

PUBLIC SAFETY: KEY ISSUES FOR 2023

THEME

- Republicans are invested in making sure that California is a place for opportunity to thrive and where residents can feel safe from violence, fentanyl poisoning, and theft. To do that, Republicans are fighting to solve our public safety challenges by properly funding our courts, our local law enforcement agencies, and closing loopholes that criminals are taking advantage of (Proposition 47/57).

ISSUES

FENTANYL TRAFFICKING AND POISONING.

- Consumption of the powerful synthetic opiate drug fentanyl has led to a large increase in the number of drug overdoses and poisonings in California. Approximately 2 milligrams of fentanyl is enough for a lethal overdose for the average person. It is 50 times more potent than heroin.¹ Based on preliminary 2021 data, there were 6,843 opioid-related overdose deaths in California; 5,722 of these deaths were related to fentanyl.² Overdose/poisonings tripled in San Francisco between 2017 and 2022.³ Drug users outnumber high school students by 50 percent there.⁴ Unintentional drug overdoses/poisonings due to opiates was the leading cause of death of 18-45 year-olds in 2021.⁵ In many instances, the victim was not even aware that the drug contained fentanyl. Bipartisan, comprehensive solution are needed to address this problem.

SOLUTIONS

- **Increase penalties for possession for sale and sale of substantial amounts of fentanyl. AB 1084 (Jim Patterson).** This applies to offenses involving 28.35 grams or more.
- **Require individuals convicted of drug crimes involving fentanyl and who are granted probation to take a class on the dangers of these drugs, associated laws, and harm reduction strategies. AB 890 (Joe Patterson).** This is similar to a Colorado law and existing requirements for defendants given probation for domestic violence crimes.
- **Require judges to inform criminal defendants who possess for sale, or sell, illegal drugs, that drugs are often counterfeit or adulterated, are dangerous, and that they can be prosecuted for murder or voluntary manslaughter if they commit this offense again and someone dies. AB 18 (Joe Patterson).**
- **Include injuries caused by selling or providing fentanyl within an existing penalty enhancement for inflicting great bodily injury during the commission of a felony. AB 367 (Maienschein).**
- **Include fentanyl within an existing felony penalty for possession of specified serious controlled substances (e.g., heroin, cocaine) while being armed with a loaded, operable firearm. AB 675 (Soria).**
- **Increase penalties for selling fentanyl on social media. AB 955 (Petrie-Norris).**
- **Increase penalties for selling very large amounts of fentanyl. AB 701 (Villapudua).** This applies when more than one kilogram is involved.
- **Create a task force with the responsibility to study state fentanyl policy. AB 33 (Bains); SB 19 (Seyarto).**
- **Require the State Threat Assessment Center to prioritize, to the greatest extent possible, cooperation with state and local efforts to illuminate, disrupt, degrade, and dismantle criminal networks trafficking opioid drugs that pose a threat to California. AB 474 (Rodriguez).**

PROPOSITION 47 AND PROPOSITION 57 REFORMS NEEDED.

- Proposition 57 allows early parole release for all prison inmates except those convicted of a narrow list of “violent” felonies. Proposition 47 decreased penalties for most drug possession offenses and for theft of property worth \$950 or less. Some have criticized these laws for being too lenient, for leading to an increase in property crime, and for removing the incentive to participate in drug court programs.

SOLUTIONS

- **Restore pre-Proposition 47 penalties for serial theft, contingent on approval by the voters. AB 75 (Hoover).** Prior to the passage of Proposition 47 in 2014, a criminal who committed petty theft who had three or more prior convictions relating to theft would face a potential felony charge. This proposal would

restore that ability to ensure that repeat theft offenders can face a felony charge for petty theft or shoplifting. This proposal requires approval by the voters because it amends provisions of Proposition 47.

- **Add human trafficking involving commercial sexual exploitation, felony domestic violence, and all forms of sexual assault to the definition of “violent felony” to exclude those offenders from eligibility for parole pursuant to Proposition 57. AB 229 (Joe Patterson).** Individuals who engage in these inherently violent offenses should not be eligible for early parole.
- **Create positive incentives for defendants to participate in drug court. AB 697 (Davies).** This would permit the judge to offer programs like rental assistance, tuition subsidies, and vehicle repair cost reimbursement for defendants who participate in, and successfully complete, drug court. These programs have been shown to reduce recidivism for offenders who successfully complete them.

RISING GUN VIOLENCE.

- Homicides involving firearms rose 8 percent between 2020 and 2021 (from 1,606 to 1,754 cases). They constituted 75 percent of the homicide cases where the weapon type was known.⁶ However, recent changes in law fails to hold offenders who use firearms in violent crimes fully accountable. This hinders the state’s ability to deter serious firearms-related crime. SB 81 (Skinner) of 2021 requires judges to dismiss sentencing enhancements under nearly all circumstances.⁷

SOLUTIONS

- **Provide that the provisions of SB 81 of 2021 do not apply to firearm crime-related sentencing enhancements. AB 27 (Ta).** Firearm crimes are too serious to be dismissed merely because the defendant meets one of the broad “mitigating” factors added by that law.
- **Restore the mandatory nature of the 10-20-Life law. AB 328 (Essayli).** With the exception of situations where the firearm was unloaded or where the defendant was merely an accomplice, a defendant who brandishes, discharges, or inflicts great bodily injury or death with a firearm during the commission of a specified serious felony should face these enhancements in all circumstances.

OPPOSITION TO POLICIES WHICH ENDANGER PUBLIC SAFETY.

- **Republicans will also oppose new proposals that reduce funding for law enforcement, weaken accountability for crimes, undermine the rights of crime victims, or which endanger public safety.** California has gone too far in the direction of weakening our criminal justice system, undermining public safety, failing to hold criminals accountable for their acts, and harming victims of crime.

PUBLIC SAFETY: KEY TERMS AND CRIME TRENDS

KEY TERMS.

- **Felony:** A crime for which imprisonment in state prison for one year or more is authorized by law. As a result of the realignment legislation (see definition below), the term also includes a crime for which imprisonment in county jail for more than one year is authorized.
- **Misdemeanor:** A crime for which the maximum imprisonment is no more than one year (defined as 364 days to avoid certain immigration consequences for a conviction) in county jail.
- **Proposition 47 of 2014:** A ballot initiative that reduced various property crime penalties, except in circumstances where the person was previously convicted of a narrow list of violent felonies or an offense requiring registration as a sex offender. It eliminated potential felony penalties applicable when a person is convicted of petty theft and has three or more prior convictions of theft offenses, except where the person has previously been convicted of one of a narrow list of violent felonies. It reduced the penalty for simple possession of most controlled substances from a low-level felony to a misdemeanor, unless the person has previously been convicted of a short list of violent felonies or an offense requiring registration as a sex offender. It provided that the savings calculated under its provisions are allocated: (1) 25% to for truancy prevention-related programs; (2) 10% to make grants to trauma recovery centers to provide services to victims of crime, and (3) 65% for rehabilitation programs.
- **Proposition 57 of 2016:** A ballot measure that provided that any person convicted of a “non-violent felony offense” and sentenced to state prison “shall be eligible for parole consideration” after completing the full term for his or her

“primary offense.” It provided that Department of Corrections and Rehabilitation has the authority to award credits earned for good behavior and rehabilitative or educational achievements for all offenses.

- **Realignment:** With regard to criminal justice, 2011 legislation that limited judges’ ability to sentence felons to state prison. It provided, with some exceptions, that a felon could be sentenced to prison only if he or she is sentenced to more than a year and is convicted (or was previously convicted) of a “serious felony,” a “violent felony,” or specified sex offenses. Otherwise, the person is sentenced to county jail, probation, or a fine.
- **Serious felony:** One of 42 types of felony offenses enumerated in Penal Code section 1192.7(c). It is not synonymous with all felony offenses that are serious in nature. For example, human trafficking is not a serious felony or a violent felony.
- **Violent Felony:** One of 23 felony offenses enumerated in Penal Code section 667.5(c). It is not synonymous with all felony offenses that are violent in nature. For example, assault by means of force likely to produce great bodily injury and human trafficking are not defined as a violent felonies under California law.

CRIME TRENDS. The violent crime rate increased 6.7 percent in 2021 (from 437.0 per 100,000 population in 2020 to 466.2 in 2020), while the property crime rate increased 3.0 percent in 2021 (from 2,114.4 in 2020 to 2,178.4 in 2021). The homicide rate increased 9.1 percent in 2021 (from 5.5 in 2020 to 6.0 in 2021).⁸ Statewide statistics are not yet available for 2022, but from news accounts crime appears to be rising, particularly in urban areas.

¹ <https://www.sfchronicle.com/projects/2021/san-francisco-drug-overdoses-map/>

² <https://www.cdph.ca.gov/Programs/OPA/Pages/Communications-Toolkits/Fentanyl-Overdose-Prevention.aspx#:~:text=Based%20on%20preliminary%202021%20data,19%20years%20old%2C%20in%20California.&text=Knowledge%20can%20save%20lives%20and%20stop%20drug%20overdose.>

³ <https://www.sfchronicle.com/projects/2021/san-francisco-drug-overdoses-map/>

⁴ <https://mountainside.com/blog/opioids/drug-users-outnumber-high-school-students/>

⁵ <https://www.politifact.com/article/2022/oct/03/fact-check-fentanyl-leading-cause-death-among-amer/>

⁶ <https://data-openjustice.doj.ca.gov/sites/default/files/2022-08/Homicide%20In%20CA%202021.pdf> (Table 18.)

⁷ The law defines as mitigating factors:

- Application of the enhancement would result in a discriminatory racial impact.
- Multiple enhancements are alleged in a single case. In this instance, all enhancements beyond a single enhancement are required to be dismissed.
- The application of an enhancement could result in a sentence of over 20 years. In this instance, the enhancement is required to be dismissed.
- The current offense is connected to mental illness.
- The current offense is connected to prior victimization or childhood trauma.
- The current offense is not a "violent felony" (as narrowly defined in Penal Code § 667.5(c)).
- The defendant was a juvenile when they committed the current offense or prior offenses.
- The enhancement is based on a prior conviction that is over five years old.
- Though a firearm was used in the current offense, it was inoperable or unloaded.

(Penal Code § 1385(c)(3).) The law requires the judge to give "great weight" to evidence that any of the mitigating circumstances enumerated in the bill are true unless it finds the dismissal of the enhancement would endanger public safety. It defines the term "endanger public safety" as "a likelihood that dismissal would result in physical injury or other serious danger to others."

⁸ https://data-openjustice.doj.ca.gov/sites/default/files/2022-08/Crime%20In%20CA%202021_0.pdf