

## UC Hastings hosts minority bar group's awards event



Alison Frost / Daily Journal

UC Hastings College of the Law hosted the 2014 Minority Bar Coalition Unity Awards on Wednesday night. California Supreme Court Justice Goodwin H. Liu presented the keynote address. From left, Candy Smallwood, a rental assistance demonstration outreach specialist at the Housing Rights Committee of San Francisco and member of Bay Area Lawyers for Individual Freedom; California Supreme Court Justice Goodwin H. Liu; and sole practitioner Wendy H. Chau.



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2014 Minority Bar Coalition Unity Awards recipients at UC Hastings College of the Law in San Francisco Wednesday night.



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From left, San Francisco County Superior Court judges Mary E. Wiss, Ethan P. Schulman, Daniel A. Flores and Braden C. Woods.

## Nossaman gives to SF law library



Courtesy of Nossaman LLP

In honor of Nossaman LLP partner Kurt W. Melchior's 90th birthday last week, the firm donated \$5,000 to the San Francisco Law Library in Melchior's name. Pictured, from left, are Yuliya Oryol, administrative partner of Nossaman's San Francisco office; Melchior; Marcia Bell, director of the San Francisco Law Library; and Kay Lucas, a member of the library's board of trustees.



Associated Press

An inmate at the Madera County Jail is taken to an inmate housing unit in Madera, Feb. 21, 2013.

## Support grows to end excessive punishment

By Nazgol Ghandnoosh

The success of California's Proposition 47 — the ballot initiative that reduces penalties for drug possession and certain property crimes — may mark a new day for criminal justice reform. With a 58 percent victory margin, voters rejected some of the excesses of the "tough on crime" era. Prop. 47 signaled, according to the editorial board of the Los Angeles Times, that voters are no longer "in the same fearful, punishing mood as when they passed three-strikes and other harsh initiatives." But as encouraging as this reform is, California must take even bolder steps to tackle its high rate of incarceration.

Prop. 47's key provision established higher monetary thresholds at which five property crimes become "wobblers" — offenses that prosecutors can charge as either felonies or misdemeanors. At values below \$950, theft, shoplifting, receiving stolen property, and forging or writing bad checks will now be charged as misdemeanors for most people. In addition, possession of illegal drugs for personal use has also been reclassified to a misdemeanor.

Collectively, these changes are expected to result in 40,000 fewer felony convictions each year. Prop. 47 will redirect the 10 percent of these cases that previously resulted in prison time toward jail sentences or community supervision instead. That's about 3,000 fewer prison admissions per year. And while in the past these felony convictions haunted people as they searched for housing, work and other benefits, their records will now show misdemeanors that do not trigger many of these restrictions.

Notably, Prop. 47 was backed by endorsements from criminal justice practitioners and advocates across the political spectrum. These included such diverse voices as San Francisco District Attorney George Gascón and Newt Gingrich, as well as major donors like liberal George Soros and conservative B. Wayne Hughes Jr.

The measure follows other voter-backed initiatives indicating growing public acceptance of criminal justice reforms that move away from the excessive use of incarceration. Over the past decade, California voters have supported diverting people with minor drug offenses to drug treatment and scaling back the state's "three strikes" law. The Legislature has reduced penalties for low-level offenses under its realignment policy and equalized penalties for certain crack and cocaine offenses.

Encouraging as these developments are, they will still leave California with a prison population five times greater than its level in 1980. If the state is to achieve a more reasonable level of incarceration, the next step is to tackle the severe penalties left in place for serious and violent offenses. Those with violent convictions now account for two-thirds of California's 134,000 prisoners. (This high proportion is in part a function of realignment, which already reduced penalties and increased reliance on jails rather than prisons for lower-level offenses.) Many of these individuals have been in prison for a decade or longer and have "aged out" of the high crime rate years, and so they no longer pose an unreasonable risk to public safety.

Consider the 26,000 people sentenced to life with the possibility of parole, awaiting approval from the parole board and governor for their release. These individuals are held in prison for so long that those released have a less than 1 percent rate of recidivism, according to the Stanford Criminal Justice Center. Taxpayers spend \$47,000 per prisoner annually to incarcerate people long after they pose an unreasonable public safety risk.

The collateral consequences of a felony conviction are another form of punishment that Prop. 47 spares for those with low-level offenses — but should these obstacles be left in place for others? Felony convictions restrict people in the labor market and interfere with family reunification through housing restrictions. People with certain convictions should be excluded from certain jobs when there is a legitimate public safety risk. But employers often apply a blanket ban on applicants with felony convictions, regardless of the crime or how long ago it was committed. There is little public safety benefit in making access to jobs and homes more difficult for people who are re-integrating after a conviction.

Finally, another step toward achieving more comprehensive reform is to examine where individuals affected by Prop. 47 are redirected. The measure advances a public health approach to substance abuse without decriminalizing controlled substances, and it lowers rather than eliminates barriers to re-entry. In their comprehensive Health Impact Assessment of Prop. 47, the organization Human Impact Partners notes: "Misdemeanor convictions can still limit employment opportunities, ability to get professional licenses, some student loans, and other types of government assistance." This

remains true even after people go through the cumbersome and discretionary expungement process. Policymakers would be wise to follow the Equal Employment Opportunity Commission's recommendation that any restrictions on employment be based solely on an individualized assessment of public safety risk.

While there are many ways to build on Prop. 47, reforms around the country should adopt two of its exemplary features:

First, the measure is retroactive. By enabling already convicted individuals to benefit from penalty reductions, Prop. 47 breaks from the norm in many other American laws and court decisions. Approximately 9,000 men and women in California jails and prisons under old laws can petition for resentencing under the reform. Many who have completed a felony sentence for the affected crimes can request that their conviction be reclassified as a misdemeanor.

Second, Prop. 47 stands apart by committing to redirect funds saved from state prison spending — estimated to be \$150-\$250 million annually — to mental health and drug treatment, truancy prevention, and victim services. While opinion polls show that Americans are pragmatic in their crime-control preferences — simultaneously supporting both punishment and rehabilitation — few reform measures have re-invested correctional savings in prevention and treatment.

This is a propitious moment for criminal justice reform. Prop. 47's victory reveals there is growing support among the public, criminal justice practitioners, and policymakers to scale back the excesses of the get-tough era. The next step is to reconsider the appropriate level of punishment for those who have committed serious as well as low-level offenses in order to sustain the movement toward a more rational use of imprisonment.

**Nazgol Ghandnoosh** is a research analyst at *The Sentencing Project*, a national nonprofit organization engaged in research and advocacy on criminal justice issues. Her recent publications include "Fewer Prisoners, Less Crime: A Tale of Three States" (co-authored with Marc Mauer) and "Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies."



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