

Posted 12/6/21

## CAUSE AND EFFECT

***California eased up on punishing theft.  
Did it increase crime? Embolden thieves?***



*For Police Issues by Julius (Jay) Wachtel.* Believe it or not, Jerry Brown got his start as a law-and-order type. In 1976, only a year into his first term as Governor, California's former Secretary of State [signed a bill](#) replacing the state's forgiving, indeterminate sentencing structure with tough-on-crime policies that prioritized punishment.

Of course, considering the "crime wave" [that beset the era](#), his move was likely inevitable. As were the consequences. In time the state's prisons became appallingly packed, creating insufferable conditions for inmates and guards alike. It took more than three decades, but in 2011 the U.S. Supreme Court affirmed [a 2009 ruling](#) by a special three-judge panel ordering the release of more than thirty-thousand inmates.

At the time that the Supremes issued their slap-down, the Yale law school grad had just completed a four-year term as State Attorney General, and his second eight-year stint as Governor was underway. Despite his earlier leanings, Brown quickly fell in line with the new, less punitive approach, and during his term he would sign a host of measures reflecting California's new normal. But we'll begin our review with a law that was placed into effect by that famous "Red" politician whom Jerry Brown replaced.

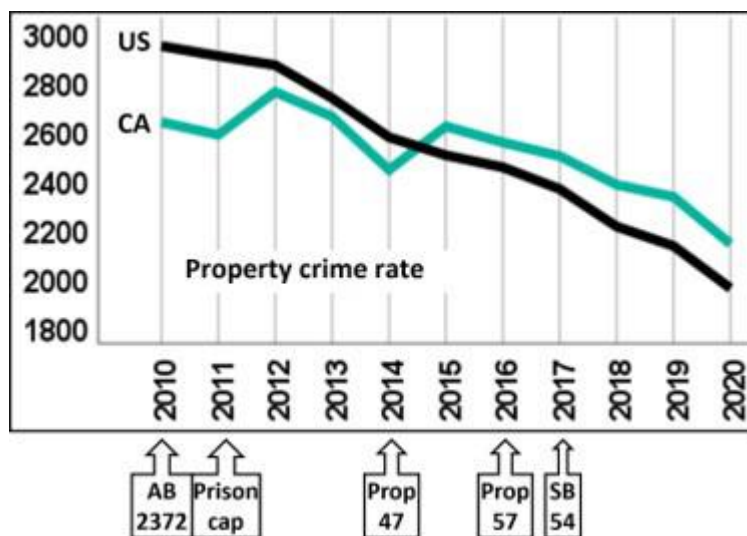
- [Assembly Bill 2372](#). In September 2010, outgoing Governor Arnold Schwarzenegger signed a bill raising the threshold for the felony crime of Grand Theft from \$400 to \$950. Most other thefts became misdemeanors.
- [Assembly Bill 109](#). In 2011, shortly after the Supreme Court upheld the prisoner cap, Governor Brown signed the "Public Safety Realignment Act." Under its provisions, "non-serious, non-violent" offenders would serve their time in county jails instead of state prison. Generous good-time credits were thrown into the

# POLICEISSUES.ORG

mix. During 2010-2012 California's combined jail/prison population [reportedly fell by more than twenty-thousand](#).

- [Proposition 47](#). Signed into law in November 2014, the enticingly (some would say, misleadingly) entitled "Safe Neighborhoods and Schools Act" created the new offense of "shoplifting," a misdemeanor punishable by up to six months imprisonment. It applied to all thefts from businesses, including those planned in advance, as long as losses did not exceed \$950. Since then "shoplifting" has kept most planned thefts from being charged, as was once customary, [as felony burglary](#), as that requires entry with the intent to commit "grand or petit larceny or any felony."
- [Proposition 57](#). Effective November 2016, the alluringly entitled "Public Safety and Rehabilitation Act" allows non-violent felons to be considered for parole upon completion of the term for their main offense, regardless of other crimes for which they were convicted or any sentence enhancements that may have been imposed.

Progressives have championed Jerry Brown's legacy. Although the *Los Angeles Times* acknowledged in 2018 that there had been ["spikes" in violent and property crime](#) in the years following the enactment of AB 109 and Proposition 47, when the life-long servant finally, finally left public office it nonetheless applauded his decision [to "change course."](#)



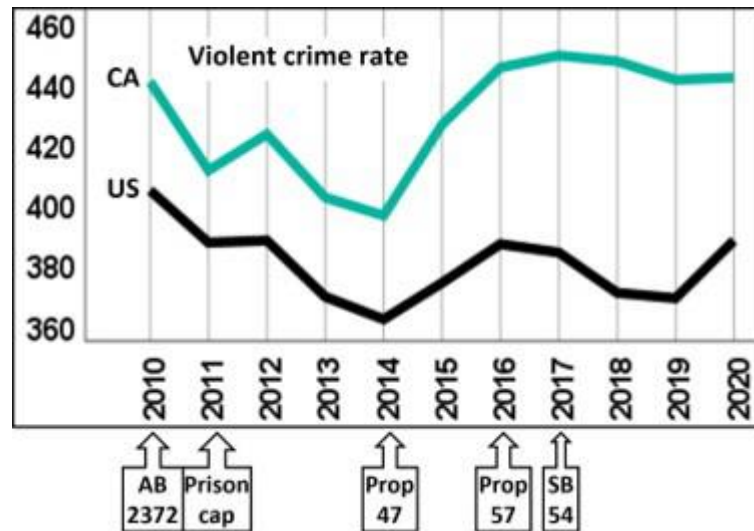
Concerns about the potentially criminogenic effect of the Golden State's new, go-easy approach have received considerable scrutiny, academic and otherwise. Before getting into the studies, though, we thought it best to present [relevant data from the FBI](#). Our graphs depict property and violent crime rates per 100,000 population for California and the U.S. between 2010-2020.

California and national crime trends seem mostly in sync. But there are a few exceptions. First, as to property crimes. Assembly Bill 109, the "prison cap," slashed prison terms and transferred inmates to

## POLICEISSUES.ORG

local custody and supervision. It went into effect in 2011. During the following year property crime spiked 6.8% (2583.8 to 2758.7). Proposition 47, which created the offense of “shoplifting,” became State law in late 2014. By the end of 2015 property crime was up 7.3% (2441.1 to 2618.3). Its largest component, larceny-theft, increased 9.8 percent (1527.4 to 1677.1).

Shifting our attention to violent crime, in 2014 California’s rate was at a decade-low 396.1. Three years later, following the enactment of Propositions 47 and 57, it reached a decade-high 449.3, an increase of 13.4 percent.



How have experts interpreted these numbers? In “[The Effects of Changing Felony Theft Thresholds](#)” (2017) the Pew Charitable Trust reported that twenty four of thirty States that raised the felony theft threshold during 2010-2012 enjoyed lower property crime rates in 2015 (California, which passed AB 2372 in 2010, was one of six exceptions.) While the Trust conceded that rates in the twenty States that *didn’t* change their threshold wound up even lower, the difference was not considered “statistically significant.”

Let’s skip forward to Proposition 47. Here are three prominent data-rich reports:

- According to the [Public Policy Institute of California](#), there is “some evidence” that Prop. 47 caused the 2014-2015 increase in larceny-theft. Rearrests and convictions for this crime also substantially declined (10.3 and 11.3 percent, respectively).
- An NSF-funded study, “[Impacts of California Proposition 47 on crime in Santa Monica, California](#),” found that thefts fitting the definition of “shoplifting” increased about fifteen percent in Santa Monica after the measure went into effect. Other crimes fell about nine percent. According to the authors, the surge could have been caused by the easing of punishment. Increased awareness might have also led to more reporting.

## POLICEISSUES.ORG

- In “[Can We Downsize Our Prisons and Jails Without Compromising Public Safety?](#)”, two clearly reform-minded researchers conceded that larcenies and motor vehicle thefts seemed to increase after Prop. 47 went into effect. So [they generated a statistical comparison group](#) that estimated how many thefts would have occurred had the law *not* changed. They concluded that the difference between what actually happened and what *would* have happened was very small. So small, in fact, that releasing prisoners seems a perfectly safe approach.

At present one can hardly turn to the media without being bombarded by breathless accounts of “[smash and grab](#)” thefts plaguing higher-end retailers, and particularly in California. In one of the most brazen heists, ninety suspects in twenty-five cars “stormed” a Northern California store last month, making off with “more than \$100,000” worth of goods “in about a minute.”

But the problem isn’t new. [According to a notable “Red” media source](#), “brazen acts of petty theft and shoplifting” supposedly enabled and encouraged by Prop. 47 were being reported across California two years ago. [Proposition 20](#), an initiative submitted to the state’s voters last year, promised to remedy things by lowering the bar for charging felony theft and doing away with early paroles, in effect reversing the easings brought on by Propositions 47 and 57.

Full stop. In the immediate post-Floyd era, justice and equity [remain of grave concern](#). So much so, that even after retiring, former Governor Jerry Brown leaped back into the fray and called Proposition 20 a “[prison spending scam](#).” And scam or not, [it got trounced](#). But time has passed, and as [a breathless article](#) in the *Washington Post* just reported (it features video from hard-hit San Francisco), the chaos persists:

Retail executives and security experts say the rise of such robberies — which have gone viral online and in some cases, spurred copycats — is the culmination of several factors, including a shortage of security guards, reluctance by police and prosecutors to pursue shoplifting offenses, and the growing use of social media as an organizational tool.

Evildoers are seemingly capitalizing on the less punitive atmosphere for their own selfish gain. What might happen should a “new and improved” Proposition 20 be introduced is anyone’s guess.