



AB 109 & Proposition 47

**Realignment
&
The Safe Neighborhoods and Schools Act**



AB 109 & Proposition 47

AB 109
Realignment

Effective 2011

AB 109

Realignment

As a result of AB 109 in 2011, enormous changes were made to California law. Over 500 statutes were amended, and California's criminal justice system has since been complying to these provisions. AB 109 resulted in "realigning" certain felony convicted persons from state prisons to local jails.

AB 109

Realignment

What was the purpose?

The basic idea behind realignment AB 109 was to reduce the California prison population by punishing low-level felony offenders with local jail or out-of-custody "mandatory supervision" instead of prison. Because jails and probation departments are run at the county level, the law thus shifts from the state to the local level responsibility for dealing with certain felonies.

AB 109

Realignment

What crimes do not pertain to AB 109?

Due to the fact that realignment is designed to deal with low-level and low-risk offenders, not people who are considered too dangerous to be rehabilitated within the community, certain offenses and offenders are excluded from realignment.

AB 109

Realignment

The following offenses and offenders are excluded from realignment:

Violent felonies under Penal Code 667.5 and offenses where the defendant has a prior conviction for one of the violent felonies under Penal Code 667.5

Examples of violent felonies. "Violent Felony" can mean any of the following:

- Murder or Voluntary Manslaughter
- Mayhem
- Attempted Murder
- Kidnapping
- Any Robbery
- Any felony punishable by death or imprisonment in the state prison for life
- Etc.

AB 109

Realignment

The following offenses and offenders are excluded from realignment:

Serious felonies under Penal Code 1192.7 and offenses where the defendant has a prior conviction for one of the serious felonies under Penal Code 1192.7

Examples of serious felonies. "Serious Felony" can include any of the following:

- Attempted murder
- Mayhem
- Murder or Voluntary manslaughter
- Rape
- Assault with intent to commit rape or robbery
- Any felony punishable by death or imprisonment in the state prison for life
- Etc.

AB 109

Realignment

The following offenses and offenders are excluded from realignment:

Certain sex crimes in California where the offender is **required to register as a sex offender in California**

These may include but are not limited to:

- Lewd Acts with a Minor
- Acts Relating to Child Pornography
- Acts of Rape and Sexual Battery
- Etc.

AB 109

Realignment

The following offenses and offenders are excluded from realignment:

Certain aggravated **white-collar crimes** pursuant to California Penal Code Section 186.11

These may include:

- Fraud or embezzlement, involving a pattern of related felony conduct
- Etc.

AB 109

Realignment

Additional Exclusions from Realignment:

There are approximately 60 other crimes that the legislature decided to exclude from realignment. These can include but are not limited to:

- **California Penal Code 273.5 pc corporal injury on a spouse**
- **California Penal Code 92 pc bribery of judges or jurors**
- **California Penal Code 266(h) pc pimping**
- Etc.

Los Angeles County Probation Department

Police Chief's Conference

January 30, 2016




Los Angeles County Probation Department



Postrelease Community Supervision Model

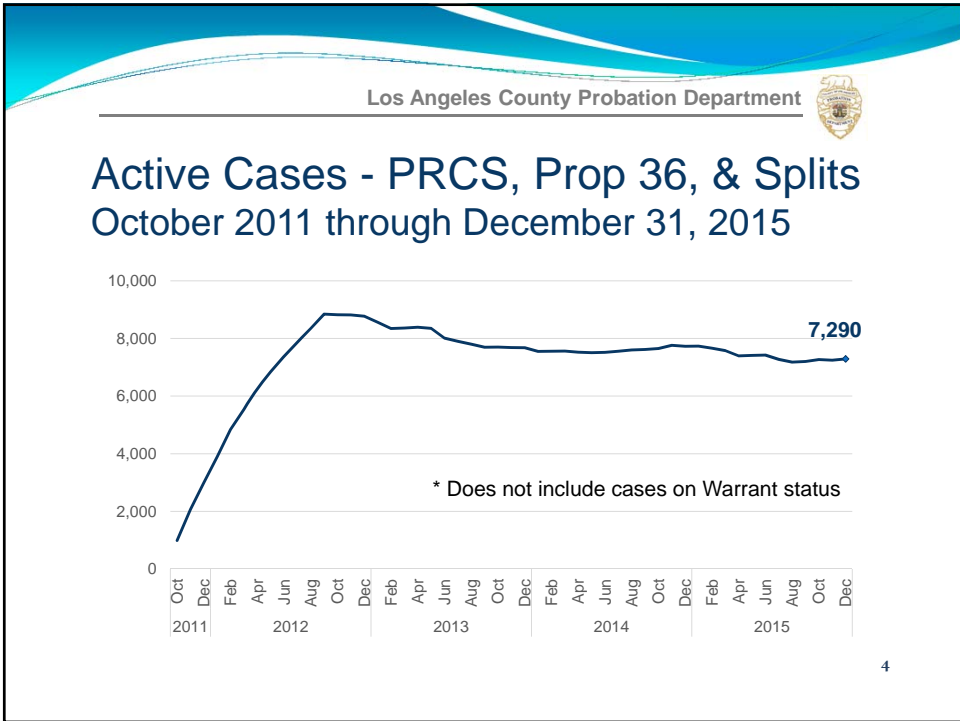
- The Public Safety Realignment Act (AB109) requires the use of evidence-based practices to manage postrelease release supervised persons (PSPs) effective October 1, 2011.
- Rehabilitation – Enforcement Balance
 - Intermediate Sanctions Requirement
 - Graduated Sanctions Requirement
- Must address the needs of the supervised person while ensuring public safety.
- Model design is to ensure that community supervision and outreach services are effective in promoting positive offender behavioral change in an effort to reduce recidivism.

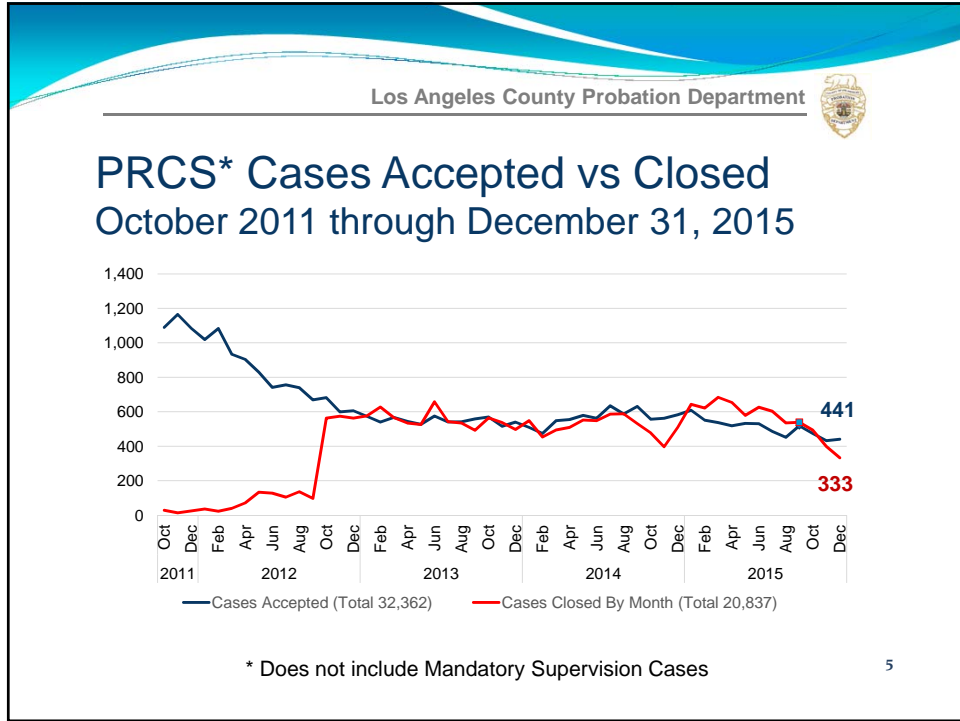
Los Angeles County Probation Department 


PRCS Model – Evidence-Based Practices

- Risk Assessment to measure criminogenic needs (LS/CMI)
- Motivational Interviewing enhance intrinsic motivation
- Case Management to target interventions to measured criminogenic needs and responsivity factors
- Graduated Sanctions to respond to negative behavior
- Specialized Caseloads (with smaller caseloads/specialized training)
- Cognitive Based Therapy (CBT) at Day Reporting Centers
- Cognitive Behavioral Interventions (CBI) – in development

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Los Angeles County Probation Department 

AB 109 Population October 2011 through December 31, 2015

Action	Population			Grand Total
	PSPs	Prop 36	N3 Splits	
Total Cases Accepted	32,120	242	2,087	34,449
Total Cases Closed	21,905	194	763	22,862
Cases Serving Custody Portion		0	488	488
Outstanding Warrants ¹	2,251	17	115	2,383
Deported	1,422	4	0	1,426
Active Cases	6,542	27	721	7,290

¹ Does not include Warrants issued for deported clients.
² PRCS case accepted in LA County; client deported.
³ Not to be confused with Prop 36 of 2000 for low level drug offenses. Prop 36 of 2012 authorizes resentencing for offenders currently serving life sentences for 3rd Strike convictions
⁴ N3 Split cases may have multiple concurrent cases
 All data in the table above was compiled using Probation Systems

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Los Angeles County Probation Department 

PRCS Terminations

From Program Inception through December 31, 2015

Type of Termination	Count
Successful Termination	13,295
Termination Due to a New Criminal Conviction	5,321
Other Terminations (transfers, fatalities, etc.)	2,243
Prop 47 - Reduced and Terminated From Supervision	1,240
Total Terminations	22,099

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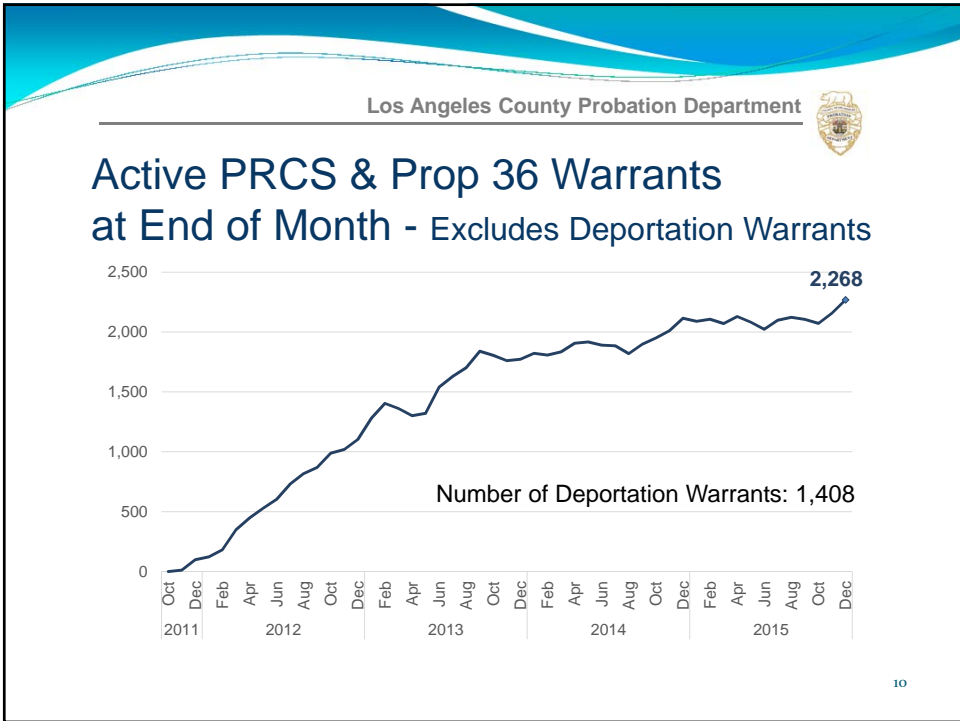
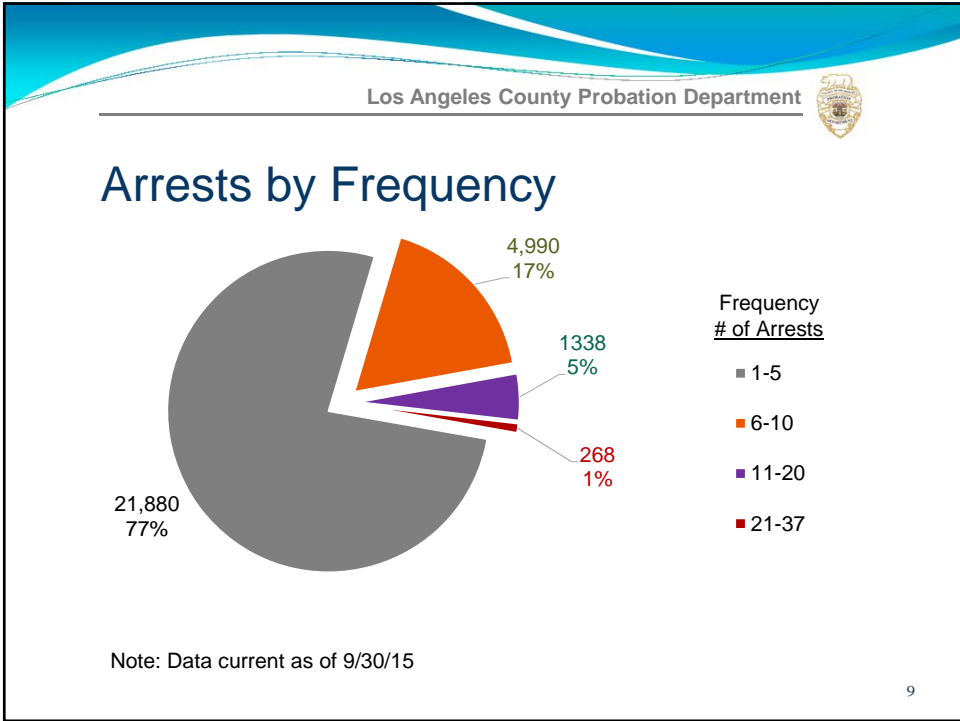
Los Angeles County Probation Department 

PRCS Cases without Arrest for Felony/Misdemeanor

Category	Count	Percentage
No arrest	19,565	60.5%
arrest	12,797	39.5%

32,362 total PRCS cases accepted as of December 31, 2015 (excludes split sentences); of which 12,797 (60.5%) have no misdemeanor or felony arrests. (This does not include incarcerations for Flash or technical violations).

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Proposition 47

The Probation Department is experiencing a decrease in the number of AB 109 cases due to Proposition 47:

Proposition 47 Dispositions Snapshot on 12/31/15	Count
AB 109 Prop 47 Reduction and Terminated	1,531
Reduced and Terminated from Supervision	1,240
Reduced and Terminated prior to release from CDCR	291

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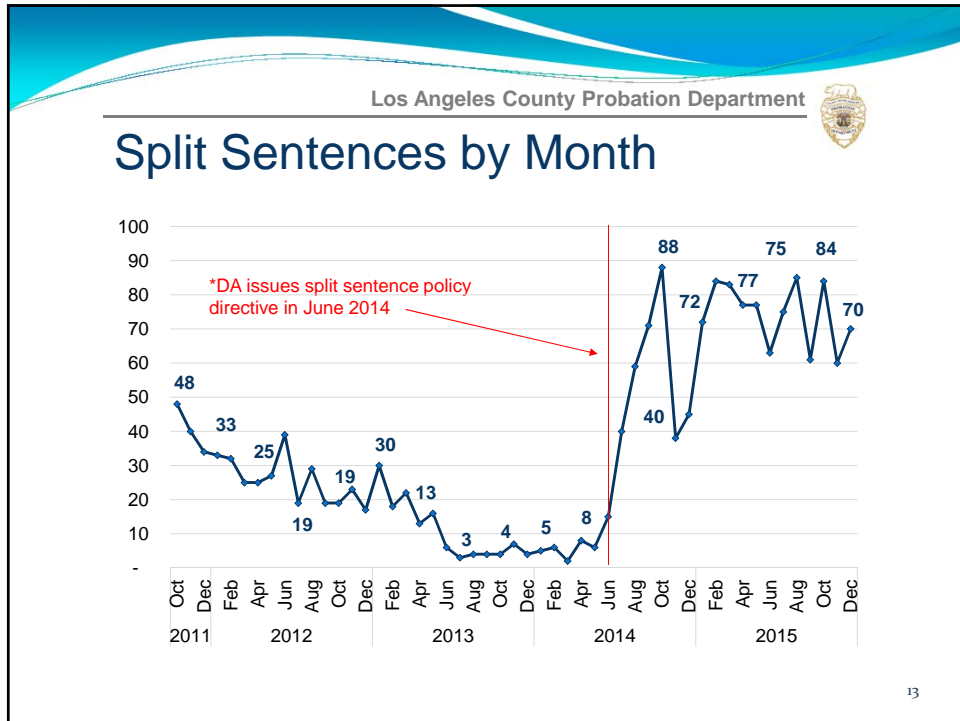


Impact of Proposition 47 on Probation

Proposition 47 Dispositions Snapshot on 12/31/15	Count
AB 109 Prop 47 Reduction and Terminated	1,531
Reduced and Terminated from Supervision	1,240
Reduced and Terminated prior to release from State prison	291

- **Restitution**
- **Court imposed conditions**
- **Compel participation in treatment**
- **Reports to the court**

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AB 109 & Proposition 47

Proposition 47

The Safe Neighborhoods and Schools Act

Effective November 5, 2014

Proposition 47

The Safe Neighborhoods and Schools Act

Proposition 47 became a law November 5, 2014. The statutory changes effected by this legislation and the response by the Los Angeles Superior Court are summarized in this presentation.

Proposition 47

The Safe Neighborhoods and Schools Act

Proposition 47 does three things:

- It reduces 7 property or drug possession felonies to straight misdemeanors.
- It allows certain offenders currently serving a felony sentence for those offenses to petition the sentencing court to have the felony sentence reduced to a misdemeanor sentence.
- It allows certain offenders who have already completed their felony sentence for those offenses to apply to the sentencing court to have the felony designated as a misdemeanor.

Proposition 47

The Safe Neighborhoods and Schools Act

Disqualifying Priors

The provisions of Proposition 47 do not apply to defendants with certain prior convictions, mainly defendants convicted of murder, certain sexual assault and registered sex offenders.

Proposition 47

The Safe Neighborhoods and Schools Act

Who is excluded from Proposition 47?

- Persons with a prior conviction requiring sex offender registration pursuant to Penal Code §290(c).
- Persons with a prior conviction for an offense listed in Penal Code § 667(e)(2)(C)(iv).

Proposition 47

The Safe Neighborhoods and Schools Act

Penal Code § 667(e)(2)(C)(iv) Disqualifying Prior Convictions (“Super Strikes”)

- Any **homicide** defined in Penal Code §§ 187 to 191.5, attempted murder and solicitation to commit murder.
- A **sexually violent offense** as defined in Welfare & Institutions Code § 6600(b).
- Oral copulation, sodomy or sexual penetration on a child under 14 and perpetrator more than 10 years old, and lewd and lascivious acts on a child under age 14 (PC §§ 288, 288a, 296 and 289).
- **Assault on a peace officer or firefighter** with a machine gun.
- Possession of a **weapon of mass destruction**.
- Any **serious or violent felony** punishable by life imprisonment or death.

Proposition 47

The Safe Neighborhoods and Schools Act

Qualifying Felonies under Proposition 47

Offenses that were straight felonies or wobblers and reduced to straight misdemeanors:

- PC §470: Forgery if the amount of loss does not exceed \$950.
- PC §496a: Passing bad checks if aggregate amount does not exceed \$950.
- PC §496: Receiving stolen property if the value of the property does not exceed \$950.
- PC §487: Grand theft if the value of the property does not exceed \$950.
- H&S §§11350, 11357(a) and 11377 (a): Possession of a controlled substance.

Proposition 47

The Safe Neighborhoods and Schools Act

New Offenses Created by Proposition 47

PC 459.5 (New) Shoplifting

- Shoplifting is the entering of a commercial establishment while the establishment is open during regular business hours with the intent to commit larceny (theft?) where the value of the property taken does not exceed \$950.
- Any act of shoplifting “shall” be charged as shoplifting. NO one charged with shoplifting may be charged with burglary or theft. Priors do not elevate it to a felony.

Definition of PC 459 – Entering a house, room, shop, store, structure or locked vehicle with the intent to commit a felony (or petty theft) therein. Depending on the type of structure involved, burglary can be charged as a felony or a misdemeanor.

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The Safe Neighborhoods and Schools Act

Under Proposition 47, the Crime of Petty Theft with a Prior is Modified

PC § 666: Remains a wobbler but *only* applies to persons who have to register under the Sex Offender Registration Act or have a prior conviction for offenses listed in PC § 667(e)(2)(C)(iv) or pursuant to PC §368, subsections (d) or (e).

(PC §368: Crimes Against Elders, Dependent Adults, and Persons with Disabilities)

Only one prior conviction is required, rather than three.

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The Safe Neighborhoods and Schools Act

Under Proposition 47, the Crime of Grand Theft is Redefined

PC 490.2 (New) Notwithstanding Section 487 or any other provision of law defining grand theft, theft of money, labor, real or personal property, the value of which does not exceed \$950 shall be considered misdemeanor petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in PC § 667(e)(2)(C)(iv) or has to register pursuant to PC §290(c).

Proposition 47

The Safe Neighborhoods and Schools Act

Under Proposition 47, the following crimes no longer constitute Grand Theft:

Several Common offenses currently classified as felony grand theft become misdemeanor petty theft if the value of the property does not exceed \$950:

- Theft from a person
- Of an automobile
- Of a firearm
- Of an access card

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Impact on Crime/Impact on Law Enforcement

The change in crime for 2014 compared to the previous year was minimal.

In 2015 many law enforcement agencies saw a significant difference.

The Los Angeles County Sheriff Department reported that from November 1, 2014 – October 31, 2015:

- Violent Crimes *increased 4.2%* compared to the same date range 1 year prior
- Property Crimes *increased 12.3%* compared to the same date range 1 year prior
- Total Part I Crimes *increased 11.2%* compared to the same date range 1 year prior

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Impact on Crime/Impact on Law Enforcement

The Los Angeles Police Department reported that in 2015, Violent Crime *increased 31.2%* and Property Crime *increased 12.5%* from the previous year

When comparing 2015 statistics to the previous year, a survey of 30 municipal police departments in Los Angeles County showed an average change of:

+15% in Violent Crime

+11% in Property Crime

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Prop 47 Offenders with Multiple Arrests

TIMES	
ARRESTED	PEOPLE
02	7,327
03	3,567
04	1,806
05	1,005
06	533
07	283
08	193
09	108
10	71
11	46
12	20
13	19
14	12
15	6
16	8
17	4
18	1
20	4
21	2
22	1
23	1
25	1
Total	15,017

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Orange County 2015 Crime Stats

2015 Part I data	Total Part I	Violent Crimes	Property Crimes
Anaheim	22%	15%	22%
Brea	13%	48%	12%
Buena Park	24%	5%	26%
Costa Mesa	33%	18%	34%
Fountain Valley	41%	-23%	46%
Fullerton	21%	11%	25%
Garden Grove			
Huntington Beach	16%	7%	17%
Irvine	27%	20%	27%
La Habra	20%	1%	22%
Laguna Beach			
Newport Beach	13%	16%	13%
Orange			
Santa Ana	27%	29%	26%
Tustin	23%	-5%	26%
Westminster	40%	50%	39%

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Impact on Crime/Impact on Law Enforcement

LASD 1 Year Pre-Prop 47 and 1 Year Post-Prop 47 Narcotics Arrests-

- **11350 HS Arrests** are down **-53.4%** from November 1, 2014- October 31, 2015 compared to the same date range 1 year prior
- **11357(A) HS Arrests** are down **-67.5%** from November 1, 2014- October 31, 2015 compared to the same date range 1 year prior
- **11377 HS Arrests** are down **-34.9%** from November 1, 2014- October 31, 2015 compared to the same date range 1 year prior.

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Arrests in Los Angeles are down 9% from 2014, down 17% when compared with 2013

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National Trends

- Homicides up 16% in the 60 largest US Cities
- Shootings in Cincinnati up 30%
- Homicides in St. Louis up 60%
- Homicides in Chicago up 15%

AB 109 & Proposition 47 “The Ferguson Effect”

"In today's YouTube world, are officers reluctant to get out of their cars and do the work that controls violent crime? Are officers answering 911 calls but avoiding the informal contact that keeps bad guys from standing around, especially with guns. I don't know whether this explains it entirely, but I do have a strong sense that some part of the explanation is a chill wind blowing through American law enforcement over the last year. And that wind is surely changing behavior."

FBI Director James Comey, October 23, 2015

AB 109 & Proposition 47 Funding

On January 7, 2016 the Governor's Budget included an estimate of state's first-year savings resulting from the implementation of Proposition 47 at \$29.3 million. Sixty-five percent of that (just over \$19 million) will be allocated to the BSCC to be distributed as recidivism-reduction grants.

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The Broken Windows Theory

Maintaining and monitoring urban environments to prevent small crimes helps to create an atmosphere of order and lawfulness, thereby preventing more serious crimes from happening.

James Q. Wilson & George L. Kelling, March 1982, *The Atlantic Monthly*

AB 109 & Proposition 47

**Gov. Brown to seek November ballot initiative to
relax mandatory prison sentences**

LA Times, January 28, 2016

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Proposition 47 – The Safe Neighborhood and Schools Act

DO YOU FEEL SAFER?

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Impact on Crime/Impact on Law Enforcement

Prop 47

Law Enforcement Simulator