

Staff Memorandum 2024-17

Overview of Proposed Staff Recommendations for 2024 Annual Report

At its October 2024 meeting, the Committee on Revision of the Penal Code will consider recommendations to include in its 2024 Annual Report. This memorandum provides a summary list of staff recommendations made throughout the year. The Committee should consider these recommendations and make a final decision on which recommendations should be included in the 2024 Annual Report.

For completeness, this list includes staff recommendations that will be discussed for the first time at the October meeting.

Additional data and analysis for each recommendation are in the staff memorandums indicated in the relevant footnote.

Based on the Committee's decisions about the below recommendations, staff will prepare a draft Annual Report for the Committee's review at its November 2024 meeting.

Staff Recommendations for 2024 Annual Report

Driving under the influence¹

- Lower the per-se blood-alcohol content (BAC) level from 0.08% to 0.05%.
- Create presumptive judicial diversion for many first-time DUI offenses.
- Require free or reduced-fee DUI classes and require evaluations of the effectiveness of the classes.
- Expand the use of DUI collaborative courts.
- Streamline license suspensions related to DUI.

Innocence and wrongful convictions²

- Harmonize the standards for relief in the habeas statutes.
- Clarify that strict procedural rules should not result in the dismissal of meritorious habeas petitions or motions to vacate.
- Specify that courts can dismiss criminal cases as a remedy.
- Expand post-conviction discovery.
- Modernize compensation for innocent people.

¹ For additional information, see Staff Memorandum 2024-05.

² For additional information, see Staff Memorandum 2024-16.

Asset forfeiture³

- Exempt amounts below \$10,000 from civil asset forfeiture.
- Allow forfeiture proceeds to support crime victims.

Accomplice liability⁴

- Align accomplice liability for implied malice murder with SB 1437.
- Allow courts to change the degree of murder in SB 1437 resentencings.
- Eliminate the use of the felony-murder rule in provocative-act murder cases.
- Require knowledge as an element of the “armed” enhancement in Penal Code § 12022.
- Require intent as an element of the “use” enhancement in Penal Code § 12022.53.

Other recommendations

- Establish prosecutor-led diversion for gun possession offenses.⁵
- Clarify in the Penal Code that indeterminately-sentenced people should receive credits under Proposition 57.⁶

Finally, due to data limitations, unlike in past years, the 2024 Annual Report will not include continued analysis of offenses that rarely result in arrest/conviction. Staff, working with the California Policy Lab, plans to issue a stand-alone report with this data in 2025.

Respectfully submitted,

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Legal Director

³ For additional information, see Staff Memorandum 2024-12.

⁴ For additional information, see Staff Memorandum 2024-14.

⁵ For additional information, see Staff Memorandum 2024-12.

⁶ For additional information, see Staff Memorandum 2024-13.