

[Click Here To Close This Window](#)

Economy & Efficiency Commission Presentation

Editorial Note: Although every effort has been made to insure the accuracy of the material in this presentation, the scope of the material covered and the discussions undertaken lends itself to the possibility of minor transcription misinterpretations.

PRESENTATION BY

Mr. Curt Livesay

Chief Deputy District Attorney, Los Angeles County

Topic: A Status Report on the District Attorney's Office

PRESENTATION BY

**Mr. William Mangan, Director, Bureau of Management and Budget
District Attorney's Office, Los Angeles County**

Topic: Measure A (Law Enforcement Sales Tax)

PRESENTATION BY

**Ms. Lael Rubin, Special Counsel to the District Attorney
District Attorney's Office, Los Angeles County**

Topic: Proposition 66 (Changes to the Three Strikes Law) and Proposition 69 (DNA Initiative)

October 7, 2004

Chairman Philibosian introduced Mr. Livesay, Ms. Ruben and Mr. Mangan and welcomed them to the Commission.

Introduction

Mr. Livesay commented that the DA's budget anticipates having about a thousand lawyers in the office, over 280 investigators, and maintaining the support staff and witness relocation programs. In responding to his responsibilities the District Attorney, Steve Cooley, has probably looked at corruption in governments more than any other time in the past. Additionally, there has been a number of officer involved shootings countywide. It is not certain whether these shootings result have one cause or are in one area or if they are a part of the existing value structure and gang activity within the urban environment.

Mr. Livesay also recognized that the courts are facing serious budget difficulties with detrimental ramifications to DA's Office, but even so the DA has a budget for at least a year that the office can manage. The goal of the District Attorney Cooley within this budget is accountability for officials, departments, suspects, and for personnel in the DA's Office.

Concerning the upcoming ballot there are a series of initiatives which Mr. Livesay felt that three of these initiatives will directly impacting the justice system. Of these Mr. Bill Mangan will discuss measure A, which concerns increase of the sales tax to fund law enforcement - a part of which would affect the DA's budget. Ms. Lael Rubin will discuss Proposition 66, the three strikes initiative, and Proposition 69, the DNA initiative.

Measure A (Law Enforcement Sales Tax)

Mr. Mangan stated that Measure A is the sales tax ballot issue to raise sales tax ½ of 1% with the proceeds to be earmarked for public safety purposes. Although this effort has been previously undertaken, one should recognize that both for the Sheriffs Department and the District Attorney are departments which are funded from little discretionary money from the Board of Supervisors. Historically, Mr. Mangan pointed out that when Proposition 13 passed in 1978, the county lost revenue from the property tax that was a significant public safety funding source. In an attempt to respond to this situation local government has had to pass specially earmarked and narrowly defined measures, for such things as law enforcement, fire service, etc., at the city and county levels to maintain a presentable and save community. The DA's Office has always felt that the law enforcement community will not be able to really get earmarked, locally created, voter approved tax funding until the situation gets so bad that it is recognized that the issue needs to be permanently addressed.

Mr. Mangan noted that the effort of Sheriff Baca, along with Los Angeles Police Chief William Bratton, attempted to place the sales tax ½ of 1% on the ballot by getting sufficient signatures, but failed to get an adequate number. Upon recognizing that the initiative was not going to qualify the Sheriff requested the Board of Supervisors to place it on the ballot. The Board requested that Measure A funds are protected from being redirected for other activities. They also asked that inflation of protection be included. These provisions were included to avoid the problems presented by Proposition 172.

Mr. Mangan acknowledged that there may be a problem since the County recently disclosed a budget surplus which might give voters pause in approving a new tax. Of course this surplus can be rationalized by accepting that the surplus of \$337 million is less than 2% of the total budget. With the uncertainty of the state funding it is appropriate to be fiscally conservative.

Within the measure, Mr. Mangan commented that a small portion is allocated to the Auditor for administration and to address the medical, mental health and security issues in the jails. Funds are also allocated for prosecution and to the Probation Department, the Public Defender. The District Attorney has been cut-back nearly \$13.5 million as a result of being a discretionary element of the county's budget. This translates to 135 permanent prosecutor attorneys, 78 temp employees and about 100 of out support staff non-attorney personnel. If Measure A passes the DA would like to return to the 2000 employment level. In addition, the DA would grow in hard-core gang enforcement (currently down about 18%) and mid-level gang enforcement. The DA would benefit by gaining back \$19.6 million per year. Currently case load is up about 10% from 4 years ago and professional staff is down 12.5 %.

Proposition 66 (Changes to the Three Strikes Law)

Ms. Rubin reported that if Proposition 66 passes the requirements would be burdensome. Proposition 66, described as a three strikes initiative, would require the third offense to be serious or violent. The term serious or violent offenses in the penal code are listed as robbery, rape, murder, kidnapping, certain kinds of assault, sexual offences, residential burglary, car jacking and any other heavy duty crimes. Existing law in California is that the third felony conviction can be any felony, not only those that are serious or violent. Putting aside the third felony offense, the initiative reduces what has traditionally been considered a serious or violent offense. Most residential burglaries, arsons, certain assaults, certain crimes against elderly and disabled will no longer be serious or violent offense under Proposition 66. Many offenses require having great bodily injury inflicted. Under the initiative, we will have to prove the specific intent to commit great bodily injury. For example, felony drunk driving, where there is great bodily injury will not be serious or violent unless prosecutors can prove intent to injure on the driver's part.

Ms. Rubin commented that Proposition 66 will also place all the crimes and charges together on one trial and one pleading. Thus, if someone commits 6 robberies, the law will require the crimes to be joined in one prosecution. For example, the Bellmont Shore rapist, in Long Beach, having raped 14 women over a five year period, would receive one strike for all of these violent attacks. In this the law goes too far.

The last aspect of the Proposition reported by Ms. Rubin makes the law retroactive to individuals who were sentenced on a third strike to 25 to life for an offense like petty theft with a prior offense. These individuals have a mandated timeframe of six months for re-sentencing. So if this law passes, in LA County for example, 2,000 third strikers would be let out of prison because they will have served their entire sentence. Many people who have been convicted on a second strike have had their sentence doubled. In LA County, since many of the offenses will have been eliminated or not tried in separate proceedings, 16,000-18,000 people would have to be re-sentenced and probably released in 6 months. Neither the courts nor the Sheriff have the resources to deal with this number of people. The District Attorney's position has been that since the DA has the discretion as to whether to proceed as a third strike case, the current policy works and this is reflected by being well received by every segment of the community.

Proposition 69 (DNA Initiative)

Ms. Rubin stated that if Proposition 69, the DNA initiative, passes it will have a dramatic negative effect on the criminal justice system and it will also greatly aid prosecutors and law enforcement since for the first time in California it will set-up a DNA felon database of convicted felons. By 2009, everyone arrested and convicted of any felony will have a DNA sample on file. This is not different from fingerprinting from a privacy standpoint, although some people had claimed that it will record private information about individuals and be intrusion into privacy. DNA code consists of numbers and gender information only, and should be less intrusive than finger prints. California has been backward in setting up a DNA database.

Commissioner Questions

Commissioner Sullivan asked if Proposition 66 involves re-sentencing, would the Blakely case cause some synergy between the two? Ms. Rubin stated that it would. A case is currently being argued before the US Supreme Court to try and understand how it will affect sentencing issues. Most of the focus is on the Federal Sentencing Guidelines and as a result there is concern in California over the effect of Blakely. The Blakely decision says that a jury, not a judge, must decide any factors that would increase a sentence. So for example, the sentencing scheme in California is low, middle, and high term that a judge has at his or her disposal of deciding which of 3 possible sentences to impose. The DA's Office and the Superior Court have been taking the view, that any sentence above a middle term sentence has to be determined by a jury.

Commissioner Barcelona asked Mr. Mangan regarding Measure A if Sheriff Baca requested chambers of commerce to endorse the measure. Although has been endorsed it was a divided opinion with the chambers wondering why law enforcement doesn't utilize the tobacco tax money. Mr. Mangan explained one of the Supervisor Antonovich's alternative's suggested that tobacco settlement funds be used for health and medical to free up some general fund money which could then be applied to law enforcement. These funds are not a voter approved continuous funding stream and eventually they run out.

Commissioner Tortorice asked what are the specific in this initiative that prevent a reduction of the Sheriff's budget? Mr. Mangan explained that the initiative requires that each local government, whether it be the county or the municipality, to continue to fund that department at a base level. There is a cost of living growth factor built into the increment, so that it continues to grow as wages of officers' increase. With Proposition 172 wage increases eroded the baseline that had been established.

Commissioner Padilla asked how the sentencing guidelines before Proposition 184 factor into Proposition 66? Ms. Rubin clarified Commissioner Padilla's question by asking if he was referring to the period before the implementation of 3 strikes law with the people in early 1990's who were convicted of a serious or violent offense that is no longer a serious or violent offense. If so, the lawyers of those defendants that are still in prison will believe their defendants should have the right to be re-sentenced under Proposition 66. Long held court decisions say if there is a benefit to the defendant by the passage of a new law then that

defendant will get the benefit of the new law. Mr. Livesay also commented that one goes to the allocation at the time, it would be a Blakely problem. At the sentencing the prosecutor will remind the judge of the serious or violent felony as defined the penal code, with the judge justifying the heavy sentence by noting the serious felony.

Chairman Philibosian asked Ms. Rubin to discuss the sponsor of Proposition 66 and his reason for sponsorship, especially in view of its retroactive nature. Ms. Rubin explained there are several sponsors, but the primary sponsor, who gave \$1.6 million in support, is a man from Sacramento. This man's son entered a plea to felony drunk driving, where two people were seriously injured and received 8 years. Since he did not have any prior offenses, this would be considered his first strike. His father has been concerned if his son commits another felony after his release he would then have a second strike, with the sentence doubled. Thus, the passage of Proposition 66 would assure that if his son is arrested and convicted again he would not receive a second strike.

Commissioner Thierer asked about what efficiency initiatives has law enforcement incorporated to insure that it isn't going to be business as usual, with the result that in another five years another half cent increase will be requested? Mr. Mangan explained that he believes that if the Sheriff gets a nine percent increment out of Measure A to improve risk management in county jails, the County will avoid pay-outs on litigation and a reduction in the lapses that occur in the jails. Jails are under funded, need to be retrofitted, need infrastructure and repair, and require better training and conversion of staff to higher trained professional civilian. Also, the Board has put up to \$40 million into the interoperability issue, to make sure we don't have failures of adequate response to major incidences. Investing in interoperability communications is going to result in greater efficiency. This will also created an audit trail that will support reimbursement claims to the federal government.

Chairman Philibosian thanked Mr. Livesay, Ms. Ruben and Mr. Mangan for taking time out of their busy schedule to make and informative and valuable presentation to the Commission.

[Return to Top of Presentation](#)

[Return to Agenda](#)



Kenneth Hahn Hall of Administration, Room 163, 500 West Temple St.,
Los Angeles, CA 90012
Phone (213) 974-1491 FAX (213) 620-1437 [EMail eecomm@co.la.ca.us](mailto:EMail_eecomm@co.la.ca.us)
WEB eec.co.la.ca.us