

The San Francisco Sentencing Commission

City & County of San Francisco

(Administrative Code 5.250 through 5.250-3)

AGENDA

Wednesday, October 16, 2013
10am-12pm
Hall of Justice
Room 551
850 Bryant Street
San Francisco, CA 94103

***Note:** Each member of the public will be allotted no more than 3 minutes to speak on each item.*

1. Call to Order; Roll call.
2. Public Comment on Any Item Listed Below (discussion only).
3. Review and Adoption of Meeting Minutes from July 24, 2013 (discussion & possible action).
4. Staff Report on Sentencing Commission Activities (discussion only).
5. Update on Law Enforcement Assisted Division (LEAD) Program (discussion only).
6. Presentation on Restorative Justice by Sujatha Baliga Restorative Justice Project Director National Council on Crime and Delinquency (discussion only).
7. Update on Prison Population Reduction Plan (discussion).
8. Review Sentencing Commission Annual Report Outline and Draft Report (discussion & possible action).
9. Members' Comments, Questions, and Requests for Future Agenda Items.
10. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.
11. Adjournment.

The San Francisco Sentencing Commission

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SUBMITTING WRITTEN PUBLIC COMMENT TO THE SAN FRANCISCO SENTENCING COMMISSION

Persons who are unable to attend the public meeting may submit to the San Francisco Sentencing Commission, by the time the proceedings begin, written comments regarding the subject of the meeting. These comments will be made a part of the official public record, and brought to the attention of the Sentencing Commission. Written comments should be submitted to: Tara Anderson Grants & Policy Manager, San Francisco District Attorney's Office, 850 Bryant Street, Room 322, San Francisco, CA 941023, or via email: tara.anderson@sfgov.org

MEETING MATERIALS

Copies of agendas, minutes, and explanatory documents are available through the Sentencing Commission website at <http://www.sfdistrictattorney.org> or by calling Tara Anderson at (415) 553-1203 during normal business hours. The material can be FAXed or mailed to you upon request.

ACCOMMODATIONS

To obtain a disability-related modification or accommodation, including auxiliary aids or services, to participate in the meeting, please contact Tara Anderson at tara.anderson@sfgov.org or (415) 553-1203 at least two business days before the meeting.

TRANSLATION

Interpreters for languages other than English are available on request. Sign language interpreters are also available on request. For either accommodation, please contact Tara Anderson at tara.anderson@sfgov.org or (415) 553-1203 at least two business days before the meeting.

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Administrator
Sunshine Ordinance Task Force
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place,
San Francisco, CA 94102-4683.
Telephone: (415) 554-7724
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The San Francisco Sentencing Commission
City and County of San Francisco
(Administrative Code 5.250 through 5.250-3)

DRAFT MINUTES

Wednesday, July 24, 2013
Screening Room
Delancey Street Foundation
600 Embarcadero
San Francisco, CA 94107

Members in Attendance: District Attorney George Gascón; Family Violence Council Appointee Minouche Kandel (Bay Area Legal Aid); Reentry Council Appointee Catherine McCracken (Center on Juvenile and Criminal Justice); Sheriff Ross Mirkarimi; Board of Supervisors Appointee Theshia Naidoo (Drug Policy Alliance); Mayoral Appointee Professor Steven Raphael (Goldman School of Public Policy, UC Berkeley); Reentry Council Appointee Karen Roye (Director, Department of Child Support Services); Deputy Chief David Shinn (Police Department); Chief William Sifferman (Juvenile Probation Department); Chief Wendy Still (Adult Probation Department); Craig Murdock (Department of Public Health); Manohar Raju (Public Defender's Office).

Members Absent: Superior Court Representative

1. Call to Order; Roll Call; Agenda Changes

At 10:07 a.m., District Attorney George Gascón called the meeting to order, and welcomed commission members and members of the public to the San Francisco Sentencing Commission. Gascón thanked Delancey Street Foundation for opening their space for the Sentencing Commission and asked the commissioners to introduce themselves. Each member introduced him/herself.

Mr. Gascón recognized Chief Sifferman for his service to the City and County of San Francisco and wished him well on his retirement.

Mr. Gascón asked if any commission members had changes to the proposed agenda. No commissioners proposed changes to the agenda.

2. Public Comment on Any Items Listed Below (discussion only)

Mr. Gascón reviewed the procedure for public comment and asked if the public would like to comment on agenda any items listed on the agenda. Hearing none, the hearing proceeded to the next item.

3. Review and Adoption of the Meeting Minutes from April 3, 2013

Mr. Gascón asked the commission members to review the minutes and asked if anyone had edits or additions to the April 3, 2013, meeting minutes. There were no additions or discussion.

Wendy Still moved to accept the minutes and Karen Roye seconded. All members voted in favor and the motion passed.

4. Staff Report on Sentencing Commission Activities (discussion only)

Tara Anderson welcomed the guests from Seattle and the University of California, Berkeley. In addition she provided an overview of Sentencing Commission activities since the April 3 meeting. The Commission requested four follow-up items.

1. As requested by commission members, Lynn Spencer will provide follow-up information on the Earned Compliance Credit by the National Council on Crime and Delinquency.
2. During the April 3 meeting, commissioners asked about state-level legislative reforms. Ms. Anderson noted she hasn't seen any recent research in that area but will continue to monitor and report back.
3. Commissioners asked for a profile on those that get arrested in San Francisco, Ms. Anderson noted, they are still waiting on the California Department of Corrections and Rehabilitation. Ms. Anderson will report back to the commission once the information is received.
4. The Sentencing Commission was interested in viewing the annual report that will be produced in the fall. The report will be available and given to commissioners at the September meeting.

Mr. Gascón thanked Minouche Kandel for her commitment and work with the Sentencing Commission and acknowledged her new role with the City and County of San Francisco with the Department on the Status of Women. He noted that with the acceptance of the new role, Ms. Kandel will be transitioning off of the Sentencing Commission and the Family Violence Council will appoint a new representative. Mr. Gascón asked Ms. Kandel and Ms. Roye to provide any updates to the Sentencing Commission.

Ms. Kandel provided an update on the Family Violence Council, reporting that the council provided support to the mayor's prevention strategy. The council has seen a 30% budget increase, with most of the funding going to agencies that are providing services for sexual assault and human trafficking. They also hired a new staff person. Ms. Kandel also reported that the new Child Advocacy Center in Bayview will be an interviewing center to prevent the victims of abuse from having to be interviewed multiple times. The Child Advocacy Center will open in the later summer of 2013.

Ms. Roye provided an update on the Reentry Council, reporting that the Reentry Council continues to provide ongoing support for Phase II of the Justice Reinvestment Initiative. Ms. Roye also reported that the board of supervisors and the mayor are seeking applications for the reentry council for a two-year appointment; the next meeting will be held on September 17.

During the April Sentencing Commission meeting, members received a briefing on legislative outcomes from state level Sentencing Commissions. In response to that presentation, members requested further detail on Earned Compliance Credits for terms of community base supervision. Mr. Gascón called on Mai Linh Spencer, legal consultant from the National Council on Crime and Delinquency to present the information.

5. Presentation on a State Level Earned Compliance Credit (ECC) Summary by the National Summary of National Council on Crime and Delinquency (discussion only)

Mai Linh Spencer began her presentation using PowerPoint. A copy of the PowerPoint slides can be found in the July 24, 2013 meeting packet.

Ms. Linh Spencer's PowerPoint presentation highlighted 10 states that offer compliance credits for probationers. The states include: Arizona, Arkansas, Colorado, Delaware, Maryland, Missouri, Nevada, South Carolina, South Dakota, and Texas. Nevada was the first to pass legislation on compliance credits. Ms. Linh Spencer also highlighted a memo released by the Vera Institute of Justice, Center on Sentencing and Corrections regarding Earned Compliance Credit. In particular, Ms. Linh Spencer emphasized the in-depth section of the Vera memo discussing the challenges of the Earned Compliance Credit. This memo will be included in the July 24, 2013 meeting packet.

Ms. Linh Spencer highlighted the level of detail applied to the Arkansas procedure, which may have a negative impact on the incentive system. She pointed out that in the Arkansas procedure, Arkansas Department of Community Corrections has the discretion to forfeit any credits earned while on probation or parole. This process becomes problematic for defendants in the implementation process of ECC. Ms. Linh Spencer also noted that implementation guidelines in the Arizona system are reviewed at least every 180 days.

Ms. Linh Spencer mentioned the Association of State Correctional Administrators' survey on Earned Compliance Credits as a useful resource; however, the survey is not yet publically available. Ms. Linh Spencer will keep the Commissioners' updated on the release of the survey. Ms. Linh Spencer noted that much of the research presented and in the PowerPoint was conducted by Dante Taylor, MPA, JD Candidate.

Commission member Minouche Kandel asked Ms. Linh Spencer whether child support obligations are included in programs that required a financial obligation. Ms. Linh Spencer stated that information was not found and financial obligation was only defined as victim restitution, as well as fines and fees to the court.

Commission member Manohar Raju asked if the forfeited credits have the ability to be reinstated if defendants meet certain criteria. Ms. Linh Spencer responded that credits lost are gone indefinitely. Chief Sifferman asked whether there was any due process in taking credits or an appeal option. Ms. Linh Spencer stated that not all statutes mention any type of appeal choice; however, if it was mentioned the statute said the option to appeal was not available. For example, in Arkansas, the District Attorney has the option to object to any forfeited credits. If objected, the court must make a recommendation about the forfeit based upon the petition.

Chief Still asked whether it was considered out of compliance if an individual paid the assigned restitution but did not pay the fines and fees to the court. Ms. Linh Spencer answered that those fines and fees can be converted into restitution and re-categorized into a criminal restitution order, where they will be regarded as a judgment so the court can use mechanisms to recover those amounts. This process happens in Arizona, the law was passed in 2008, was implemented in 2009, and the report was released in 2010.

Chief Sifferman asked whether any of the reports include juvenile, and provide implementation best practices for police officers. In addition Mr. Sifferman asked whether and when do police officers speak with offenders about what they can gain and lose in the ECC program. Ms. Linh Spencer stated that juvenile was not included, and added that in Arizona, a document exists which details how often officers

need to engage in face-to-face conversations with offenders. Ms. Linh Spencer did not have the document, but will locate the document for further review by the panel.

Chief Still thanked Mai Linh Spencer for the detailed presentation, and stated the presentation exceeded expectations. Ms. Linh Spencer concluded her presentation and Mr. Gascón introduced Sharon Woo, Chief of Operations in the San Francisco District Attorney's Office, provided an overview of the California Drug Law and local practices in San Francisco.

6. Presentation on California Drug Law and Local Practice by Sharon Woo, Chief of Operations, San Francisco District Attorney's Office (discussion only)

Ms. Woo began her presentation by highlighting the dramatic reduction in narcotic prosecution in San Francisco. According to San Francisco Superior Court statistics, there has been a 69 percent reduction of drug felonies in the average monthly caseload of the Court since 2008. In 2008, on average, there were 1,833 pending drug cases each month. In 2013, the average is down to 572 cases per month. The main attributor to this change has been most drug offenses are now considered 1170 (h) offenses, meaning offenders cannot go to prison for the drug offense unless prior felonies exist. Under the new laws, a prison sentence is no longer an option for offenders who possess drugs with the purpose to sale—they are considered 1170 (h).1 offenses, which is no longer a felony offense.

Ms. Woo highlighted the city of San Francisco's commitment to diversion practices, stating that offenders arrested on drug offenses are eligible for diversion. However, the diversion practice can escalate upon each arrest. San Francisco uses a drug court model, which is a collaboration of the Superior Court, Department of Public Health, Adult Probation Department, DA's Office and Public Defender's Office. The Drug Court allows eligible offenders to do a "pre-plea," in which the offender makes a plea before they arrive at the Drug Court, and completes the programs or treatment assigned. Upon successful completion, the offender's case will be dismissed. Those who participate in Drug Court can also have their record sealed, which is very helpful when looking for employment. Ms. Woo stated many young offenders who may sell drugs for financial reasons are eligible for the Back on Track Program. This program is designed for young adults ages 18-30 who do not have prior convictions, or have little criminal history. Qualified individuals may receive employment placement, education, or vocational training placement. Those who successfully complete the Back on Track Program are also eligible to have their record sealed.

Ms. Woo made note of other alternatives to incarceration. If an offender is arrested and determined to have serious mental health issues, they may be referred to the Behavior Health Court. This court system has established partner organizations to support this population with the needed support services that will lead them not to reoffend. Mr. Gascón noted that individuals arrested for drug use are also not incarcerated in San Francisco.

The commission members did not have further questions or comments on the California Drug Law and Local Practice presentation. Mr. Gascón thanked Ms. Woo, and introduced Professor Rob MacCoun from the University of California, Berkeley.

7. Presentation on Design Options for Drug Policy by Dr. Robert MacCoun, UC Berkeley professor of law and public policy (discussion only)

Mr. MacCoun began the presentation by stating he believes that California will legalize marijuana. He added it will most likely be via ballot initiative. Mr. MacCoun said in the states of Washington and Colorado, both legalization initiatives received roughly 55% of the total vote; he believes California will follow a similar pattern.

Mr. MacCoun discussed the differences between decriminalization and legalization of marijuana. Decriminalization does not refer to sale offenses. There has been no evidence to suggest decriminalization of marijuana leads to increased drugs use; however, it does affect quality control. Decriminalization eliminates jail and/or prison as a penalty for possession, resulting in a low risk, lower payoff choice. Contrarily, legalization of marijuana reduces legal risk for users and opens the door for commercial promotion. Mr. MacCoun noted that legalization has the potential for larger monetary outcomes and may lead to increase consumption. Legalization is also becoming more risky due to new ways to use marijuana, and the drug becoming more potent.

Mr. MacCoun referenced California ballot initiative proposition 19, stating the most dramatic effect of the proposition would have been a drop in the pre-tax price, because it is an easy to grow substance—the price typically reflects the legal risk to grow. The state can have a tax increase on the product, however, the increase would be roughly 85% in order to have a payout. With a tax increase of that magnitude, consumers will no longer be able to afford the product and people will be driven to the black market, where the state cannot capture revenue.

Mr. MacCoun cited countries that have a form of drug legalization. Portugal became the first European country to officially abolish all criminal penalties for personal possession of drugs, including marijuana, cocaine, heroin and methamphetamine. The Netherlands has not legalized marijuana; however, prosecutors are advised not to enforce the law. This was done in an effort to separate soft and hard drug markets. The country has regulated coffee shops, and Mr. MacCoun mentioned the length of a user's career in the Netherlands is shorter than in the United States. In addition, the probability of users moving into harder drugs is very low. Mr. MacCoun discussed another form of drug legalization in Switzerland, where individuals can receive methadone from the federal government. Lastly, Mr. MacCoun described home marijuana cultivation in Australia. He stated that by allowing growers to home cultivate, there is little visibility for use and sale, as well as a legal way to gain access to the drug. However, while the public health interest is better served, this avenue does not provide a way for states to make revenue.

Theshia Naidoo asked about the effectiveness of programs in other counties? Mr. MacCoun answered by stating that Spain and Italy have decriminalization policies that are similar to Portugal, and the legal changes have been so slight that there has been little notice. As stated previously, there has been no evidence to show an increase in drug use. However, there has been a decrease in HIV transmission. The lesson seems to be more focused on harm reduction. For example drug addicts are healthier in Great Britain.

Mr. MacCoun concluded the presentation and Mr. Gascón introduced the next presenters: Seattle Law Enforcement Assisted Diversion Program (LEAD) representatives. Mr. Gascón thanked the Rosenberg Foundation and Drug Policy Alliance for providing transportation support for the Sentencing Commission guest speakers.

8. Presentation on Seattle based Law Enforcement Assisted Diversion (LEAD) Program by Lt. Deanna Nollette, Lisa Daugaard, and Ian Goodhew (discussion only)

The LEAD team began their presentation with a short video entitled “Out of Jail and into Treatments.” Following the short video, the LEAD team began their presentation via PowerPoint. A copy of these PowerPoint slides are included in the July 24, 2013 meeting packet.

Lisa Daugaard, Deputy Director, the Defender Association, began the presentation. The LEAD program, which began in Belltown, was created out of the need to try something new in the community. The goal of the program was to get 125 repeat offenders off the streets, out of jails, and into treatment. The program works in partnership with a variety of stakeholders, including the Sheriff's office, the ACLU, the prosecutor's office, the Department of Corrections, among others. Ms. Daugaard stated one in every 10 people in jail were detained for drug offenses. During the creation and implementation of the program, officers identified the top 50 offenders that the police come into contact with in Belltown.

Ms. Daugaard stated the LEAD program is a diversion program. Instead of putting low-level drug offenders in jail, like they have done in the past, officers and case workers work to find alternatives, such as treatment for offenders. Upon arrest, the program provides offenders with the choice of jail or services.

Ian Goodhew continued the presentation by stating that Belltown is known as an open-air drug market. In 1993, 26 percent of all prison inmates in the state of Washington were incarcerated on a drug conviction. Additionally, arrests were disproportionately African Americans and other minorities. Too much funding and resources were going toward prosecuting drug offenses. Due to funding cuts and rising prison costs, the prosecutor's office began searching for alternatives to prosecution. LEAD is a solution to creating less crime on the streets, and gives officers a voice in the decision making process. The officers now consider alternatives to arrest and incarceration. They are able to consider alternatives that may serve an individual in a more positive way. Now, according to Goodhew, 8 percent of all inmates in state prison are there on drug offenses.

Lt. Deanna Nollette concluded the presentation by discussing the LEAD operation protocol. Some factors that may prohibit an individual from being eligible for the program are possession of drugs over 3 grams except marijuana and pills, not being amenable to diversion, intent to deliver and reason to believe there was intent of selling for profit, and promoting prostitution. Other exclusions are listed in the PowerPoint attached to the meeting packet. Some of the distinctive points of LEAD are: it is not a court-based diversion, a person cannot fail the LEAD program, it is not required—but a choice—for offenders. Ms. Nollette said the governing structure of LEAD is on a volunteer partnership. Because of this, the program has to meet the needs of all stakeholders, which has made the program politically popular.

Ms. Nollette added that the program is new and they have not yet evaluated the program to know the results. However, their goal is not only focused on the fiscal cost but also the community impact on public safety. Ms. Nollette referred the Commission members to the PowerPoint attached in the meeting packet in an effort to have time for questions.

Chief Still asked when the evaluation will be completed on LEAD, and if the program will expand outside of Belltown. Ms. Nollette answered that the evaluation will roughly be completed in December 2014, and the Mayor is proposing a general fund appropriation. Ross Mirkarimi asked for clarification on the idea that one cannot fail LEAD. Ms. Daugaard answered by stating that the program is a harm reduction approach, meaning the program meets people where they are currently. Officers do not have high expectations, but see small improvements as steps in the right direction. Kicking people out of LEAD is counterproductive, as many individuals in the program have several issues for which they are receiving help.

Karen Roye asked whether the police department has seen a reduction in crimes that may be related to drug use or drug sales. The LEAD team answered by saying while they have seen a marked decrease on crime, they cannot contribute it to the LEAD program. However, the Belltown area has seen improvements in public disorder and the drug market is drying up. Chief Still asked if the evaluation team is also looking at secondary impacts, such as smaller caseloads as part of the economic analysis. The LEAD team said they will make sure the evaluation includes secondary impacts.

9. Members Comments, Questions, and Request for Future Agenda Items

Chief Still asked for follow up to the shortened probation terms as an action item instead of discussion only.

Mr. Gascón asked if any member of the public would like to make a comment.

10. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.

A member of the public representing the San Francisco Human Rights Commission presented a comment. The comment addressed the goal of a reduction in human rights due to the war on drugs, particularly in the African American communities.

12. Adjournment.

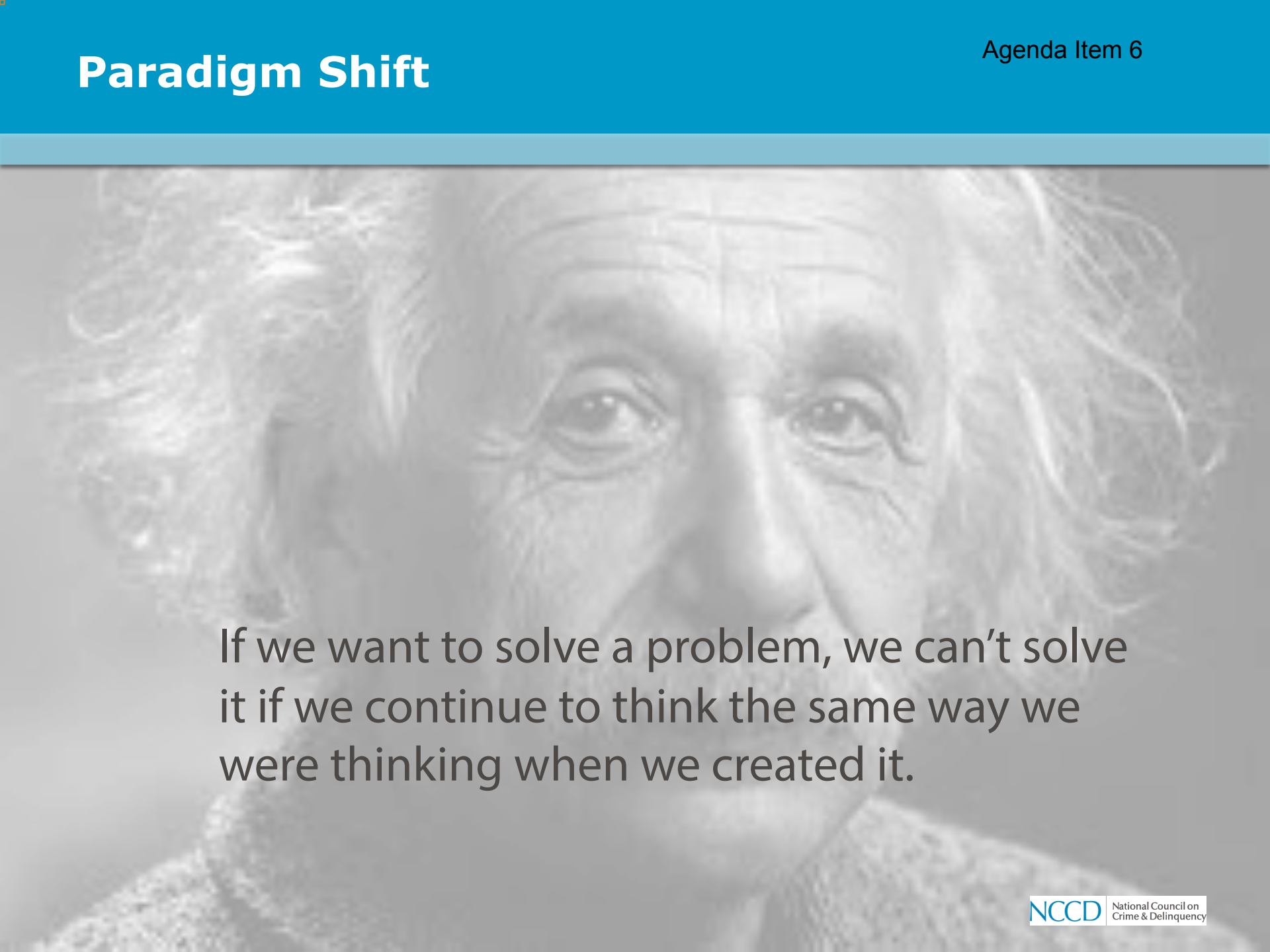
Mr. Gascón asked if there was a motion to adjourn the third meeting of the Sentencing Commission. Chief Ms. Still moved to adjourn and Karen Roye seconded. All members voted in favor and the motion passed. At 12:07 p.m. the meeting Adjourned.

SAN FRANCISCO SENTENCING COMMISSION

Restorative Justice:

Communities Supporting Accountability to Victim-Identified Needs

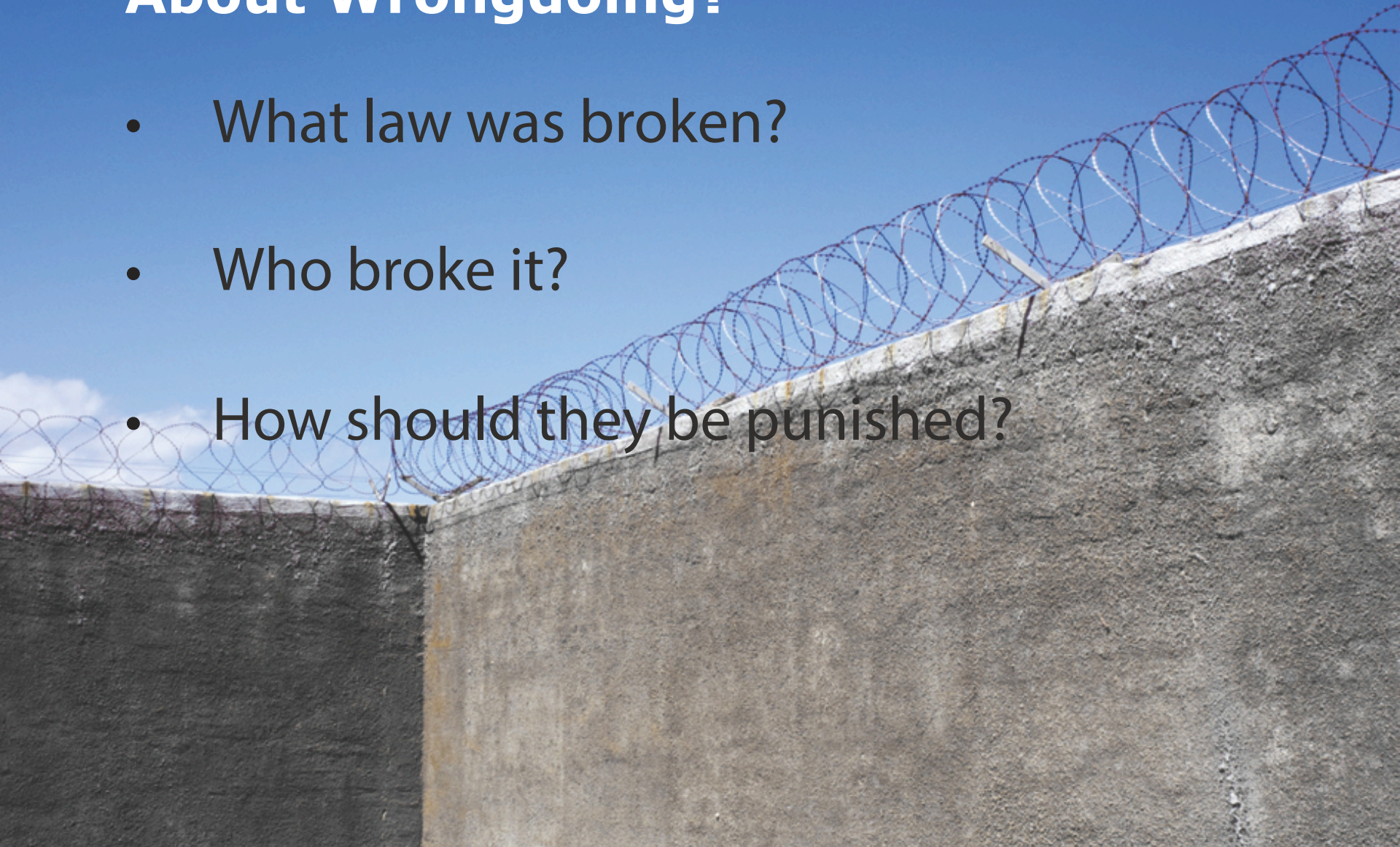
sujatha baliga, Director
Restorative Justice Project



If we want to solve a problem, we can't solve it if we continue to think the same way we were thinking when we created it.

What Questions Do We Ask About Wrongdoing?

- What law was broken?
- Who broke it?
- How should they be punished?



Restorative Justice Asks:

- Who has been harmed?
- What are their needs?
- Whose obligation is it to meet those needs?

Definition of Restorative Justice

Agenda Item 6

Howard Zehr:

An approach to justice which involves, to the extent possible, those who have a stake in a specific offense to collectively identify and address *harms, needs,* and *obligations*, in order to heal and put things as right as possible.

Restorative Justice Principles:

Crime is a violation of people and interpersonal relationships



Violations create obligations



The central obligation is to, as much as possible, do right by the people you've harmed

Inoculating Restorative Justice

Agenda Item 6

- When processes interface with a system that has a disease, we have to worry about contagions
- If we had a true understanding of terms like “equality” and “justice,” would we need to add the word “racial”?
- Because of conscious and unconscious bias, we need to focus on DMC in RJ
 - Discretion = discrimination
 - Which crimes land kids in the hall? Where do those kids come from?
 - “Reverse Miranda”

Inspired by the Maori People's Resistance to DMC

What is Restorative Community Conferencing?

- New Zealand's Family Group Conferencing (FGC)
 - Howard Zehr and Allan MacRae's Little Book of Family Group Conferences: New Zealand Style
- Grew from Maori desire to decrease DMC
 - Pilot went nationwide via NZ's Children, Young Persons and Their Families Act of 1989
 - Juvenile incarceration nearly obsolete through diversion and FGC

Where Is Your Program on the Continuum?

Starting with Victim-Identified Needs

At its best, restorative justice is voluntary, face-to-face dialogue that produces—by consensus—community support for people who've harmed to meet victim-identified needs.

Do unto others as they would have you do unto them.

(To operationalize this in the wake of harm, ask:

- How were you harmed?
- What do you need?
- Whose obligation is it to meet those needs?)

What Do Victims Want?

Agenda Item 6



What Does Redemption Look Like?

Agenda Item 6



New Frontiers through Restorative Lawyering

Agenda Item 6



Conor and Ann

Agenda Item 6



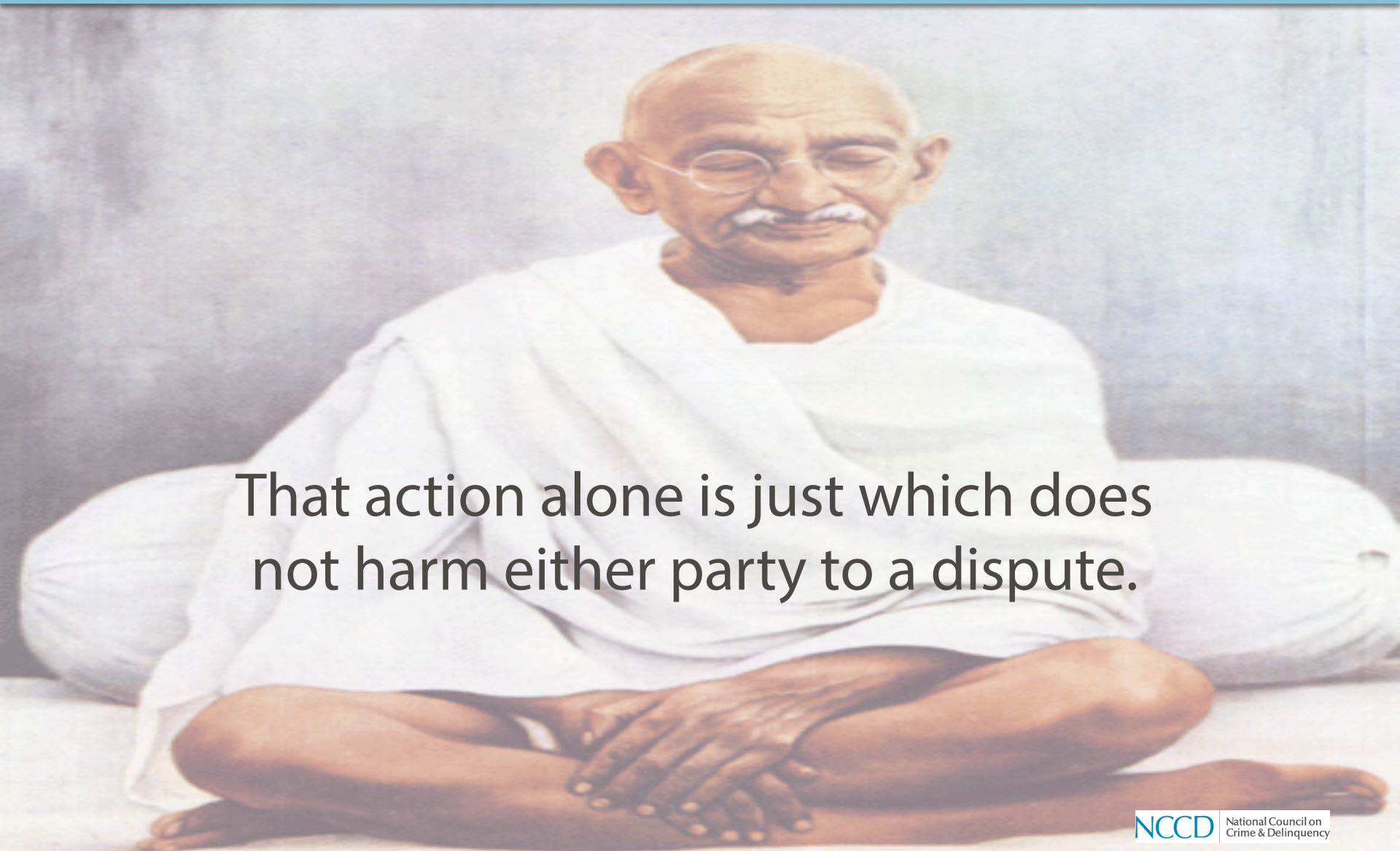
Ann's Memorial Service

Agenda Item 6



Parting Restorative Justice Wisdom

Agenda Item 6

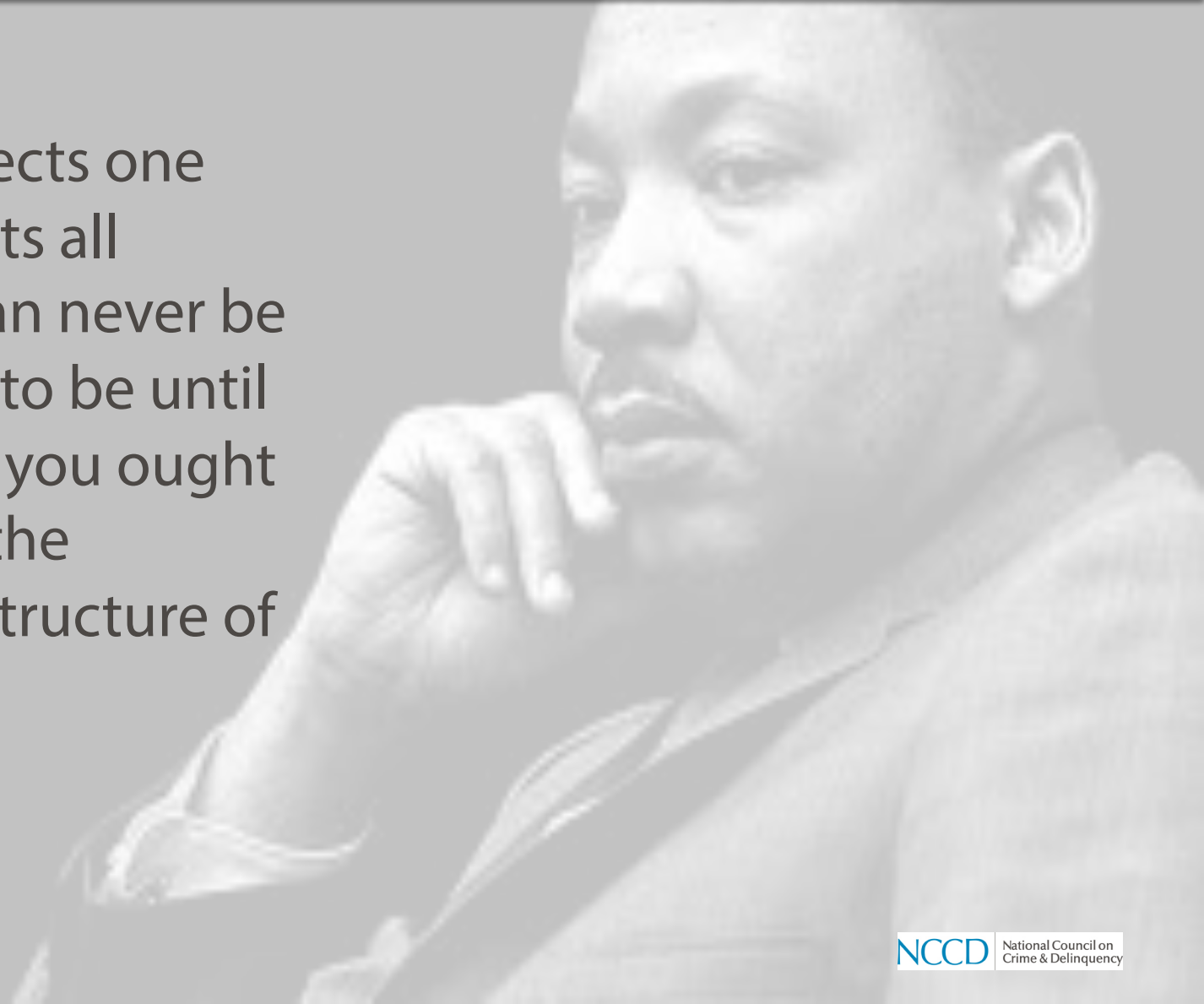


That action alone is just which does not harm either party to a dispute.

Parting Restorative Justice Wisdom

Agenda Item 6

Whatever affects one directly, affects all indirectly. I can never be what I ought to be until you are what you ought to be. This is the interrelated structure of reality.



Thank you!

sujatha baliga, Director
NCCD Restorative Justice Project

Senate Bill No. 105

CHAPTER 310

An act to amend, repeal, and add Sections 19050.2 and 19050.8 of the Government Code, to amend, repeal, and add Sections 1233.1, 1233.3, 1233.4, 2910, 11191, and 13602 of, to add Section 1233.9 to, and to add and repeal Sections 2915 and 6250.2 of, the Penal Code, and to amend Section 15 of Chapter 42 of the Statutes of 2012, relating to corrections, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 12, 2013. Filed with
Secretary of State September 12, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 105, Steinberg. Corrections.

(1) Existing law requires the Department of Corrections and Rehabilitation to close the California Rehabilitation Center located in Norco, California, no later than either December 31, 2016, or 6 months after the construction of three Level II dorm facilities.

This bill would suspend this requirement pending a review by the Department of Finance and the Department of Corrections and Rehabilitation that determines the facility can be closed.

(2) The California Constitution establishes the civil service, to include every officer and employee of the state, except as provided, and requires permanent appointment and promotion in the civil service to be made under a general system based on merit ascertained by competitive examination.

Existing law requires the appointing power in all cases not exempted by the California Constitution to fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions, in strict accordance with specified provisions of law, and requires that appointments to vacant positions be made from employment lists.

Existing law, subject to the approval of the State Personnel Board, allows an appointing agency to enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees.

This bill would, until January 1, 2017, make the private California City Correctional Center in California City an agency or jurisdiction for the purpose of exchanging services pursuant to the above provision and all related rules.

(3) Existing law allows the State Personnel Board to prescribe rules governing the temporary assignment or loan of employees within an agency or between agencies not to exceed 2 years, or between jurisdictions not to exceed 4 years, for specified purposes.

This bill would, until January 1, 2017, make the private California City Correctional Center in California City an agency or jurisdiction for the purpose of the above provision and all related rules for a period not to exceed 2 years.

(4) Existing law allows the Secretary of the Department of Corrections and Rehabilitation to enter into an agreement with a city, county, or city and county, to permit transfer of prisoners in the custody of the secretary to a jail or other adult correctional facility. Under existing law, prisoners transferred to a local facility remain under the legal custody of the department. Existing law prohibits any agreement pursuant to these provisions unless the cost per inmate in the facility is no greater than the average costs of keeping an inmate in a comparable facility of the department.

This bill would, until January 1, 2017, for purposes of entering into agreements pursuant to the above provisions, waive any process, regulation, or requirement relating to entering into those agreements. The bill would, until January 1, 2017, delete the provision requiring that prisoners transferred to a local facility remain under the legal custody of the department and would delete the requirement that no agreement be entered into unless the cost per inmate in the facility is no greater than the average costs of keeping an inmate in a comparable facility of the department. The bill would, until January 1, 2017, allow a transfer of prisoners to include inmates who have been sentenced to the department but remain housed in a county jail, and would specify that these prisoners shall be under the sole legal custody and jurisdiction of the sheriff or other official having jurisdiction over the facility and not under the legal custody and jurisdiction of the department.

The bill would also, until January 1, 2017, allow the secretary to enter into one or more agreements in the form of a lease or operating agreement with private entities to obtain secure housing capacity in the state or in another state, upon terms and conditions deemed necessary and appropriate to the secretary. The bill would, until January 1, 2017, waive any process, regulation, or requirement that relates to the procurement or implementation of those agreements, except as specified. The bill would make the provisions of the California Environmental Quality Act inapplicable to these provisions.

(5) Existing law allows the Secretary of the Department of Corrections and Rehabilitation to establish and operate community correctional centers.

This bill would, until January 1, 2017, allow the secretary to enter into agreements for the transfer of prisoners to community correctional centers, and to enter into contracts to provide housing, sustenance, and supervision for inmates placed in community correctional centers. The bill would, until January 1, 2017, waive any process, regulation, or requirement that relates to entering into those agreements.

(6) Existing law allows any court or other agency or officer of this state having power to commit or transfer an inmate to any institution for confinement to commit or transfer that inmate to any institution outside this state if this state has entered into a contract or contracts for the confinement

of inmates in that institution and the inmate, if he or she was sentenced under California law, has executed written consent to the transfer.

This bill would, until January 1, 2017, allow the secretary to transfer an inmate to a facility in another state without the consent of the inmate.

(7) Existing law establishes the Commission on Correctional Peace Officer Standards and Training (CPOST) within the Department of Corrections and Rehabilitation and requires the CPOST to develop, approve, and monitor standards for the selection and training of state correctional peace officers. Existing law allows for the use of training academies and centers, as specified.

This bill would, until January 1, 2017, allow the department to use a training academy established for the private California City Correctional Center.

(8) Existing law, the California Community Corrections Performance Incentives Act of 2009, authorizes each county to establish a Community Corrections Performance Incentives Fund, and authorizes the state to annually allocate moneys into a State Community Corrections Performance Incentives Fund to be used for specified purposes relating to improving local probation supervision practices and capacities. As part of the California Community Corrections Performance Incentives Act of 2009, existing law requires the Director of Finance to make certain calculations, including the cost to the state to incarcerate in prison and supervise on parole an offender who fails local supervision and is sent to prison. Existing law requires the Director of Finance to calculate a probation failure reduction incentive payment based on the estimated number of probationers successfully prevented from being incarcerated, multiplied by a specified percentage of the cost to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison. Existing law requires the Department of Finance to calculate 5% of the total statewide estimated number of probationers successfully prevented from being incarcerated for counties that successfully reduce the number of adult felony probationers incarcerated multiplied by the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison to be used to provide high performance grants to county probation departments.

This bill would, beginning July 1, 2014, remove the requirement that the Director of Finance calculate the cost to the state to incarcerate in prison and supervise on parole an offender who fails local supervision and is sent to prison, and would instead require the Director of Finance to calculate the cost to the state to incarcerate in a contract facility and supervise on parole an offender who fails local supervision and is sent to prison. The bill would require the probation failure reduction incentive payment to be based on the estimated number of probationers successfully prevented from being incarcerated multiplied by a percentage of the state's cost of housing an inmate in a contract facility, and to supervise on parole a probationer who was sent to prison. The bill would require the Department of Finance to calculate high performance grants to county probation departments as 5% of the total statewide estimated number of probationers successfully

prevented from being incarcerated multiplied by the state's cost of housing an inmate in a contract facility, and to supervise on parole a probationer who was sent to prison.

The bill would create the Recidivism Reduction Fund in the State Treasury to be available upon appropriation by the Legislature for activities designed to reduce the state's prison population, and would allow funds available in the Recidivism Reduction Fund to be transferred to the State Community Corrections Performance Incentives Fund.

(9) The bill would appropriate \$315,000,000 from the General Fund to the Department of Corrections and Rehabilitation for the purposes of this measure. The bill would require the department to spend the funds only to the extent needed to avoid early release. The bill would require any amounts not encumbered by June 30, 2014 to be transferred to the Recidivism Reduction Fund, except as provided. The bill would require the Secretary of the Department of Corrections and Rehabilitation to report no later than April 1, 2014, and again on April 1, 2015, to the Director of Finance and specified legislative committees detailing the number of inmates housed in leased beds and in contracted beds both inside and outside of the state pursuant to this measure.

The bill would require the administration to assess the state prison system, including capacity needs, prison population levels, recidivism rates, and factors effecting crime levels, and to develop recommendations on balanced solutions that are cost effective and protect public safety. The bill would require the Department of Finance to submit the administration's interim report to the Legislature not later than April 1, 2014, and to submit the final report to the Legislature not later than January 10, 2015.

(10) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The additional prison capacity and change to reduce prison population authorized by this act are immediate measures to avoid early release of inmates and allow the state to comply with the federal court order. This act will also provide time to develop additional thoughtful, balanced, and effective long-term solutions with input from the state's local government and justice partners who are still adjusting to the recent criminal justice reforms of realignment. The long-term changes will build upon the transition of lower level offenders to local jurisdiction, the construction of new prison health care facilities, and improvements to existing health care facilities throughout the prison system. The administration shall begin immediately, in consultation with stakeholders, including appropriate legislative committees, to assess the state prison system, including capacity needs, prison population levels, recidivism rates, and factors affecting crime levels, and to develop recommendations on balanced solutions that are cost

effective and protect public safety. Not later than April 1, 2014, the Department of Finance shall submit the administration's interim report to the Legislature, and, not later than January 10, 2015, the Department of Finance shall submit the administration's final report to the Legislature. It is the intent of the Legislature to consider the reports along with the Legislature's independent findings during the annual budget process.

SEC. 2. Section 19050.2 of the Government Code is amended to read:

19050.2. (a) Subject to the approval of the board, the appointing authority may enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees.

(b) For purposes of this section, and all related rules, the California City Correctional Center in California City is an agency or jurisdiction for the duration of the two-year period described in Section 19050.8.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 3. Section 19050.2 is added to the Government Code, to read:

19050.2. (a) Subject to the approval of the board, the appointing authority may enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees.

(b) This section shall become operative on January 1, 2017.

SEC. 4. Section 19050.8 of the Government Code is amended to read:

19050.8. The board may prescribe rules governing the temporary assignment or loan of employees within an agency or between agencies for a period not to exceed two years or between jurisdictions for a period not to exceed four years for any of the following purposes:

(a) To provide training to employees.

(b) To enable an agency to obtain expertise needed to meet a compelling program or management need.

(c) To facilitate the return of injured employees to work.

These temporary assignments or loans shall be deemed to be in accord with this part limiting employees to duties consistent with their class and may be used to meet minimum requirements for promotional as well as open examinations. An employee participating in that arrangement shall have the absolute right to return to his or her former position. Any temporary assignment or loan of an employee made for the purpose specified in subdivision (b) shall be made only with the voluntary consent of the employee.

In addition, out-of-class experience obtained in a manner not described in this section may be used to meet minimum requirements for promotional as well as open examinations, only if it was obtained by the employee in good faith and was properly verified under standards prescribed by board rule.

For purposes of this section, a temporary assignment or loan between educational agencies or jurisdictions shall be extended for up to two

additional years upon a finding by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, and with the approval of the Executive Officer of the State Personnel Board, that the extension is necessary in order to substantially complete work on an educational improvement project. However, the temporary assignment of any local educator who is performing the duties of a nonrepresented classification while on loan to a state educational agency may be extended for as many successive two year intervals as necessary by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges with the concurrence of the educational agency or jurisdiction. Public and private colleges and universities shall be considered educational agencies or jurisdictions within the meaning of this section.

A temporary assignment within an agency or between agencies may be extended by the board for up to two additional years in order for an employee to complete an apprenticeship program.

(d) For the duration of a temporary assignment or loan not to exceed two years, for the purposes of this section and all related rules, the California City Correctional Center in California City, which provides services equivalent to the core governmental function of incarcerating inmates, shall be considered an agency or jurisdiction.

(e) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 5. Section 19050.8 is added to the Government Code, to read:

19050.8. The board may prescribe rules governing the temporary assignment or loan of employees within an agency or between agencies for a period not to exceed two years or between jurisdictions for a period not to exceed four years for any of the following purposes:

(a) To provide training to employees.

(b) To enable an agency to obtain expertise needed to meet a compelling program or management need.

(c) To facilitate the return of injured employees to work.

These temporary assignments or loans shall be deemed to be in accord with this part limiting employees to duties consistent with their class and may be used to meet minimum requirements for promotional as well as open examinations. An employee participating in that arrangement shall have the absolute right to return to his or her former position. Any temporary assignment or loan of an employee made for the purpose specified in subdivision (b) shall be made only with the voluntary consent of the employee.

In addition, out-of-class experience obtained in a manner not described in this section may be used to meet minimum requirements for promotional as well as open examinations, only if it was obtained by the employee in good faith and was properly verified under standards prescribed by board rule.

For purposes of this section, a temporary assignment or loan between educational agencies or jurisdictions shall be extended for up to two

additional years upon a finding by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, and with the approval of the Executive Officer of the State Personnel Board, that the extension is necessary in order to substantially complete work on an educational improvement project. However, the temporary assignment of any local educator who is performing the duties of a nonrepresented classification while on loan to a state educational agency may be extended for as many successive two year intervals as necessary by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges with the concurrence of the educational agency or jurisdiction. Public and private colleges and universities shall be considered educational agencies or jurisdictions within the meaning of this section.

A temporary assignment within an agency or between agencies may be extended by the board for up to two additional years in order for an employee to complete an apprenticeship program.

(d) This section shall become operative on January 1, 2017.

SEC. 6. Section 1233.1 of the Penal Code is amended to read:

1233.1. After the conclusion of each calendar year following the enactment of this section, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate the following for that calendar year:

(a) The cost to the state to incarcerate in prison and supervise on parole an offender who fails local supervision and is sent to prison. This calculation shall take into consideration factors, including, but not limited to, the average length of stay in prison and on parole for offenders subject to local supervision, as well as the associated parole revocation rates, and revocation costs.

(b) (1) The statewide probation failure rate. The statewide probation failure rate shall be calculated as the total number of adult felony probationers statewide sent to prison in the previous year as a percentage of the average statewide adult felony probation population for that year.

(2) The statewide probation failure rate for the 2012 calendar year shall be calculated as the total number of adult felony probationers statewide sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, as a percentage of the average statewide adult felony probation population for that year.

(c) (1) A probation failure rate for each county. Each county's probation failure rate shall be calculated as the number of adult felony probationers sent to prison from that county in the previous year as a percentage of the county's average adult felony probation population for that year.

(2) The probation failure rate for each county for the 2012 calendar year shall be calculated as the total number of adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, from that county as a percentage of the county's average adult felony probation population for that year.

(d) An estimate of the number of adult felony probationers each county successfully prevented from being incarcerated. For each county, this estimate shall be calculated based on the reduction in the county's probation failure rate as calculated annually pursuant to subdivision (c) of this section and the county's baseline probation failure rate as calculated pursuant to Section 1233. In making this estimate, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall adjust the calculations to account for changes in each county's adult felony probation caseload in the most recent completed calendar year as compared to the county's adult felony probation population during the period 2006 to 2008, inclusive.

(e) (1) In calculating probation failure rates for the state and individual counties, the number of adult felony probationers sent to prison shall include those adult felony probationers sent to state prison for a revocation of probation, as well as adult felony probationers sent to state prison for a conviction of a new felony offense. The calculation shall also include adult felony probationers who are sent to prison for conviction of a new crime and who simultaneously have their probation terms terminated.

(2) In calculating probation failure rates for the state and individual counties for the 2012 calendar year, the number of adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, shall include those adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a revocation of probation, as well as adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a conviction of a new felony offense. The calculation shall also include adult felony probationers who are sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a conviction of a new crime and who simultaneously have their probation terms terminated.

(f) The statewide mandatory supervision failure to prison rate. The statewide mandatory supervision failure to prison rate shall be calculated as the total number of offenders supervised under mandatory supervision statewide sent to prison in the previous year as a percentage of the average statewide mandatory supervision population for that year.

(g) A mandatory supervision failure to prison rate for each county. Each county's mandatory supervision failure to prison rate shall be calculated as the number of offenders supervised under mandatory supervision sent to prison from that county in the previous year as a percentage of the county's average mandatory supervision population for that year.

(h) The statewide postrelease community supervision failure to prison rate. The statewide postrelease community supervision failure to prison rate shall be calculated as the total number of offenders supervised under postrelease community supervision statewide sent to prison in the previous year as a percentage of the average statewide postrelease community supervision population for that year.

(i) A postrelease community supervision failure to prison rate for each county. Each county's postrelease community supervision failure to prison rate shall be calculated as the number of offenders supervised under postrelease community supervision sent to prison from that county in the previous year as a percentage of the county's average postrelease community supervision population for that year.

(j) This section shall remain in effect only until July 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2014, deletes or extends that date.

SEC. 7. Section 1233.1 is added to the Penal Code, to read:

1233.1. After the conclusion of each calendar year, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate the following for that calendar year:

(a) The cost to the state to incarcerate in a contract facility and supervise on parole an offender who fails local supervision and is sent to prison. This calculation shall take into consideration factors, including, but not limited to, the average length of stay in prison for offenders subject to local supervision and the average length of parole for offenders who failed local supervision and were sent to prison.

(b) Beginning with the 2013 calendar year, the statewide probation failure rate shall be calculated as the total number of adult felony probationers statewide sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, as a percentage of the average statewide adult felony probation population for that year.

(c) Beginning with the 2013 calendar year, the probation failure rate for each county shall be calculated as the total number of adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, from that county, as a percentage of the county's average adult felony probation population for that year.

(d) An estimate of the number of adult felony probationers each county successfully prevented from being incarcerated. For each county, this estimate shall be calculated based on the reduction in the county's probation failure rate as calculated annually pursuant to subdivision (c) and the county's baseline probation failure rate as calculated pursuant to Section 1233. In making this estimate, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall adjust the calculations to account for changes in each county's adult felony probation caseload in the most recent completed calendar year as compared to the county's adult felony probation population during the 2006 to 2008, inclusive, calendar period.

(e) Beginning with the 2013 calendar year, in calculating probation failure rates for the state and individual counties, the number of adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, shall include those adult felony probationers sent to

prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a revocation of probation, as well as adult felony probationers sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a conviction of a new felony offense. The calculation shall also include adult felony probationers who are sent to prison, or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170, for a conviction of a new crime and who simultaneously have their probation terms terminated.

(f) The statewide mandatory supervision failure to prison rate. The statewide mandatory supervision failure to prison rate shall be calculated as the total number of offenders supervised under mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, statewide, sent to prison in the previous calendar year as a percentage of the average statewide mandatory supervision population for that year.

(g) A mandatory supervision failure to prison rate for each county. Each county's mandatory supervision failure to prison rate shall be calculated as the number of offenders supervised under mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170 sent to prison from that county in the previous calendar year as a percentage of the county's average mandatory supervision population for that year.

(h) The statewide postrelease community supervision failure to prison rate. The statewide postrelease community supervision failure to prison rate shall be calculated as the total number of offenders supervised under postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) of Part 3, statewide, sent to prison in the previous calendar year as a percentage of the average statewide postrelease community supervision population for that year.

(i) A postrelease community supervision failure to prison rate for each county. Each county's postrelease community supervision failure to prison rate shall be calculated as the number of offenders supervised under postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) of Part 3 sent to prison from that county in the previous calendar year as a percentage of the county's average postrelease community supervision population for that year.

(j) This section shall become operative on July 1, 2014.

SEC. 8. Section 1233.3 of the Penal Code is amended to read:

1233.3. Annually, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate a probation failure reduction incentive payment for each eligible county, pursuant to Section 1233.2, for the most recently completed calendar year, as follows:

(a) For a county identified as being in Tier 1, as defined in subdivision (a) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1, multiplied by 45 percent of the costs to the state to incarcerate in prison and

supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(b) For a county identified as being in Tier 2, as defined in subdivision (b) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1, multiplied by 40 percent of the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(c) For a county identified as being in Tier 3, as defined in subdivision (c) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1, multiplied by 30 percent of the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(d) A county that fails to provide information specified in Section 1231 to the Administrative Office of the Courts shall not be eligible for a probation failure reduction incentive payment.

(e) This section shall remain in effect only until July 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2014, deletes or extends that date.

SEC. 9. Section 1233.3 is added to the Penal Code, to read:

1233.3. Annually, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate a probation failure reduction incentive payment for each eligible county, pursuant to Section 1233.2, for the most recently completed calendar year, as follows:

(a) For a county identified as being in Tier 1, as defined in subdivision (a) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1, multiplied by 45 percent of the state's cost of housing an inmate in a contract facility, and to supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(b) For a county identified as being in Tier 2, as defined in subdivision (b) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1, multiplied by 40 percent of the state's cost of housing an inmate in a contract facility, and to supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(c) For a county identified as being in Tier 3, as defined in subdivision (c) of Section 1233.2, its probation failure reduction incentive payment shall equal the estimated number of probationers successfully prevented from being incarcerated, as defined by subdivision (d) of Section 1233.1,

multiplied by 30 percent of the state's cost of housing an inmate in a contract facility, and to supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(d) A county that fails to provide information specified in Section 1231 to the Administrative Office of the Courts is not eligible for a probation failure reduction incentive payment.

(e) This section shall become operative on July 1, 2014.

SEC. 10. Section 1233.4 of the Penal Code is amended to read:

1233.4. (a) It is the intent of the Legislature for counties demonstrating high success rates with adult felony probationers to have access to performance-based funding as provided for in this section.

(b) On an annual basis, the Department of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate 5 percent of the total statewide estimated number of probationers successfully prevented from being incarcerated for counties that successfully reduce the number of adult felony probationers incarcerated multiplied by the costs to the state to incarcerate in prison and supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(c) The amount estimated pursuant to subdivision (b) shall be used to provide high performance grants to county probation departments for the purpose of bolstering evidence-based probation practices designed to reduce recidivism among adult felony probationers.

(d) County probation departments eligible for these high performance grants shall be those with adult probation failure rates more than 50 percent below the statewide average in the most recently completed calendar year.

(e) A county probation department that qualifies for a probation failure reduction incentive payment, as provided in Section 1233.3, and a high performance grant payment in the same year shall choose to receive either the probation failure incentive payment or the high performance grant payment. The CPO of a county that qualifies for both a high performance grant and a probation failure reduction incentive payment shall indicate to the Administrative Office of the Courts, by a date designated by the Administrative Office of the Courts, whether the CPO chooses to receive the high performance grant or probation failure reduction payment.

(f) The grants provided for in this section shall be administered by the Administrative Office of the Courts. The Administrative Office of the Courts shall seek to ensure that all qualifying probation departments that submit qualifying applications receive a proportionate share of the grant funding available based on the population of adults ages 18 to 25, inclusive, in each of the counties qualifying for the grants.

(g) A county that fails to provide the information specified in Section 1231 to the Administrative Office of the Courts shall not be eligible for a high performance grant payment.

(h) This section shall remain in effect only until July 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2014, deletes or extends that date.

SEC. 11. Section 1233.4 is added to the Penal Code, to read:

1233.4. (a) It is the intent of the Legislature for counties demonstrating high success rates with adult felony probationers to have access to performance-based funding as provided for in this section.

(b) On an annual basis, the Department of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Administrative Office of the Courts, shall calculate 5 percent of the total statewide estimated number of probationers successfully prevented from being incarcerated for counties that successfully reduce the number of adult felony probationers incarcerated multiplied by the state's cost of housing an inmate in a contract facility, and to supervise on parole a probationer who was sent to prison, as defined in subdivision (a) of Section 1233.1.

(c) The amount estimated pursuant to subdivision (b) shall be used to provide high performance grants to county probation departments for the purpose of bolstering evidence-based probation practices designed to reduce recidivism among adult felony probationers.

(d) County probation departments eligible for these high performance grants shall be those with adult probation failure rates more than 50 percent below the statewide average in the most recently completed calendar year.

(e) A county probation department that qualifies for a probation failure reduction incentive payment, as provided in Section 1233.3, and a high performance grant payment in the same year shall choose to receive either the probation failure incentive payment or the high performance grant payment. The Chief Probation Officer of a county that qualifies for both a high performance grant and a probation failure reduction incentive payment shall indicate to the Administrative Office of the Courts, by a date designated by the Administrative Office of the Courts, whether the Chief Probation Officer chooses to receive the high performance grant or probation failure reduction payment.

(f) The grants provided for in this section shall be administered by the Administrative Office of the Courts. The Administrative Office of the Courts shall seek to ensure that all qualifying probation departments that submit qualifying applications receive a proportionate share of the grant funding available based on the population of adults 18 to 25 years of age, inclusive, in each of the counties qualifying for the grants.

(g) A county that fails to provide the information specified in Section 1231 to the Administrative Office of the Courts is not eligible for a high performance grant payment.

(h) This section shall become operative on July 1, 2014.

SEC. 12. Section 1233.9 is added to the Penal Code, to read:

1233.9. There is hereby created in the State Treasury the Recidivism Reduction Fund for moneys to be available upon appropriation by the Legislature, for activities designed to reduce the state's prison population,

including, but not limited to, reducing recidivism. Funds available in the Recidivism Reduction Fund may be transferred to the State Community Corrections Performance Incentives Fund.

SEC. 13. Section 2910 of the Penal Code is amended to read:

2910. (a) The Secretary of the Department of Corrections and Rehabilitation may enter into an agreement with a city, county, or city and county to permit transfer of prisoners in the custody of the secretary to a jail or other adult correctional facility of the city, county, or city and county, if the sheriff or corresponding official having jurisdiction over the facility has consented thereto. The agreement shall provide for contributions to the city, county, or city and county toward payment of costs incurred with reference to such transferred prisoners.

(b) For purposes of this section, a transfer of prisoners under subdivision (a) may include inmates who have been sentenced to the department but remain housed in a county jail. These prisoners shall be under the sole legal custody and jurisdiction of the sheriff or corresponding official having jurisdiction over the facility and shall not be under the legal custody or jurisdiction of the Department of Corrections and Rehabilitation.

(c) Notwithstanding any other law, for purposes of entering into agreements under subdivision (a), any process, regulation, requirement, including any state governmental reviews or approvals, or third-party approval that is required under, or implemented pursuant to, any statute that relates to entering into those agreements is hereby waived.

(d) When an agreement entered into pursuant to subdivision (a) or (c) is in effect with respect to a particular local facility, the secretary may transfer prisoners whose terms of imprisonment have been fixed and parole violators to the facility.

(e) Prisoners so transferred to a local facility may, with notice to the secretary, participate in programs of the facility, including, but not limited to, work furlough rehabilitation programs.

(f) The secretary, to the extent possible, shall select city, county, or city and county facilities in areas where medical, food, and other support services are available from nearby existing prison facilities.

(g) The secretary, with the approval of the Department of General Services, may enter into an agreement to lease state property for a period not in excess of 20 years to be used as the site for a facility operated by a city, county, or city and county authorized by this section.

(h) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 14. Section 2910 is added to the Penal Code, to read:

2910. (a) The Secretary of the Department of Corrections and Rehabilitation may enter into an agreement with a city, county, or city and county to permit transfer of prisoners in the custody of the secretary to a jail or other adult correctional facility of the city, county, or city and county, if the sheriff or corresponding official having jurisdiction over the facility has consented thereto. The agreement shall provide for contributions to the

city, county, or city and county toward payment of costs incurred with reference to such transferred prisoners.

(b) When an agreement entered into pursuant to subdivision (a) is in effect with respect to a particular local facility, the secretary may transfer prisoners whose terms of imprisonment have been fixed and parole violators to the facility.

(c) Prisoners so transferred to a local facility may, with approval of the secretary, participate in programs of the facility, including, but not limited to, work furlough rehabilitation programs.

(d) Prisoners transferred to such facilities are subject to the rules and regulations of the facility in which they are confined, but remain under the legal custody of the Department of Corrections and Rehabilitation and shall be subject at any time, pursuant to the rules and regulations of the secretary, to be detained in the county jail upon the exercise of a state parole or correctional officer's peace officer powers, as specified in Section 830.5, with the consent of the sheriff or corresponding official having jurisdiction over the facility.

(e) The secretary, to the extent possible, shall select city, county, or city and county facilities in areas where medical, food, and other support services are available from nearby existing prison facilities.

(f) The secretary, with the approval of the Department of General Services, may enter into an agreement to lease state property for a period not in excess of 20 years to be used as the site for a facility operated by a city, county, or city and county authorized by this section.

(g) An agreement shall not be entered into under this section unless the cost per inmate in the facility is no greater than the average costs of keeping an inmate in a comparable facility of the department, as determined by the secretary.

(h) This section shall become operative on January 1, 2017.

SEC. 15. Section 2915 is added to the Penal Code, to read:

2915. (a) The Secretary of the Department of Corrections and Rehabilitation may enter into one or more agreements to obtain secure housing capacity within the state. These agreements may be entered into with private entities and may be in the form of a lease or an operating agreement. The secretary may procure and enter these agreements on terms and conditions he or she deems necessary and appropriate. Notwithstanding any other law, any process, regulation, requirement, including any state governmental reviews or approvals, or third-party approval that is required under statutes that relate to the procurement and implementation of those agreements is hereby waived, however, no agreement shall contain terms, either directly or indirectly, that involve the repayment of any debt issuance or other financing and, consistent with state law, shall provide that payment of that agreement is subject to appropriation.

(b) The Secretary of the Department of Corrections and Rehabilitation may enter into one or more agreements to obtain secure housing capacity in another state. These agreements may be entered into with private entities and may be in the form of an operating agreement or other contract. The

secretary may procure and enter these agreements on terms and conditions he or she deems necessary and appropriate. Notwithstanding any other law, any process, regulation, requirement, including any state governmental reviews or approvals, or third-party approval that is required under statutes that relate to the procurement and implementation of those agreements is hereby waived, however, no agreement shall contain terms, either directly or indirectly, that involve the repayment of any debt issuance or other financing and, consistent with state law, shall provide that payment of that agreement is subject to appropriation. This subdivision does not authorize the department to operate a facility out of state.

(c) The provisions of Division 13 (commencing with Section 21000) of the Public Resources Code do not apply to this section.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 16. Section 6250.2 is added to the Penal Code, to read:

6250.2. (a) The Secretary of the Department of Corrections and Rehabilitation may enter into agreements for the transfer of prisoners to, or placement of prisoners in, community correctional centers. The secretary may enter into contracts to provide housing, sustenance, and supervision for inmates placed in community correctional centers.

(b) Notwithstanding any other law, for the purposes of entering into agreements under subdivision (a), any process, regulation, requirement, including any state government reviews or approvals, or third-party approval that is required under, or implemented pursuant to, any statute that relates to entering into those agreements is hereby waived.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 17. Section 11191 of the Penal Code is amended to read:

11191. (a) Any court or other agency or officer of this state having power to commit or transfer an inmate, as defined in Article II (d) of the Interstate Corrections Compact or of the Western Interstate Corrections Compact, to any institution for confinement may commit or transfer that inmate to any institution within or without this state if this state has entered into a contract or contracts for the confinement of inmates in that institution pursuant to Article III of the Interstate Corrections Compact or of the Western Interstate Corrections Compact.

(b) An inmate sentenced under California law shall not be committed or transferred to an institution outside of this state, unless he or she has executed a written consent to the transfer. The inmate shall have the right to a private consultation with an attorney of his choice, or with a public defender if the inmate cannot afford counsel, concerning his rights and obligations under this section, and shall be informed of those rights prior to executing the written consent. At any time more than five years after the transfer, the inmate shall be entitled to revoke his consent and to transfer to an institution in this state. In such cases, the transfer shall occur within the next 30 days.

(c) Notwithstanding the requirements in this section or Section 11194, the secretary may transfer an inmate to a facility in another state without the consent of the inmate.

(d) Inmates who volunteer by submitting a request to transfer and are otherwise eligible shall receive first priority under this section.

(e) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 18. Section 11191 is added to the Penal Code, to read:

11191. (a) Any court or other agency or officer of this state having power to commit or transfer an inmate, as defined in Article II(d) of the Interstate Corrections Compact or of the Western Interstate Corrections Compact, to any institution for confinement may commit or transfer that inmate to any institution within or outside of this state if this state has entered into a contract or contracts for the confinement of inmates in that institution pursuant to Article III of the Interstate Corrections Compact or of the Western Interstate Corrections Compact.

(b) No inmate sentenced under California law may be committed or transferred to an institution outside of this state, unless he or she has executed a written consent to the transfer. The inmate shall have the right to a private consultation with an attorney of his choice, or with a public defender if the inmate cannot afford counsel, concerning his rights and obligations under this section, and shall be informed of those rights prior to executing the written consent. At any time more than five years after the transfer, the inmate shall be entitled to revoke his consent and to transfer to an institution in this state. In such cases, the transfer shall occur within the next 30 days.

(c) This section shall become operative on January 1, 2017.

SEC. 19. Section 13602 of the Penal Code is amended to read:

13602. (a) The Department of Corrections and Rehabilitation may use the training academy at Galt or the training center in Stockton. The academy at Galt shall be known as the Richard A. McGee Academy. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers while being trained by the department.

(b) Notwithstanding subdivision (a), and pursuant to Section 13602.1, the Department of Corrections and Rehabilitation may use a training academy established for the California City Correctional Center. This academy, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional employees who are being trained by the department.

(c) Each new cadet who attends an academy shall complete the course of training, pursuant to standards approved by the CPOST before he or she may be assigned to a post or job as a peace officer. Every newly appointed first-line or second-line supervisor in the Department of Corrections and

Rehabilitation shall complete the course of training, pursuant to standards approved by the CPOST for that position.

(d) The Department of Corrections and Rehabilitation shall make every effort to provide training prior to commencement of supervisory duties. If this training is not completed within six months of appointment to that position, any first-line or second-line supervisor shall not perform supervisory duties until the training is completed.

(e) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 20. Section 13602 is added to the Penal Code, to read:

13602. (a) The Department of Corrections and Rehabilitation may use the training academy at Galt or the training center in Stockton. The academy at Galt shall be known as the Richard A. McGee Academy. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers while being trained by the department.

(b) Each new cadet who attends an academy shall complete the course of training, pursuant to standards approved by the CPOST, before he or she may be assigned to a post or job as a peace officer. Every newly appointed first-line or second-line supervisor in the Department of Corrections and Rehabilitation shall complete the course of training, pursuant to standards approved by the CPOST for that position.

(c) The Department of Corrections and Rehabilitation shall make every effort to provide training prior to commencement of supervisory duties. If this training is not completed within six months of appointment to that position, any first-line or second-line supervisor shall not perform supervisory duties until the training is completed.

(d) This section shall become operative January 1, 2017.

SEC. 21. Section 15 of Chapter 42 of the Statutes of 2012 is amended to read:

Sec. 15. (a) The Department of Corrections and Rehabilitation shall remove all inmates from, cease operations of, and close the California Rehabilitation Center located in Norco, California, no later than either December 31, 2016, or six months after construction of the three Level II dorm facilities authorized in Section 14 of this act, whichever is earlier.

(b) The requirement in subdivision (a) is hereby suspended pending a review by the Department of Finance and the Department of Corrections and Rehabilitation that determines the facility can be closed. Closure of the facility shall not occur sooner than 30 days after notification in writing to the Chair of the Joint Legislative Budget Committee.

SEC. 22. (a) There is hereby appropriated from the General Fund the amount of three hundred fifteen million dollars (\$315,000,000) to the Department of Corrections and Rehabilitation for purposes of implementing this act. The amount appropriated is based on federal court orders in the Three Judge Court proceedings (2:90-cv-00520 LKK JFM P, C01-1351

TEH) requiring that the department achieve a population of 137.5 percent of design capacity no later than December 31, 2013. If the department no longer needs to meet this percentage or is not required to meet this percentage within the 2013–14 fiscal year, then the department shall reduce its use of this appropriation accordingly. The department shall spend these funds on immediate capacity to meet the federal court orders issued in the Three Judge Court proceedings (2:90-cv-00520 LKK JFM P, C01-1351 TEH) only to the extent needed to avoid early release. Except as provided by subdivision (c), any amounts which are not encumbered by June 30, 2014, are to be transferred to the Recidivism Reduction Fund.

(b) To the extent the Three Judge Court referenced in subdivision (a) issues an order or orders subsequent to the enactment of this act, which eliminates the need to obtain the full amount of capacity authorized by this act, or adjusts the date by which that capacity is required, the Department of Finance shall report on the activities and prepare and submit a fiscal estimate necessary to meet the revised order or orders, to the Joint Legislative Budget Committee and appropriate fiscal committees, within 15 days of the issuance of the new order or orders.

(c) To the extent the fiscal estimate necessary to meet the revised order or orders issued in the Three Judge Court proceedings (2:90-cv-00520 LKK JFM P, C01-1351 TEH) is less than the three hundred fifteen million dollars (\$315,000,000) appropriated in this section then, within 45 days of the order or orders, the Director of Finance shall direct the Controller to transfer the first seventy-five million dollars (\$75,000,000) of those savings, as determined in subdivision (b) to the Recidivism Reduction Fund. Any additional savings shall be allocated as follows: 50 percent shall revert to the General Fund and 50 percent shall be transferred to the Recidivism Reduction Fund.

(d) (1) Not later than April 1, 2014, and again not later than April 1, 2015, the Secretary of the Department of Corrections and Rehabilitation shall submit a report to the Director of Finance and the chairpersons and vice chairpersons of the committees in both houses of the Legislature that consider the state budget, and to the Assembly Committee on Public Safety and the Senate Committee on Public Safety, detailing the number of inmates housed in leased beds and in contracted beds both within and outside of the state pursuant to the provisions of this act. The report shall provide the specific number of inmates moved to each facility and shall identify all costs associated with housing these inmates.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

(3) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 23. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article

IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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San Francisco Sentencing Commission
The City and County of San Francisco

2013 Annual Report of the San Francisco Sentencing Commission

The first of it's kind local Sentencing Commission

Draft Outline

I. Executive Summary (One Page)

- a. Statement of Sentencing Commission Activities for the year
- b. Summary of Sentencing Commission Recommendations

II. Background (Two Paragraphs)

- a. Summary of Authorizing Legislation for the San Francisco Sentencing Commission

III. Commission Membership (One Page)

- a. List of Commission Members and Appointing Bodies
- b. Special Notes on Membership Transitions

IV. 2013 Meeting Summary (Two Paragraphs)

April 4, 2013

- Successful National Sentencing Reform
- California Realignment Sentencing Trends
- San Francisco Realignment Sentencing Trends
- Alternative Sentencing Planner Overview
- Realignment Research Overview

July 24, 2013

- Earned Compliance Credit
- California Drug Law and Local Practice
- Design Options for Drug Policy
- Seattle based Law Enforcement Assisted Diversion (LEAD)

October 16, 2013

- Restorative Justice
- California Prison Population Reduction Plan

December 11, 2013

- Victim Services

V. 2013 Accomplishments(Two Pages)

- a. Initiated Staff Research Support
 - i. Overview of the research reviewed and partners identified by NCCD.
- b. Expert presentations on Realignment, Sentencing, Drug Reform and Restorative Justice
 - i. Brief Summary on major subject matter covered in 2013
- c. Little Hoover Commission Presentation
 - i. Summary of the Testimony Provided by Sentencing Commission
 - ii. Update on Little Hoover Commission Research In Progress

VI. Recommendations (Two Pages)

- a. **Establish Annual San Francisco Sentencing Data Review and invest in adequate support resources.** Criminal Justice and Auxiliary Departments are best equipped to respond to San Francisco; crime and sentencing trends with regular review and analysis of crime, arrest, sentencing and supervision trends. Many departments are under resourced and need additional staff and technology resources to support the development of data tracking systems, regular review of those systems and data analysis.
- b. **Expand Resources for Alternative Sentencing.** Research has shown that alternatives to the traditional criminal justice sentencing system utilizing evidence-based practices contribute toward cost savings and positive participant outcomes. San Francisco-based alternative sentencing resources should be expanded to meet demand and studied for replication. These resources include but are not limited to the *Alternative Sentencing Planner*, which contributes toward thoughtful sentences that address the seriousness of the crime, the criminogenic needs of the offender and the victim restoration; and *Family Impact Statements*, which ensure that family and children of a convicted person are considered as part of the sentencing determination.
- c. **Invest in pre-booking and pre-charging diversion programs for drug offenses.** Continue to review the progress of the pre-booking diversion program Law Enforcement Assisted Diversion (LEAD), based in Seattle, WA and Santa Fe, NM. Review findings for evidence of the effectiveness of pre-booking and pre-charging interventions in reducing drug dependency and drug crimes.

VII. Future Activities (One Page)

- a. The San Francisco Sentencing Commission is scheduled to conduct four sessions in 2014. The tentative 2014 Session topics are identified below.
 - i. Annual Review of San Francisco Sentencing Trends
 - ii. Penal Code Review
 - iii. Effective Sentencing for Violent Offenders
 - iv. Recidivism Reduction

VIII. Conclusion (One Paragraph)