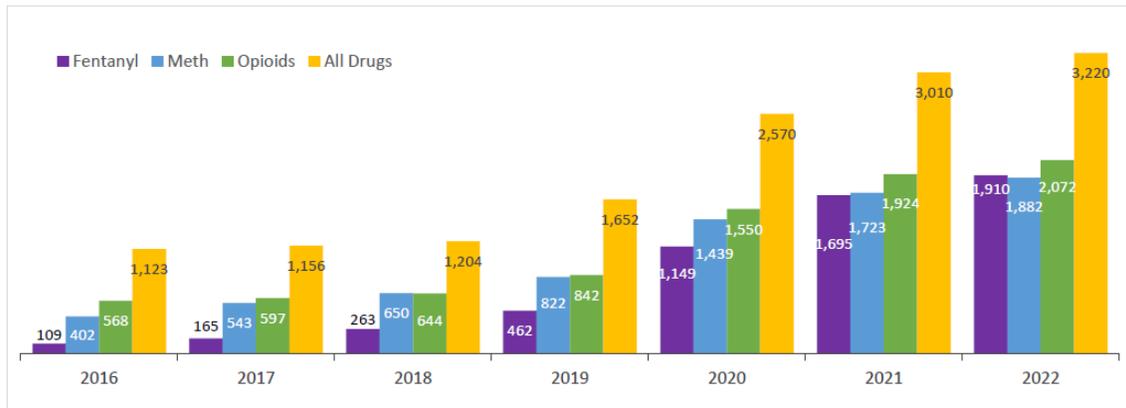
² [Microsoft Word - Report_SentencingReform_02262020.docx \(innovatingjustice.org\)](#)

³ [Microsoft Word - Report_SentencingReform_02262020.docx \(innovatingjustice.org\)](#)

⁴ [Opioid-Related Overdose Deaths in California, 2021](#)

⁵ [FentanylOverdosesInLosAngelesCounty.pdf \(lacounty.gov\)](#)

Figure 1. Drug Overdose Deaths by Drug, LAC, 2016-2022



*Notes: All drug overdose deaths in this report are due to accidental drug overdose, excluding intentional overdose such as suicide. Opioids refers to accidental overdose deaths involving all opioids, including fentanyl and heroin. Meth refers to methamphetamine. All drugs refer to all accidental overdose deaths involving alcohol and/or drugs, including fentanyl, meth, and opioids.

While Prop 47 and Drug Courts are both proven to have positive impacts including reducing recidivism, these efforts together have created a system where Drug Courts are no longer the favorable option for people. The City is taking action to increase outreach and service availability but are limited to encouraging people to get treatment, and we look to our partners within the justice system for support.

Mental and Behavior Health Treatment Programs

We know mental and behavioral health treatment is needed, and the City is advocating for more of these services so people can get the help they need. The City is working with National Healthcare and Housing Advisors (NHHA) to permit Community Hospital to be a facility that offers recuperative care, sobering beds, a housing navigation center, and other critical services. While NHHA is still in the process of opening, we are already hearing success stories from this facility. The City of Long Beach also took a support position for the voter-approved Proposition 1, which will raise billions of dollars for critically needed treatment and housing.

Prop 1 was not the first time our State has voted to allocate additional funding for mental and behavioral health treatment. When Prop 47 passed in 2014, it required that each year the state savings generated by the implementation of Proposition 47 would be deposited into the Safe Neighborhoods and Schools Fund. It required 65% of these savings be set aside annually for the Board of State and Community Corrections to administer a competitive grant program where funding would be awarded to public agencies to provide mental health services, substance use disorder treatment, case management, employment services, transportation, and/or diversion programs for those in the criminal justice system.⁶

According to the Board of State and Community Corrections website, the Prop 47 Cohort Grants have awarded:

- \$103 million from Prop 47 Cohort I covering June 2017 to August 2021;
- \$96 million from Prop 47 Cohort II covering August 2019 to May 2023;

⁶ https://www.bscc.ca.gov/s_bscprop47/

- \$125 million from Prop 47 Cohort III covering September 2022 through June 2026.⁵

Evaluation reports from the Board of State and Community Corrections demonstrate funding is significantly improving outcomes. For example, a new report evaluating Cohort II finds that people who participated in a social program funded by Proposition 47 had a recidivism rate of 15.3% compared with 35% to 45% for people traditionally incarcerated by the Department of Rehabilitation and Corrections.⁷ Moreover, we have seen improvements in housing and employment status with 60% decrease in homelessness and 50% drop in unemployment.

Unfortunately, while these programs are working, Prop 47 Cohort II Grants served 21,706 participants while California had 161,625 and 132,801 misdemeanor drug offense arrests in 2020 and 2021, respectively.⁸

Once this funding trickled down, Los Angeles County has received a mere \$58.6 million⁹ dollars from this program since 2017 or approximately \$8 million dollars a year to serve the large number of individuals.¹⁰ While this funding is critical, it is a fraction of the need, and cities and counties are left diverting funding from other critical uses to address the symptoms of a rehabilitation system that needs improvement.

Los Angeles County Jail Population

We are finding that incentivizing people to get help without consequences for destructive and illegal behavior doesn't work in all cases. In severe cases where our communities are repeatedly harmed, low level consequences amounting to just a few hours in custody lack the impact needed to change behavior.

Currently, in Los Angeles County, people convicted of a misdemeanor and sentenced to 240 days or less in jail are immediately released from custody after being processed in court. Also, inmates serving traditional county sentences of more than 240 days will only complete 10% of their sentence before being released.¹¹ Since it is rare for a misdemeanor sentence to exceed 240 days, this means almost all those convicted of misdemeanor crimes are released immediately with no requirement for treatment or a diversion program.

Although county jails were designed to hold people for short-term misdemeanor sentences and those awaiting trial, AB 109 and Prop 47 have systematically shifted the responsibility of rehabilitation from the State to counties and cities without the support needed.

⁷ <https://www.bscc.ca.gov/wp-content/uploads/2024/02/H-2-Proposition-47-Cohort-2-Final-Evaluation-Report-FINAL-1.pdf>

⁸ [Crime in California 2021](#)

⁹ This figure doesn't include grants awarded to other public agencies within Los Angeles County, although the City of Long Beach is not on the list of grantees.

¹⁰ https://www.bscc.ca.gov/s_bsccprop47/

¹¹ [Custody Division Fourth Quarter 2022 Report \(lasd.org\)](#)

Currently 5 percent of the total County jail population is in custody for a misdemeanor arrest and of the 12,345 total population in County jail, 71 people, or 0.5%, are in custody because of an arrest for misdemeanor property crime or drug crime.¹²

Total Population (Sentence Status 1-3)

Arrest Category	Property Crimes	Crimes Against Persons	Drug Crimes	Vehicle Codes	Weapons Charges	Sex Crimes	Other	Total	% of the Population
Felony	2,122	6,550	208	136	676	568	1,438	11,698	95%
Misdemeanor	63	491	8	23	13	33	16	647	5%
Total	2,185	7,041	216	159	689	601	1,454	12,345	100%

**Information contained is based on a snapshot of the daily inmate population every Tuesday.*

While our efforts to reduce punishments for non-violent offenders have been successful, changes in State law created a system where repeat offenders face little to no consequence for theft under \$950 and drug possession, and our communities are feeling the impact.

Legislative Proposals

There are several initiatives proposed attempting to give our justice system the tools needed to address retail theft, drug addiction, and “smash and grab” crimes, and each proposal has bi-partisan support and focuses on rehabilitation including providing treatment.

For example, Assembly Speaker Rivas and Assemblymember Zbur proposed The Retail Theft Reduction Act which, in part, “creates a new crime targeting “serial” retail thieves, with a penalty of up to three years behind bars for possession of stolen property with intent to resell.”¹³ As part of the same bill package, Assemblymember McCarty proposed AB 1794 which allows theft crimes by the same perpetrator to be aggregated between different places and victims.

Senate President pro Tempore Mike McGuire and a Senate Coalition proposed The Working Together for a Safer California Plan which “focuses on both the fentanyl crisis and retail and community-based crime, and includes increasing access to treatment, offering rehabilitative services for those already in the criminal justice system, preventing trafficking of dangerous new substances, and addressing and deterring retail theft and community-based crimes.”¹⁴

There is also an initiative, the Homelessness, Drug Addiction, and Theft Reduction Act, likely coming to the ballot in November which would create a new class of crimes called “treatment-mandated felonies” and it provides the option for serial offenders to be charged with felonies

¹² [Custody Division Fourth Quarter 2022 Report \(lasd.org\)](https://www.lasd.org/news/custody-division-fourth-quarter-2022-report)

¹³ <https://speaker.asmdc.org/press-releases/20240409-speaker-robert-rivas-assembly-lawmakers-announce-comprehensive-bipartisan>

¹⁴ <https://sd02.senate.ca.gov/news/senate-leader-mcguire-senate-colleagues-announce-new-bipartisan-legislative-package-working#:~:text=But%20collectively%2C%20they%20are%20working,up%20and%20down%20our%20state.>

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after the third offense, while offering treatment programs to have the charges removed completely.

These are just a few of the many proposals, and in times of change and uncertainty, we must gather the information needed to have an informed discussion about how best to address the challenges our City and State are facing. In initiating a proactive discussion of the current legislative landscape and potential local impacts, the City of Long Beach can be a leader in demonstrating its commitment to supporting rehabilitation and treatment for those struggling with addiction, enhancing public safety, and ensuring accountability for serial offenders.

This matter has been reviewed by Budget Analyst Joe R. Guerrero on May 29, 2024.

FISCAL IMPACT

Recommendation to request the City Manager, through the Governmental Affairs team and in coordination with the City Prosecutor, Police Department, and Health and Human Services Department, provide an overview of proposed legislation that serves to address retail theft, drug use, and "smash and grab" crimes in California, within 30 days and provide policy position recommendations, through a Council letter and presented to the Public Safety Committee, on proposed legislation that furthers priorities included in the City Council-approved 2024 Legislative Agenda. This recommendation is anticipated to require a minimal level of staff hours beyond the budgeted scope of duties and is expected to have moderate impact on existing City Council priorities. There is no local job impact associated with this recommendation.

SUGGESTED ACTION

Approve recommendation.

Respectfully submitted,



Kristina Duggan, Councilmember, Third District



Dr. Joni Ricks-Oddie, Councilmember, Ninth District



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Mary Zendejas, Councilmember, First District