Unintended Impacts of AB 109, Proposition 47 & 57

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AB 109

Intent & Effect:

1. Transferred responsibility for housing and supervision of some sentenced felons to counties.
2. Shifted supervision of some released felons from State Parole to County Probation.
3. Reduced penalties for violation of terms of release.
Unintended Results:

• Filled up county jail with felons serving long-term sentences.
• Allowed felons with violent histories to be released to minimal supervision based on their current commitment offense.

“In 2011, Governor Jerry Brown signed Assembly Bill 109; the California State Public Safety Realignment Plan.

This plan shifted the supervision of individuals who were convicted of non-violent, non-serious, non-high risk sexual offenses from the State Parole’s jurisdiction to the local county probation departments throughout the state.

Between September and November in 2011, the Department received approximately 4,000 former parolees for supervision services.”
“Henson was released from state prison to the supervision of the Los Angeles County Probation Department on June 28, 2016. Under the Governor’s Public Safety Realignment Act of 2011, better known as Assembly Bill 109 (AB 109), the responsibility of lower-level offenders was shifted from the State to Los Angeles County...

Henson qualified to be released to the supervision of probation, under AB 109, because his current commitment offense for carrying a concealed dirk or dagger is defined as non-serious and non-violent under the California penal code.
Intent & Effect:

1. Reduced sentences for drug possession to a misdemeanor.
2. Made all thefts under $950 misdemeanor offenses, even for repeat offenses.

Unintended Results:

• Eliminated DNA collection for those crimes.
• Reduced ability of police to arrest repeat theft offenders.
• No room in jail for misdemeanor sentences due to housing felons under AB 109.
• Dis-incentivized reporting and arrests as victims learned police could not arrest and perpetrators would not be punished.
The guard was identified by a cousin as 28-year-old Joe Lopez.

A man in his 20s described as a "transient" was trying to steal two cans of beer from the Food 4 Less in the 12600 block of Glenoaks Boulevard in Sylmar when the incident occurred, authorities said.

"It appears to be a beer run gone bad," LAPD Officer Taylor McLaws said. "They went in to steal beer and got into some sort of altercation with security."

When the man left the store with the stolen beer, Lopez chased after him on his bicycle while on duty as a security guard, authorities said.

The two men wrestled on the sidewalk outside the store, when the thief plunged a blade into Lopez's neck, according to an eyewitness account.

"He just cut his neck ... so he killed him," Elena Lira, a witness, said.

"I guess he was just doing his job," Lira said. "But for two beers, he lost his life."

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**Prop. 57**

**Intent & Effect:**

1. **Allowed for early release of “non-violent” inmates from state prison.**
Unintended Results:

• Crimes not already defined as “violent” count as “non-violent.”

• Constitutional rights of victims being unlawfully reduced.

Not “Violent” felonies

• Human trafficking of a minor for sex [PC236.1(c)]
• Hate crimes [PC 422.7]
• Arson of forest land causing physical injury [PC 451(c)]
• Assault w/ deadly weapon on peace officer [245(c)]
• Active participation in a street gang [186.22]
• Exploding destructive device w/ intent to cause injury [18740]
• First degree burglary [PC 459]
Not “Violent” felonies

- Assault with a deadly weapon or force likely to cause great bodily injury [245(a)(1) & (4)]
- Domestic violence [273.5]
- Battery with Serious Bodily Injury [243(d)]
- Solicitation to Commit Murder [653f(b)]
- Inflicting corporal injury on a child [PC 273d]
- Rape/sodomy/oral copulation of unconscious person or by use of date rape drugs. [261(a)(3) & (4), 286(f), 288a(f)]
Analysis:

1) Current Commitment Offenses: Mr. Sarabia’s current commitment offenses are an aggravating factor. On September 11, 2013 Mr. Sarabia was convicted by jury verdict of violations of PC 664/211 (attempted robbery) and PC 21310 (carrying dirk or dagger). As documented, the pertinent facts of these offenses are that on January 6, 2013 Mr. Sarabia attempted to steal a motor vehicle from another by brandishing a knife and demanding that the victim surrender his motor vehicle. Mr. Sarabia’s violation of PC 664/211 exhibits the aggravating factors that (1) the crime was violent, (2) Mr. Sarabia used a knife as a weapon, and (3) Mr. Sarabia was on parole. The sole mitigating factor is that no victim was physically injured. Mr. Sarabia’s violation of PC 21310 exhibits the aggravating factor that Mr. Sarabia was personally armed with a weapon. Mitigating factors are (1) Mr. Sarabia’s violation of PC 21310 was not, in and of itself, a crime of violence, and (2) no victim was physically injured. The overall aggravating factor that Mr. Sarabia is currently serving a prison sentence imposed for two separate felony offenses is noted. All of the foregoing considered, Mr. Sarabia’s current offenses are adjudged to be an aggravating factor with respect to his risk of violence to the community.

2) Prior Criminal Record: Mr. Sarabia’s overall prior criminal record is an aggravating factor. In addition to the current commitment offenses, Mr. Sarabia has been convicted of the following felonies: 2005, possession of controlled substance (HS 11377(a)); 2006, vehicle theft (VC 10851(a)); 2006, first degree burglary (PC 459); 2006, petty theft (PC 666); 2008, second degree burglary (PC 459); and 2008, receiving stolen property (PC 496(a)). This history exhibits the following aggravating factors: (1) Mr. Sarabia has been convicted of more than 2 prior felonies (described above), and (2) fewer than 5 years elapsed between Mr. Sarabia’s prior release (2011) and his current commitment offenses (2013). Mitigating factors are (1) each of Mr. Sarabia’s prior felonies was either a property or drug use offense, and (2) Mr. Sarabia has no known juvenile record. All of the foregoing considered, Mr. Sarabia’s prior criminal history is adjudged to be an aggravating factor as an indicator of his risk of violence to the community.
NONVIOLENT DECISION FORM

NONVIOLENT INFORMATION

Inmate Name: SARABIA, KAYER
CDLR Number: A59328
Institution: Sierra Conservation Center

BPH DECISION

JURISDICTIONAL REVIEW

☐ BPH does not have jurisdiction, no further review.
☒ BPH has jurisdiction.

REVIEW ON THE MERITS

☒ Recommendation to release approved.
☐ Recommendation to release denied.

Decision based on the reasons stated below:

Issue: Does Inmate Xavier Sarabia pose an unreasonable risk of violence to the community based upon the following case factors? As discussed in detail below, mitigating factors are adjusted to outweigh aggravating factors bearing on Mr. Sarabia’s risk of violence to the community, and release is accordingly approved.

Analysis:
1) Current Commitment Offense: Mr. Sarabia’s current commitment offenses are an aggravating factor.

17-Year-Old Wanted in Denver Homicide Among 2 Teens Arrested in Torrance Home Invasion: Police

POSTED 4:31 AM, MAY 30, 2017, BY TRACY BLOOM, JENNIFER GOULD AND KAREEN WYNTER, UPDATED AT 07:21PM, MAY 30, 2017

During the arrest, a private citizen who was filming the incident asked one of the men why he was there and the suspect replied, "Prop 57."

Judy Turner speaks May 30, 2017, a day after a violent home invasion at her Torrance residence. (Credit: KTLA)
• Reclassifies current “non-violent” crimes as “violent” — to prevent the early release of inmates convicted of these crimes.

• Expands parole oversight and strengthens penalties for parole violations.

• Reforms theft laws to restore accountability for serial thieves and organized theft rings.

• Expands DNA collection to include those convicted of misdemeanor drug, theft, and domestic violence crimes to help solve rapes, murders and other violent crimes — and to exonerate those wrongly accused.

• Restores rights of victims to be heard before early release of the perpetrator.
KeepCaliforniaSafe.org

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