

2015 - 2 PROPOSITION 47 ARRESTS

PURPOSE OF ORDER

The purpose of this order is to clarify the responsibility of sworn personnel assigned to the Bureau when making an arrest for criminal charges associated with Proposition 47.

SCOPE OF ORDER

All sworn Bureau personnel.

BACKGROUND

Proposition 47 was passed on November 4, 2014, by the voters of California. These new penalties and offenses became effective November 5, 2014. Proposition 47 has reduced specified offenses to misdemeanors, creates a new “shoplifting” crime and allows resentencing of certain convicted felons as misdemeanor offenders.

ORDER

All OSS sworn personnel who arrest persons for Proposition 47 charges, whether on an open charge or a warrant, shall ensure the arrestee is booked, Livescanned, and a Criminal History check is done to determine if a previous conviction could make the current arrest a felony. Proposition 47 drug possession charges shall be assigned to Narcotics Bureau. During booking, if AJIS and/or Livescan does not accept the new arrest code information, the override function must be used. The intent of this order does not negate an OSS team sergeant’s ability to authorize a field cite and release of arrestees who will likely be problematic during the booking process.

The following offenses are changed from felony to misdemeanor arrests when a value less than \$950.00 is involved, with exception of individuals that are “Proposition 47 Ineligible.” In addition, the listed Health and Safety codes have been changed from felony to misdemeanor offenses.

Penal Codes / Statistical Codes / Charge Level:

- 459.5 / Stat Code 383 (F/M) - The **new misdemeanor crime** of “shoplifting” is defined as entering a commercial establishment, during business hours, with the intent to steal, where the value of the taken items does not exceed \$950. “Shoplifting” as defined may not be charged as a theft or a burglary.
- 473(b) / Stat Code 103 - 107 (F/M) - Forgery of checks and related instruments of not more than \$950 is now a misdemeanor.
- 476a / Stat Code 101 (F) - 102 (M) - NSF checks totaling not more than \$950 (unless 3 or more specified priors) is now a misdemeanor.
- 490.2 / Stat Code 080 - 099 (F/M) — Grand Theft (**any form**) of items valued not more than \$950 is now a

misdemeanor. Stat code used depends on what is stolen and where from, not the value of the item.

- 496(a) / Stat Code 290 (F/M) - Receiving/concealing stolen property of items valued not more than \$950 is now a misdemeanor.
- 666 / Stat Code 381 - 389 (F/M) - “Wobbler” “petty theft with a prior” applies only to “Proposition 47 Ineligible” defendants with specified priors and certain elder abusers. For all other defendants petty thefts are **misdemeanors regardless of the number of prior thefts.**

Health and Safety Codes:

- 11350 / Stat Code 181 (F/M) - Simple possession of heroin, cocaine, and other listed controlled substances is now a misdemeanor.
 - 11357(a) / Stat Code 182 (F/M) - Simple possession of concentrated cannabis is now a misdemeanor.
 - 11377 / Stat Code 184 (F/M) - Simple possession of methamphetamine, ecstasy, GHB, and other listed substances is now a misdemeanor.
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