

## **Opinion: Big Prop. 47 loopholes biting back**

**By Dan Walters**

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California's legislators are now eager to plug some gaping – and potentially dangerous – loopholes in criminal laws that voters opened last year by passing Proposition 47.

But, one might wonder, where were these politicians last year when local prosecutors and cops were warning about Proposition 47's loopholes?

Where, for that matter, was Attorney General Kamala Harris, the state's top law enforcement official, who wrote the measure's official ballot summary and didn't mention its potential problems?

Harris' office has refused to explain the omission and her silence during the campaign, citing only her summary-writing duty.

San Francisco District Attorney George Gascón – who succeeded Harris in that position – sponsored Proposition 47, touting it as a way to cut prison spending by reducing low-level, nonviolent property crimes and personal drug possession from felonies or “wobblers” to misdemeanors.

It would, Gascón and his co-sponsors told voters, “improve public safety” and “reduce prison spending and government waste” while diverting the savings into education, drug treatment and compensation for crime victims.

That argument was backed by \$7 million in campaign funds, and voters, who have long indicated fatigue with high prison spending, gave Proposition 47 nearly 60 percent of their votes.

In doing so, they ignored warnings in their ballot pamphlets from several law enforcement officials that by lumping theft of firearms worth less than \$950 and possession of date-rape drugs used to subdue women with lesser larceny and drug crimes, the measure would treat them as a misdemeanors rather than felonies.

However, opponents had virtually no money to pound voters on those loopholes.

Additionally, by converting some felonies and wobblers to misdemeanors, Proposition 47 eliminated the authority to collect DNA samples from those arrested for the downgraded crimes.

Fast-forward three months, and legislators are clamoring to close those loopholes.

Last week, legislation was introduced to reauthorize DNA collection, which Sacramento County District Attorney Anne Marie Schubert called “the greatest tool ever given to law enforcement to find the guilty and exonerate the innocent.”

On Tuesday, two bills aimed at reinstating wobbler status for the possession of date-rape drugs, allowing it to be prosecuted as a felony if circumstances warrant, were unveiled.

The thrust of Proposition 47 – reducing penalties for truly minor, nonviolent crimes – is worthy, but it’s the sort of thing that the Legislature could, and should, have done judiciously.

Its failure to act, and the failure of Gov. Jerry Brown and Harris to lead on sentencing reform, gave Gascón and his allies an opening for mindlessly broad changes in our criminal laws.

Read more here: <http://www.sacbee.com/news/politics-government/dan-walters/article11107988.html#storylink=cpy>