

COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE

MINUTES OF THE November 19, 2014 MEETING

Kenneth Hahn Hall of Administration

500 West Temple Street, Room 739

Los Angeles, California 90012

MEMBERS AND ALTERNATES PRESENT

Chairman: Don Knabe, County Supervisor for the Fourth District and
Chairman of the County Board of Supervisors

*Erika Anzoategui for Janice Fukai, County Alternate Public Defender

*Michael Brooks for Cynthia Harding, Acting Director, County Department of Public
Health

Ronald Brown, County Public Defender

Daniel Calleros, President, Southeast Police Chiefs Association

*Dardy Chen for William Fujioka, County Chief Executive Officer

Paul Cooper, President, Los Angeles County Police Chiefs Association

Bill Dance for Dan Bower, Chief, Southern Division, California Highway Patrol

Walter Flores for John Deasy, Superintendent, Los Angeles Unified School District

*Victor Greenberg for James Brandlin, Supervising Judge, Criminal Division, Superior
Court

*Victor Greenberg for Scott Gordon, Assistant Supervising Judge, Criminal Division,
Superior Court

Craig Harvey for Mark Fajardo, County Coroner – Medical Examiner

Christa Hohmann, Directing Attorney, Post Conviction Assistance Center

*Dan Jeffries for Mike Feuer, Los Angeles City Attorney

Mary Marx for Marvin Southard, Director, County Department of Mental Health

Jonathan McCaverty for Mark Saladino, County Counsel

Terri McDonald for John Scott, Sheriff

Edward McIntyre, Chair, County Quality & Productivity Commission

Emilio Mendoza for Philip Browning, Director, County Department of Children and
Family Services

Don Meredith for Cyn Yamashiro, President, County Probation Commission

*Alex Mishkin for Eric Garcetti, Mayor, City of Los Angeles

William Montgomery for James Jones, Director, County Internal Services Department

Michel Moore for Charlie Beck, Chief, Los Angeles Police Department

*Tyler Munhall for Miguel Santana, Los Angeles City Chief Administrative Officer

Fred Nazarbegian for Richard Sanchez, County Chief Information Officer

Margarita Perez for Jerry Powers, County Chief Probation Officer

Ezekiel Perlo, Directing Attorney, Indigent Criminal Defense Appointments Program

Robert Philibosian for Isaac Barcelona, Chair, County Economy and Efficiency
Commission

Devallis Rutledge for Jackie Lacey, District Attorney and Vice Chair of CCJCC

Joseph Santoro, Independent Cities Association

David Singer, United States Marshal

*Mike Terrell for Michelle Carey, Chief U.S. Probation Officer
Robin Toma, Executive Director, County Human Relations Commission
Robin Toma for Cynthia Banks, Director, County Department of Community & Senior Services
Lance Winters for Kamala Harris, California Attorney General
Erin Zapata for Carlos Canino, Special Agent in Charge, U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives

***Not a designated alternate**

MEMBERS NOT PRESENT OR REPRESENTED

Jeffrey Beard, Secretary, California Department of Corrections and Rehabilitation
Sherri Carter, Superior Court Executive Officer
Arturo Delgado, Superintendent, County Office of Education
Mitchell Englander, Los Angeles City Council, 12th District
Peter Espinoza, Judge, Los Angeles Superior Court
Eve Irvine, President, South Bay Police Chiefs Association
David Jennings, Field Office Director, U.S. Immigration and Customs Enforcement
William Lewis, Assistant Director in Charge, Los Angeles Division, Federal Bureau of Investigation
Steven Ly, California League of Cities
Michael Nash, Supervising Judge, Juvenile, Superior Court
Hilary Potashner, Federal Public Defender
Richard Propster, Peace Officers Association of Los Angeles County
Phillip Sanchez, President, San Gabriel Valley Police Chiefs Association
Mike Webb, County Prosecutors Association
David Wesley, Presiding Judge, Superior Court
Anthony Williams, Special Agent in Charge, U.S. Drug Enforcement Administration
Stephanie Yonekura, U.S. Attorney

I. CALL TO ORDER / INTRODUCTIONS

Don Knabe, County Supervisor, Fourth District

The meeting was called to order at 12:00 p.m. by Los Angeles County Supervisor Don Knabe, Chairman of CCJCC.

Self-introductions followed.

II. SUPERVISOR'S REMARKS

Supervisor Don Knabe has served as Chairman of CCJCC for the past year. In December, Supervisor Michael Antonovich will assume the role of Chairman.

Supervisor Knabe extended his thanks and appreciation to the members of CCJCC for their work and dedication during the past year. He noted that committee members have been addressing a number of important issues, including AB 109, the County Jail Master Plan, mental health diversion efforts, child sex trafficking, and now the implementation of Proposition 47. These will all remain pressing matters in the coming year and will continue to require cooperation and coordination among the organizations and departments represented on CCJCC.

Supervisor Knabe also thanked Los Angeles County District Attorney Jackie Lacey for serving as the Vice Chair of this committee, as well as Mark Delgado, the Executive Director of CCJCC, and his staff.

III. APPROVAL OF THE MINUTES

Don Knabe, County Supervisor, Fourth District

There were no requests for revisions to the minutes of the September 17, 2014 meeting. A motion was made to approve the minutes.

ACTION: The motion to approve the minutes of the September 17, 2014 meeting was seconded and approved without objection.

IV. LOS ANGELES COUNTY ANNUAL HATE CRIME REPORT

Robin Toma, Executive Director of the County Human Relations Commission

Robin Toma, Executive Director of the County Human Relations Commission (HRC), appeared before CCJCC to make a presentation on the 2013 Los Angeles County Annual Report on Hate Crimes.

The Annual Report on Hate Crimes is based on an analysis of data submitted by all law enforcement agencies in the county, some local school districts, and some non-profit organizations. Duplicate reports are checked and eliminated. HRC has been collecting data for the Hate Crime Report since 1980.

Mr. Toma provided an example of a hate crime that occurred in April of 2013 as an example of how these crimes can terrorize entire communities, not just the individual victim.

To be classified as a hate crime, the offense must have the following four elements:

1. It must be a crime in and of itself;
2. There must be bias or prejudice against a protected characteristic (i.e., race/ethnicity, national origin, religion, gender, sexual orientation, or disability);
3. The bias motivation can be either real or perceived; and
4. The bias must be a substantial motivation for the crime.

Overall, there were 384 hate crimes in Los Angeles County in 2013, which is a 17% decline from 462 in the previous year. This marks the lowest total for hate crimes in the county in at least 24 years (prior to 1990, police agencies were not required to report hate crimes). This is consistent with a general trend in which hate crimes have declined since 2001. Mr. Toma did note, however, that the 2013 total still represents more than one hate crime a day.

The largest number (56%) of hate crimes were motivated by racial animus, although the total decreased by 9% from the previous year. African Americans were targeted in 64% of those cases, while comprising just 9% of the general population of the county.

Sexual orientation was the motivation in 25% of hate crimes. Although crimes targeting males fell by 41%, they still constituted 74% of homophobic attacks. A total of 71% of sexual orientation hate crimes were of a violent nature, which is a higher rate than either racial (61%) or religious (30%) hate crimes. A positive note is that hate crimes based on sexual orientation fell by 27% from the previous year.

Religion-motivated hate crimes represented 15% of the overall total, and 74% of these crimes were anti-Jewish. However, the number of hate crimes against Jewish individuals in 2013 was at the lowest number in ten years, and fell by 48% from 2012. In addition, the total number hate crimes motivated by religion fell by 37%.

Mr. Toma remarked that there has been a general decrease in hate crimes over the past ten years among the most frequently targeted groups. Hate crimes against Blacks, Latinos, Jewish individuals, and LGBT individuals are all down from 2003. Since 2007, anti-Black hate crimes have declined noticeably.

The number of hate crimes did increase for certain groups in 2013. For example, anti-transgender crimes rose from 13 to 19, and all of these crimes were violent. There was also an increase in hate crimes against lesbians (11 to 25) and Asian Pacific Islanders (12 to 15). Hate crimes involving anti-immigrant slurs remained the same at 15.

In terms of criminal offenses, there are five types of hate crimes that comprise the vast majority of hate crimes. These are Vandalism, Simple Assault, Aggravated Assault, Intimidation, and Disorderly Conduct. Hate crimes were slightly more violent overall in 2013.

Most hate crimes occur in the following four locations: (1) Public places; (2) Residences; (3) Businesses; and (4) Schools. In 2013, there were three crimes that occurred using electronic communication not tied to a specific location.

Latino-on-Black hate crime declined from 73 in 2012 to 57 in 2013, but the percentage that is gang-related increased from 50% to 56%. Black-on-Latino crime increased slightly from 18 to 25, and the percentage that is gang-related increased from 0% to 8%. Mr. Toma cautioned that this must be kept in perspective, as these statistics represent a relatively small number of incidents.

A total of 16% of hate crimes in 2013 were committed by gang members. There are about 30 gangs that are cited each year in reports on hate crimes. While this is notable, it still represents a small percentage of the approximately 1,250 gangs in the county.

Mr. Toma referenced the Grace Project Gang Reduction and Community Empowerment program that has been supported by Supervisor Knabe's Office. This program has assisted in reducing hate crimes committed by a gang in the Harbor-Gateway area. Similarly, the areas targeted by the County's Gang Violence Reduction Initiative have shown a decline in hate motivated gang-involved crime.

White supremacist ideology was found to be associated with 14% of hate crimes in 2013. The majority of these crimes involved vandalism.

A positive trend is that there was a decrease in the number of hate crimes committed by youth under the age of 18, as well as among young adults aged 18 to 25.

While hate crimes occur throughout the county, the largest number of hate crimes occurred in the San Fernando Valley, followed by the Metro region. However, if one accounts for population, the highest rate was in the Antelope Valley, followed again by the Metro region.

Mr. Toma informed the committee that a study conducted by the U.S. Department of Justice found that the actual number of hate crimes may be much higher than what is reported nationally, even as much as 24 to 28 times as high.

HRC is taking the following five steps to reduce the incidents of hate crime in the County of Los Angeles:

1. HRC staff are working with youth in schools, and a set of lesson plans have been developed.
2. A countywide "No Haters Here" youth coalition has been organized to help disseminate best practices and inspiring stories from around the county.
3. A Hate Violence Prevention partnership and network links HRC partners to help prevent hate crimes and respond to hate crimes that occur.
4. A dispute resolution program was formed that partners with a number of organizations, all of which link to the criminal justice system so that suspects in low-level crimes can be diverted to a restorative justice program. The goal of this program is to reduce recidivism among offenders.
5. HRC is part of a national campaign that seeks to address unconscious prejudices and how they affect behavior and institutions. Information can be found at www.withinourlifetime.net.

HRC will be hosting a workshop on Friday, November 21st, at the County Community and Senior Services Building. This event will focus on strategies for reducing hate crimes.

Mr. Toma thanked the members of this committee and law enforcement agencies that contributed to the Hate Crime Report. While the county is moving in the right direction, he cautioned that efforts to combat hate crime must be continued so as to prevent a reversal of the downward trend.

The 2013 Los Angeles County Hate Crime Report can be found online at the following link:

http://lahumanrelations.org/hatecrime/reports/2013_hateCrimeReport.pdf

ACTION: For information only.

V. DISCUSSION OF IMPLEMENTATION AND IMPACT OF PROPOSITION 47

Mark Delgado, Executive Director, Countywide Criminal Justice Coordination Committee

Mark Delgado, Executive Director of CCJCC, addressed the committee on efforts in the county to implement Proposition 47, as well as the potential impact on the criminal justice system.

On November 4, 2014, Proposition 47 was passed by the voters of California. As discussed at the previous CCJCC meeting, this law reduces certain property and drug offenses from felonies or wobblers to misdemeanors. In addition, since the law is retroactive, certain offenders who have been previously convicted of those crimes may apply to have their felony convictions changed to misdemeanors. This law became effective upon its passage.

Mr. Delgado referred committee members to the minutes of the September 17, 2014 CCJCC meeting for a description of the law itself, which was presented by Lieutenant Wayne Bilowit of the Sheriff's Department.

The focus of the current presentation is on the implementation of Proposition 47, particularly as it relates to case processing, custody matters, supervision (e.g., Probation and PRCS impacts), and law enforcement efforts.

A Proposition 47 Implementation Task Force has been convened by CCJCC in collaboration with the leadership of the Superior Court. The group held its first meeting on November 18th. In addition, many department representatives have held smaller meetings over the last several weeks to plan for the implementation of the law.

Mr. Delgado recommended that this committee consider formalizing the task force as a subcommittee of CCJCC. He then invited representatives from criminal justice agencies to discuss issues of implementation that are being addressed by the task force and their respective departments.

Judge Victor Greenberg of the Los Angeles Superior Court stated that each Judicial District will designate a judicial officer to hear all requests for resentencing in that District. In the Central District, two judges have been assigned, with one handling odd number cases and the other handling even number cases.

For petitions where there is an active case, the courtroom where the case is currently being heard will handle the matter to the extent possible.

Judge Greenberg cautioned that the request for resentencing does not result in an automatic approval. A petition or an application must be filed, depending on what phase the case is in, and the prosecution will determine whether or not to challenge the request based on the individual's criminal history.

There are potentially over 300,000 individuals in the state that may be eligible to apply to have felony convictions changed to misdemeanor convictions. If all of these individuals file requests for resentencing, this will create a tremendous strain on the existing resources of trial courts.

The California Department of Corrections and Rehabilitation (CDCR) estimates that there are about 4,600 prison inmates that may be eligible for Proposition 47 resentencing. Los Angeles County would receive between 1,600 and 1,800 of these individuals. However, other estimates suggest that the number may be much higher.

The District Attorney's Office has MOU's signed with the Los Angeles City Attorney, Long Beach City Attorney, Hawthorne City Attorney, and Inglewood City Attorney to continue handling the Proposition 47 cases until January 31, 2015. In the Central District, all new cases that the District Attorney is filing for the Los Angeles City Attorney will be handled in Department 40.

Assistant Sheriff Terri McDonald reported that one projection suggests that the County Jail population may drop by 1,200 individuals. Currently, the jail population is at 18,100, having fallen from a high of 19,600. However, she noted that the jail population historically trends down around this time of year.

The Sheriff's Department now has a contract with the University of California at Irvine to conduct research and make official projections on population changes in the jail.

There has not been a mass release of inmates from the jail following the passage of Proposition 47. Those that were already arraigned or were in jail prior to the passage of the law are working their way through the Court process.

Assistant Sheriff McDonald stated that there will likely be a negative effect on participation in the Fire Camp program, but it is too early at this time to know the full impact. Similarly, Proposition 47 may have a negative effect on the department's alternative sentencing programs as well.

At the previous CCJCC meeting, Los Angeles County District Attorney Jackie Lacey reported that her office was reviewing Proposition 47 and had not yet taken a formal position. Gina Satriano of the District Attorney's Office reported that, since that meeting, the District Attorney's Office did take a formal position opposing Proposition 47.

Ms. Satriano stated that the MOU's referenced by Judge Greenberg are intended to give City Attorneys the time they need to assess their resources and hire the personnel needed to handle the misdemeanor cases that they will now be responsible for. The District Attorney's Office has cross-designated attorneys to handle the Proposition 47 cases from filing through conviction and post-conviction, up through January 31, 2015.

A working group within the District Attorney's Office has been formed to evaluate the law and provide guidance and procedural policies to attorneys. Devallis Rutledge is leading this group.

Measures were also taken prior to the passage of the law to prepare Deputy District Attorneys for possible changes, and new information was distributed once the law went into effect. Policies have been shared with various justice partners and throughout the state.

The Systems Division of the District Attorney's Office is working with the Court and other justice partners to determine the impact that the law will have on the criminal justice system. It is difficult to estimate how many cases may be affected by Proposition 47 given that each case must be analyzed to determine if it is in fact eligible for a possible resentencing consideration and whether a person's criminal history would exclude the individual.

Ms. Satriano noted that there may also be disputes over the amount of loss to determine whether a particular theft qualifies as a misdemeanor or felony.

Other actions taken by the District Attorney's Office include:

- New charging documents have been drafted;
- The post-conviction discovery litigation team is creating a post-conviction policy because the law's procedures can differ depending on what stage the case is at. This is particularly important with respect to how Proposition 47 may impact Proposition 36 (Three-Strikes) petitions.
- Training videos were created and distributed to line operations filing deputies and in-court deputies, as well as a training video that was provided to law enforcement agencies on the day that the law went into effect. Materials summarizing the law were also provided to law enforcement agencies.
- The District Attorney's Office is continuing to work with justice partners to address issues that arise and to ensure an orderly transition as the law is implemented. For example, there are issues involving victims' rights and restitution, DNA sample expungements, transportation of defendants, jail

capacity and release, supervision, and individuals that are incompetent to stand trial that all need to be resolved.

Ms. Satriano also reported that future discussions will need to be held concerning the Early Disposition Program, Alternative Sentencing Courts, Drug Courts, mental health diversion, and other similar efforts so as to take advantage, where possible, of the benefits that they have provided. Proposition 47 will have a very substantial impact on all of these programs.

Dan Jeffries of the Los Angeles City Attorney's Office (LACA) stated that his office extends its thanks to all of its justice system partners in working together to implement this law. He added that this is a complicated undertaking with logistical problems that have been overcome through cooperation and a coordination among various criminal justice organizations.

The LACA is in the process of addressing its staffing and resource needs so that it is positioned to take over the cases from the District Attorney's Office on February 1, 2015.

Los Angeles County Public Defender Ron Brown introduced Assistant Public Defender Carol Clem to discuss the actions taken by his office to implement Proposition 47. As with the District Attorney's Office, an internal task force was created to develop policies and procedures for the attorneys.

Ms. Clem reported that the Public Defender's Office has created a database to handle the hundreds of calls that they have received from individuals seeking to have their felony convictions changed to misdemeanors. The Public Defender's Office estimates that it has handled about 20,000 possible Proposition 47 eligible cases every year going back indefinitely.

Ms. Clem thanked the Court and its leadership for quickly addressing case processing and other logistical issues that have been raised by the implementation of this law. She also thanked all of the justice partners for their cooperation in this endeavor.

As with other criminal justice agencies, Proposition 47 will create a strain on the existing resources of the Public Defender's Office. Therefore, they will not be in a position to handle cases that were not originally cases from the Public Defender's Office.

Ms. Clem did note, however, that the Superior Court is creating a form for filing Proposition 47 petitions or applications. When this is available for distribution, the Public Defender's Office will link to the Court's website and make the form available on its own website for individuals to complete themselves.

Ms. Clem also reminded the committee that all requests to have felonies changed to misdemeanors under Proposition 47 must be made within three years of the law's passage, so there is a time limit in place.

Supervisor Knabe inquired as to whether Drug Court programs and other alternative sentencing programs will continue now that Proposition 47 has passed. The incentive for individuals to participate has been significantly reduced.

Mr. Delgado stated that there have been initial discussions regarding this question. The Drug Court Oversight Subcommittee of CCJCC has met and discussed various possible changes that could allow programs to continue in a different form. This is one of a number of issues that will need to be resolved through future dialogue among criminal justice agencies.

Assistant Chief Probation Officer Margarita Perez reported that the Probation Department is continuing to process cases as they had prior to Proposition 47. They will not alter the terms of supervision without instructions from the Court.

The Probation Department estimates that about 33% of the 42,000 adults currently on felony probation appear to have a qualifying Proposition 47 conviction. These 14,000 individuals represent 17,000 cases. She cautioned that this estimate did not factor in disqualifying offenses, so the actual number of probationers eligible for resentencing will likely be less than the estimate.

Among the current AB 109 PSP population, it appears that there are about 1,100 individuals that may be eligible for resentencing. This estimate was also made without factoring in any disqualifying prior convictions that these individuals may have.

Chief Paul Cooper of the Los Angeles County Police Chiefs Association inquired as to whether search and seizure conditions will be imposed on individuals convicted of misdemeanors under Proposition 47.

Judge Greenberg stated it may be difficult to add search and seizure conditions to this subset of cases when that is not being done with other misdemeanors. Deputy Probation Officers are typically not assigned to keep track of individuals on summary probation.

Devallis Rutledge of the District Attorney's Office stated that his office will ask that search and seizure conditions be imposed. These conditions are imposed in some misdemeanor cases (such as DUI cases, Health and Safety Code 11550 misdemeanors, and weapons offenses) where the nature of the offense is such that the person on summary probation may be found with an item in their possession that they shouldn't have.

Judge Greenberg noted that this will be handled on a case-by-case basis and each judicial officer will have discretion to determine what conditions they are going to impose.

Mr. Rutledge stated that, where appropriate, his office will also be asking for search and seizure conditions when resolving cases through negotiated pleas.

Judge Greenberg surmised that the Court will not usually intervene in determining the conditions of probation where the disposition is a result of a plea agreement.

Assistant Chief Michel Moore of the Los Angeles Police Department suggested that this is a topic that should be addressed by the Proposition 47 Implementation Task Force. He requested that the task force also consider if support services could be added as part of the terms of supervision. This is particularly important for individuals convicted of narcotic offenses in that they can be linked to treatment services.

Assistant Chief Moore made a motion to establish the Proposition 47 Implementation Task Force as a standing subcommittee of CCJCC. Assistant Sheriff Terri McDonald seconded this motion.

ACTION: The motion to establish the Proposition 47 Implementation Task Force as a standing subcommittee of CCJCC was approved without objection.

In response to a question from Don Meredith of the County Probation Commission, Mr. Rutledge confirmed that Proposition 47 does not include any funding for the Courts, law enforcement agencies, or other criminal justice agencies. However, it does provide for an allocation of funding from the projected savings on the state level. Specifically, 25% will be allocated for schools, 10% for victim restitution, and 65% for mental health and substance abuse treatment.¹

Mr. Rutledge remarked that changes in laws combined with budget cutbacks have created an environment in which California trial courts are having to do more work with fewer resources. In the case of Proposition 47, there is no provision for funding to account for the additional time and resources that are required by trial courts to implement this law.

In response to an inquiry, Supervisor Knabe confirmed that the Proposition 47 Implementation Task Force will include representation from law enforcement and cities.

Joseph Santoro of the Independent Cities Association inquired as to whether the task force will track the cost to the criminal justice system to implement this law. Supervisor Knabe agreed that this should be included in the work of the task force. The task force should consider both positives and negatives and the resources that are needed.

¹(1) 25% of the funds are to go to the Department of Education to administer grant programs aimed at reducing truancy, supporting students who are at risk of dropping out, or who are crime victims. (2) 10% of the funds are to go to the Victim Compensation and Government Claims Board to administer grants to trauma recovery centers. (3) 65% of the funds are to go to the Board of State and Community Corrections (BSCC) to administer a grant program aimed at mental health treatment, substance abuse treatment, and diversion programs for people in the criminal justice system.

Ms. Clem remarked that a potential positive result from this law is that many individuals will be able to clear their criminal records of a past felony conviction(s), and this may assist them in obtaining employment that was previously not available to them.

VI. PUBLIC SAFETY REALIGNMENT

Deputy Chief Reaver Bingham, Probation Department

Deputy Chief Reaver Bingham of the Probation Department appeared before CCJCC to provide an update on Public Safety Realignment (AB 109) efforts in the county. A report on the status of AB 109 implementation was presented to the Board of Supervisors on September 16, 2014.

A newsletter was distributed to members that shows updated AB 109 numbers from the Probation Department up through October 31, 2014.

A fourth courtroom has been opened to handle revocations, which is timely given the recent decision in *Williams v. Orange County*. This case enforces time constraints for the handling of parole revocation cases. Specifically, parolees must be arraigned within 10 days, evidentiary probable cause hearings are to be held within 15 days of arrest, and hearings are to be held within 45 days.

The Public Safety Realignment Team (PSRT) Legal Workgroup is determining how to process the parole revocation cases in accordance with the law.

The Recidivism Reduction Grant will provide \$1.6 million to the county. Of this amount, \$400,000 will be set aside to provide wrap-around services for individuals that are victimized by the commercial sexual exploitation of children.

The remaining \$1.2 million will be utilized for adult supervision. In particular, the Probation Department intends to utilize this funding for systems navigation. A Request For Services will be released once the grant has been awarded.

A three-year report on the implementation of AB 109 is being prepared for submission to the Board of Supervisors.

The CCJCC Master Services Agreement was approved by the Board of Supervisors yesterday, November 18th. This will provide an opportunity to hire a research entity to study the impact of AB 109 in Los Angeles County.

ACTION: For information only.

VII. OTHER MATTERS/PUBLIC COMMENT

There were no public comments.

VIII. ADJOURNMENT

The meeting was adjourned at 1:00 p.m.