

The San Francisco Sentencing Commission

City & County of San Francisco

(Administrative Code 5.250 through 5.250-3)

AGENDA

Wednesday, December 11, 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 October 16, 2013 (discussion & possible action).
4. Staff Report on Sentencing Commission Activities (discussion only).
5. Update on Law Enforcement Assisted Division (LEAD) Program (discussion & possible action).
6. Presentation on California Crime Victims' Voices by Californians for Safety and Justice and Victims for Safety and Justice (discussion only).
7. Review and Approved Sentencing Commission Annual Report (discussion & possible action).
8. Members' Comments, Questions, and Requests for Future Agenda Items.
9. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.
10. Adjournment.

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MEETING MATERIALS

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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, October 16, 2013

Hall of Justice

Room 551

850 Bryant Street

San Francisco, CA 94103

Members in Attendance:

District Attorney George Gascón; Family Violence Council Appointee Jerel McCrary (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); Deputy Chief Martin Krizay (Adult Probation Department); Jeff Adachi (Public Defender's Office); Sara Schumann (Director, Probation Services).

Members Absent: Craig Murdock, Department of Public Health; Chief William Sifferman (Juvenile Probation Department).

1. Call to Order; Roll Call; Agenda Changes

At 10:04 a.m. District Attorney George Gascón calls the meeting to order and welcomed commission members and members of the public to the San Francisco Sentencing Commission. District Attorney Gascón thanked the police department for opening their space for the Sentencing Commission and asked the commissioners to introduce themselves. Each member introduced him/herself.

District Attorney Gascón provided an overview of the agenda for the meeting.

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

District Attorney 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

District Attorney Gascón asked the commission members to review the minutes and asked if anyone had edits or additions to the July 24, 2013 meeting minutes.

Board of Supervisors Appointee Theshia Naidoo suggested a change to a note in Item 4 in the July 24, 2013 minutes. She moved to remove the phrase "which is no longer a felony offense," and replace it with "which is no longer a state prison eligible offense." District Attorney Gascón seconds the motion and it passes unanimously.

Family Violence Council Appointee Jerel McCrary motions to accept the July 24, 2013 minutes. Deputy Chief David Shinn seconds the motion and it passes unanimously.

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

Tara Anderson explains she is working with the National Council on Crime and Delinquency to develop a presentation on a demographic profile of those who are getting arrested in San Francisco. This will be presented during the December meeting of the Sentencing Commission. During today's meeting, a summary of the prison population reduction plan will be provided in Item 7.

Ms. Anderson informs the commission members that the Annual Report of the Sentencing Commission is due by the end of the year. During today's meeting the members will review and vote on an outline. The vote on the final report will take place during the December meeting.

Ms. Anderson thanks guests and commission members and specially thanks Jessica Flintoft for her work in growing the Sentencing Commission. Ms. Anderson then turns the floor to Alex Busansky, president of NCCD.

Mr. Busansky thanks the commission members for their leadership in assembling this commission. California has the challenge of not having a state-level sentencing commission and NCCD is happy to support the local one to lead by example. Mr. Busansky tells the commission to reach out if there is anything more NCCD can do to help.

District Attorney Gascón thanks NCCD saying the organization has been a leader in criminal justice reform for many years and that he appreciates having the organization as a partner to the Sentencing Commission. District Attorney Gascón mentions he went to the first annual Media for a Just Society Awards that NCCD hosted in October and had a good experience.

Ms. Anderson introduces Carole D'Elia, Deputy Executive Director at the Little Hoover Commission to present on their work on sentencing in California.

Ms. D'Elia explains that the Little Hoover Commission is an oversight agency and is currently revisiting their 2007 report, *Time is Running Out*, which stated that California should establish an independent sentencing commission. Recently, the Little Hoover Commission has held two hearings, one in June 2013 and one in September 2013. Ms. D'Elia expects their next report, which will come out in 2014, will reiterate that California should develop a Sentencing Commission. Ms. D'Elia hopes the state can learn from the San Francisco Sentencing Commission.

District Attorney Gascón thanks Ms. D'Elia and states that he thinks the public is ready for reform. District Attorney Gascón says the work Little Hoover Commission in 1994 continues to inform the field.

District Attorney Gascón asks for questions comments for Ms. D'Elia. There are none.

Ms. Anderson suggests the commission members review two publications that are posted on the SFDA website:

- Pew Factsheet: Prison Time Served and Recidivism; released October 2013
- The National Conference of State Legislatures' report on Trends in Sentencing and Corrections; released July 2013

Ms. Anderson encourages commission members to submit any articles they find interesting and relevant to her for posting on this website.

Ms. Anderson tells the commission members that Assembly Speaker John Perez announced the establishment of the Assembly Select Committee on Justice Reinvestment. The scope of the committee is to explore and identify "solutions to the state's longtime criminal justice and prison challenges." The first meeting of the select committee is set for October 21, 2013 and Sentencing Commission staff will be monitoring its activities.

Ms. Anderson concludes her updates by mentioning that local Senior District Judge for the Northern District of California, Judge Charles R. Breyer, was appointed to the National Sentencing Commission. He has spoken with NCCD staff and has offered to address the San Francisco Sentencing Commission at an upcoming meeting.

District Attorney Gascón asks for comments or questions. There are none.

District Attorney Gascón encourages commission members to look out for interesting and relevant articles to send to Ms. Anderson.

District Attorney Gascón asks Reentry Council Appointee Karen Roye and Family Violence Council Appointee Jerel McCrary to give updates on their respective advisory bodies.

Ms. Roye highlights three main subcommittees of the recent Reentry Council:

- Policy and Operations
- Support and Opportunities
- Assessment and Connections

With respect the Justice Reinvestment Initiative, the Director of Pretrial Services, Will Leon, discussed the impacts. Ms. Roye informs commission members that the Governor signed Assembly Bill 218 into law. She is pleased that major piece of legislation for reentry has passed. Ms. Roye tells the commission that there were great ideas discussed around housing issues and funding. She encourages other commission members to attend the next meeting on December 10, 2013. Ms. Roye concludes by informing the commission that four of seven vacancies on the Reentry Council have been filled by the Board of Supervisors and the remaining three will be filled by the Mayor's office.

Mr. McCrary was appointed to the Sentencing Commission at the most recent Family Violence Council meeting. Though he was not at that meeting, two areas were specifically covered:

- Child abuse – Kathy Baxter from La Casa De Las Madres gave a presentation.
- Elder abuse

At the meeting, there was acknowledgement that there are several areas on which to refocus. One of which is outreach and training. There were subcommittees created for these areas. Mr. McCrary reminds the commission that October is Domestic Violence Awareness Month and the Domestic Violence Consortium keeps a calendar of events. Lastly, Mr. McCrary informs the commission that discussing recommendations for a domestic violence comprehensive report is on the agenda for their next meeting, which will take place December 20, 2013.

District Attorney Gascón asks for questions or comments. Hearing none, District Attorney Gascón moves on to Item 5.

5. Update on Law Enforcement Assisted Division (LEAD) Program (discussion only)

District Attorney Gascón gives the floor to Ms. Naidoo for an update on meeting with the LEAD team in Seattle, as well as with the Mayor's office, Defenders Association, and Chiefs of Police.

During the site visit, Ms. Naidoo had the opportunity to sit in on a LEAD working group meeting. Ms. Naidoo provides the commission with highlights of question themes from other policy makers who were present:

- Accountability and issues of the "revolving door."
 - Seattle LEAD program staff emphasized that LEAD is not a get-out-of-jail free card. A participant would be prosecuted for other offenses that are not LEAD-eligible.
 - Anyone who gets LEAD will get wrap-around services.

- LEAD depends on officers using their discretion for distinguishing between predatory crimes and crimes coming from addiction or out of need, i.e. to support themselves or their family.
- Police are in the best possible position to make this distinction and to determine whether LEAD would work for someone they arrest.
- LEAD recognizes the need to understand addiction is a chronic relapsing condition much more than regular system.
- Evaluation criteria
 - An evaluation report on the program won't be released until next year.
 - Arrests for drug-related offenses has plummeted and the number of people going to state prison for drug-related offenses has dropped drastically.

Ms. Naidoo provides an update that the LEAD program is expanding beyond Belltown to other districts, including the downtown core of Seattle, WA. The Mayor has pledged funding to expand the program. Since the commission last met, Santa Fe has also implemented LEAD, creating the program with city money. There is also interest in the Midwest, South, and Northeast.

Mayoral Appointee Professor Steven Raphael asks what the sanctions for relapse are. Ms. Naidoo responds that the program would respond with an intensification of treatment services. The Seattle LEAD program identified homelessness as a primary driver of street activity. As a result, LEAD is providing housing for a number of people. There is no jail sentence if a participant relapses.

Ms. Roye is glad to hear program is expanding out of its test zone. She is glad the community received it so well and is supporting it. At one time there was a difficult relationship between young folks abusing drugs and their community. It is powerful to build that connection back up and it speaks to having a community-wide social justice mode.

Deputy Chief Shinn expresses concern regarding the success of the program. He mentions that San Francisco already has a number of similar programs, e.g. drug court. Deputy Chief Shinn explains that while he was the Captain of the Tenderloin Police Station, he and his officers would patrol the streets and, rather than arresting homeless people, they would encourage them to seek refuge at a shelter and would offer to drive them. Officers were instructed not to arrest someone using drugs on the street, but rather assist them in getting to a place that offers services. Often, Chief Deputy Shinn says, these individuals did not accept services from the police even though officers would promise not to make an arrest. Some examples of responses officers received are: "We have to follow rules, we feel safer out here in our own community," and "We like to do our drugs and we can't do them in there." Chief Deputy Shinn concludes that the Police Department would like to see the result of the evaluation report before committing to a LEAD program.

Sara Schumann from Probation Services asks what other services LEAD provides. Ms. Naidoo responds that they have "case managers for life" who help participants with many things such as getting drivers licenses, housing, employment etc. Case managers have ongoing check-ins with their clients. Services are driven by the needs of the client population.

District Attorney Gascón confirms that the Chief of Police would like to wait until the report comes out to move on this. Deputy Chief Shinn confirms, but says they would like to keep their finger on the pulse of the progression of LEAD programs.

District Attorney Gascón asks Chief Deputy Shinn if representatives from SFPD would like to visit the Seattle site to see first-hand how it works. Chief Deputy Shinn agrees this would be useful. Ms. Naidoo adds that the Santa Fe Police Department are doing a site visit as well, so SFPD could coordinate. District Attorney Gascón asks Chief Deputy Shinn to speak with the Chief and update the commission in December on whether this is something SFPD would like to do.

Ms. Naidoo seeks clarification from the commission about whether, in the interim, if there is any role for the Sentencing Commission in exploring if and how to implement LEAD in San Francisco.

Professor Raphael proposes getting the students in the Goldman School of Public Policy to write research papers about this.

District Attorney Gascón proposes to add this to the December agenda. In the meantime Chief Deputy Shinn will have the opportunity to discuss with the Chief and Professor Raphael can discuss student involvement with Mr. Gascón.

District Attorney Gascón moves to Item 6.

6. Presentation on Restorative Justice by sujatha baliga Restorative Justice Project Director National Council on Crime and Delinquency (discussion only)

Ms. baliga explains that she does Restorative Justice work around the state and nation and usually a nonprofit approaches her to pilot a program in their jurisdiction. This was the first time a District Attorney contacted her to replicate her Alameda County program.

See slides in the informational packet for full information on Ms. baliga's Restorative Justice work.

Items not included in the slides:

- Ms. baliga would suggest the commission members read the book titled, *The Little Book of Restorative Justice* by Howard Zehr.
- Ms. baliga gives an example of how one learns to be accountable for their harmful actions:
 - When a kid breaks a neighbor's window with their baseball, a parent walks them over to the house, has the young person apologize and ask the neighbor what he or she can do to fix it.
- When implementing Restorative Justice and melding it with the current legal system, it is important not to replicate existing problems. For example, DMC can become a problem in Restorative Justice programs when cases are "cherry picked." In Alameda County, they found that more white young people were getting diverted to the Restorative Justice program than black young people.
- It is important to reduce discretion where possible and cast a broad net up front around which crimes land young people in juvenile detention.
- Ms. baliga provides an example of a case outcome:
 - A young person stole a car along with a friend, which turned out to have tax returns in the trunk. The young people attempted to take out a \$10,000 loan under the name on the tax returns. During the conference, the young person participating (who would have been charged) shared a powerful moment with the victim's boyfriend who went through similar struggles as a young person. He asked the young person what would make him happy in order to get out of a life in which he hangs out with people who steal cars. The young person responded that he wanted to be an artist. After hearing that, the victim decided that in return for the harm done to her, she would like the young person to paint a life-sized Tinker Bell for her. A photo of the process and result is included in the presentation slides.

Ms. baliga has been working with stakeholders in San Francisco to implement her Alameda County program. She has met with community members, young people, parents, youth-serving organizations, etc. in order to pull from existing local wisdom.

Professor Raphael asks how the program gets cases and how many cases there have been. Ms. baliga responds that in Alameda County the DA chooses cases to go through the program. From there Community Works, the organization Ms. baliga established, contacts the young person to see if they will participate. After confirming their participation case workers reach out to the victim and have extensive meetings before bringing the two parties together. Oakland has 100 cases a year.

Chief Deputy Shinn asks if it is the Alameda District Attorney's decision to refer cases to the program. Ms. baliga responds that the program began with only allowing the DA to refer cases. Now other stakeholders can divert cases including schools and police.

Chief Deputy Shinn asks which cases are diverted. Ms. baliga answers that it depends on statute, though there is some discretion on how to classify a crime. But diversion is happening in all levels of crime in Oakland.

Katie Miller from the SF District Attorney's office adds information on the pilot program in San Francisco. The program will start by only allowing DA referrals and will start with 25 cases in the first year. The program got funds from the Department for Children, Youth, and Families for the program. The process will be that the Probation Department will bring cases to Jean Rolland who will make the final determination of eligibility. There is then a randomized process for which cases go into the program and they will refer the selected ones to Community Works. Community Works will handle the cases through the conferencing process at which point CARC will take over to ensure the young people follow through with their agreement and are provided services.

The program will use the following criteria to select cases: the young people who harmed must be 13-15 years old and live in San Francisco. The crime must have otherwise received a charge for burglary, theft, auto-burglary, and robbery (though details are still being worked out with robbery cases). In general the young person will be facing a first-time offense. Automatic exclusions from the program include: if there was a weapon involved, if the victim was injured, if the young person is involved in a gang, and if the young person has a prior 707B.

Public Defender, Jeff Adachi asks if, in Ms. baliga's experience, Restorative Justice works on anyone. Ms. baliga says she has worked on some cases in which a young person is severely traumatized and is faced with a victim who's main harm was damage to an expensive car, for example. In this type of situation, the young person has a hard time grasping the gravity of what he or she has done and has trouble fully empathizing with the person who was harmed. Still, when a victim describes the emotional trauma resulting from a crime, that's where human connection occurs and motivates a moral shift.

Public Defender Adachi asks if the District Attorney will just choose cases in which the offender would have succeeded anyways, which would inflate the success rate of the program. Ms. Miller explains that the set of criteria, along with the set of exclusions, will ensure that any case meeting these criteria will be eligible for the program and no other considerations will be made. From there, the randomization process will further ensure there is no "cherry-picking."

Mr. Adachi asks if the Public Defender will have any input, to which Ms. Miller replies that they will not because the program takes place pre-charge.

Ms. Anderson adds that since the program capacity will only allow for 25 cases, there will be plenty of cases that do not make it to the program and they will serve as a control group.

District Attorney Gascón emphasizes that "cherry-picking" was of great concern when developing the program, which is why the selection process is as blind as possible after determination of the criteria.

Reentry Council Appointee Catherine McCracken asks if Ms. baliga could speak about the decision to use community conferencing model over other Restorative Justice models. Ms. baliga responds that the community conferencing model melds better with systems involvement than other circle processes. Community conferencing maintains a level of accountability for the young person who harmed.

Mr. McCrary asks what the consequences if a young person fails to complete the agreement plan. Ms. baliga responds that he or she would be charged as they would have been.

Professor Raphael asks if the program will include its own evaluation. Ms. Baliga responded that yes, Community Works has been collecting data and NCCD will be processing it. Professor Raphael suggests that a greater effect could be seen from the study if it included a larger control group than 50% of eligible cases. He adds that if there are young people who do not agree to participate in the program, they would need to be included in the treatment group. Ms. Miller responds that they are still working out the details of the study. NCCD is gathering this data from other jurisdictions they're working with, so each site will have to coordinate. District Attorney Gascón adds that the process will be transparent. They believe the program will work, but if it doesn't, they are open to change. He stated that if the program is going to work, it has to work for the community, not just for those in the room.

Ms. Naidoo asks what the implications would be for the adult offender population and how Restorative Justice principles could be incorporated into the adult system. Ms. Baliga responded that these practices can help in plea negotiations but her fear for Restorative Justice in the adult system is that it would be used as a deferred entry of judgment. Ms. Baliga would like to see how it can work as diversion from the juvenile justice system so it can then be translated to *diversion* from the adult system as well.

District Attorney Gascón asks for questions. There are none so he moves to Item 7.

7. Update on Prison Population Reduction Plan (discussion)

Ms. Anderson gives a brief overview of SB105. The text of the bill is included in the meeting packet. Ms. Anderson encourages the commission to access resources from the Prison Law Office. The legislature and the governor released competing plans, the compromised plan incorporates capacity-only interventions found in the governor's plan incorporates methods to avoid early release and does require immediate work with stakeholders to develop long-term cost-effective solutions that protect public safety. A report is due to the state legislature by April 2014. The final report will be due by January 2015. A provision that was originally in the version presented by legislature included a provision that would include functions of a state-level sentencing commission. This provision was deleted from the final bill.

Ms. Anderson went on to review that the capacity focus of the plan calls for \$315 million in 2013-14 to invest in out-of-state capacity to reduce the prison population. In the last few weeks, the state has established in-state contracts with two private prisons. The plan also includes investment in recidivism reduction programs. Any cost savings would be assigned to a fund that would be appropriated by the legislature for services and interventions.

Ms. Anderson reports that on September 24, 2013, the three judge panel rejected the out-of-state portions of the capacity plan in SB105 and ordered the parties to "meet and confer." This process will explore how the state can comply with the court's June 20, 2013 Order including means by which compliance can be accomplished and how this Court can ensure a durable solution to prison crowding. The discussions must specifically include:

- Three strikers
- Juveniles
- The elderly and the medically infirm
- Immigration and Customs Enforcement prisoners
- The implementation of the Low Risk List
- Any other means, including relocation within the state, that are included in the defendants' May 2, 2013 list.

The state has submitted a vacate order to the courts challenging the latest injunction on the grounds that it limits California from entering into any contracts or other arrangements to lease additional capacity in out-of-state facilities or otherwise increase the number of inmates who are housed in out-of-state facilities. The court

forbids the state from doing so immediately, during a court-ordered meet and confer, and indefinitely thereafter.

Ms. Anderson passes the floor to Deputy Chief Martin Krizay from the Adult Probation Department to provide an update on the local impacts of SB105.

Deputy Chief Krizay reports that they cannot develop an impact report until the agreement is reached. They do have the advantage of having just gone through the realignment process. If the agreement does result in additional custody credits, they would feel well-positioned to handle it due to some of the things they've put in place with AB109. They recently opened a community assessment center and a reentry pod. San Francisco does not send a lot of people to state prison, so there would not be a significant number of state prisoners returning to the local system.

Sheriff Mirkarimi reports that he met with the cabinet secretary and the new head of BSCC. They are all extremely concerned about this issue in terms of the directives San Francisco will be given. San Francisco is currently the most undercrowded jail in the whole state system. If the state doesn't turn to privatization, they will be looking to municipalities to take some of the state population. He is concerned about the lack of permanent solutions coming from sending out-of-county state prisoners to municipalities. Sheriff Mirkarimi added that out of 40 sheriffs present at the meeting, he was the only one to vote for a state-level sentencing commission.

District Attorney Gascón contributed that he would hope they would collectively fight a state attempt to send out-of-county prisoners to San Francisco. He does not think that would be legal. He suggested requesting research on how to oppose this.

Sheriff Mirkarimi responds that the governor can dictate this kind of thing, which might initiate a legal conversation. He does not want to take on overcrowding of other counties because that is a self-inflicted problem.

Mr. Adachi asks if the Board of Supervisors pass an ordinance saying San Francisco will not take out-of-county prisoners, the governor can override that. Sheriff Mirkarimi responds that it is a state executive power. Public Defender Adachi asks if the commission should plan for this. District Attorney Gascón responds that they should do some initial legal research in anticipation. Sheriff Mirkarimi adds that the other option would be privatization and that the commission should be careful of what trap doors exist in this argument.

Professor Raphael asks if the state can offer reentry pod money to shave three or four months off of everyone's sentence and then build the capacity to house prisoners transitionally and facilitate reentry.

Ms. Roye states that it would be wise to continue to have this conversation as there are important things to understand. District Attorney Gascón suggests adding it to the agenda for the December meeting. Sheriff Mirkarimi says it is a "to-be-watched" item. District Attorney Gascón concludes that this issue will be added to the agenda for December and Sheriff Mirkarimi should continue to gather information.

District Attorney Gascón moves to the next item.

8. Review Sentencing Commission Annual Report Outline and Draft Report (discussion & possible action)

Ms. Anderson directs the commission members' attention to the meeting packet, which contains an outline for the commission's annual report. The format will be similar to the 2012 report, but there will be more content. The outline includes some recommendations derived from commentary in meetings throughout the year. There may be additions or edits to the ones listed here. There will be an opportunity to provide staff

guidance on how to proceed with writing because the final vote on the report will take place at the December meeting.

Ms. Naidoo states that it is a great outline. She will likely have more feedback once there is more information included.

Ms. Anderson tells the commission that a draft of the report will be provided to the commission well before the meeting in December so they have time to make comments before voting on the final report.

Sheriff Mirkarimi motions to accept the outline. Ms. Roye seconds and the motion passes unanimously.

9. Members' Comments, Questions, and Requests for Future Agenda Items

District Attorney Gascón asks if commission members have comments, questions, or items for a future agenda.

Ms. McCracken suggests the commission keep in mind the reasons the governor rejected SB649 as they monitor SB105.

After asking for any additional comments, District Attorney Gascón moves to the next item.

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

District Attorney Gascón invites comment from members of the public. Hearing none, he moves to the next item.

12. Adjournment.

Ms. Naidoo motions to adjourn the meeting. Deputy Chief Krizay seconds and the motion passes unanimously at 12:06 p.m.

CALIFORNIA CRIME VICTIMS' **VOICES**

*Findings from the First-Ever Survey of California
Crime Victims and Survivors*



CALIFORNIANS
FOR **SAFETY** AND **JUSTICE**

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Executive SUMMARY

In the public debate on how to design a criminal justice system that serves the needs of California's communities and makes them safer, the perspectives of victims and survivors of crime are essential.

Safety and justice for victims involves holding individuals who commit crimes accountable, as well as stopping cycles of crime and repeat victimization. Victims also need pathways to recovery, including information and support to overcome the physical, emotional and financial consequences of crime.

For the last several years, California's overall crime rates have been lower than they were for the prior three decades.¹ However, the concentration of many types of crime means some communities continue to be deeply impacted by crime. Despite changing crime trends, criminal justice remains a major annual expenditure at both the state and local level. Prison overcrowding has also led the state to make significant changes to its justice system in the last few years. In this context, understanding the experiences and needs of people who are victimized by crime will help improve our public safety and justice strategies and investments.

Historically, there has been a severe lack of data on who California's crime victims are, what they need to recover from crime and their opinions about our state's justice priorities.











To begin filling this gap in research, **Californians for Safety and Justice commissioned the first-ever survey of California crime victims.** David Binder Research fielded the California Crime Victims Survey in April 2013, polling more

Survey findings reflect a different perspective than commonly understood about the views of California crime victims. These views are not always reflected accurately in the media or around state policy tables.

than 2,600 Californians who were broadly representative of California's population with respect to race, ethnicity, age and gender. Of those, 500 identified as having been a victim of crime in the last five years, and these respondents answered 61 questions regarding their experiences and perspectives.

This report describes the findings of this survey and points to opportunities for further research and reforms to improve victim recovery. Among the findings, it may be surprising to some that California victims – even when profoundly impacted by their experience with crime – overwhelmingly favor a system that focuses on rehabilitation rather than incarceration. **Survey findings reflect a different perspective than commonly understood about the views of California crime victims. These views are not always reflected accurately in the media or around state policy tables.**² The following is a brief summary of the key findings in this report.

KEY FINDINGS

-  One in five Californians acknowledges having been a victim of crime in the last five years. Half of these acknowledge being a victim of a violent crime.
-  Two in three of these crime victims acknowledge having been victims of multiple crimes in the past five years. African Americans and Latinos are more likely to have been victims of three or more crimes in the past five years.
-  Victims of violent crime are more likely to be low-income, young (especially under 30), and Latino or African American.
-  Two in three crime victims report experiencing anxiety, stress and difficulty with sleeping, relationships or work. Half of these felt that it takes more than six months to recover from these experiences.
-  Four of the five services available to crime victims tested – including assistance with accessing victims’ compensation and navigating the criminal justice process – were unknown to the majority of victims. Of those who had used the services, nearly half found them difficult to access.
-  When asked about California’s rates of incarceration, more victims say that we send “too many” people to prison than “too few.”
-  Victims want a focus on supervised probation and rehabilitation by a two-to-one margin over prisons and jails.
-  Victims prefer investments in mental health and drug treatments by a seven-to-one margin over incarceration.
-  Four in five victims believe that prisons either make inmates better at committing crimes or have no impact at all. Only a small minority believes that prisons rehabilitate people.
-  Sixty-five percent of California crime victims support the 2011 Public Safety Realignment law that shifted responsibility and funding for people convicted of nonviolent, non-serious offenses from the state to counties.



The following report includes more findings and provides some supplemental information from national surveys to illuminate who is impacted by crime and what those individuals need. It is the first in a series of research reports Californians for Safety and Justice aims to produce about California crime victims and survivors.

WHO *are California* **CRIME VICTIMS/SURVIVORS?**

In our survey, **one in five Californians** acknowledged having been a victim of **crime in the last five years**. Virtually all had been victims of property crimes, most on more than one occasion.³ Half of those surveyed also acknowledged having been a victim of a violent crime.⁴



EXPERIENCE WITH PROPERTY CRIMES (% OF CRIME VICTIMS)

	All Crime Victims	Female	Male	White	Latino	Asian American*	African American*	Victim of Single Crime	Victim of Multiple Crimes
Property Theft	82%	81	83	81	83	79	79	75	86
Vandalism	55%	57	54	54	56	53	47	33	64
Identity Theft	54%	60	48	53	53	45	65	35	62
Burglary	39%	39	39	39	39	47	32	26	45

EXPERIENCE WITH VIOLENT CRIMES (% OF CRIME VICTIMS)

	All Crime Victims	Female	Male	White	Latino	Asian American*	African American*	Victim of Single Crime	Victim of Multiple Crimes
Stalking	34%	40	29	35	39	19	18	13	40
Robbery	25%	27	23	23	28	19	27	11	28
Assault	21%	21	22	21	25	14	18	9	24
Rape*	9%	15	4	8	10	5	12	3	9
Murder of Family Member*	11%	13	10	4	18	5	29	7	13

* small sample size

These findings are consistent with those of other surveys: According to the National Crime Victimization Survey (NCVS) and the Uniform Crime Report for California (which collects information only on reported crimes), in 2011 property crimes occurred and were reported to the police about six times more often than violent crime.⁵

The NCVS data indicate that, nationally, over a six-month period:

- Latinos, African Americans and American Indians were significantly more likely than whites to have been victims of a violent crime;
- Men were more likely than women to have been a victim of violent crime in the last six months;⁶ and
- Individuals from 18- to 24-years old were much more likely to have been violently victimized than any other age group.⁷

Demographic groups experience different types of crimes with varying frequency. For example, women are much more likely than men to be a victim of violent crime perpetrated by someone they know. Men, on the other hand, are assaulted by strangers much more frequently than by known perpetrators.⁸ **African Americans are much more likely than whites to be victims of homicide, accounting for half of all homicide victims nationally in 2005**, according to the Uniform Crime Report.⁹

The survey also underscores how much victimization impacts certain California families and communities more than others:

- Three out of four crime victims had a friend who had been victimized in the last five years.
- Two in three had a family member who had also been a victim of crime.
- Eight in 10 people who were not crime victims also did not have friends or family who had been victimized.

My house had been broken into before,

so when my son and I returned home one night and noticed something was wrong, my heart sank.

Then we began to notice what was missing. What would have been simply “property” to the burglars were incredibly important, personal items to my family.

A bicycle I bought as a ticket to some freedom when raising two children — and that I rode 130 miles to raise funds for Multiple Sclerosis (which my brother has). A necklace I wore almost every day. A laptop with countless hours of work — personal and professional.

But I fell to my knees in horror when I noticed a leather pouch in my bedroom missing. In it were the ashes of my late sweetheart, who had died two years earlier from cancer. The feeling of loss and violation was unbearable; it was all I had left of him.

As a musician, Ron had used that pouch for his saxophone every day for 40 years, but the teens who stole it may have thought it contained drugs.

It's just so senseless — things of so little value to the burglars but of such great consequence to the robbed.

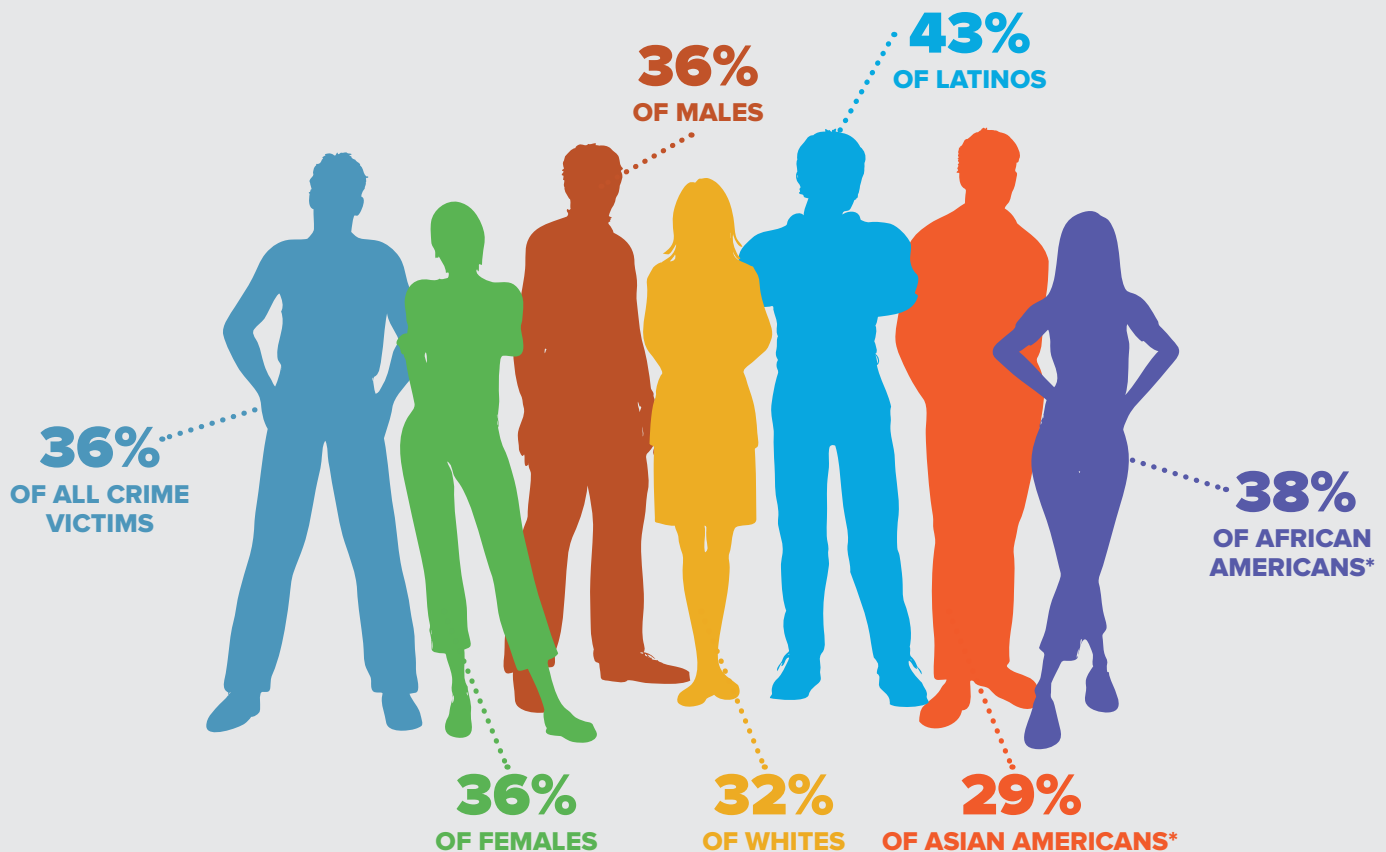
I know that some people who do this are in the grip of drugs, poverty, desperation or simply don't understand the damage they're causing. They must be held accountable.

Incarceration is not always the answer; I was able to face the young man who robbed me in court — and feel strongly that him hearing my story and pain is what could lead to real change. That's the value of including the voice of the victim in our justice system's attempts to prevent future crimes.

-Susan

VICTIMS OF THREE OR MORE CRIMES

Agenda Item 6



WHO IS REPEATEDLY VICTIMIZED

Survey results, coupled with NCVS and Uniform Crime Report data, demonstrate that victimization is not randomly distributed throughout the population: **Some victims experience victimization regularly, others experience it occasionally, and the large remainder do not experience it at all.**

The survey found that **two in three of all crime victims acknowledged having been victims of multiple crimes in the past five years.**

According to national data, the strongest predictor of victimization is having previously been a victim of crime.¹⁰ This is known as repeat victimization. People who are repeatedly victimized are more likely than other crime victims to suffer mental health problems such as higher levels of depression, anxiety and symptoms related to Post Traumatic Stress Disorder (PTSD).¹¹

The California Crime Victims Survey, with its long five-year reference period, captured people who are regularly

victimized, as well as a broader cross-section of those who occasionally experience crime. The number of people who acknowledged having experienced any crime in the last five years was roughly in proportion to California's general population in terms of race, ethnicity and age. The survey showed the impact of certain demographic characteristics on an individual's likelihood of being violently victimized is starker: Having higher income, education levels and being white were factors that made it less likely one has been a victim of violent crime.

Other surveys have shown the risk of victimization for an individual occupying one of the at-risk categories (young, male or African American) is significantly lower than for someone fitting a combination of these attributes (young, male *and* African American).^{12 13}

In terms of repeat victimization, the California Crime Victims Survey showed Latinos and African Americans are more likely than whites to have been victims of three or more crimes over a five-year period. Asian Americans were slightly less likely to have been victimized on three or more occasions than whites.¹⁴

Being a “victim of crime” is not a label that comes naturally for me.

Sadly, part of the reason is that so many other people I know have experienced crimes. It's the rule, not the exception.

When I was 10, my older brother Oscar — a father figure — was shot and beaten to death near our South Central Los Angeles home. No one ever told me what happened. We mourned and tried to move on, but it shattered our family in many ways.

I was bitter as a teenager. I drank, tried drugs and acted out in destructive ways. I saw the same ripple effect with friends and neighbors — mostly young men of color — when they and their families experienced crimes.

I eventually cleaned up and rebuilt my life, which helped me withstand the murder of another brother last August. Gilbert, 41, was shot and killed trying to stop a man from entering a wedding party uninvited.

While such tragedies rock families, too many communities in California just “live” with crime — violent acts but also burglaries, drug dealing, vandalism and more. These communities feel abandoned by lawmakers, law enforcement and the media.

Even though these communities experience the lion share of crime, they do not receive the lion share of attention or resources. Hopefully a better understanding of who really is affected by crime — and how this affects the rest of California — can lead to policies that *prevent* crime.



DAVID



DAVID AND GILBERT

What are the REPORTING PRACTICES OF CRIME VICTIMS/SURVIVORS?

National data indicates that victims frequently do not report crime to the authorities. According to NCVS, about half of all known violent crimes — excluding homicides but including aggravated assault, robbery and sexual assault — go unreported to police and other law enforcement.¹⁵ A substantial portion of violent crime (including approximately one in five serious violent assaults) is reported by bystanders, relatives or acquaintances, not the victims.¹⁶

According to NCVS, people are even less likely to report certain property crimes (e.g., motor vehicle theft, burglary and theft), and nationally about three-fifths of these crimes go unreported.

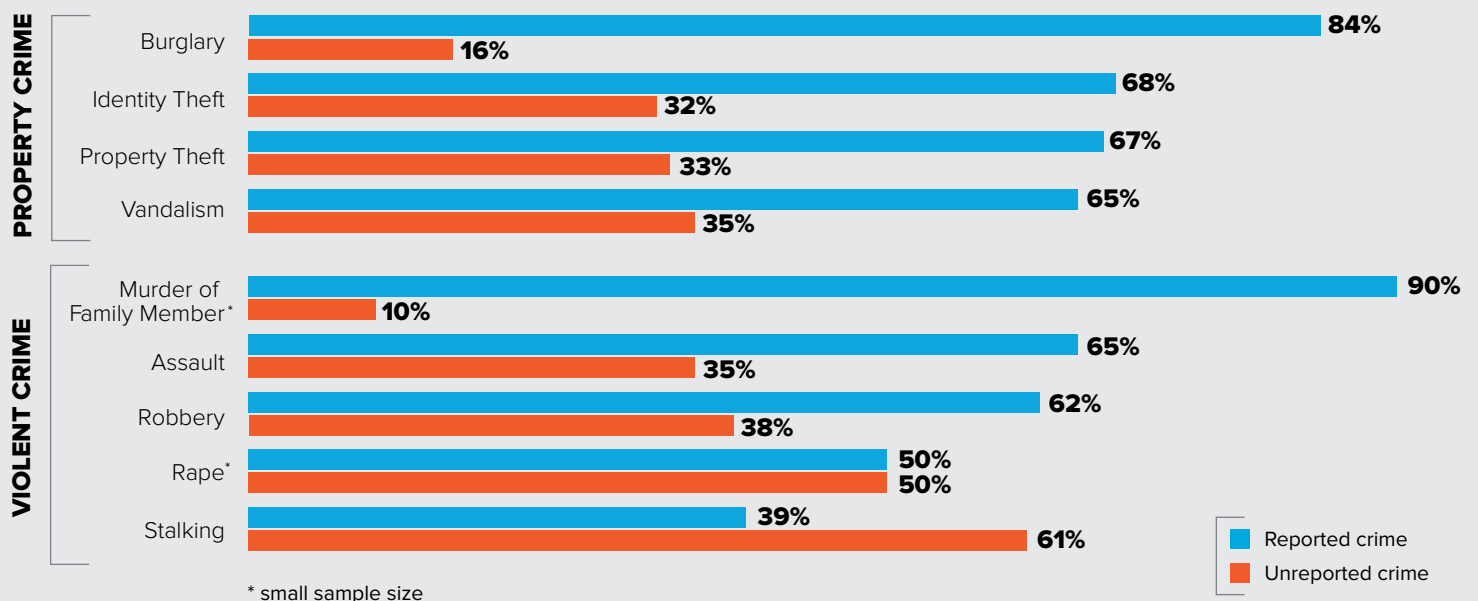
According to the California Crime Victims Survey, many survivors also said that they did not report crimes that they experienced to the police. Victims of stalking and rape were most likely to say that they did not report, while victims of residential burglary were most likely to report the crime.

Those who reported crimes said that they were motivated to prosecute the person responsible and to prevent future crimes, as well as to create a record for insurance purposes. Those who did not report crimes were reluctant to inform the authorities mostly because they struggled with the time and effort required to report, especially if they were doubtful that the police could or would do anything.

Women were more likely than men to report crimes, and African Americans were the ethnic group most likely to report. Asian Americans were least likely.

The higher level of reporting among African-American respondents (compared to whites) is consistent with the 2007 NCVS report “Black Victims of Violent Crime” that states: “Violence against black victims was more likely than violence against white victims...to be reported to police. Among black victims, robbery and aggravated assault were the violent crimes most likely to be reported.”¹⁷

CRIMES RESPONDENTS DID, DID NOT REPORT TO POLICE



Everyone knows that if a woman is raped or a young child is sexually abused, a serious crime has taken place. But many such crimes go unreported – for various reasons.

I know first hand. When I was four, a male caretaker in my New York apartment building sexually assaulted me multiple times. At the time, I didn't understand what was happening, let alone how to verbalize it. By the time I told my parents – at age 30 – the man responsible was long gone.

Then, at age 22, what started as a normal night out with a male friend ended in a rape. I was in shock, and feelings of shame and fear kept me from telling anyone – better to just move on, avoid him and act like it never happened.

I understand that many people wonder why I wouldn't pursue justice for these crimes – for myself and to prevent other such victims – but survivors of such crimes face many conflicting, complicated emotions and choices in the midst of their trauma: guilt, shame, fear and the reluctance to relive the trauma in police and court depositions. Add to this cultural differences, shame and stigma, and under-reporting becomes more understandable.

If we're to increase reporting rates, we need a justice system that is culturally competent and sensitive to the needs of survivors. Community organizations can be valuable partners, and public awareness of these crimes must evolve so that the survivors feel more empowered to share their stories, heal within communities and prevent their attackers from committing new crimes.



Sonja

WHY DID YOU DECIDE TO REPORT THIS CRIME TO THE POLICE?



What is the **IMPACT** of **CRIME** **ON VICTIMS/SURVIVORS?**

Regardless of their demographic characteristics or whether they reported their crime, most California victims are deeply impacted by crime in their communities:

- Less than one in three say that they live in an area where they feel very safe.
- Only one in five victims of violent crime believe they are very safe where they live.
- Nine in 10 survivors of crime say their quality of life is affected by crime in their area.
- One in four victims said they are “very affected.”

Being victimized can be a traumatic event and often has a significant impact on victims’ long-term health and wellbeing:

- **Two in three California crime victims reported experiencing anxiety, stress and difficulty with sleeping, relationships or work after the crime incident.** These impacts are disruptive to daily life, can have long-term health impacts and are often symptomatic of trauma.

Two in three California crime victims reported experiencing anxiety, stress and difficulty with sleeping, relationships or work after the crime incident.

- Half of these respondents said that it takes more than six months to recover from being victimized by crime.
- One in five victims of violent crime said it takes longer than two years to recover.
- One in four survivors said they missed work as a result of the crime incidents. Of those who missed work, the average number of days missed was 11.¹⁸

Nine in 10 survivors of crime say their quality of life is affected by crime in their area.



I'll never forget July 24, 2004. It was a terrible, terrible day that changed me more than any event in my life.

That was the day I lost my only child, Roger, in a triple homicide in San Francisco. He was my life – my family – so both were decimated when his life was taken.

I was not prepared for the grief I experienced in the aftermath of his murder. I tried to be strong, but hopelessness drowned my mental and emotional wellbeing. I thought of suicide regularly, and I saw no path to recovery. I felt alone.

Then, in 2005, the District Attorney's Office referred me to the Trauma Recovery Center, a joint venture between San Francisco General Hospital and the University of California, San Francisco, that combines multiple services for survivors of crime under one roof. There I participated in individual grief counseling, a support group for mothers who lost a child to gun violence, and marital/family counseling.

The Trauma Recovery Center saved my life. My ability now to work full time and be a loving, present wife, grandmother and family member is due to receiving the proper supports after the trauma of a violent crime.

I know many victims and survivors aren't as fortunate. They feel lost after the crime and don't know about or don't know *how* to access services that could help them recover from depression, financial hardship, struggles with alcohol or drugs, and more. The impact of crime may be hidden, but it is real — and so too must be the effort to reduce the trauma.

HOW EFFECTIVE ARE EXISTING SERVICES

for Crime Victims/Survivors?

Despite the fact that many California crime victims experience stress and trauma after the crime – and endure a long period of recovery – many do not pursue or receive support from state- and community-based victims services programs.

The problem is not that services are unavailable; California state government, local governments and community organizations offer a broad array of support and services to assist victims. The services offered and the capacity of service providers vary by county, but across the state, survivors can access counseling, referrals, orientation to the justice system, and financial assistance with costs stemming from the crime, among other services.¹⁹

It appears a big challenge lies in victims' awareness of and ability to access such services. The California Crime Victims Survey indicates that **the majority of crime victims are unaware of the full array of available services.**

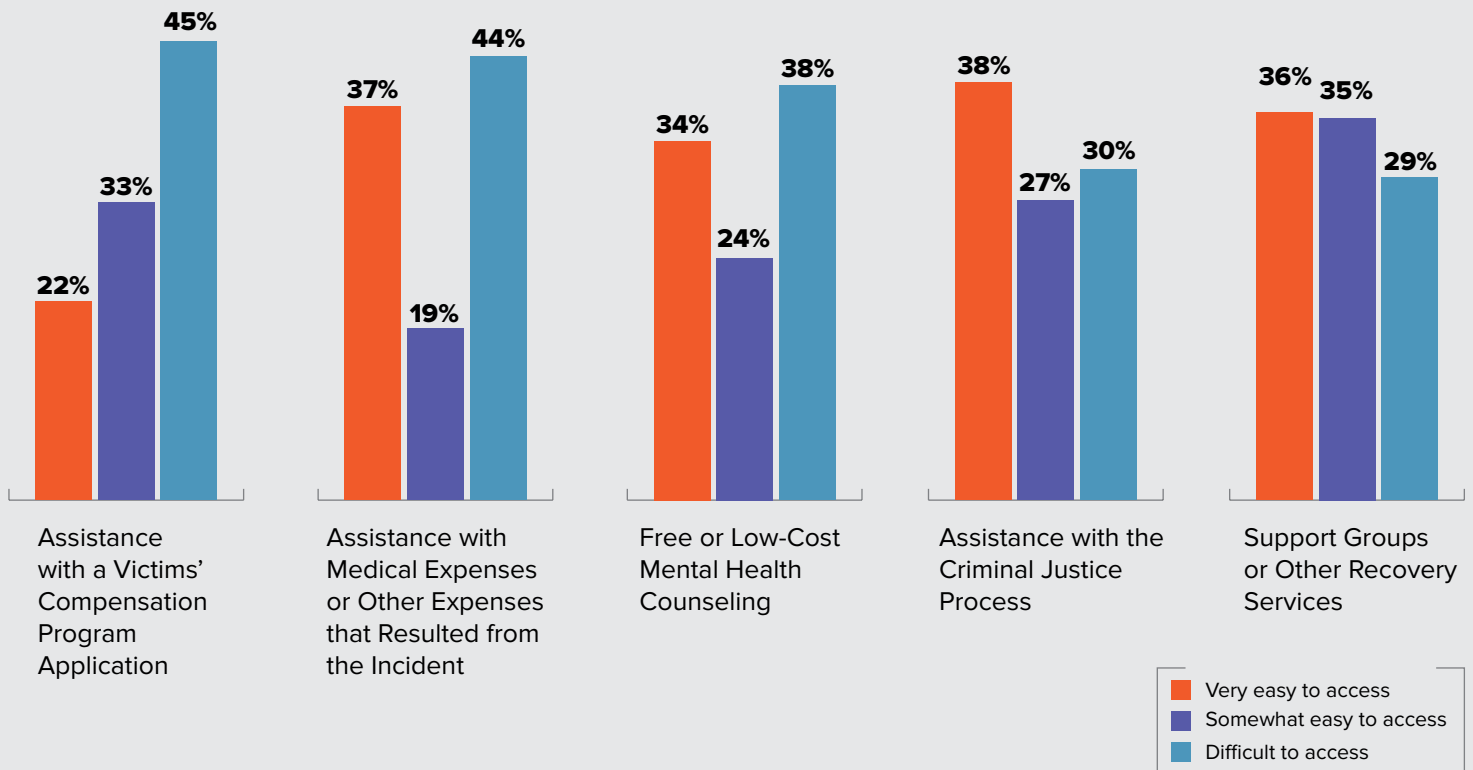
- Two in three were unaware they could get assistance to complete an application for the victims' compensation program administered by the Victims Compensation and Government Claims Board.
- Sixty-five percent were unaware of assistance available for expenses incurred as a result of crime.
- The majority were unaware of assistance with the criminal justice process and with accessing mental health counseling.
- Only "support groups" were recognized by a majority of crime victims.

UNAWARE BUT INTERESTED IN SERVICES (% OF CRIME VICTIMS)

	Assistance with Applying for Victims' Compensation	Help with Expenses	Assistance with Criminal Justice Process	Mental Health Treatment	Support Groups
Total	32%	30%	28%	22%	17%
White	31	30	26	19	14
Latino	35	30	31	26	18
Asian American*	26	18	32	16	16
African American*	35	38	24	29	32
Victims who experienced anxiety and stress	37	32	29	26	18

* small sample size

ACCESSIBILITY OF VICTIMS SERVICES



Nearly one in three crime victims said they were interested but unaware of the victims' compensation program application and assistance with medical or other expenses, as well as assistance with navigating the criminal justice process in general. Another 22 percent were interested in mental health counseling, and 17 percent were interested but unaware of support groups.

Nearly twice as many victims, if aware of recovery services, would seek out most services.

AWARENESS AND INTEREST IN SERVICES BY DEMOGRAPHICS

Crime victims in all demographic groups lack exposure to victims' services – and are interested, to varying degrees, in some of those services:

- Younger victims and Latino and African-American victims are more likely to be unaware but interested in victims' compensation assistance.
- Younger victims and African-American victims are more likely to be interested in help with expenses.

- Latinos and Asian-American victims are more likely to be interested in help navigating the criminal justice process (possibly due to language or other access issues).
- Younger victims are more interested in mental health services.

DIFFICULTY ACCESSING SERVICES

Of the crime victims who used any type of victims' services, nearly half say it was difficult to access the services. The victims compensation program application was most frequently described as difficult (45 percent), followed closely by assistance with expenses (44 percent), mental health counseling (38 percent), and assistance with the criminal justice process (30 percent) and support groups (29 percent).

What are the ATTITUDES of Victims/Survivors Towards California's **CRIMINAL JUSTICE SYSTEM?**

In addition to collecting information about crime victims' experiences with crime, the recovery process and accessing services, the California Crime Victims Survey also asked about their perspectives on California's criminal justice priorities generally.

California's justice system is facing a time of significant transition. Decades of increased investments in state prisons and increased rates of imprisonment led to lawsuits and

recent policy changes to reduce prison overcrowding.

In 2011, California lawmakers implemented Governor Brown's "Public Safety Realignment," which shifts responsibility for managing individuals convicted of specified non-serious felonies from the state prison system to county jails and probation.

In 2005, I was a conservative, gun-owning, mother of two who was married to a police officer. My views on the criminal justice system were simple: It was us (the good guys) versus them (the criminals, who needed to be locked up).

That summer, my husband Dan responded to a disturbance call. Some guys were drinking, and Dan took their licenses. One of them was on probation and afraid of going back to prison, so he pulled a gun and shot and killed my husband.

The shooter was soon caught and convicted, and I was as angry as I was grief-stricken. For a while, I really fell apart. I was depressed and neglected the needs of my children.

I eventually pulled myself together, but the entire experience opened my eyes. I saw the criminal justice system – how we, in California, try to keep our communities safe – in a new light. I realized how poorly we're doing in preventing crime and the high cost of that failure.

I learned that we have to fight the temptation to just punish out of a sense of vengeance – and instead think about what actually prevents people from committing crimes. That means more effective forms of accountability that better serve victims – and taxpayers.

People are surprised to hear a police widow express such views, but I firmly believe that we all must re-examine how we invest our criminal justice dollars if we're to prevent tragedies such as Dan's from happening again and again.



Dionne

Decades of increased prison rates and subsequent policy shifts have been accompanied by a highly politicized debate about the best way to protect public safety in California. In the State Capitol and the media, victims of crime are at times portrayed as focused on maintaining high prison rates.

Given the large impact of anecdotal victim voices on public safety debates, this survey sought to discern the perspectives of a representative group of crime victims.

PRIORITIZING APPROACHES TO SAFETY OTHER THAN INCARCERATION

Perhaps to the surprise of some, the California Crime Victims Survey found that the overwhelming majority of California victims prefer investing in probation and rehabilitation, prevention, health and education over spending more on incarceration.

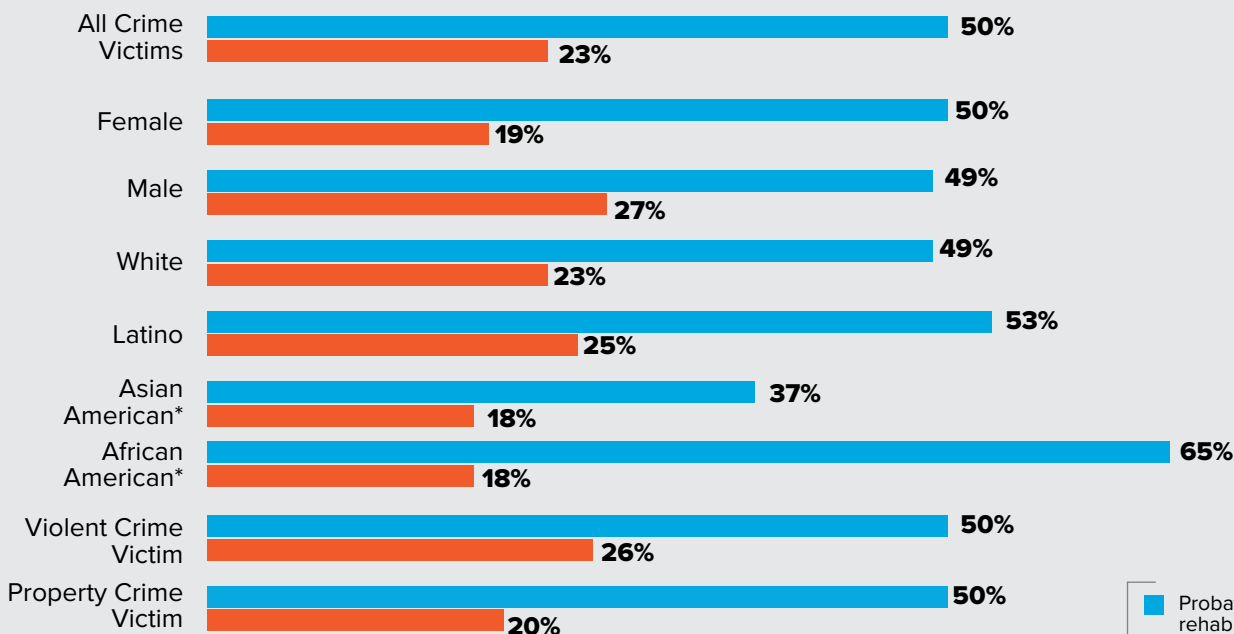
As for where the state **should** prioritize resources within the criminal justice system, **by a margin of more than**

two to one victims want the state to focus on providing supervised probation and rehabilitation programs instead of more prisons and jails. African Americans, Latinos and lower-income victims are more likely to prefer probation and rehabilitation, but **no demographic groups prefer additional investment in prisons and jails.**

Seven in 10 victims support directing resources to crime prevention versus towards incarceration (a five-to-one margin). Women, younger victims, African-American and Latino victims, lower-income victims, and victims of multiple crimes are all especially likely to believe that California should spend more on prevention.

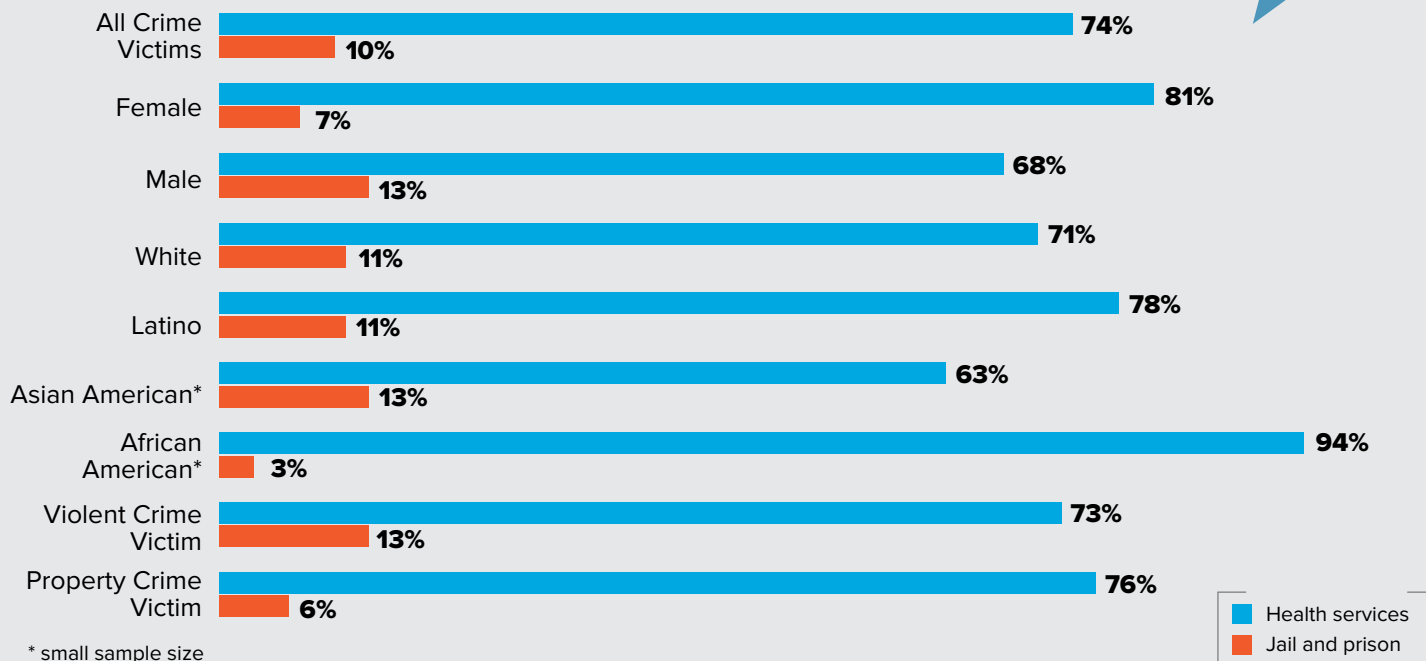
Seven in 10 victims also prefer a focus on health services (e.g., mental health and drug and alcohol treatment) over prisons/jails. Similarly, women, younger victims, African Americans and Latinos, lower-income victims and victims of multiple crimes are more likely to prefer prioritizing health services over incarceration.

Do you think that California should focus more on sending people to jail and prison or more on providing supervised probation and rehabilitation programs?



* small sample size

Do you think that California should invest more in health services like mental health and drug and alcohol treatment or invest more in jails and prisons?



By an overwhelming margin (three to one), crime victims believe that California should invest more in education than in prisons. Women, younger victims, Latinos and African Americans, lower-income victims and victims of multiple crimes are even more likely to support investment in education over prisons. However, this preference is universal across demographic groups: No more than 15 percent of any major demographic group prefers an investment in prisons.

White victims and men are relatively more likely to believe that investing in incarceration should be prioritized, but they still favor investments in probation, prevention, health and education by margins of about two to one.

AWARENESS OF PRISON OVERCROWDING

When asked about the number of people being sent to prison, many victims either have no opinion or do not

know whether California spends “about the right amount.” However, **most victims in California believe that we send too many people to prison.**

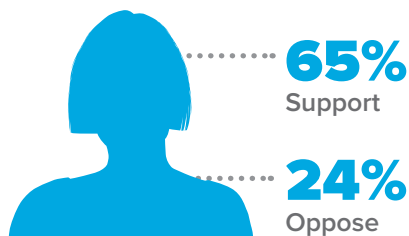
Victims also do not see incarceration as providing significant rehabilitative potential. A majority believe prisons make prisoners better at committing crimes, and only a small minority believe prisons help reduce future crime. There are some differences among different demographic groups:

- Male, white and/or higher-income victims tend to most strongly believe that prison makes prisoners better at committing crimes.
- Women, younger victims, and African-American and Latino victims are more likely — but still unlikely — to believe that prison rehabilitates people in prison.

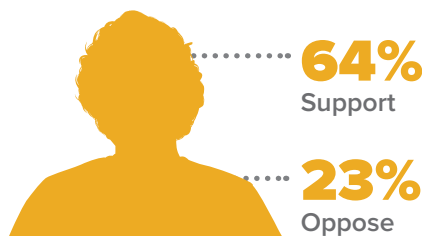
What do **VICTIMS/SURVIVORS THINK OF PUBLIC SAFETY REALIGNMENT?**

After the crime victims in the survey were presented with the following short explanation of California's Public Safety Realignment law, a strong majority (65 percent) voiced support for the legislation:

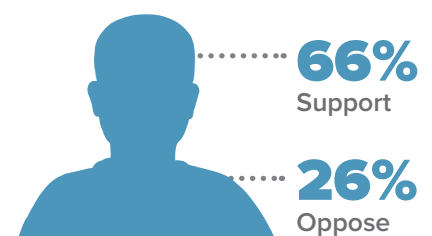
“Legislation known as Public Safety Realignment was passed two years ago. It shifted responsibility and funding for nonviolent, non-serious offenders from the state prison system to the county jails and probation in order to reduce overcrowding in California state prisons.**”**



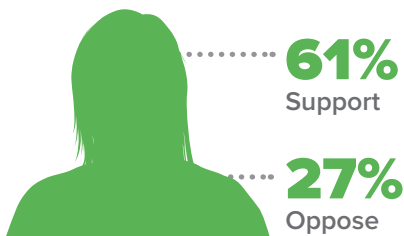
ALL CRIME VICTIMS



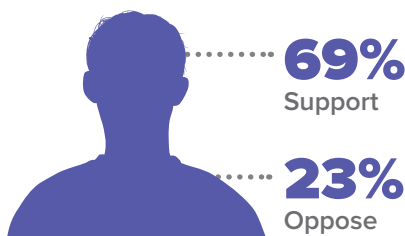
FEMALE



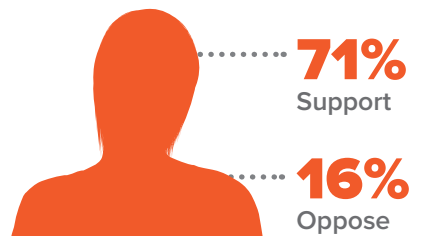
MALE



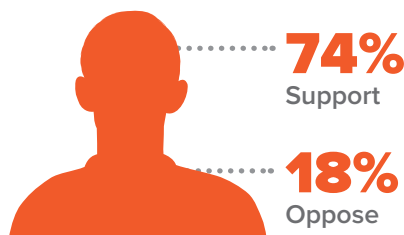
WHITE



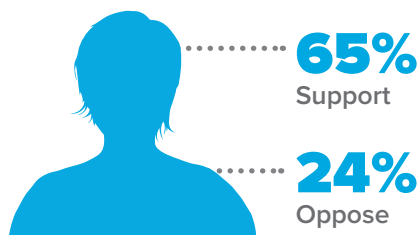
LATINO



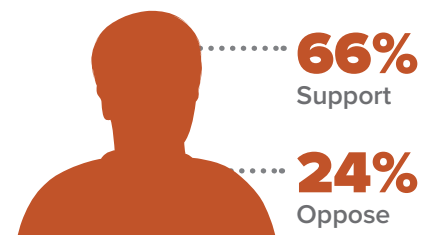
ASIAN AMERICAN*



AFRICAN AMERICAN*



**VIOLENT CRIME
VICTIMS**



**PROPERTY CRIME
VICTIMS**

* small sample size

Do the **VIEWS** of Victims/ Survivors **DIFFER FROM THOSE OF OTHER CALIFORNIANS?**

The high level of support expressed for Realignment (among all demographics) is consistent with the 69 percent of California voters who said they supported Realignment in a November 2012 survey.

The high level of support expressed for Realignment (among all demographics) is consistent with the 69 percent of California voters who said they supported Realignment in a November 2012 survey by Fairbank, Maslin, Maullin, Metz & Associates.

That survey, which consisted of 1,301 telephone interviews in English and Spanish with California voters who participated in the November 2012 election, also found that three in four voters believed that counties should focus more on crime prevention versus expanding their jail capacity now that they have more responsibility under Realignment.²⁰ Survey respondents specifically voiced strong support for crime prevention that included services for mental health and substance abuse. This result echoes the strong support of crime victims for focusing resources on crime prevention and substance abuse and mental health treatment.

VICTIMS SUPPORTED THREE STRIKES REFORM IN NOVEMBER 2012

In the November 2012 election, California voters by a two-to-one margin approved Proposition 36, which mandated that mandatory sentences of 25 years to life under the state's

Three Strikes Law be reserved for individuals whose third "strike" is a serious or violent felony.

Respondents in the California Crime Victims Survey that reported how they voted in November **supported Proposition 36 by a greater margin than did California voters as a whole.** Victims of violent crime were even more likely than victims of property crime to support the reform of Three Strikes.

OTHER SHARED VIEWS ON IMPROVING THE SYSTEM

Support voiced by California crime victims in the survey also mirror what other voters have said in recent polls. In the post-election poll in November 2012, 62 percent of voters said California spends too much on prisons, and 86 percent agree that more resources should be dedicated to preventing crime rather than funding more prisons and jails.²¹

In a survey of California voters in the summer of 2012, seven in 10 favored probation terms for low-risk people over jail sentences, which echoes victims' support for such alternative sanctions as well.²²

CONCLUSION *and* RECOMMENDATIONS

The California Crime Victims Survey, supplemented with national data and research on victimization, provides a new, more complex picture of who California crime victims are, what they need, and what they believe about criminal justice issues. This picture differs from common portrayals of California crime victims in the media and policy debates.

About one in five Californians has been a victim of crime in the last five years. This group is more likely to be male and lower income. Slightly more than one-third of California crime victims have been victimized more than three times in the last five years. This group of repeat victims is more likely to be African American or Latino.

California crime victims are greatly impacted by crime, suffering from stress and trauma, and often taking a long time to recover. Yet many are not aware of the services that are available to help in their recovery – or find that those services are difficult to access.

Opinions about criminal justice policy among California crime victims are consistent with the views of the state's general population: Rehabilitation, education, health and community programs are favored over incarceration, and there is support for the Public Safety Realignment shift in responsibility from state to local justice systems for individuals convicted of non-serious felonies.

The survey data point to a few policy recommendations:

1. More data and research on California crime victims is needed to formulate effective justice policy that is responsive to victims' experiences. The topics of repeat victimization, reporting, and outreach and accessibility of victims services (among other topics) are areas where more data can inform smart justice strategies. It is clear that community and demographic differences impact all three of these topics. Effective policy solutions will require a deeper and more nuanced qualitative understanding of the diversity of victimization experiences. In addition, this survey only surveyed adults. Polling victims

under age 18 will provide a more complete understanding of victimization in the state. Although surveying minors presents certain challenges, additional survey methods and interview techniques might reap more complete information about crimes that are particularly stigmatized and under-reported, such as rape, sexual assault and family violence.

2. This data indicates a strong need for **additional community outreach about victims' services.**

Many victims in California experience a long road to recovery, suffering from anxiety and depression, among other difficulties, yet they are unaware of services that could help them. This can be addressed, in part, by devoting additional resources to both broad-based and targeted outreach to better inform victims and the public.

3. Streamlined victims' services could address findings in the survey that show the difficulty many victims experienced when accessing services. California should review the obstacles to accessing services and design supports that are easier for victims and survivors to use. Reducing barriers to victims' access include considerations such as location – or co-location – of services, language barriers, proximity of different types of services, cultural competency of the services providers, and more.

4. Advance public policy that more clearly aligns with victims' priorities. The notion that California crime victims oppose reforms that reduce reliance on incarceration in favor of treatment, probation and crime prevention is false. In fact, victims strongly support a shift in priorities. Lawmakers should consider how their stances on public safety policy priorities can better reflect victims' preferences for **investments in supervised probation and rehabilitation programs, crime prevention, mental health and substance abuse treatment, and education**, over-investing additional resources in incarceration. The state and counties can look to replicate best practices already in place for each of these approaches in other states and California counties.

METHODOLOGY,

EXISTING DATA *and* END NOTES

EXISTING DATA ABOUT VICTIMS

There are various sources of information about who crime victims are and about their experiences. Californians for Safety and Justice drew on two primary sources to inform the development of the David Binder Research survey and this report. First, the largest and most comprehensive source of data on trends and features of crime victimization in the United States is the National Crime Victimization Survey (NCVS). Administered by the U.S. Department of Justice's Bureau of Justice Statistics, NCVS has surveyed members of tens of thousands of households every six months since 1973 about their experiences with crime over the preceding six months. While NCVS provides a wealth of statistics, those statistics are not currently broken down by state, leaving a gap in terms of information specific to California crime victims.

Second, the Uniform Crime Report (UCR), compiled annually by the Federal Bureau of Investigation, provides information from more than 18,000 city, university and college, county, state, tribal and federal law enforcement agencies about crimes that have been reported to the police. While it does not capture crime that is not reported and contains information about victimization that is mediated by a third party, the UCR nevertheless provides useful and detailed data about yearly trends in victimization in communities across the country, including within California.

CALIFORNIA CRIME VICTIMS SURVEY METHODOLOGY

Californians for Safety and Justice commissioned the survey described in this report to fill in gaps in knowledge around the experience of crime victims in California in particular. The survey was conducted in English and Spanish by David Binder Research in April 2013. The survey reached respondents both by telephone – landlines and mobile phones – and online. This research methodology was designed to ensure the inclusion of harder-to-reach demographic groups such as younger Californians and those representing more diversity. This survey represents the opinions of the broadest representation of the full diversity of Californians of all ages 18 and up, geographies and racial and ethnic groups. The survey is not necessarily representative of the national origins, or income and education levels of California's general population.

Of the more than 2,600 Californians surveyed, 500 self-identified as having been a victim of a crime within the past five years. The specific crimes asked about were robbery, burglary, theft (including identity theft), assault, rape, vandalism, stalking and murder of an immediate family member. The overall margin of error is 1.1 percent, while the margin of error for crime victims is 4.4 percent.

In order to generate a large enough sample of victims to draw reliable conclusions from the survey, we used a longer reference period than NCVS or the UCR, asking people whether they had been a victim of crime in the last five years. For reasons relating to the social stigma of being a crime victim and associated data collection challenges, it can be difficult to identify sufficient respondents in victimization research. Extending the reference period is one solution. With a longer reference period, it can be more difficult for people to recall with accuracy when certain crimes occurred. For example, a person may mistakenly report that their home was burglarized within the last five years, when in fact it was burglarized six years ago. Because this survey is intended to principally to provide information about the experiences, needs and beliefs of crime victims – and not to extrapolate crime rates in the state – this problem is less of an issue than it would be for a government survey like NCVS. CSJ concluded that a larger pool of respondents was critical for the specific research questions in this report.

Another common challenge in victimization research is reluctance of people to discuss their victimization with a researcher. Just as many crimes are not reported to the police, some crime is not reported to researchers. Like NCVS and other victim surveys, the California Crime Victims Survey likely does not capture the total number of crimes experienced by those surveyed. While David Binder Research informed people that the information would be kept confidential and would be used for research purposes only, we believe that respondents have likely under-reported their victimization in this survey, particularly with respect to violent crime, including sexual assault. Fifteen percent of online crime victim respondents acknowledged having been a victim of rape or attempted rape in the last five years, while only 2.4 percent of telephone crime victim respondents acknowledged the same. This suggests that respondents may have been less inclined to acknowledge having been raped in a live telephone conversation.

ENDNOTES

- ¹ Lofstrom, Magnus. “Just the Facts: Crime Trends in California,” Public Policy Institute of California, September 2012.
- ² Building on the key information gathered in the California Crime Victims Survey, more data and analysis is needed to understand the complex dynamics of victimization in our state. A more in-depth report on crime victims in California, supplemented by additional data, is in development with the Chief Justice Earl Warren Institute on Law & Social Policy at the University of California, Berkeley School of Law.
- ³ Survey respondents were asked if they had experienced the following in the last five years: a) Someone stealing or trying to steal anything that belongs to you; b) Someone breaking into or trying to break into your home; c) Someone vandalizing your property; or d) Someone using or trying to use your personal information, credit card or other accounts without your permission. Respondents who answered yes to at least one of these were coded as victims of property crime. Respondents may have also been a victim of additional property crimes (e.g., commercial burglary and arson) that were not asked about, meaning the total number of respondents who had experienced some property crime may actually be higher.
- ⁴ Survey respondents were asked about whether they had experienced the following in the last five years: a) Someone taking or trying to take something from you, using force or the threat of force; b) Someone injuring you with a weapon or physical force; c) Someone forcing you or trying to force you to have sex with them; d) Someone following you, spying on you or sending you unwanted email, texts, phone calls or other correspondences; or d) Someone killing an immediate family member. Respondents who answered yes to at least one of these were coded as victims of violent crime. Respondents may have also been a victim of additional violent crimes (e.g., sexual assault and kidnapping) that were not asked about, meaning the total number of respondents who had experienced some violent crime may actually be higher.
- ⁵ Truman, Jennifer L., Ph.D.; Planty, Michael, Ph.D. “Criminal Victimization, 2011,” Bureau of Justice Statistics, U.S. Department of Justice, NCJ 239437, October 2012.
- ⁶ Some subsets of violent crime disproportionately affect women; for example, women are much more likely than men to be a survivor of sexual violence.
- ⁷ Truman and Planty, 2012 (see above). Demographic information on victims of property crime is not available from NCVS because that data is calculated by household rather than by individual respondent.
- ⁸ Kilpatrick, Dean G.; Acierno, Ron. “Mental Health Needs of Crime Victims: Epidemiology and Outcomes,” *Journal of Traumatic Stress*, Vol. 16, No. 2, 2003.
- ⁹ Harrell, Erika, Ph.D. “Black Victims of Violent Crime,” *Bureau of Justice Statistics Special Report*, U.S. Department of Justice, August 2007.
- ¹⁰ Weisel, Deborah Lamm. “Analyzing Repeat Victimization,” Center for Problem Oriented Policing, 2005.
- ¹¹ Kilpatrick and Acierno, 2003.
- ¹² Sampson, R.J.; Lauritsen, J.L. “Violent victimization and offending: Individual-, situational-, and community-level risk factors.” In Reiss, A.J.; Roth, J.A. (eds.), *Understanding and preventing violence*, Vol. 3, National Academies Press, 1994.
- ¹³ Likely because of the relative size of the California Crime Victims Survey sample – the same intersectionality effects observed in the NCVS data were not identified as statistically significant in the data on California victims.
- ¹⁴ American Indians were not surveyed in sufficient numbers in the California Crime Victims Survey to draw a conclusion about their rates of victimization.
- ¹⁵ According to the NCVS, from 1994 to 2010 the percentage of serious violent crime (e.g., rape or sexual assault, robbery, aggravated assault) that was not reported to police declined overall from 50 to 42 percent. “Victimizations Not Reported to the Police, 2006-2010,” *NCVS Special Report*, NCJ 238536, August 2012.
- ¹⁶ Hart, T.C.; Rennison, C. “Reporting Crime to the Police, 1992-2000.” *Bureau of Justice Statistics Special Report*, U.S. Department of Justice, 2003.
- ¹⁷ Harrell, 2007.
- ¹⁸ The data indicate that a small group of people miss a significant amount of work as the result of victimization, creating a high average number of days missed. There is a larger group of people who miss just a few days of work, making the median amount of work missed three days.
- ¹⁹ California Penal Code 13835.5 makes it mandatory for these services to be offered through victim/witness assistance centers (VWACs) in every county, which in some communities may work in conjunction with community-based providers. Unfortunately, VWACs have experienced major budget cuts, and, according to a 2012 report, in the majority of counties they lack adequate financial support to carry out the minimum rights and services mandated by law. Warnken, Heather, J.D., LL.M. “Violence Against Women Needs Assessment Program,” California Crime Victims Assistance Association, in collaboration with the California District Attorneys Association and the Chief Justice Earl Warren Institute on Law and Social Policy at the University of California, Berkeley School of Law, February 2012.
- ²⁰ “Memo on Post-Election Perceptions of Proposition 36 and Potential Future Criminal Justice Reforms,” Fairbank, Maslin, Maullin, Metz & Associates, November 12, 2012.
- ²¹ Ibid.
- ²² Tulchin Research, 2,750 California voters, May 2012.



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The City and County of San Francisco
The San Francisco Sentencing Commission

2013 Annual Report San Francisco Sentencing Commission

The first of its kind local Sentencing Commission

December X, 2013

This is a confidential Draft 12/06/13



**San Francisco Sentencing Commission
2013 Annual Report**

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The activities of the 2013 calendar year of the San Francisco Sentencing Commission are summarized in this annual report as required by County Ordinance 10-12. This is the second of four reports that will be released from the San Francisco Sentencing Commission.

I. EXECUTIVE SUMMARY

The City and County of San Francisco strives to administer criminal justice strategies that lead to lower recidivism rates, create safer communities and ensure that victims are made whole. Through Sentencing Commission Testimony, it is clear that San Francisco is a leader in innovation, diversion, and holding offenders accountable while preserving public safety. In 2013, the San Francisco Sentencing Commission completed the first full year of hearings: four meetings were held and included a diverse array of expert presentations on Realignment, Sentencing, Drug Reform, Restorative Justice and Victim Services. The Sentencing Commission utilized the expert testimony and research presented at the 2013 meetings to develop five recommendations. Two of these recommendations require state level legislative change, and three are directed toward local strategies within the latitude of the current law.

STATE LEVEL RECOMMENDATIONS: Call for State Level Sentencing Reform

Create a state level Sentencing Commission.

A comprehensive state level review of sentencing practices and outcomes is essential to addressing the California prison crisis, reducing recidivism, honoring victims and ensuring our communities are safe.

Change the penalty for drug possession for personal use to a misdemeanor. The San Francisco Sentencing Commission recommends penal code reform legislation to change the penalty for drug possession for personal use from a felony to a misdemeanor. This reform would help reduce spending on prisons and jails and invest additional resources in drug treatment, mental health, and other community-based services.

LOCAL RECOMMENDATIONS: Practical Investments to support San Francisco's Sentencing Strategies

Establish Annual San Francisco Sentencing Data Review and invest in adequate support resources. Criminal justice partners and social service agencies are best equipped to respond to San Francisco crime and sentencing trends with regular review and analysis of crime, arrest, sentencing and supervision trends.

Expand Resources for Alternative Sentencing Strategies. Research has shown that alternatives to the traditional criminal justice sentencing system utilizing evidence-based practices contribute toward cost savings and positive participant outcomes.

Invest in pre-arrest and pre-arrest diversion programs for drug offenses. The San Francisco Sentencing Commission will continue to review the progress of the pre-arrest diversion program Law Enforcement Assisted Diversion (LEAD), based in Seattle, WA and Santa Fe, NM. City and County of San Francisco resources will be needed to explore local feasibility and implementation.

Sentencing strategies are not consistent across the state of California and do not meet public safety goals. Criminal justice agencies and social service partners have a collective responsibility to ensure that individuals receive appropriate sentences and do not re-victimize our communities. The San Francisco Sentencing Commission, created under the leadership of District Attorney George Gascón, is committed to pursuing an effective, fair and efficient sentencing system for San Francisco that enhances public safety and creates a livable, sustainable San Francisco community.

II. BACKGROUND

The San Francisco Sentencing Commission, an initiative of the District Attorney's Office, was created through local legislation to analyze sentencing patterns and outcomes, to advise the Mayor, Board of Supervisors, and other City departments on the best approaches to reduce recidivism, and to make recommendations for sentencing reforms that advance public safety and utilize best practices in criminal justice. Ultimately, through this work the commission will make recommendations that establish a sentencing system that retains meaningful judicial discretion, avoids unwarranted disparity, recognizes the most efficient and effective use of correctional resources, and provides a meaningful array of sentencing options. Over the course of the two year mandate, the Sentencing Commission will:

- Evaluate effective and appropriate sentences for the most violent offenders.
- Explore opportunities for drug law reform.
- Examine inconsistencies in the penal code related to realignment sentencing.
- Identify and define the most important factors that reduce recidivism.

The Sentencing Commission was created by County Ordinance 10-12, which amended the San Francisco Administrative Code by adding Article 25, Sections 5.250 through 5.250-3. The purpose of the Sentencing Commission is to encourage the development of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim protection, emphasize fairness, employ evidence-based best practices and efficiently utilize San Francisco's criminal justice resources. The Sentencing Commission is an advisory body to the Mayor and the Board of Supervisors.

Commission Membership

The membership of the Sentencing Commission was developed to ensure representation from City and County partners directly involved in the criminal justice system, and those who come in contact with it. Each seat represents a valuable perspective on criminal justice proceedings; from time of arrest to post release, and the critical access points for support services provided to victims and survivors of crime. In addition to this practical and service experience, the commission includes experts in sentencing and statistical analysis. These are essential components to the commission membership and will contribute to the development of data-informed, sustainable improvements to our sentencing practices. While this membership will serve as a core of the Sentencing Commission's work, they will invite broader participation from practitioners, researchers, and community organizations to inform the proceedings of the Commission.

List of member seats:

District Attorney's Office (Chair), Public Defender's Office, Adult Probation Department, Juvenile Probation Department, Sheriff's Department, Police Department, Department of Public Health, Reentry Council, Superior Court, Member of a nonprofit organization serving victims chosen by the Family Violence Council, Member of non-profit organization working with ex-offenders chosen by the Reentry Council, Sentencing Expert chosen by the Board of Supervisors, and an Academic Researcher with expertise in data analysis appointed by the Mayor.

The San Francisco Sentencing Commission membership was fully formed in July 2012. A current list of commission members and qualifications is found in Appendix A.

III. 2013 MEETINGS

The Sentencing Commission held four meetings in 2013. Full agendas, meeting minutes and materials are available on <http://www.sfdistrictattorney.org/>. Meeting dates and selected subject matter presenters are provided below.

April 4, 2013

Successful National Sentencing Reform

Presenter: Mai Linh Spencer, Legal Consultant, National Council on Crime and Delinquency

California Realignment Sentencing Trends

Presenters: Lizzie Buchen, Post-Graduate Fellow, and Selena Teji, Communication Specialist, Criminal on Juvenile and Criminal Justice (CJCJ)

San Francisco Realignment Sentencing Trends

Presenter: Chief Wendy Still, San Francisco Adult Probation Department

Alternative Sentencing Planner Overview

Presenter: Luis Aroche, Alternative Sentencing Planner, San Francisco District Attorney's Office

Realignment Research Overview

Presenter: Tara Regan Anderson, San Francisco District Attorney's Office

July 24, 2013

Earned Compliance Credits

Presenter: Mai Linh Spencer, Legal Consultant, National Council on Crime and Delinquency

California Drug Law and Local Practice

Presenter: Sharon Woo, Chief of Operations, San Francisco District Attorney's Office

Design Options for Drug Policy

Presenter: Dr. MacCoun, Goldman School of Public Policy and Berkeley Law, UC Berkeley

Seattle based Law Enforcement Assisted Diversion (LEAD)

Presenters: Lt. Nolette, Seattle Police Department Lisa Duggard Defender's Association, and Ian Goodhew, Kings County District Attorney's Office.

October 16, 2013

Restorative Justice

Presenter: sujatha baliga, Restorative Justice Project Director, Associate Director National Council on Crime and Delinquency

California Prison Population Reduction Plan

Presenter: Tara Regan Anderson, San Francisco District Attorney's office

December 11, 2013

Victim Services: A Personal and Policy Approach

Presenters: Sonya Shah, Leadership Team Member, Crime Survivors for Safety and Justice and Milena Blake, Policy and Legislative Advocate, Californians for Safety and Justice

IV. RECOMMENDATIONS

The Sentencing Commission utilized the expert testimony and research presented at the 2013 meetings to make five recommendations. Two of these recommendations require state level legislative change and three are directed toward local strategies within the latitude of the current law. Summaries of these recommendations are provided below. The detailed meeting minutes and publications presented to the San Francisco Sentencing Commission are available at <http://www.sfdistrictattorney.org/>.

CALL FOR STATE LEVEL SENTENCING REFORM

Recommendation 1. Create a State Level Sentencing Commission.

A comprehensive state level review of sentencing practices and outcomes is essential to addressing the California prison crisis, reducing recidivism, honoring victims and ensuring our communities are safe. The San Francisco Sentencing Commission was created in the absence of a state level public safety body mandated to provide expert research and analysis to inform and reform sentencing practices. While previous attempts to establish a state public safety body addressing sentencing practices have been unsuccessful, the San Francisco Sentencing Commission, in its first full year of implementation, has benefited from a localized review of sentencing practices, expert presentations on best practices from other states, and data analysis providing a baseline understanding of current justice system conditions. The local success of the San Francisco Sentencing Commission demonstrates the value of thoughtful expert dialogue that encourage well-informed decisions to preserve public safety, hold offenders accountable, support victims and ultimately create safe and livable communities. California's growing public safety, prosecutorial and correctional needs require that the state again explore the development of a California Sentencing Commission.

This recommendation is supported by over twenty years of research and findings from various commissions, panels, elected officials and advocacy groups. The Blue Ribbon Commission on Population Management, the Corrections Independent Review Panel, and the Little Hoover Commission have all recognized the need for independent review of sentencing law and practice. Approximately 20 states have sentencing commissions or public safety bodies addressing penal code reform. These bodies vary in membership, functions and authority; however one key variable that has led to successful legislative outcomes is the investment in independent review of sentencing practices and structure of the penal code. The San Francisco Sentencing Commission urges the governor and the legislature to create a California Sentencing Commission to support and inform structured decision-making in sentencing.

Recommendation 2. Change the penalty for drug possession for personal use to a misdemeanor.

The San Francisco Sentencing Commission recommends penal code reform legislation to change the penalty for drug possession for personal use from a felony to a misdemeanor. This reform would help reduce spending on prisons and jails and invest additional resources in drug treatment, mental health, and other community-based services. It would also facilitate reentry and reduce recidivism by removing consequences that result from a felony conviction, including barriers to employment, housing, financial aid and public benefits. This reform would align California with 13 other states, the District of Columbia, and the federal government – all of whom currently penalize possession of drugs for personal use as a misdemeanor.

PRACTICAL INVESTMENTS TO SUPPORT SAN FRANCISCO'S SENTENCING STRATEGIES

Recommendation 1. Establish Annual Review of San Francisco's sentencing data and invest in adequate analysis and technology support resources.

Criminal justice partners and support services are best equipped to respond to San Francisco's public safety needs when strategies are based upon comprehensive and reliable data. Regular coordinated review of local crime and sentencing trends, including the analysis of crime, arrest, sentencing, jail population and supervision trends, is an essential tool for the deployment of public safety resources. Many departments are under resourced and need additional staff and technology to support the development of data tracking systems, regular review of those systems and data analysis.

Major findings on San Francisco's sentencing trends presented by the Center for Juvenile and Criminal Justice (CJCJ) indicated that since the implementation of Public Safety Realignment, the prison population is plateauing; however, new prison admissions are rising state-wide. San Francisco had the lowest percentage, second to Alameda, of new admissions to state prison for non-violent offenses for the 58 counties. In addition, San Francisco was far below the state average of prison admissions for violent, property and drug crime. CJCJ presented the glaring conclusion that if the 15 most state prison dependent counties admitted offenders to state prison at the rate of San Francisco it would result in 820 million dollars of savings and 16,000 fewer prisoners in our state department of corrections.

To ensure that the implementation of Public Safety Realignment is successful, San Francisco has invested in strong partnerships and regular review of data amongst our criminal justice leaders. The San Francisco Adult Probation Department, under the leadership of Chief Wendy Still has invested significant time and resources in both using evidence to inform best practices and developing systems to measure local realignment outcomes. During the April 3, 2013 hearing, Chief Still provided an overview of the 1170(h), Public Safety Realignment sentencing trends from October 2011 to February 2013. During this period, 50percent of 1170h sentences were split, with an average increase in the use of split sentences to approximately 60percent starting in July 2012. This is well above the state average of 27percent split sentences for that same time period.

Regular review of sentencing trends, such as those described above, is essential to inform the distribution of department resources. To conduct regular review, departments must have the resources to review analyze and draw conclusions from data. The San Francisco Sentencing Commission urges the Mayor and San Francisco Board of Supervisors to strongly consider budget requests that aim to meet San Francisco's evolving public safety data and technology needs.

Recommendation 2. 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 offender outcomes. These outcomes include, but are not limited to, successful completion of treatment programs, reductions in recidivism and successful family reunification. San Francisco's evidence-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*, completed by the Adult Probation Department, which ensure that family and children of a convicted person are considered as part of the sentencing determination. The San

Francisco Sentencing Commission urges the Mayor and San Francisco Board of Supervisors to strongly consider budget requests that aim to expand departmental and program capacity to meet the demand for evidence-based alternative sentencing strategies.

A leader in innovative approaches to criminal justice, the San Francisco District Attorney's Office is embarking on a new approach which will effectively address the causes of crime, hold offenders accountable and preserve public safety. The (ASP) Alternative Sentencing Program gives prosecutors additional information about alternative criminal justice sanctions. The ASP staff is available on all 1170 (h) cases, as well as other selected cases where an alternative to a pure jail/prison sentence may be possible. From February 2012 to October 1, 2013, the Alternative Sentencing Planner conducted 155 in-depth reviews resulting in comprehensive sentencing recommendations to prosecutors. Additionally, the ASP provided 31 case consults, providing a quick review and recommendation for prosecutors at critical junctures in case processing. Preliminary results show that the ASP's recommendation is associated with a 100 percent increase in the average amount of time a defendant is sentenced to rehabilitative programming. The Office is pursuing a comprehensive outcome evaluation.

Family Impact Statements (FIS) consider the needs of children at the time of sentencing and post disposition. The FIS is utilized by the San Francisco Adult Probation Department as a tool to ensure that the children and families of individuals convicted of a crime are considered as part of the sentencing determination, and in connection with other custodial and non-custodial determinations such as program referrals and supervision terms. FIS can assist the court in making informed decisions about the issues likely to have a substantial impact on children. The FIS does not minimize the actions of the parent, but rather provides an opportunity for the parents to take responsibility for their actions and acknowledge the collateral consequences of their criminal justice involvement on their family.

Recommendation 3. Invest in pre-booking and pre-charging diversion programs for drug offenses.

San Francisco currently operates several innovative practices directed to address substance dependent individuals who come into contact with the criminal justice system. Drug diversion has been a collective priority of the Department of Public Health, Police Department, District Attorney's Office, Public Defender, Courts and the community. This value investment has led to multiple criminal justice options for the substance dependent community. San Francisco operates Drug Diversion for first time offenders, Drug Court thru The Superior Court Collaborative Courts, the District Attorney's Back On Track program, an intensive job development program for first time drug offenders, the Community Justice Center which combines the courtroom with a social service center and lastly individuals may be referred to Behavioral Health Court if they have both substance use and serious mental health diagnosis. Even with these exemplary programs, the San Francisco Sentencing Commission chose to solicit expert testimony on promising and evidence informed practices that best meet public safety needs and contribute toward making communities whole.

Seattle's Law Enforcement Assisted Diversion Program, formally implemented in 2011, is a recent example of a jurisdiction taking a mindful approach to ensure that communities are safe, and that those struggling with addiction and poverty are directed toward alternatives to the traditional criminal justice system. Law Enforcement Assisted Diversion (LEAD) is a pre-booking diversion program that identifies low-level drug offenders for whom probable cause exists for an arrest, and redirects them from jail and prosecution by providing linkages to community-based treatment and support services. Pre-booking diversion programs consist of both a law enforcement and social services component. The San Francisco Sentencing Commission will continue to review the progress of the pre-booking

diversion program Law Enforcement Assisted Diversion (LEAD), based in Seattle, WA and Santa Fe, NM. The Sentencing Commission will review findings for evidence of the effectiveness of pre-booking and pre-charging interventions in reducing drug dependency and drug crimes. Local county resources will be needed to explore local feasibility and implementation. The San Francisco Sentencing Commission urges the Mayor and San Francisco Board of Supervisors to strongly consider budget and resource requests that support continued evaluation of the feasibility and benefit of implementing a pre-booking and pre-charging diversion program in San Francisco.

MEMBERSHIP UPDATES

Membership Transitions

In the 2013 calendar year the San Francisco Sentencing Commission experienced two member seat transitions. Commission member Minouche Kandel, appointee from the Family Violence Council, accepted a position with the City and County of San Francisco Department of Status of Women in Spring 2013. During the August 2013 meeting of the Family Violence Council members appointed Jerel McCrary Managing Attorney, Bay Area Legal Aid as the new representative of a non-profit serving victims to the Sentencing Commission. During the same time period Juvenile Probation Department Chief William Siffermann retired and Allen Nance was appointed by Mayor Edwin Lee as the new Juvenile Probation Department Chief. The Sentencing Commission is grateful to Ms. Kandel and Chief Siffermann for their leadership, expertise and commitment to the San Francisco Sentencing Commission.

Position of Superior Court

The San Francisco Superior Court is an invited member of the San Francisco Sentencing Commission. After repeated invitations to join the proceedings of the Sentencing Commission the San Francisco Superior Court Presiding Judge the Honorable Cynthia Ming-mei Lee released the following statement: *The Court will not participate in the Commission because it will present several serious breaches of judicial ethics. In addition there are concerns about the issue of separation of power.* The Sentencing Commission will continue to work inform the Superior Court of the Commission's research and recommendations and explore the potential for an administrative representative to participate in San Francisco Sentencing Commission proceedings.

V. FUTURE ACTIVITIES

The San Francisco Sentencing Commission is scheduled to conduct four sessions in 2014. The tentative 2014 Session topics are identified below.

Annual Review of San Francisco Sentencing Trends
 Penal Code Review
 Effective Sentencing for Violent Offenders
 Recidivism Reduction

VI. CONCLUSION

In 2013, the San Francisco Sentencing Commission successfully completed the first full year of hearings including expert presentations on Realignment, Sentencing, Drug Reform, Restorative Justice and Victim Services. The Sentencing Commission utilized the expert testimony and research presented at the 2013 meetings to make five recommendations to inform and reform the state penal code and support local strategies within the latitude of the current law. While this policy body is locally mandated, members are confident that the findings and recommendations that will come from the remaining proceedings over the next 18 months will support not only San Franciscans, but Californians.

Appendix A: San Francisco Sentencing Commission Members

As of October 16, 2013

Agencies & Bodies	Member
District Attorneys' Office	George Gascón, District Attorney
Public Defender	Jeff Adachi, Public Defender
Adult Probation	Wendy Still, Adult Probation Chief
Juvenile Probation	Allen Nance, Juvenile Probation Chief
Sheriff	Ross Mirkarimi, Sheriff
Police	Greg Suhr, Police Chief
Department of Public Health	Barbara Garcia, Director
Reentry Council	Karen Royce, Director Child Support Services
Superior Court*	Honorable Cynthia Ming-mei Lee, Presiding Judge
<i>Member of a nonprofit org serving victims chosen by the</i> Family Violence Council	Jerel McCrary Managing Attorney San Francisco Bay Area Legal Aid
<i>Member of non-profit org working with ex-offenders chosen by the</i> Reentry Council	Catherine McCracken Sentencing Services Program Director Center on Juvenile and Criminal Justice
Sentencing Expert chosen by the Board of Supervisors	Theshia Naidoo Senior Staff Attorney Drug Policy Alliance
Academic Researcher with expertise in data analysis appointed by the Mayor	Steven Raphael PhD Professor Goldman School of Public Policy University of California Berkeley

*Invited