Supreme Court of California
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Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re **MOHAMMAD MOHAMMAD** on Habeas Corpus.	No. S259999 Court of Appeal, 2nd District, Div. 5 No. B295152 Los Angeles County Superior Court No. BA361122 Hon. William C. Ryan

REQUEST FOR JUDICIAL NOTICE

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TO THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND ITS ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that petitioner Mohammad Mohammad moves this Court to take judicial notice, under rules 8.252(a) and 8.520(g) of the California Rules of Court, of the following documents in support of the Supplemental Answer Brief on the Merits submitted in this case:

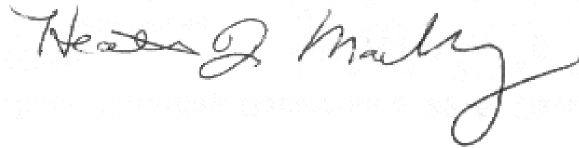
Exhibit A: California Secretary of State, *Statement of Vote, General Election, November 3, 2020* (excerpt), available at https://elections.cdn.sos.ca.gov/sov/2020-general/sov/complete-sov.pdf (last checked March 30, 2021).

Exhibit B: California Secretary of State, *Proposition 20: Text of Proposed Law*, available at https://vig.cdn.sos.ca.gov/2020/general/pdf/topl-prop20.pdf (last checked March 30, 2021).

Exhibit C: California Secretary of State, *Official Voter Information Guide, California General Election, November 3, 2020* (excerpt), available at https://vig.cdn.sos.ca.gov/2020/general/pdf/complete-vig.pdf (last checked March 30, 2021).

This motion for judicial notice is based on this notice of motion, the accompanying memorandum of points and authorities, the declaration of Heather J. MacKay, and the attached exhibits, which are true and correct copies of the documents described.

Dated: April 1, 2020 Respectfully submitted,



Heather J. MacKay
Attorney for Petitioner
Mohammad Mohammad

MEMORANDUM OF POINTS AND AUTHORITIES

Under Evidence Code sections 452, 453, and 459, a reviewing court may take judicial notice of any matter that would be subject to discretionary judicial notice by the trial court, but that is not part of the record on appeal. (See Evid. Code, §§ 452, 453, and 459, subds. (a), (b).) The documents attached to this motion as Exhibits A, B, and C were not presented to the court below because they relate to November 3, 2020 electoral proceedings occurring after the Court of Appeal issued its November 26, 2019 decision, as well as after this case was fully briefed in the California Supreme Court on June 23, 2020.

The documents described in this motion as Exhibits A, B, and C are relevant to this matter for the reasons explained in the Supplemental Answer Brief on the Merits. Specifically, the documents relate to Proposition 20, "The Reducing Crime and Keeping Californian's Safe Act" – the proposition's contents, the information presented to the voters, and the voters' rejection of the proposition. Had Proposition 20 passed, it would have amended the Proposition 57 early parole process to nullify the lower court's decision in the case now before this Court. The voters' rejection of Proposition 20 is therefore relevant to the parties' dispute about the voters' intention as to whether Proposition 57 authorizes early parole consideration for people convicted of mixed violent and nonviolent felonies, whose primary offense is a nonviolent felony.

The attached Exhibits were obtained from, and are available at, the on-line archives maintained by the California Secretary of State. It is appropriate for this Court to take judicial

notice of these Exhibits because they contain facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code 452, subdivision (g); *Edelstein v. City and County of San Francisco* (2002) 29 Cal.4th 164, 170-171 [taking notice of voter information guide and election results dating from after grant of review]; *People v. Snyder* (2000) 22 Cal.4th 304, 309, fn. 5 [taking judicial notice of ballot arguments for proposition]; *Huntington Beach City Council v. Superior Court* (2002) 94 Cal.App.4th 1417, 1424, fn. 2 [taking judicial notice of election results].) Petitioner Mohammad thus respectfully requests that this Court take judicial notice of the attached documents.

Dated: April 1, 2021

Respectfully submitted,

Heather J. MacKay
Attorney for Petitioner
Mohmmad Mohammad

DECLARATION OF HEATHER J. MACKAY

I, Heather J. MacKay, declare:

1. I am an attorney licensed to practice law in the state of California, and serve as counsel for Mohammad Mohammad in this matter. I have personal knowledge of the contents of, and may competently testify concerning, this declaration.

2. I execute this declaration under rules 8.252 and 8.54(a)(2) of the California Rules of Court, which require a motion for judicial notice of matters outside the record to be accompanied by a supporting declaration.

3. The documents attached to the motion for judicial notice as Exhibits A, B, and C are true and accurate copies of records that I downloaded from the California Secretary of State's website at https://www.sos.ca.gov on March 30, 2021. Because the *Voter Information Guide* and the *Statement of Vote* are lengthy and discuss numerous unrelated matters, I have attached excerpts from those documents containing the complete and accurate information concerning Proposition 20.

I declare under penalty of perjury that the foregoing is true and correct and that I executed this declaration in Oakland, California on April 1, 2021.

Heather J MacKay

INDEX OF EXHIBITS

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California Secretary of State, *Statement of Vote, General Election, November 3, 2020* (excerpt), available at https://elections.cdn.sos.ca.gov/sov/2020-general/sov/complete-sov.pdf (last checked March 30, 2021).

STATEMENT OF VOTE

GENERAL ELECTION
NOVEMBER 3, 2020

SECRETARY OF STATE ALEX PADILLA

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OFFICIAL DECLARATION OF THE
VOTE RESULTS ON NOVEMBER 3, 2020, STATE BALLOT MEASURES

The following proposed laws were approved by voters:

Prop Number	Ballot Title	Yes	No
14	Authorizes Bonds Continuing Stem Cell Research. Initiative Statute.	8,588,618 51.1%	8,222,154 48.9%
17	Restores Right to Vote After Completion of Prison Term. Legislative Constitutional Amendment.	9,985,568 58.6%	7,069,173 41.4%
19	Changes Certain Property Tax Rules. Legislative Constitutional Amendment.	8,545,818 51.1%	8,176,105 48.9%
22	Exempts App-Based Transportation and Delivery Companies From Providing Employee Benefits to Certain Drivers. Initiative Statute.	9,958,425 58.6 %	7,027,820 41.4%
24	Amends Consumer Privacy Laws. Initiative Statute.	9,384,625 56.2%	7,305,431 43.8%

The following proposed laws were defeated by voters:

Prop Number	Ballot Title	Yes	No
15	Increases Funding Sources for Public Schools, Community Colleges, and Local Government Services by Changing Tax Assessment of Commercial and Industrial Property. Initiative Constitutional Amendment.	8,213,054 48.0%	8,885,569 52.0%
16	Allows Diversity as a Factor in Public Employment, Education, and Contracting Decisions. Legislative Constitutional Amendment.	7,217,064 42.8%	9,655,595 57.2%
18	Amends California Constitution to Permit 17-Year-Olds to Vote in Primary and Special Elections If They Will Turn 18 by the Next General Election and Be Otherwise Eligible to Vote. Legislative Constitutional Amendment.	7,514,317 44.0%	9,577,807 56.0%
20	Restricts Parole for Certain Offenses Currently Considered to Be Non-Violent. Authorizes Felony Sentences for Certain Offenses Currently Treated Only as Misdemeanors. Initiative Statute.	6,385,839 38.3%	10,294,058 61.7%
21	Expands Local Governments' Authority to Enact Rent Control on Residential Property. Initiative Statute.	6,771,298 40.1%	10,095,206 59.9%
23	Establishes State Requirements for Kidney Dialysis Clinics. Requires On-Site Medical Professional. Initiative Statute.	6,161,457 36.6%	10,681,171 63.4%
25	Referendum on Law That Replaced Money Bail With System Based on Public Safety and Flight Risk.	7,232,380 43.6%	9,358,226 56.4%

Exhibit B:

California Secretary of State, *Proposition 20: Text of Proposed Law*, available at https://vig.cdn.sos.ca.gov/2020/general/pdf/topl-prop20.pdf (last checked March 30, 2021).

PROPOSITION 20

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known, and may be cited, as the Reducing Crime and Keeping California Safe Act of 2018.

SEC. 2. Purposes.

This measure will fix three related problems created by recent laws that have threatened the public safety of Californians and their children from violent criminals. This measure will:

(a) Reform the parole system so violent felons are not released early from prison, strengthen oversight of postrelease community supervision, and tighten penalties for violations of terms of postrelease community supervision;

(b) Reform theft laws to restore accountability for serial thieves and organized theft rings; and

(c) Expand DNA collection from persons convicted of drug, theft, and domestic violence related crimes to help solve violent crimes and exonerate the innocent.

SEC. 3. Findings and Declarations.

(a) Prevent Early Release of Violent Felons.

(1) Protecting every person in our state, including our most vulnerable children, from violent crime is of the utmost importance. Murderers, rapists, child molesters, and other violent criminals should not be released early from prison.

(2) Since 2014, California has had a larger increase in violent crime than the rest of the United States. Since 2013, violent crime in Los Angeles has increased 69.5%. Violent crime in Sacramento rose faster during the first six months of 2015 than in any of the 25 largest U.S. cities tracked by the FBI.

(3) Recent changes to parole laws allowed the early release of dangerous criminals by the law's failure to define certain crimes as "violent." These changes allowed individuals convicted of sex trafficking of children, rape of an unconscious person, felony assault with a deadly weapon, battery on a police officer or firefighter, and felony domestic violence to be considered "non-violent offenders."

(4) As a result, these so-called "non-violent" offenders are eligible for early release from prison after serving only a fraction of the sentence ordered by a judge.

(5) Violent offenders are also being allowed to remain free in our communities even when they commit new crimes and violate the terms of their postrelease community supervision, like the gang member charged with the murder of Whittier Police Officer Keith Boyer.

(6) Californians need better protection from such violent criminals.

(7) Californians need better protection from felons who repeatedly violate the terms of their postrelease community supervision.

(8) This measure reforms the law so felons who violate the terms of their release can be brought back to court and held accountable for such violations.

(9) Californians need better protection from such violent criminals. This measure reforms the law to define such crimes as "violent felonies" for purposes of early release.

(10) Nothing in this act is intended to create additional "strike" offenses, which would increase the state prison population.

(11) Nothing in this act is intended to affect the ability of the California Department of Corrections and Rehabilitation to award educational and merit credits.

(b) Restore Accountability for Serial Theft and Organized Theft Rings.

(1) Recent changes to California law allow individuals who steal repeatedly to face few consequences, regardless of their criminal record or how many times they steal.

(2) As a result, between 2014 and 2016, California had the second highest increase in theft and property crimes in the United States while most states have seen a steady decline. According to the California Department of Justice, the value of property stolen in 2015 was $2.5 billion with an increase of 13 percent since 2014, the largest single-year increase in at least 10 years.

(3) Individuals who repeatedly steal often do so to support their drug habit. Recent changes to California law have reduced judges' ability to order individuals convicted of repeated theft crimes into effective drug treatment programs.

(4) California needs stronger laws for those who are repeatedly convicted of theft related crimes, which will encourage those who repeatedly steal to support their drug problem to enter into existing drug treatment programs. This measure enacts such reforms.

(c) Restore DNA Collection to Solve Violent Crime.

(1) Collecting DNA from criminals is essential to solving violent crimes. Over 450 violent crimes, including murder, rape, and robbery, have gone

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unsolved because DNA is being collected from fewer criminals.

(2) DNA collected in 2015 from a convicted child molester solved the rape-murders of two six-year-old boys, which occurred three decades ago in Los Angeles County. DNA collected in 2016 from an individual caught driving a stolen car solved the 2012 San Francisco Bay Area rape-murder of an 83-year-old woman.

(3) Recent changes to California law unintentionally eliminated DNA collection for theft and drug crimes. This measure restores DNA collection from persons convicted for such offenses.

(4) Permitting collection of more DNA samples will help identify suspects, clear the innocent, and free the wrongly convicted.

(5) This measure does not affect existing legal safeguards that protect the privacy of individuals by allowing for the removal of their DNA profile if they are not charged with a crime, are acquitted, or are found innocent.

SEC. 4. Parole Consideration.

SEC. 4.1. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole or postrelease community supervision as provided by Title 2.05 (commencing with Section 3450) shall be returned to the county that was the last legal residence of the inmate prior to the inmate's incarceration. An inmate who is released on parole or postrelease community supervision as provided by Title 2.05 (commencing with Section 3450) and who was committed to prison for a sex offense for which registration is required pursuant to Section 290, shall, through all efforts reasonably possible, be returned to the city that was the last legal residence of the inmate prior to incarceration or a close geographic location in which the inmate has family, social ties, or economic ties and access to reentry services, unless return to that location would violate any other law or pose a risk to the inmate's victim. For purposes of this subdivision, "last legal residence" shall not be construed to mean the county or city wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county or city if that would be in the best interests of the public. If the Board of Parole Hearings setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections and Rehabilitation setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county or city, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections and Rehabilitation, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing the inmate to the county where the joint venture program employer is located if that employer states to the paroling authority that the employer intends to employ the inmate upon release.

(e) (1) The following information, if available, shall be released by the Department of Corrections and Rehabilitation to local law enforcement agencies regarding a paroled inmate or inmate placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) who is released in their jurisdictions:

(A) Last, first, and middle names.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole or placement on postrelease community supervision and discharge.

(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole or postrelease community supervision in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

(L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.

(M) A geographic coordinate for the inmate's residence location for use with a Geographical Information System (GIS) or comparable computer program.

(N) Copies of the record of supervision during any prior period of parole.

(2) Unless the information is unavailable, the Department of Corrections and Rehabilitation shall electronically transmit to the county agency identified in subdivision (a) of Section 3451 the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision pursuant to Section 3450, for the purpose of identifying the medical and mental health needs of the individual. All transmissions to the county agency shall be in compliance with applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the federal Health Information Technology for Economic and Clinical Health Act (HITECH) (Public Law 111-005), and the implementing of privacy and security regulations in Parts 160 and 164 of Title 45 of the Code of Federal Regulations. This paragraph shall not take effect until the Secretary of the United States Department of Health and Human Services, or the secretary's designee, determines that this provision is not preempted by HIPAA.

(3) Except for the information required by paragraph (2), the information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.

(4) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(5) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(f) Notwithstanding any other law, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that there is a need to protect the life, safety, or well-being of the victim or witness, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, any of the following crimes:

(1) A violent felony as defined in ~~paragraphs (1) to (7), inclusive, and paragraphs (11) and (16) of~~ subdivision (c) of Section 667.5 *or subdivision (a) of Section 3040.1*.

(2) A felony in which the defendant inflicts great bodily injury on a person, other than an accomplice, that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9.

(3) A violation of paragraph (1), (3), or (4) of subdivision (a) of Section 261, subdivision (f), (g), or (i) of Section 286, subdivision (f), (g), or (i) of Section 287 or of former Section 288a, or subdivision (b), (d), or (e) of Section 289.

(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of the inmate's parole, within one-half mile of a public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

(h) Notwithstanding any other law, an inmate who is released on parole or postrelease community supervision for a stalking offense shall not be returned to a location within 35 miles of the victim's or witness' actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole or postrelease community supervision, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation, or the supervising county agency, as applicable, finds that there is a need to protect the life, safety, or well-being of the victim. If an inmate who is released on postrelease community supervision cannot be placed in the inmate's county of last legal residence in compliance with this subdivision, the supervising county agency may transfer the inmate to another county upon approval of the receiving county.

(i) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county

compared to the number of commitments from that county when making parole decisions.

(j) An inmate may be paroled to another state pursuant to any other law. The Department of Corrections and Rehabilitation shall coordinate with local entities regarding the placement of inmates placed out of state on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450).

(k) (1) Except as provided in paragraph (2), the Department of Corrections and Rehabilitation shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e). County agencies supervising inmates released to postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) shall provide any information requested by the department to ensure the availability of accurate information regarding inmates released from state prison. This information may include *all records of supervision,* the issuance of warrants, revocations, or the termination of postrelease community supervision. On or before August 1, 2011, county agencies designated to supervise inmates released to postrelease community supervision shall notify the department that the county agencies have been designated as the local entity responsible for providing that supervision.

(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.

(*l*) In addition to the requirements under subdivision (k), the Department of Corrections and Rehabilitation shall submit to the Department of Justice data to be included in the supervised release file of the California Law Enforcement Telecommunications System (CLETS) so that law enforcement can be advised through CLETS of all persons on postrelease community supervision and the county agency designated to provide supervision. The data required by this subdivision shall be provided via electronic transfer.

SEC. 4.2. Section 3040.1 is added to the Penal Code, to read:

3040.1 (a) For purposes of early release or parole consideration under the authority of Section 32 of Article I of the Constitution, Sections 12838.4 and 12838.5 of the Government Code, Sections 3000.1, 3041.5, 3041.7, 3052, 5000, 5054, 5055, 5076.2 of the Penal Code and the rulemaking authority granted by Section 5058 of the Penal Code, the following shall be defined as "violent felony offenses":

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(4) Sodomy, as defined in subdivision (c) or (d) of Section 286.

(5) Oral copulation, as defined in subdivision (c) or (d) of Section 287.

(6) Lewd or lascivious act, as defined in subdivision (a) or (b) of Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.

(9) Any robbery.

(10) Arson, in violation of subdivision (a) or (b) of Section 451.

(11) Sexual penetration, as defined in subdivision (a) or (j) of Section 289.

(12) Attempted murder.

(13) A violation of Section 18745, 18750, or 18755.

(14) Kidnapping.

(15) Assault with the intent to commit a specified felony, in violation of Section 220.

(16) Continuous sexual abuse of a child, in violation of Section 288.5.

(17) Carjacking, as defined in subdivision (a) of Section 215.

(18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22.

(20) Threats to victims or witnesses, as defined in subdivision (c) of Section 136.1.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418.

(24) Solicitation to commit murder.

(25) Felony assault with a firearm, in violation of paragraph (2) of subdivision (a) and subdivision (b) of Section 245.

(26) Felony assault with a deadly weapon, in violation of paragraph (1) of subdivision (a) of Section 245.

(27) Felony assault with a deadly weapon upon the person of a peace officer or firefighter, in violation of subdivisions (c) and (d) of Section 245.

(28) Felony assault by means of force likely to produce great bodily injury, in violation of paragraph (4) of subdivision (a) of Section 245.

(29) Assault with caustic chemicals, in violation of Section 244.

(30) False imprisonment, in violation of Section 210.5.

(31) Felony discharging a firearm, in violation of Section 246.

(32) Discharge of a firearm from a motor vehicle, in violation of subdivision (c) of Section 26100.

(33) Felony domestic violence resulting in a traumatic condition, in violation of Section 273.5.

(34) Felony use of force or threats against a witness or victim of a crime, in violation of Section 140.

(35) Felony resisting a peace officer and causing death or serious injury, in violation of Section 148.10.

(36) Felony hate crime punishable pursuant to Section 422.7.

(37) Felony elder or dependent adult abuse, in violation of subdivision (b) of Section 368.

(38) Rape, in violation of paragraph (1), (3), or (4) of subdivision (a) of Section 261.

(39) Rape, in violation of Section 262.

(40) Sexual penetration, in violation of subdivision (b), (d), or (e) of Section 289.

(41) Sodomy, in violation of subdivision (f), (g), or (i) of Section 286.

(42) Oral copulation, in violation of subdivision (f), (g), or (i) of Section 287.

(43) Abduction of a minor for purposes of prostitution, in violation of Section 267.

(44) Human trafficking, in violation of subdivision (a), (b), or (c) of Section 236.1.

(45) Child abuse, in violation of Section 273ab.

(46) Possessing, exploding, or igniting a destructive device, in violation of Section 18740.

(47) Two or more violations of subdivision (c) of Section 451.

(48) Any attempt to commit an offense described in this subdivision.

(49) Any felony in which it is pled and proven that the defendant personally used a dangerous or deadly weapon.

(50) Any offense resulting in lifetime sex offender registration pursuant to Sections 290 to 290.009, inclusive.

(51) Any conspiracy to commit an offense described in this section.

(b) The provisions of this section shall apply to any inmate serving a custodial prison sentence on or after the effective date of this section, regardless of when the sentence was imposed.

SEC. 4.3. Section 3040.2 is added to the Penal Code, to read:

3040.2. (a) Upon conducting a nonviolent offender parole consideration review, the hearing officer for the Board of Parole Hearings shall consider all relevant, reliable information about the inmate.

(b) The standard of review shall be whether the inmate will pose an unreasonable risk of creating victims as a result of felonious conduct if released from prison.

(c) In reaching this determination, the hearing officer shall consider the following factors:

(1) Circumstances surrounding the current conviction.

(2) The inmate's criminal history, including involvement in other criminal conduct, both juvenile and adult, which is reliably documented.

(3) The inmate's institutional behavior, including both rehabilitative programming and institutional misconduct.

(4) Any input from the inmate, any victim, whether registered or not at the time of the referral, and the prosecuting agency or agencies.

(5) The inmate's past and present mental condition as documented in records in the possession of the Department of Corrections and Rehabilitation.

(6) The inmate's past and present attitude about the crime.

(7) Any other information which bears on the inmate's suitability for release.

(d) The following circumstances shall be considered by the hearing officer in determining whether the inmate is unsuitable for release:

(1) Multiple victims involved in the current commitment offense.

(2) A victim was particularly vulnerable due to age or physical or mental condition.

(3) The inmate took advantage of a position of trust in the commission of the crime.

(4) The inmate was armed with or used a firearm or other deadly weapon in the commission of the crime.

(5) A victim suffered great bodily injury during the commission of the crime.

(6) The inmate committed the crime in association with a criminal street gang.

(7) The inmate occupied a position of leadership or dominance over other participants in the commission of the crime or the inmate induced others to participate in the commission of the crime.

(8) During the commission of the crime, the inmate had a clear opportunity to cease but instead continued.

(9) The inmate has engaged in other reliably documented criminal conduct which was an integral part of the crime for which the inmate is currently committed to prison.

(10) The manner in which the crime was committed created a potential for serious injury to persons other than the victim of the crime.

(11) The inmate was on probation, parole, postrelease community supervision, or mandatory supervision or was in custody or had escaped from custody at the time of the commitment offense.

(12) The inmate was on any form of pre- or post-conviction release at the time of the commitment offense.

(13) The inmate's prior history of violence, whether as a juvenile or adult.

(14) The inmate has engaged in misconduct in prison or jail.

(15) The inmate is incarcerated for multiple cases from the same or different counties or jurisdictions.

(e) The following circumstances shall be considered by the hearing officer in determining whether the inmate is suitable for release:

(1) The inmate does not have a juvenile record of assaulting others or committing crimes with a potential of harm to victims.

(2) The inmate lacks any history of violent crime.

(3) The inmate has demonstrated remorse.

(4) The inmate's present age reduces the risk of recidivism.

(5) The inmate has made realistic plans if released or has developed marketable skills that can be put to use upon release.

(6) The inmate's institutional activities demonstrate an enhanced ability to function within the law upon release.

(7) The inmate participated in the crime under partially excusable circumstances which do not amount to a legal defense.

(8) The inmate had no apparent predisposition to commit the crime but was induced by others to participate in its commission.

(9) The inmate has a minimal or no criminal history.

(10) The inmate was a passive participant or played a minor role in the commission of the crime.

(11) The crime was committed during or due to an unusual situation unlikely to reoccur.

SEC. 4.4. Section 3040.3 is added to the Penal Code, to read:

3040.3. (a) An inmate whose current commitment includes a concurrent, consecutive, or stayed sentence for an offense or allegation defined as violent by subdivision (c) of Section 667.5 or Section 3040.1 shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.

(b) An inmate whose current commitment includes an indeterminate sentence shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.

(c) An inmate whose current commitment includes any enhancement which makes the underlying offense violent pursuant to subdivision (c) of Section 667.5 shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.

(d) For purposes of Section 32 of Article I of the Constitution, the "full term" of the "primary offense" shall be calculated based only on actual days served on the commitment offense.

SEC. 4.5. Section 3040.4 is added to the Penal Code, to read:

3040.4. Pursuant to subdivision (b) of Section 28 of Article I of the Constitution, the department shall give reasonable notice to victims of crime prior to an inmate being reviewed for early parole and release. The department shall provide victims with the right to be heard regarding early parole consideration and to participate in the review process. The department shall consider the safety of the victims, the victims' family, and the general public when making a determination on early release.

(a) Prior to conducting a review for early parole, the department shall provide notice to the prosecuting agency or agencies and to registered victims, and shall make reasonable efforts to locate and notify victims who are not registered.

(b) The prosecuting agency shall have the right to review all information available to the hearing officer, including, but not limited to, the inmate's central file, documented adult and juvenile criminal history, institutional behavior, including both rehabilitative programming and institutional misconduct, any input from any person or organization advocating on behalf of the inmate, and any information submitted by the public.

(c) A victim shall have a right to submit a statement for purposes of early parole consideration, including a confidential statement.

(d) All prosecuting agencies, any involved law enforcement agency, and all victims, whether or not registered, shall have the right to respond to the board in writing.

(e) Responses to the board by prosecuting agencies, law enforcement agencies, and victims must be made within 90 days of the date of notification of the inmate's eligibility for early parole review or consideration.

(f) The board shall notify the prosecuting agencies, law enforcement agencies, and the victims of the nonviolent offender parole decision within 10 days of the decision being made.

(g) Within 30 days of the notice of the final decision concerning nonviolent offender parole consideration, the inmate and the prosecuting agencies may request review of the decision.

(h) If an inmate is denied early release under the nonviolent offender parole provisions of Section 32 of Article I of the Constitution, the inmate shall not be eligible for early nonviolent offender parole consideration for two calendar years from the date of the final decision of the previous denial.

SEC. 4.6. Section 3041 of the Penal Code is amended to read:

3041. (a) (1) In the case of any inmate sentenced pursuant to any law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Parole Hearings shall meet with each inmate during the sixth year before the inmate's minimum eligible parole date for the purposes of reviewing and documenting the inmate's activities and conduct pertinent to parole eligibility. During this consultation, the board shall provide the inmate information about the parole hearing process, legal factors relevant to his or her suitability or unsuitability for parole, and individualized recommendations for the inmate regarding his or her work assignments, rehabilitative programs, and institutional behavior. Within 30 days following the consultation, the board shall issue its positive and negative findings and recommendations to the inmate in writing.

(2) One year before the inmate's minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally grant parole as provided in Section 3041.5. No more than one member of the panel shall be a deputy commissioner.

(3) In the event of a tie vote, the matter shall be referred for an en banc review of the record that was before the panel that rendered the tie vote. Upon en banc review, the board shall vote to either grant or deny parole and render a statement of decision. The en banc review shall be conducted pursuant to subdivision (e).

(4) Upon a grant of parole, the inmate shall be released subject to all applicable review periods. However, an inmate shall not be released before reaching his or her minimum eligible parole date as set pursuant to Section 3046 unless the inmate is eligible for earlier release pursuant to his or her youth offender parole eligibility date or elderly parole ~~eligible~~ *eligibility* date.

(5) At least one commissioner of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole for an en banc hearing by the board. In case of a review, a majority vote in favor of parole by the board members participating in an en banc review is required to grant parole to any inmate.

(b) (1) The panel or the board, sitting en banc, shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. *The panel or the board, sitting en banc, shall consider the entire criminal history of the inmate, including all current or past convicted offenses, in making this determination.*

(2) After July 30, 2001, any decision of the parole panel finding an inmate suitable for parole shall become final within 120 days of the date of the hearing. During that period, the board may review the panel's decision. The panel's decision shall become final pursuant to this subdivision unless the board finds that the panel made an error of law, or that the panel's decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board has a substantial likelihood of resulting in a substantially different decision upon a rehearing. In making this determination, the board shall consult with the commissioners who conducted the parole consideration hearing.

(3) A decision of a panel shall not be disapproved and referred for rehearing except by a majority vote of the board, sitting en banc, following a public meeting.

(c) For the purpose of reviewing the suitability for parole of those inmates eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each inmate until the time the person is released pursuant to proceedings or reaches the expiration of his or her term as calculated under Section 1170.2.

(d) It is the intent of the Legislature that, during times when there is no backlog of inmates awaiting parole hearings, life parole consideration hearings, or life rescission hearings, hearings will be conducted by a panel of three or more members, the majority of whom shall be commissioners. The board shall report monthly on the number of cases where an inmate has not received a completed initial or subsequent parole consideration hearing within 30 days of the hearing

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date required by subdivision (a) of Section 3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless the inmate has waived the right to those timeframes. That report shall be considered the backlog of cases for purposes of this section, and shall include information on the progress toward eliminating the backlog, and on the number of inmates who have waived their right to the above timeframes. The report shall be made public at a regularly scheduled meeting of the board and a written report shall be made available to the public and transmitted to the Legislature quarterly.

(e) For purposes of this section, an en banc review by the board means a review conducted by a majority of commissioners holding office on the date the matter is heard by the board. An en banc review shall be conducted in compliance with the following:

(1) The commissioners conducting the review shall consider the entire record of the hearing that resulted in the tie vote.

(2) The review shall be limited to the record of the hearing. The record shall consist of the transcript or audiotape of the hearing, written or electronically recorded statements actually considered by the panel that produced the tie vote, and any other material actually considered by the panel. New evidence or comments shall not be considered in the en banc proceeding.

(3) The board shall separately state reasons for its decision to grant or deny parole.

(4) A commissioner who was involved in the tie vote shall be recused from consideration of the matter in the en banc review.

SEC. 4.7. Section 3454 of the Penal Code is amended to read:

3454. (a) Each supervising county agency, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, shall establish a review process for assessing and refining a person's program of postrelease supervision. Any additional postrelease supervision conditions shall be reasonably related to the underlying offense for which the offender spent time in prison, or to the offender's risk of recidivism, and the offender's criminal history, and be otherwise consistent with law.

(b) Each county agency responsible for postrelease supervision, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, may determine additional appropriate conditions of supervision listed in Section 3453 consistent with public safety, including the use of continuous electronic monitoring as defined in Section 1210.7, order the provision of appropriate rehabilitation and treatment services, determine appropriate incentives, and determine and order appropriate responses to alleged violations, which can include, but shall not be limited to, immediate, structured, and intermediate sanctions up to and including referral to a reentry court pursuant to Section 3015, or flash incarceration in a city or county jail. Periods of flash incarceration are encouraged as one method of punishment for violations of an offender's condition of postrelease supervision.

(c) As used in this title, "flash incarceration" is a period of detention in a city or county jail due to a violation of an offender's conditions of postrelease supervision. The length of the detention period can range between one and 10 consecutive days. Flash incarceration is a tool that may be used by each county agency responsible for postrelease supervision. Shorter, but if necessary more frequent, periods of detention for violations of an offender's postrelease supervision conditions shall appropriately punish an offender while preventing the disruption in a work or home establishment that typically arises from longer term revocations.

(d) Upon a decision to impose a period of flash incarceration, the probation department shall notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration.

SEC. 4.8. Section 3455 of the Penal Code is amended to read:

3455. (a) If the supervising county agency has determined, following application of its assessment processes, that intermediate sanctions as authorized in subdivision (b) of Section 3454 are not appropriate, *or if the supervised person has violated the terms of the supervised person's release for a third time,* the supervising county agency shall petition the court pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision. At any point during the process initiated pursuant to this section, a person may waive, in writing, his or her right to counsel, admit the violation of his or her postrelease community supervision, waive a court hearing, and accept the proposed modification of his or her postrelease community supervision. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of postrelease community supervision, the circumstances of the alleged underlying violation, the history and background of the violator, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of postrelease community supervision, the revocation hearing officer shall have authority to do all of the following:

(1) Return the person to postrelease community supervision with modifications of conditions, if

appropriate, including a period of incarceration in a county jail.

(2) Revoke and terminate postrelease community supervision and order the person to confinement in a county jail.

(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.

(b) (1) At any time during the period of postrelease community supervision, if a peace officer*, including a probation officer,* has probable cause to believe a person subject to postrelease community supervision is violating any term or condition of his or her release, *or has failed to appear at a hearing pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision,* the officer may, without a warrant or other process, arrest the person and bring him or her before the supervising county agency established by the county board of supervisors pursuant to subdivision (a) of Section 3451. Additionally, an officer employed by the supervising county agency may seek a warrant and a court or its designated hearing officer appointed pursuant to Section 71622.5 of the Government Code shall have the authority to issue a warrant for that person's arrest.

(2) The court or its designated hearing officer shall have the authority to issue a warrant for a person who is the subject of a petition filed under this section who has failed to appear for a hearing on the petition or for any reason in the interests of justice, or to remand to custody a person who does appear at a hearing on the petition for any reason in the interests of justice.

(3) Unless a person subject to postrelease community supervision is otherwise serving a period of flash incarceration, whenever a person who is subject to this section is arrested, with or without a warrant or the filing of a petition for revocation, the court may order the release of the person under supervision from custody under any terms and conditions the court deems appropriate.

(c) The revocation hearing shall be held within a reasonable time after the filing of the revocation petition. Except as provided in paragraph (3) of subdivision (b), based upon a showing of a preponderance of the evidence that a person under supervision poses an unreasonable risk to public safety, or that the person may not appear if released from custody, or for any reason in the interests of justice, the supervising county agency shall have the authority to make a determination whether the person should remain in custody pending the first court appearance on a petition to revoke postrelease community supervision, and upon that determination, may order the person confined pending his or her first court appearance.

(d) Confinement pursuant to paragraphs (1) and (2) of subdivision (a) shall not exceed a period of 180 days in a county jail for each custodial sanction.

(e) A person shall not remain under supervision or in custody pursuant to this title on or after three years from the date of the person's initial entry onto postrelease community supervision, except when his or her supervision is tolled pursuant to Section 1203.2 or subdivision (b) of Section 3456.

SEC. 5. DNA Collection.

SEC. 5.1. Section 296 of the Penal Code is amended to read:

296. (a) The following persons shall provide buccal swab samples, right thumbprints, and a full palm print impression of each hand, and any blood specimens or other biological samples required pursuant to this chapter for law enforcement identification analysis:

(1) Any person, including any juvenile, who is convicted of or pleads guilty or no contest to any felony offense, or is found not guilty by reason of insanity of any felony offense, or any juvenile who is adjudicated under Section 602 of the Welfare and Institutions Code for committing any felony offense.

(2) Any adult person who is arrested for or charged with any of the following felony offenses:

(A) Any felony offense specified in Section 290 or attempt to commit any felony offense described in Section 290, or any felony offense that imposes upon a person the duty to register in California as a sex offender under Section 290.

(B) Murder or voluntary manslaughter or any attempt to commit murder or voluntary manslaughter.

(C) Commencing on January ~~1 of the fifth year following enactment of the act that added this subparagraph, as amended,~~ *1, 2009,* any adult person arrested or charged with any felony offense.

(3) Any person, including any juvenile, who is required to register under Section 290 *to 290.009, inclusive,* or *Section* 457.1 because of the commission of, or the attempt to commit, a felony or misdemeanor offense, or any person, including any juvenile, who is housed in a mental health facility or sex offender treatment program after referral to such facility or program by a court after being charged with any felony offense.

(4) Any person, excluding a juvenile, who is convicted of, or pleads guilty or no contest to, any of the following offenses:

(A) A misdemeanor violation of Section 459.5.

(B) A violation of subdivision (a) of Section 473 that is punishable as a misdemeanor pursuant to subdivision (b) of Section 473.

(C) A violation of subdivision (a) of Section 476a that is punishable as a misdemeanor pursuant to subdivision (b) of Section 476a.

(D) A violation of Section 487 that is punishable as a misdemeanor pursuant to Section 490.2.

(E) A violation of Section 496 that is punishable as a misdemeanor.

(F) A misdemeanor violation of subdivision (a) of Section 11350 of the Health and Safety Code.

(G) A misdemeanor violation of subdivision (a) of Section 11377 of the Health and Safety Code.

(H) A misdemeanor violation of paragraph (1) of subdivision (e) of Section 243.

(I) A misdemeanor violation of Section 273.5.

(J) A misdemeanor violation of paragraph (1) of subdivision (b) of Section 368.

(K) Any misdemeanor violation where the victim is defined as set forth in Section 6211 of the Family Code.

(L) A misdemeanor violation of paragraph (3) of subdivision (b) of Section 647.

~~(4)~~ *(5)* The term "felony" as used in this subdivision includes an attempt to commit the offense.

~~(5)~~ *(6)* Nothing in this chapter shall be construed as prohibiting collection and analysis of specimens, samples, or print impressions as a condition of a plea for a non-qualifying offense.

(b) The provisions of this chapter and its requirements for submission of specimens, samples and print impressions as soon as administratively practicable shall apply to all qualifying persons regardless of sentence imposed, including any sentence of death, life without the possibility of parole, or any life or indeterminate term, or any other disposition rendered in the case of an adult or juvenile tried as an adult, or whether the person is diverted, fined, or referred for evaluation, and regardless of disposition rendered or placement made in the case of *a* juvenile who is found to have committed any felony offense or is adjudicated under Section 602 of the Welfare and Institutions Code.

(c) The provisions of this chapter and its requirements for submission of specimens, samples, and print impressions as soon as administratively practicable by qualified persons as described in subdivision (a) shall apply regardless of placement or confinement in any mental hospital or other public or private treatment facility, and shall include, but not be limited to, the following persons, including juveniles:

(1) Any person committed to a state hospital or other treatment facility as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(2) Any person who has a severe mental disorder as set forth within the provisions of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(d) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the data bank and database specimens, samples, and print impressions as a condition of probation, parole, or any plea of guilty, no contest, or not guilty by reason of insanity, or any admission to any of the offenses described in subdivision (a).

(e) If at any stage of court proceedings the prosecuting attorney determines that specimens, samples, and print impressions required by this chapter have not already been taken from any person, as defined under subdivision (a) of Section 296, the prosecuting attorney shall notify the court orally on the record, or in writing, and request that the court order collection of the specimens, samples, and print impressions required by law. However, a failure by the prosecuting attorney or any other law enforcement agency to notify the court shall not relieve a person of the obligation to provide specimens, samples, and print impressions pursuant to this chapter.

(f) Prior to final disposition or sentencing in the case the court shall inquire and verify that the specimens, samples, and print impressions required by this chapter have been obtained and that this fact is included in the abstract of judgment or dispositional order in the case of a juvenile. The abstract of judgment issued by the court shall indicate that the court has ordered the person to comply with the requirements of this chapter and that the person shall be included in the state's DNA and Forensic Identification Data Base and Data Bank program and be subject to this chapter.

However, failure by the court to verify specimen, sample, and print impression collection or enter these facts in the abstract of judgment or dispositional order in the case of a juvenile shall not invalidate an arrest, plea, conviction, or disposition, or otherwise relieve a person from the requirements of this chapter.

SEC. 6. Shoplifting.

SEC. 6.1. Section 459.5 of the Penal Code is amended to read:

459.5. (a) Notwithstanding Section 459, shoplifting is defined as entering a commercial establishment with intent to ~~commit larceny~~ *steal retail property or merchandise* while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed nine hundred fifty dollars ($950). Any other entry into

a commercial establishment with intent to commit larceny is burglary. Shoplifting shall be punished as a misdemeanor, except that a person with one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290 may be punished pursuant to subdivision (h) of Section 1170.

(b) Any act of shoplifting as defined in subdivision (a) shall be charged as shoplifting. No person who is charged with shoplifting may also be charged with burglary or theft of the same property.

(c) "Retail property or merchandise" means any article, product, commodity, item, or component intended to be sold in retail commerce.

(d) "Value" means the retail value of an item as advertised by the affected retail establishment, including applicable taxes.

(e) This section shall not apply to theft of a firearm, forgery, the unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e, forgery of an access card pursuant to Section 484f, the unlawful use of an access card pursuant to Section 484g, theft from an elder pursuant to subdivision (e) of Section 368, receiving stolen property, embezzlement, or identity theft pursuant to Section 530.5, or the theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.

SEC. 6.2. Section 490.2 of the Penal Code is amended to read:

490.2. (a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars ($950) shall be considered 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 clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

(c) This section shall not apply to theft of a firearm, *forgery, the unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e, forgery of an access card pursuant to Section 484f, the unlawful use of an access card pursuant to Section 484g, theft from an elder pursuant to subdivision (e) of Section 368, receiving stolen property, embezzlement, or identity theft pursuant to Section 530.5, or the theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.*

SEC. 7. Serial Theft.

SEC. 7.1. Section 490.3 is added to the Penal Code, to read:

490.3. (a) This section applies to the following crimes:

(1) Petty theft.

(2) Shoplifting.

(3) Grand theft.

(4) Burglary.

(5) Carjacking.

(6) Robbery.

(7) Crime against an elder or dependent adult within the meaning of subdivision (d) or (e) of Section 368.

(8) Any violation of Section 496.

(9) Unlawful taking or driving of a vehicle within the meaning of Section 10851 of the Vehicle Code.

(10) Forgery.

(11) Unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e.

(12) Forgery of an access card pursuant to Section 484f.

(13) Unlawful use of an access card pursuant to Section 484g.

(14) Identity theft pursuant to Section 530.5.

(15) Theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.

(b) Notwithstanding paragraph (3) of subdivision (h) of Section 1170, paragraphs (2) and (4) of subdivision (a) of Section 1170.12, paragraphs (2) and (4) of subdivision (c) of Section 667, any person who, having been previously convicted of two or more of the offenses specified in subdivision (a), which offenses were committed on separate occasions, and who is subsequently convicted of petty theft or shoplifting where the value of the money, labor, or real or personal property taken exceeds two hundred fifty dollars ($250) shall be punished by imprisonment in the county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170.

(c) This section does not prohibit a person or persons from being charged with any violation of law arising out of the same criminal transaction that violates this section.

SEC. 8. Organized Retail Theft.

SEC. 8.1. Section 490.4 is added to the Penal Code, to read:

490.4. (a) "Retail property or merchandise" means any article, product, commodity, item, or component intended to be sold in retail commerce.

(b) "Value" means the retail value of an item as advertised by the affected retail establishment, including applicable taxes.

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(c) Any person, who, acting in concert with one or more other persons, commits two or more thefts pursuant to Section 459.5 or 490.2 of retail property or merchandise having an aggregate value exceeding two hundred fifty dollars ($250) and unlawfully takes such property during a period of 180 days is guilty of organized retail theft.

(d) Notwithstanding paragraph (3) of subdivision (h) of Section 1170, paragraphs (2) and (4) of subdivision (a) of Section 1170.12, paragraphs (2) and (4) of subdivision (c) of Section 667, organized retail theft shall be punished by imprisonment in the county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170.

(e) For purposes of this section, the value of retail property stolen by persons acting in concert may be aggregated into a single count or charge, with the sum of the value of all of the retail merchandise being the values considered in determining the degree of theft.

(f) An offense under this section may be prosecuted in any county in which an underlying theft could have been prosecuted as a separate offense.

(g) This section does not prohibit a person or persons from being charged with any violation of law arising out of the same criminal transaction that violates this section.

SEC. 9. Amendments.

This act shall not be amended by the Legislature except by a statute that furthers the purposes, findings, and declarations of the act and is passed in each house by rollcall vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters.

SEC. 10. Severability.

If any provision of this act, or any part of any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 11. Conflicting Initiatives.

(a) In the event that this measure and another measure addressing parole consideration pursuant to Section 32 of Article I of the Constitution, revocation of parole and postrelease community supervision, DNA collection, or theft offenses shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

PROPOSITION 21

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends sections of the Civil Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The Rental Affordability Act

The people of the State of California do hereby ordain as follows:

SECTION 1. Title.

This act shall be known, and may be cited, as the "Rental Affordability Act."

SEC. 2. Findings and Declaration.

The people of the State of California hereby find and declare the following:

(a) More Californians (over 17 million people) are renting housing than ever before. According to the state's figures, home ownership rates in California have fallen to their lowest level since the 1940s. One quarter of older millennials (25–34 years of age) still live with their parents (U.S. Census Bureau).

(b) Rental housing prices have skyrocketed in recent years. Median rents are higher in California than any other state in the country, and among all 50 states, California has the fourth highest increase in rents.

(c) As a result of rising rental housing prices, a majority of California renters are overburdened by housing costs, paying more than 30 percent of their income toward rent. One-third of renter households spend more than 50 percent of their income toward rent.

(d) According to the National Low Income Housing Coalition, a Californian earning minimum wage would have to work 92 hours per week in order to afford renting an average one-bedroom apartment.

(e) Families faced with housing insecurity are often forced to decide between paying their rent and meeting other basic needs, which negatively impacts their health outcomes. Workers suffering from unstable housing and a deterioration in their health

Exhibit C:

California Secretary of State, *Official Voter Information Guide, California General Election, November 3, 2020* (excerpt), available at https://vig.cdn.sos.ca.gov/2020/general/pdf/complete-vig.pdf (last checked March 30, 2021).

PROPOSITION

20 RESTRICTS PAROLE FOR CERTAIN OFFENSES CURRENTLY CONSIDERED TO BE NON-VIOLENT. AUTHORIZES FELONY SENTENCES FOR CERTAIN OFFENSES CURRENTLY TREATED ONLY AS MISDEMEANORS. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

The text of this measure can be found on the Secretary of State's website at *voterguide.sos.ca.gov.*

- Limits access to parole program established for non-violent offenders who have completed the full term of their primary offense by eliminating eligibility for certain offenses.
- Changes standards and requirements governing parole decisions under this program.
- Authorizes felony charges for specified theft crimes currently chargeable only as misdemeanors, including some theft crimes where the value is between $250 and $950.
- Requires persons convicted of specified misdemeanors to submit to collection of DNA samples for state database.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Increased state and local correctional costs likely in the tens of millions of dollars annually, primarily due to increases in county jail populations and levels of community supervision.
- Increased state and local court-related costs that could be more than several million dollars annually.
- Increased state and local law enforcement costs not likely to be more than a few million dollars annually related to collecting and processing DNA samples.

ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW

Proposition 20 has four major provisions. It:

- Changes state law to increase criminal penalties for some theft-related crimes.
- Changes how people released from state prison are supervised in the community.
- Makes various changes to the process created by Proposition 57 (2016) for considering the release of inmates from prison.
- Requires state and local law enforcement to collect DNA from adults convicted of certain crimes.

Below, we discuss each of these major provisions and describe the fiscal effects of the proposition.

CRIMINAL PENALTIES FOR CERTAIN THEFT-RELATED CRIMES

BACKGROUND

A felony is the most severe type of crime. State law defines some felonies as "violent" or "serious," or both. Examples of felonies defined as violent and serious include murder, robbery, and rape. Felonies that are not defined as violent or serious include human trafficking and selling drugs. A misdemeanor is a less severe crime.

Misdemeanors include crimes such as assault and public drunkenness.

Felony Sentencing. People convicted of felonies can be sentenced as follows:

- ***State Prison.*** People whose current or past convictions include serious, violent, or sex crimes can be sentenced to state prison.
- ***County Jail and/or Community Supervision.*** People who have no current or past convictions for serious, violent, or sex crimes are typically sentenced to county jail or are supervised by county probation officers in the community, or both.

Misdemeanor Sentencing. People convicted of misdemeanors can be sentenced to county jail, county community supervision, a fine, or some combination of the three. They are generally punished less than people convicted of felonies. For example, a misdemeanor sentence cannot exceed one year in jail while a felony sentence can require a much longer time in jail or prison. In addition, people convicted of misdemeanors are usually supervised in the community for fewer years and may not be supervised as closely by probation officers.

Wobbler Sentencing. Currently, some crimes—such as identity theft—can be punished as either a felony or a misdemeanor. These crimes are known as "wobblers." The decision is generally based on the specifics of the crime and a person's criminal history.

Proposition 47 Reduced Penalties for Certain Crimes. In November 2014, voters approved Proposition 47, which resulted in certain theft-related crimes being punished as misdemeanors instead of felonies. For example, under Proposition 47, theft involving property worth $950 or less is generally considered petty theft and punished as a misdemeanor—rather than as a felony as was sometimes possible before (such as if a car was stolen). Proposition 47 also generally requires that shoplifting involving $950 or less be punished as a misdemeanor—rather than a felony as was possible before.

PROPOSAL

Increases Penalties for Certain Theft-Related Crimes. Proposition 20 creates two new theft-related crimes:

- ***Serial Theft.*** Any person with two or more past convictions for certain theft-related crimes (such as burglary, forgery, or carjacking) who is found guilty of shoplifting or petty theft involving property worth more than $250 could be charged with serial theft.
- ***Organized Retail Theft.*** Any person acting with others who commits petty theft or shoplifting two or more times where the total value of property stolen within 180 days exceeds $250 could be charged with organized retail theft.

Both of these new crimes would be wobblers, punishable by up to three years in county jail, even if the person has a past conviction for a serious, violent, or sex crime.

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In addition, Proposition 20 allows some existing theft-related crimes that are generally punished as misdemeanors under Proposition 47 to be punished as felonies. For example, under current law, theft of all property worth less than $950 from a store is generally required to be punished as a misdemeanor. Under Proposition 20, people who steal property worth less than $950 that is not for sale (such as a cash register) from a store could receive felony sentences. This could increase the amount of time people convicted of these crimes serve. For example, rather than serving up to six months in county jail, they could serve up to three years in county jail or state prison.

We estimate that a few thousand people could be affected by the above changes each year. However, this estimate is based on the limited data available, and the actual number of people affected would depend on choices made by prosecutors and judges. As a result, the actual number could be significantly higher or lower.

COMMUNITY SUPERVISION PRACTICES

BACKGROUND

People who are released from state prison after serving a sentence for a serious or violent crime are supervised for a period of time in the community by state parole agents. People who are released from prison after serving a sentence for other crimes are usually supervised in the community by county probation officers—commonly referred to as Post-Release Community Supervision (PRCS). When people on state parole or PRCS break the rules that they are required to follow while supervised—referred to as breaking the "terms of their supervision"—state parole agents or county probation officers can choose to ask a judge to change the terms of their supervision. This can result in harsher terms or placement in county jail.

PROPOSAL

Changes Community Supervision Practices. This proposition makes various changes to state parole and PRCS practices. For example, it requires probation officers to ask a judge to change the terms of supervision for people on PRCS if they have violated them for a third time. In addition, the proposition requires state parole and county probation departments to exchange more information about the people they supervise.

PROPOSITION 57 RELEASE CONSIDERATION PROCESS

BACKGROUND

People in prison have been convicted of a primary crime. This is generally the crime for which they receive the longest amount of time in prison. They often serve additional time due to the facts of their cases (such as if they used a gun) or for other, lesser crimes they were convicted of at the same time. For example, people previously convicted of a serious or violent crime generally must

serve twice the term for any new felony they commit.

In November 2016, voters approved Proposition 57, which changed the State Constitution to make prison inmates convicted of nonviolent felonies eligible to be considered for release after serving the term for their primary crimes. Inmates are considered for release by the state Board of Parole Hearings (BPH). Specifically, a BPH staff member reviews various information in the inmate's files, such as criminal history and behavior in prison, to determine if the inmate will be released. BPH also considers any letters submitted by prosecutors, law enforcement agencies, and victims about the inmate. The California Department of Corrections and Rehabilitation (CDCR) contacts victims registered with the state to notify them that they can submit such letters. The inmate is released unless BPH decides that the inmate poses an unreasonable risk of violence. If not released, the inmate can request a review of the decision. Inmates who are denied release are reconsidered the following year, though they often complete their sentences and are released before then. In 2019, BPH considered nearly 4,600 inmates and approved about 860 (19 percent) for release.

PROPOSAL

Changes Proposition 57 Release Consideration Process. Proposition 20 makes various changes to the Proposition 57 release consideration process. The major changes are:

- Excluding some inmates from the process—such as those convicted of some types of assault and domestic violence.
- Requiring BPH to deny release to inmates who pose an unreasonable risk of committing felonies that result in victims, rather than only those who pose an unreasonable risk of violence.
- Requiring BPH to consider additional issues, such as the inmates' attitudes about their crimes, when deciding whether to release them.
- Requiring inmates denied release to wait two years (rather than one) before being reconsidered by BPH.
- Allowing prosecutors to request that BPH perform another review of release decisions.
- Requiring CDCR to try to locate victims to notify them of the review even if they are not registered with the state.

DNA COLLECTION

BACKGROUND

In California, DNA samples must be provided by (1) adults arrested for, charged with, or convicted of a felony; (2) youth who have committed a felony; and (3) people required to register as sex offenders or arsonists. These samples are collected by state and local law enforcement agencies and submitted to the California Department of Justice (DOJ) for processing. DOJ

currently receives roughly 100,000 DNA samples each year. DOJ stores the DNA profiles in a statewide DNA database and submits them to a national database. These databases are used by law enforcement to investigate crimes.

PROPOSAL

Expands DNA Collection. This proposition requires state and local law enforcement to also collect DNA samples from adults convicted of certain misdemeanors. These crimes include shoplifting, forging checks, and certain domestic violence crimes.

FISCAL EFFECTS

The proposition would have various fiscal effects on state and local government. However, the exact size of the effects discussed below would depend on several factors. One key factor would be decisions made by the courts and others (such as county probation departments and prosecutors) about how the proposition would be implemented. For example, the proposition seeks to change certain inmates' constitutional eligibility to be considered for release under Proposition 57 without changing the State Constitution. If the proposition were challenged in court, a judge might rule that certain provisions cannot be put into effect. Our estimates below of the fiscal effects on state and local government assume that the proposition is fully implemented. In total, the estimated increase in state costs reflects less than one percent of the state's current General Fund budget. (The General Fund is the state's main operating account, which it uses to pay for education, prisons, health care, and other services.)

State and Local Correctional Costs. The proposition would increase state and local correctional costs in three ways.

- First, the increase in penalties for theft-related crimes would increase correctional costs mostly by increasing county jail populations and the level of community supervision for some people.
- Second, the changes to community supervision practices would increase state and local costs in various ways. For example, the requirement that county probation officers seek to change the terms of supervision for people on PRCS who violate them for a third time could increase county jail populations if this causes more people to be placed in jail.
- Third, the changes made to the Proposition 57 release consideration process would increase state costs by reducing the number of inmates released from prison and generally increasing the cost of the process.

We estimate that more than several thousand people would be affected by the proposition each year. As a result, we estimate that the increase in **state and local correctional costs would likely be in the tens of millions of dollars annually**. The actual increase would depend on several uncertain factors, such as the specific number of people affected by the proposition.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

State and Local Court-Related Costs. The proposition would increase state and local court-related costs. This is because it would result in some people being convicted of felonies for certain theft-related crimes instead of misdemeanors. Because felonies take more time for courts to handle than misdemeanors, workload for the courts, county prosecutors and public defenders, and county sheriffs (who provide court security) would increase. In addition, requiring probation officers to ask judges to change the terms of supervision for people on PRCS after their third violation would result in additional court workload. We estimate that these **court-related costs could be more than several million dollars annually**, depending on the actual number of people affected by the proposition.

State and Local Law Enforcement Costs. The proposition would increase state and local law enforcement costs by expanding the number of people who are required to provide DNA samples, possibly by tens of thousands annually. We estimate that the increase in **state and local law enforcement costs would likely not be more than a few million dollars annually**.

Other Fiscal Effects. There could be other unknown fiscal effects on state and local governments due to the proposition. For example, if the increase in penalties reduces crime, some criminal justice system costs could be avoided. The extent to which this or other effects would occur is unknown.

Visit *http://cal-access.sos.ca.gov/campaign/measures/* for a list of committees primarily formed to support or oppose this measure.

Visit *http://www.fppc.ca.gov/transparency/top-contributors.html* to access the committee's top 10 contributors.

If you desire a copy of the full text of this state measure, please call the Secretary of State at (800) 345-VOTE (8683) or you can email *vigfeedback@sos.ca.gov* and a copy will be mailed at no cost to you.

★ ARGUMENT IN FAVOR OF PROPOSITION 20 ★

"He slashed at me with a knife and tried to kill me," says Terra Newell, who survived a knife attack by the sociopath Dirty John. "It was brutal and terrifying—but in California, his attack wasn't a violent crime."

Under California law, assault with a deadly weapon is classified a "nonviolent" offense—along with date rape, selling children for sex, and 19 other clearly violent crimes.

All are "nonviolent" under the law.

Proposition 20 fixes this.

"Nonviolent" crimes in California include domestic violence, exploding a bomb, shooting into a house with the intent to kill or injure people, raping an unconscious person and beating a child so savagely it could result in coma or death.

Sex traffickers typically beat, rape and drug their victims before selling them for sex. But in California, trafficking is a "nonviolent" offense. Even hate crimes are considered "nonviolent."

As a result, thousands of offenders convicted of these 22 violent crimes, including sex offenders and child molesters, are eligible for early prison release, WITHOUT serving their full sentences, and WITHOUT their victims being warned.

Proposition 20 PREVENTS the early release of violent offenders and sexual predators by making these 22 violent crimes "violent" under the law, and requires that victims be notified when their assailants are set free.

Proposition 20's "full sentence" provision applies ONLY to violent inmates who pose a risk to public safety, regardless of race or ethnicity. It does NOT apply to drug offenders and petty criminals, and does NOT send more people to prison.

"Claims that Proposition 20 will fill our prisons with thousands of new inmates are false," says Michele Hanisee, president of the Association of Deputy District Attorneys.

"It doesn't send one new person to prison. It simply requires violent offenders and sexual predators to complete their full sentences."

This protects victims and gives offenders longer access to counseling, anger management and other rehabilitation programs.

"Proposition 20 protects children against physical abuse and sexual exploitation," says Klaas Kids Foundation founder Marc Klaas. "Trafficking children will finally be recognized as the violent crime it is."

Proposition 20 provides additional protection against violent crime by allowing DNA collection from persons convicted of theft or drug offenses, which multiple studies show helps solve more serious and violent crimes like rape, robbery and murder.

California reduced penalties for theft in 2014. Since then, major theft has increased 25%, costing grocers, small business owners, retailers, homeowners and consumers billions of dollars. Shoplifting has become so common it's seldom reported.

Proposition 20 strengthens sanctions against serial theft by habitual criminals—to help stop car break-ins, shoplifting, home burglaries and other major theft.

California's drug addiction crisis is fueling much of this theft. By strengthening sanctions against theft, Proposition 20 helps get addicts (who are 75% of California's homeless population) off the streets and into the substance abuse and mental health programs they desperately need.

Voting "YES" on Proposition 20 is a vote against hate and violence.

It's a vote for children, victims and survivors.

It's a vote for equal justice and a safer California.

PATRICIA WENSKUNAS, Founder
Crime Survivors, Inc.

NINA SALARNO BESSELMAN, President
Crime Victims United of California

CHRISTINE WARD, Director
Crime Victims Alliance

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 20 ★

NO ON PROP. 20—IT'S A PRISON SPENDING SCAM

We are prosecutors and survivors of violent crimes. Prop. 20 backers are wrong, here's the truth:

SENTENCING LAWS FOR VIOLENT CRIMES ARE CLEAR AND STRONG

People who commit violent crimes receive severe and lengthy sentences, often life in prison. That's NOT what Prop. 20 is about.

PROP. 20 WASTES TENS OF MILLIONS OF YOUR TAXPAYER DOLLARS ON PRISONS

The non-partisan Legislative Analyst says Prop. 20 will cost, "tens of millions of dollars" every year which could force draconian cuts to:

- Rehabilitation in prison for people getting out
- Mental health programs proven to reduce repeat crime
- Schools, housing, and homelessness
- Support for victims

PROP. 20 IS EXTREME

Prop 20 means petty theft—stealing a bike—could be charged as a felony. That's out of line with other states and means more teenagers and Black, Latino and low-income people could be incarcerated for years for a low-level, non-violent crime.

PROP. 20 TAKES US BACKWARDS

Californians have overwhelmingly voted to reduce wasteful prison spending. Prop. 20 reverses that progress. Rehabilitating people before prison release is the most effective way to improve public safety. Prop. 20 could eliminate funding for what works, and waste money on more prisons we don't need.

Law enforcement leaders, budget experts, criminal justice reformers, prosecutors, and crime victims all oppose this prison spending scam.

NoProp20.Vote

DIANA BECTON, District Attorney
Contra Costa County

RENEE WILLIAMS, Executive Director
National Center for Victims of Crime

TINISCH HOLLINS, California Director
Crime Survivors for Safety and Justice

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★ ARGUMENT AGAINST PROPOSITION 20 ★

STOP THE PRISON SPENDING SCAM—VOTE NO ON PROP. 20!

California already has lengthy sentences and strict punishment for serious and violent crime. Backers of Prop. 20 are trying to scare you into rolling back effective criminal justice reforms you just passed, to spend tens of millions of your taxpayer dollars on prisons.

Don't be fooled. Every year, thousands are convicted of felonies with long sentences. The problem isn't sentencing, it's what happens in prison to prepare people for release. Prop 20 could slash mental health treatment and rehabilitation programs—proven strategies to reduce repeat crime. That will make us all less safe.

Crime victims, law enforcement leaders as well as budget and rehabilitation experts oppose Prop. 20 because it wastes tens of millions on prisons while cutting rehabilitation programs and support for crime victims. Prop. 20 is a prison spending scam that takes us backwards.

PROP. 20 WASTES YOUR MONEY ON PRISONS.

Prop. 20 will spend tens of millions of taxpayer dollars—your money—on prisons. California is facing massive cuts to schools, health care, and other critical services. Spending tens of millions more on prisons right now is a wasteful scam.

PROP. 20 IGNORES HOMELESSNESS, SCHOOLS, MENTAL HEALTH, AND HOUSING.

We must always do more to address crime, but Prop. 20 will make things worse. Prop. 20 wastes tens of millions of your taxpayer dollars on prisons that would be better spent on schools, homelessness, mental health treatment, and affordable housing.

PROP. 20 IS EXTREME.

Prop 20 means that theft over $250 could be charged as a felony. That's extreme, out of line with other states, and means more teenagers and Black, Latino and low income people could be locked up for years for low-level, non-violent crimes.

PROP 20 CUTS THE USE OF REHABILITATION—MAKING US LESS SAFE.

Rehabilitation is a proven strategy to reduce repeat crime, so people become law-abiding, productive, taxpaying citizens. Prop 20 could cut rehabilitation—meaning fewer people would be ready to re-enter society when they are released, which would harm public safety.

PROP. 20 REDUCES NECESSARY SUPPORT FOR CRIME VICTIMS.

While overspending on prisons, Prop. 20 will slash financial support available to help victims of crime recover from trauma.

PROP. 20 TAKES US BACKWARDS.

California has made progress, carefully enacting modest reforms to reduce wasteful prison spending, and expand rehabilitation and other alternatives that have proven to cost-effectively reduce and prevent crime. People are demanding more changes to fix unjust policies that disproportionately harm poor people and people of color. Prop. 20 would repeal the progress we've made and take us backwards toward the failed, wasteful, and unjust policies of the past.

EXPERTS ON CRIME, SPENDING, AND CRIMINAL JUSTICE AGREE.

Prop. 20 will NOT make our communities safer. Prop. 20 WILL waste tens of millions of YOUR taxpayer dollars on prisons—causing CUTS to critical services people need.

STOP the Prison Spending Scam. VOTE NO on Prop. 20!

NoProp20.vote

#StopthePrisonSpendingScam

TINISCH HOLLINS, California Director
Crime Survivors for Safety and Justice

WILLIAM LANDSDOWNE, Police Chief (ret.)
City of San Diego

MICHAEL COHEN, Director of Finance (fmr.)
State of California

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 20 ★

Opponents ignore what Proposition 20 really does—it PREVENTS convicted child molesters, sexual predators and other violent inmates from being released from prison early.

Under current law, these inmates now qualify for early release because their violent crimes are classified as "nonviolent."

Proposition 20 closes this loophole, making crimes like date rape, child trafficking, spouse beating, and assault with a deadly weapon "violent" under the law.

"Proposition 20 does NOT send one new person to prison," says Michael Rushford, President of the Criminal Justice Legal Foundation. "It does NOT allocate funds for new prisons, nor slash funding for mental health and rehabilitation programs. These are FALSE arguments."

Opponents claim Proposition 20 makes petty theft a "serious felony," and say offenders "could be locked up in state prison for years."

Both claims are untrue.

Read the initiative. Proposition 20 specifically targets HABITUAL thieves who REPEATEDLY steal. And it specifically FORBIDS convicted offenders from being sent to state prison. Instead, they'll be directed to local jail or rehabilitation programs.

By targeting only violent offenders and habitual criminals, Proposition 20 protects ALL Californians, including people of color, who studies show suffer disproportionately from violent crime.

We all want to reform our justice system. But allowing violent offenders to leave prison early isn't reform. It's a threat to public safety.

Proposition 20 is REAL reform that protects victims and ensures equal justice.

Vote YES on Proposition 20.

FRANK LEE, President
Organization for Justice and Equality

ERIC R. NUÑEZ, President
California Police Chiefs Association

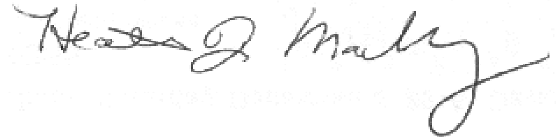
PATRICIA WENSKUNAS, Founder
Crime Survivors Inc.

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

CERTIFICATE OF COMPLIANCE

I, Heather J. MacKay, certify pursuant to the California Rules of Court, that the word count for this document is 767 words, excluding the tables, this certificate, and any attachment permitted under rule 8.204(d). This document was prepared in Century 13-point font and in Word 13, and this is the word count generated by the program for this document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Oakland, CA on April 1, 2021.



HEATHER J. MACKAY
Counsel for Petitioner

DECLARATION OF SERVICE

Case Name: ***In re Mohammad,*** No. S259999

I am employed in the County of Alameda, California. I am over the age of 18 years and not a party to the within entitled cause: my business address is P.O. Box 3112, Oakland, CA 94609. On April 1, 2021, I served the attached **REQUEST FOR JUDICIAL NOTICE** in said cause, placing true copies thereof, enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail at Oakland, California, addressed as follows:

Mohammad Mohammad AK-7854 California Men's Colony P.O. Box 8101 San Luis Obispo, CA 93409-8103	Los Angeles County Superior Court 111 North Hill Street Los Angeles, CA 90012

and by serving an identical PDF copy through this Court's True-filing e-service system on:

Charles Chung, Deputy Attorney General: charles.chung@doj.ca.gov Helen Hong, Deputy Attorney General: helen.hong@doj.ca.gov LA Attorney General's Office: docketingLAAWT@doj.ca.gov
Court of Appeal, Second Appellate District-Div. 5: 2d1.clerek5@jud.ca.gov
California Appellate Project-LA: capdocs@lacap.com
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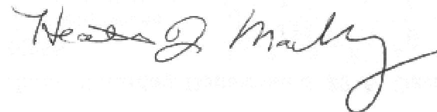
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed at Oakland, California on April 1, 2021.



/s/ Heather J. MacKay

Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
Electronically FILED on 4/1/2021 by M. Chang, Deputy Clerk

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **MOHAMMAD (MOHAMMAD) ON H.C.**
Case Number: **S259999**
Lower Court Case Number: **B295152**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. My email address used to e-serve: **mackaylaw@sbcglobal.net**

3. I served by email a copy of the following document(s) indicated below:

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BRIEF	S259999_SAB_Mohmmad
REQUEST FOR JUDICIAL NOTICE	S259999_RJN_Mohammad

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

4/1/2021

Date

/s/Heather MacKay

Signature

MacKay, Heather (161434)

Last Name, First Name (PNum)

Heather J. MacKay

Law Firm