



STAFF REPORT

Meeting Date: August 16, 2016
To: Honorable Mayor & City Council
From: Cheryl Friedling, Deputy City Manager
Subject: Request by Mayor Mirisch to Consider a Resolution of the Council of the City of Beverly Hills in Support of the California Death Penalty Repeal Initiative ("The Justice That Works Act of 2016")
Attachments:

1. Summary of Propositions 62 and 66
2. Ballot Measure Supporters/Opponents
3. "AM Alert: The Carters back California death penalty repeal, but will it matter?" by Alexei Koseff
4. "Officials turn out to save death penalty" by Shane Newell

INTRODUCTION

This item is presented at the request of Mayor Mirisch to consider a resolution in support of the "*The Justice That Works Act of 2016*." The measure is on the November 8, 2016 California ballot as Proposition 62.

The initiative seeks to repeal the death penalty and replace the maximum punishment for murder with life in prison without the possibility of parole. It would also apply retroactively to those individuals already sentenced to death.

DISCUSSION

It is generally agreed by both supporters and opponents that the death penalty system has not been effective in reducing crime. Supporters of Proposition 62 have advocated for the removal of the death penalty. According to advocacy groups, the State has spent more than \$5 billion in the execution of 13 people since 1978, and if this measure is approved, the State could save \$150 million annually.

There are currently no known official opponents of this measure, however, death penalty supporters have indicated the need to reform and streamline administrative processes.

Another initiative related to the death penalty is Proposition 66 which has also been placed on the California ballot for those seeking to retain the death penalty through legal reform (see attached).

FISCAL IMPACT

While there are no direct fiscal impacts to the City of Beverly Hills, there will be financial considerations for the State of California.

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RECOMMENDATION

Staff seeks City Council direction on the Mayor's request for a Resolution in support of Proposition 62, the "*Justice That Works Act of 2016.*"

Cheryl Friedling 
Approved By

Attachment 1

Summary of Proposition 62: Death Penalty Initiative Statute

Elimination of Death Penalty for First Degree Murder - Under this measure, no offender could be sentenced to death by the state for first degree murder. The most serious penalty available would be a prison term of life without the possibility parole.

Resentencing of Inmates With Death Sentences to Life Without the Possibility of Parole - The measure specifies that offenders currently sentenced to death would not be executed and would be resentenced to a prison term of life without the possibility of parole. The California Supreme Court could transfer all of the existing death penalty legal challenges pending before it to the state's Courts of Appeal or trial courts.

Inmate Work and Payments to Crime Victim Requirements - The measure specifies that every person found guilty of murder must work while in state prison and have their pay deducted for any debts they owe to victims of crime, subject to state regulations. Because the measure does not change current state regulations related to inmate work, existing practices would not necessarily be changed. The measure increases from 50 percent to 60 percent the maximum amount that may be deducted from the wages of inmates sentenced to life without the possibility of parole for any debts owed to victims of crime.

Fiscal Impacts of Proposition 62 (Legislative Analyst's Office):

Murder Trials - The measure would reduce state and county costs associated with some murder cases by shortening the duration of some trial and reducing costs incurred by counties for prosecutors and public defenders. In total, the measure could reduce state and county costs for murder trials by several tens of millions of dollars annually on a statewide basis. The actual reduction would depend on various factors, including the number of death penalty trials that would otherwise occur in the absence of the measure.

Legal Challenges to Death Sentences - Over time, the measure would reduce expenditures by state agencies participating in the legal challenges to death sentences by about \$55 million annually. These reduced costs likely would be partially offset in the short run because some state expenditures, would probably continue until the courts resolved all currently pending legal challenges.

State Prisons - The measure would result in a somewhat higher prison population and higher prison costs as formerly condemned inmates are sentenced to life without the possibility of parole. However, these added costs likely would be more than offset by reduced costs from not having to house hundreds of inmates on death row. The net effect of these fiscal impacts would likely be a net reduction in state costs for the operation of the state's prison system of several tens of millions of dollars annually. The actual reduction could be higher or lower depending on the rate of executions that would have otherwise occurred.

Summary of Fiscal Effects - In total, the LAO estimates that this measure would reduce net state and local government costs related to murder trials, legal challenges to death sentences, and prisons. These reduced costs would likely be around \$150 million annually within a few years. This reduction could be higher or lower by tens of millions of dollars, depending on various factors.

Summary of Proposition 66: Death Penalty Procedures Initiative Statute

Habeas Corpus Petition Hearings - The measure requires that habeas corpus petitions first be heard in the trial courts instead of the California Supreme Court. These petitions would generally be assigned to the judge who presided over the original murder trial. Trial courts would be required to issue a statement explaining the basis for their ruling. This decision could then be appealed to the Courts of Appeal, followed by the Supreme Court. Cases pending before the Supreme Court could be transferred to the trial courts.

Time Limits on Death Penalty Process - The measure requires that the direct appeal (in the Supreme Court) and the initial habeas corpus petition (in the trial court) be completed within five years of the death sentence unless “extraordinary and compelling” reasons justify the delay.

Appointment of Attorneys - The measure directs the Judicial Council and California Supreme Court to reevaluate and amend the attorney qualifications for death penalty legal challenges in order to expand the number of attorneys available for appointment to ensure cases are heard in a timely manner while ensuring competent representation.

Various Other Changes - The measure specifies that every person under a death sentence must work while in state prison and have their pay deducted if the inmate owes victim restitution, subject to state laws and regulations. Because the measure does not change current state regulations related to inmate work, existing practices would not necessarily be changed. The measure increases from 50 percent to 70 percent the amount that may be deducted from inmate wage and trust accounts if the inmate owes victim restitution.

The measure exempts execution procedures from the APA and allows the housing of condemned inmates at any prison. The measure also makes various changes regarding the method of execution used by the state. For example, challenges to the method may only be heard in the court that imposed the death sentence and the state must generally maintain a valid method of execution.

Fiscal Impacts of Proposition 66 (Legislative Analyst’s Office):

State Courts - This measure would likely increase court workload and require significant staffing increases to address the hundreds of pending cases within the time limits required by the measure. The measure would also likely require a significant increase in the number of attorneys appointed to represent condemned individuals. This could require the recruitment and training of qualified attorneys.

These costs are subject to considerable uncertainty and would depend on how this measure was interpreted and implemented. For example, the courts might determine that more than one attorney should be appointed to meet the measure’s required timeframes. In total, the extent of the increase in state costs in the near term is unknown and would depend on how the courts addressed the increased workload, but could potentially be in the tens of millions of dollars annually in the near term. The fiscal impact of the measure in the longer run is less certain.

State Prisons - The measure could result in reduced state prison costs to the extent the state changes the way it houses condemned inmates.

Attachment 2

Supporters and Opponents of Propositions 62 and 66

Proposition 62: Death Penalty Initiative Statute

Supporters

- Former President Jimmy Carter
- Former First Lady Rosalynn Carter
- Lt. Governor Gavin Newsom
- Jane Fonda, Actor
- Mike Farrell, Actor and Anti-Death Penalty Advocate
- California Democratic Party
- Representative Loretta Sanchez, CD-46
- Taxpayers for Sentencing Reform

Opponents

- L.A. County Sheriff Jim McDonnell
- L.A. County District Attorney Jackie Lacey
- Several California District Attorneys

Proposition 66: Death Penalty Procedures Initiative Statute

Supporters

- Peace Officers Research Association of California (PORAC)
- Kermit Alexander, former NFL athlete
- Californians for Death Penalty Reform and Savings (previously Californians for Justice and Public Safety)
- Deputy Sheriff's Associations
- Local Police Officer Associations
- Local District Attorney Associations
- California Correctional Peace Officers Association
- California Association of Highway Patrolmen
- Los Angeles Police Protective League
- Former L.A. Mayor Richard J. Riordan

Opponents

- The California Democratic Party
- Californians for Fair Justice (supported by the ACLU)
- Proteus Action League Organization
- PowerPac.org
- American Civil Liberties Union
- Atlantic Advocacy Fund

Attachment 3

Capitol Alert AM

AM Alert: The Carters back California death penalty repeal, but will it matter?



Mounting another campaign a mere four years after the last one narrowly failed – and facing the complicating factor this time of a [concurrent push](#) to speed up the death penalty – supporters of an initiative to abolish capital punishment in California have rounded up a stable of high-profile backers in hopes of swaying a voting public that remains [evenly divided](#) on the controversial issue.

On Thursday, the campaign announced the endorsement of former President **Jimmy Carter** and his wife, **Rosalynn Carter**, who said in a statement that they "strongly support" Proposition 62, which would replace the death penalty with a sentence of life imprisonment without the possibility of parole.

"We believe that the attempt to administer the death penalty in a fair and efficient manner has failed, and note that a number of states have chosen to abandon this policy for this reason," the Carters said. "It is our hope that California will also lead the nation in adopting a more effective and fiscally responsible law enforcement approach."

Other famous backers [include](#) actors **Jane Fonda**, **Danny Glover** and **Ed Asner**; Virgin Group founder **Richard Branson**; *Hustler* publisher **Larry Flynt** and Lt. Gov. **Gavin Newsom**.

The proponents of Proposition 62, who argue that capital punishment is a costly and inhumane procedure bound to kill innocent people, likely sense that the timing is now right after a 2012 initiative to end the practice was defeated by a vote of 52 percent to 48 percent.

2016 is another presidential election year, which tend to turn out higher numbers of Democratic voters more likely to oppose the death penalty. A January Field Poll also showed a growing number of California voters favor getting rid of it, though

they are still slightly outnumbered by those who would like to speed up the execution process, 48 percent to 47 percent.

But endorsements, even from someone as respected as Carter, are unlikely to make much of a difference, according to longtime Democratic political strategist **Darry Sragow**.

"Voters have very specific and strongly held views for or against the death penalty," Sragow said. "An endorsement has very little value if it's endorsement that voters view as nothing new, as expected."

Carter has been a longtime advocate for abolishing capital punishment. In 2012, he penned an op-ed encouraging Californians to vote for anti-death penalty initiative.

Nevertheless, Sragow added, Carter's endorsement can only be viewed as a "net plus." It brings attention to the issue, he said, and helps spread the message to California's traditionally low-information voters.

"It shows motion," he said. "It shows a determination on the part of the campaign to pull out all the stops to win."

Alexei Koseff: 916-321-5236, @akoseff

Attachment 4

Officials turn out to save death penalty

Los Angeles County sheriff and district attorney join others calling for the defeat of Proposition 62.

SHANE NEWELL

Top Los Angeles County officials including Sheriff Jim McDonnell and Dist. Atty. Jackie Lacey have joined a November election battle, announcing support for preserving California's death penalty and reforming the state's appeals process.

The death penalty should be "for the worst of the worst," McDonnell said Monday night at an event dubbed, "Mend, Don't End California's Death Penalty."

"We want to be in a position to be able to say that there is a disincentive for the most horrific of murders," McDonnell said.

Also speaking out at the event was Orange County Sheriff Sandra Hutchens. The goal: opposing Proposition 62, which would abolish executions and replace them with life without parole, and supporting Proposition 66, which aims to speed up executions in California.

Voters will weigh the two competing measures on the Nov. 8 ballot. It wasn't clear what political or organizing muscle the law enforcement officials would put behind their stance on the propositions, which already have raised serious cash.

Both capital punishment initiatives would require current death row inmates to work and pay restitution to victims, but the measures take opposing approaches to what they both call a broken system. Proposition 66 would keep the death penalty, limiting the number of petitions prisoners



MEL MELCON Los Angeles Times

DIST. ATTY. Jackie Lacey said the death penalty should be reserved for cases involving "evil, reckless disregard for human life," citing the "Grim Sleeper."

can file to challenge their convictions and sentences, and providing new deadlines intended to expedite appeals.

Lacey cited the recent death sentence of the "Grim Sleeper" serial killer and said the death penalty should be reserved for the few cases involving "evil, reckless disregard for human life."

"I think that's a different category of evil," she said at the news conference Monday night in Monterey Park, "and the appropriate punishment is death."

One by one, high-profile opponents of the anti-death penalty propositions spoke, framed by large posters of victims and police officers who had been killed. They urged voters to support keeping the death penalty.

Los Angeles Police Department Chaplain Ferroll Robins, whose brother was shot and killed in Chesterfield Square in 2002, said the

death penalty should be used for his killer.

"My family has to live without my brother," she said. "The only thing we have is a picture. I don't think that's fair."

The issue has sparked passionate debate, and not all county officials are on the same side.

Former Los Angeles County Dist. Atty. Gil Garcetti said in a statement to The Times that he had reversed his position on the death penalty because "it's a total waste of money and of no useful purpose."

"Every attempt to change the failed death penalty system over the past 40 years has made it worse and more expensive," he said. "Prop. 66 is no different."

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Times staff writer Jazzmine Ulloa contributed to this report from Sacramento.