

**REPORT OF THE  
CHIEF LEGISLATIVE ANALYST**

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DATE: January 11, 2013

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller   
Chief Legislative Analyst

Council File: 13-0002-S1  
Assignment No.: 12-12-0977

SUBJECT: Resolution (Englander - Koretz - Krekorian - Wesson - Zine) to support or sponsor legislation that would amend the 2011 Public Safety Realignment

CLA RECOMMENDATION: Adopt Resolution (Englander - Koretz - Krekorian - Wesson - Zine) to include in the City's 2013 - 2014 State legislative Program SUPPORT or SPONSORSHIP of legislation that would amend the 2011 Public Safety Realignment (AB 109 and AB 117) to require that offenders with prior convictions of violent and/or serious crimes be subject to stricter supervision and/or sentencing requirements.

SUMMARY

On December 7, 2012, a Resolution (Englander - Koretz - Krekorian - Wesson - Zine) was introduced to support or sponsor legislation that would amend the 2011 Public Safety Realignment (AB 109 and AB 117), to require that offenders with prior convictions of violent and/or serious crimes be subject to stricter supervision and/or sentencing requirements. A key issue with Realignment is that it does not take an offender's previous convictions into account when deciding eligibility for county supervision. This decision is made solely on the crime the offender was most recently convicted of; an offender previously convicted of a serious or violent crime may receive the same treatment under Realignment as an individual who has not previously committed a violent or serious offense.

The Resolution states that on December 2, 2012, four people were murdered at a boarding house in Northridge by a suspect who had a history of criminal convictions, including previous convictions for violent crime. However, the suspect's most recent conviction was for drug possession. The Resolution further states that these circumstances suggest that it may have been possible for the suspect to avoid stricter supervision under Realignment, and that it is imperative for Realignment to be modified to reduce the potential for violent crime. The Resolution, therefore, seeks an official position of the City of Los Angeles to support or sponsor legislation that would amend the 2011 Public Safety Realignment to require that offenders with prior convictions of violent and/or serious crimes be subject to stricter supervision and/or sentencing requirements.

BACKGROUND

On April 4, 2011 Governor Brown signed AB 109, and in June signed AB 117, which are collectively known as the 2011 Public Safety Realignment ("Realignment"). Realignment is the result of the State of California's attempt to reduce its prison population, as the United States

Supreme Court ruled that California's prisons are unconstitutionally overcrowded. To help meet this mandate, Realignment shifts responsibility for the supervision of offenders whose most recent convictions are non-serious, non-violent, and non-sexual ("N3" or non-non-non offenders) from the State to the counties. Counties are also responsible for the incarceration of N3 offenders who do not have previous convictions for a violent or serious crime. While state and local officials continue to work together to ensure Realignment is successful, some issues remain.

Realignment's shift of responsibility for the supervision of N3 offenders from the California Department of Corrections and Rehabilitation (CDCR) to county probation agencies is designed to reduce the recidivism rate among low-level offenders and keep the state prison population low. This is because counties were given far more leeway in punishment for probation offenses than previously available. For example, local agencies are able to detain individuals for a short amount of time (called a "flash incarceration"), where formerly, parole violations were addressed with far more serious punishments.

However, Realignment only takes into account an offender's most recent conviction to determine if they are eligible for county supervision. Current N3 offenders who have committed a violent or serious crime in the past could be subject to the program. This is an issue because county supervision is a more permissive environment than state parole, as probation officers have larger case loads, and may not be able to monitor offenders as closely as CDCR's parole officers can.

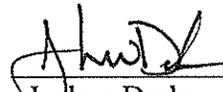
Further, unless given a split sentence, where probation is ordered by the court in addition to jail-time, the vast majority of N3 offenders do not have a supervision or treatment obligation upon release. This allows recently released N3 offenders to avoid monitoring by local law enforcement agencies, and could allow these individuals the opportunity to offend again. Also, N3 offenders who have served their sentences in county jails are not subject to search and seizure conditions after release, enabling a possible return to criminal behavior by not giving law enforcement a valuable tool. The Police Department (LAPD), as well as other agencies, believes that felons in the N3 category should automatically be subject to a non-revocable probation/parole scheme upon release, including search and seizure provisions. This would enable local law enforcement agencies to more effectively prevent released N3 offenders from endangering public safety, and provide a tool that could be used to ensure N3 offenders are not threatening public safety after they are released from custody.

Another major concern for LAPD and other public safety agencies centers on the post-release status individuals who have been decertified as mentally disordered offenders (MDOs) or mentally disordered sexual offenders (MDSOs). Under Realignment, all individuals certified as an MDO or an MDSO are subject to CDCR post-release supervision. However, those recently decertified are relegated to county supervision. Law enforcement agencies report that the monitoring of these individuals consumes more resources than other N3s. LAPD also believes that these individuals pose a more serious threat to public safety than general N3 offenders, and therefore should be mandated state supervised parole upon release from prison. Other public safety agencies and organizations agree with this assessment, including the California Police Chiefs Organization.

Local public safety agencies are concerned that without modifications to post-release supervision, Realignment will allow current N3 offenders who have prior convictions for violent, serious, or sexual offenses, or those who have been decertified as MDOs or MDSOs, to benefit from reduced supervision, and subsequently commit another violent or serious crime. The City of Los Angeles is not alone in this regard, as other jurisdictions and organizations throughout California have voiced concern with Realignment, including Los Angeles County and the California Police Chiefs Association. Legislation amending Public Safety Realignment to impose stricter supervision on individuals with previous violent, sexual, or serious convictions, and post-release supervision including search and seizure for all N3 offenders, would strengthen the intent of the law and help ensure that Realignment is not endangering communities.

DEPARTMENTS NOTIFIED

Police Department

  
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Joshua Drake  
Analyst

GFM:SMT:jwd

Attachment: Resolution (Englander – Koretz – Krekorian – Wesson - Zine)

13-0002-51

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, to alleviate overcrowding in the State of California prison system, the Legislature and Governor adopted AB 109 and AB 117, collectively referred to as "Public Safety Realignment," which allows non-violent, non-serious, and non-sex offenders to serve their sentences in County jails instead of State prisons; and

WHEREAS, Realignment also shifted the post-release supervision of offenders whose current offense is a non-violent, non-serious and non-sex crime from State Parole to County Probation; and

WHEREAS, the shift in supervision to County Probation excludes inmates paroled from life terms, high-risk sex offenders, mentally disordered offenders, and offenders whose most recent offense is violent or serious; and

WHEREAS, under the provisions of Public Safety Realignment, however, an offender whose most recent conviction is non-violent or non-serious, but who has prior convictions of violent crime, may likely be treated the same as an offender without a prior criminal record; and

WHEREAS, on Sunday December 2, 2012, four people were murdered at a boarding home in Northridge, and the alleged suspect has a history of criminal convictions which include violent crime, with his most recent conviction being a non-violent offense for possession of methamphetamine; and

WHEREAS, these circumstances suggest that under Realignment, it may have been possible for the suspect to avoid stricter monitoring by State Parole and/or sentencing based on his prior criminal record; and

WHEREAS, as local governments continue to adapt to the impacts of Public Safety Realignment, it is imperative that modifications be enacted that can minimize the incidence of violent crime;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-2014 State Legislative Program SUPPORT or SPONSORSHIP of legislation that would amend the 2011 Public Safety Realignment (AB 109 and AB 117) to require that offenders with prior convictions of violent and/or serious crimes be subject to stricter supervision and/or sentencing requirements.

*[Signature]*  
DEC 7 2012

PRESENTED BY *[Signature]*  
MITCHELL ENGLANDER  
Councilmember, 12<sup>th</sup> District

SECONDED BY *[Signature]*  
*[Signature]*  
*[Signature]*

ORIGINAL