

The San Francisco Sentencing Commission

City & County of San Francisco

(Administrative Code 5.250 through 5.250-3)

AGENDA

Wednesday, June 11, 2014

10:00 a.m. – 12:00 p.m.

Hall of Justice

850 Bryant Street, Room 551

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 March 26, 2014 (discussion & possible action).
4. Staff Report on Sentencing Commission Activities (discussion & possible action).
5. Presentation on Penal Code Reform by Bob Weisberg, Stanford Criminal Justice Center (discussion & possible action).
6. Presentation on Feasibility Analysis of Pre-Booking and Pre-Charging Alternatives by Goldman School of Public Policy Graduate Students (discussion & possible action).
7. Presentation on Penal Code Reform emphasis on drugs, guns and gang enhancements by Allen Hooper, Director of Criminal Justice and Drug Policy ACLU of Northern California (discussion & possible action).
8. Presentation on the Collateral Consequences of Incarceration by Meredith Desautels, Lawyers Committee for Civil rights (discussion & possible action).
9. Presentation by ProjectWHAT! Youth participant on the experience of having an incarcerated parent (discussion & possible action).
10. Presentation by formerly incarcerated person on the collateral consequences of felony conviction (discussion & possible action).
11. Members' comments, questions, and requests for future agenda items.
12. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.
13. Adjournment.

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

MINUTES

Wednesday, March 26, 2014

Hall of Justice

Room 551

850 Bryant St.

San Francisco, CA 94103

Members in Attendance: District Attorney George Gascón; Board of Supervisors Appointee Theshia Naidoo (Drug Policy Alliance); Mayoral Appointee Professor Steven Raphael (Goldman School of Public Policy, University of California, Berkeley); Reentry Council Appointee Karen Roye (Director, Department of Child Support Services); Martin Krizay (Deputy Chief, Adult Probation Department); Craig Murdock (Department of Public Health); Ali Riker (Sheriff's Department); Deputy Chief David Shinn (San Francisco Police Department); Family Violence Council Appointee Jerel McCrary (Bay Area Legal Aid); Chief Juvenile Probation Officer Allen A. Nance (Juvenile Probation Office); Public Defender Jeff Adachi (San Francisco Public Defender's Office)

1. Call to Order; Roll Call

At 10:10 a.m. District Attorney Gascón called the meeting to order and welcomed commission members and members of the public to the San Francisco Sentencing Commission. District Attorney Gascón asked the group to introduce themselves. Each member of the group introduced him/herself.

District Attorney Gascón provided an overview for the meeting.

2. Public Comments

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

3. Review and Adoption of Meeting Minutes From Previous Meeting

District Attorney Gascón asked commission members to review the minutes from the previous sentencing commission meeting and asked if anyone had edits or additions to the Wednesday, October 16, 2013, meeting minutes.

Jerel McCrary motioned to accept the October 16, 2013, meeting minutes. The motion was seconded and passed unanimously.

4. Staff Report on Sentencing Commission Activities (Discussion and Possible Action)

Tara Anderson thanked District Attorney Gascón and members of the sentencing commission. Anderson said she would provide updates in four areas and then defer to McCrary and Roye for updates. Anderson provided updates on the annual report released in January 2014. Next she updated the group on press coverage in the *San Francisco Chronicle*, *San Francisco Examiner*, and *San Francisco Appeal*, all of which highlighted the forward-thinking nature of the commission. Anderson stated that in addition to required reporting to the Mayor and Board of Supervisors, the annual report was shared with the Public Safety committee, the Board of State and Community Corrections, and the Little Hoover Commission.

Anderson next updated the group on the meeting schedule; this meeting was the first of four that are scheduled for 2014. The next meeting will be June 11 and the final two on August 6 and December 3. Anderson said the National Council on Crime and Delinquency (NCCD) will have an increased role in the June and August meetings, and quarterly emails will come from NCCD to inform members on issues related to sentencing; these emails will be made public.

Anderson announced that the Little Hoover Commission released their report titled “Sensible Sentencing,” which specifically identified San Francisco’s work as a model to be replicated at the state level. Specifically, they recommend the development of a criminal justice policy institute to be housed within the UC System—an effort to institutionalize commitments to fair sentencing.

Anderson said that AB 1633 was introduced, which would expand responsibilities of the Board of State and Community Corrections in terms of being an incubator for evidence-based practice. Commission staff will watch both of these items and provide updates to commission members.

Anderson said that Seattle’s Law Enforcement Assisted Diversion (LEAD) program is being considered as a model for San Francisco. A Goldman School of Public Policy research team will continue to work with commission staff on analyzing the feasibility of this and will travel to Seattle to check out the program in the next couple of weeks. A research report from this trip will be sent to commission members in May and be presented at the sentencing commission’s June meeting.

Theshia Naidoo updated the commission on travel to Seattle. She said that a series of meetings will be set up in Seattle, June 3 and 4, with the city’s police department, district attorney’s office, Department of Public Defense, service providers, and other implementers. The trip will also include attendance at an operational workgroup meeting where key actors will discuss specifics of LEAD. Naidoo said more details will be forthcoming. Anderson thanked commission members who have responded to notice of the trip, saying they will send staff. Anderson asked those who have committed to travel to discuss details after the meeting.

Anderson updated the group on the Three-Judge Panel ruling and California Inmate Population Reduction Plan. The timeline for the California Department of Corrections and Rehabilitation (CDCR) to be in compliance with the final population target was extended by two additional years; the new deadline is February 28, 2016. Anderson said staff will continue to monitor how this will affect the commission and then turned the floor over to McCrary for updates.

McCrary updated the group on news from the February 19, 2014, Family Violence Council meeting. Talitha Gun, one of three co-chairs, is leaving the council. The ordinance that created the council was

somewhat unclear on the process for selecting a new co-chair, although the council agreed that the three co-chairs need to come from community agencies. The San Francisco Department on the Status of Women will meet to discuss selection of co-chairs.

McCrary said that Lisa Hoffman of the Department of Emergency Management also announced she is leaving the council; a replacement for Hoffman is being sought.

The San Francisco Unified School District reported that they will roll out curriculum for elementary through high school students on teen dating violence and intimate partner violence January 2015. McCrary said that counselors at all schools are being trained on how to address the curriculum with students.

The San Francisco Police Department (SFPD) focused on video vignettes that were made for officers who encounter victims with limited English proficiency. McCrary said these videos will be rolled out for the SFPD academy. Additionally, McCrary reported that SFPD's general order for elder abuse is a priority for coming years and that the department hopes to increase staffing on financial abuse. The Department on the Status of Women has a housing workgroup committed to providing trainings for public and Section 8 housing staff on violence issues and funding is being sought for onsite advocates with the San Francisco Housing Authority.

McCrary said that the Adult Probation Department issued a complete report on its second successful year in reducing the probation population under supervision. McCrary said that Chief Adult Probation Officer Wendy Still reported that the jail population decreased by 25%. The Adult Probation Department has been recognized for its innovation in community corrections and, because of that, was eligible for financial incentives for reducing the probation population. Also discussed was the new restitution work specialist who assists families of probationers on restitution needs. McCrary said that they also discussed officer-involved restitution policy based on models from five jurisdictions at the Family Violence Council meeting; recommendations were ready for presentation by the Police Commission, however, the presentation was being delayed due to the proposal being coupled with a proposal for calls to Child Protective Services when children are present at the scene of domestic violence incidents. It is expected that both of those policies will be revisited at next Police Commission meeting. The Adult Probation Department and the Department of Public Health reviewed community programs, as a result they decertified two programs and added two new programs, one works in the African American community and another in the LGBT community. The need for a program in the Cantonese community still exists.

McCrary reported that the Child Advocacy Center is implementing a new multidisciplinary, child-centric model providing services to families in crisis. He said this model uses only one interviewer and that the center is looking for national accreditation, for which a site visit is scheduled for July 2014. The previous model could not have been considered for accreditation. The program's goal is to be a one-stop-shop and most likely will not have to relocate. The next meeting of the Family Violence Council was set for May 21.

Karen Roye said that the Reentry Council last met February 11, 2014. The council discussed key items about renewing authorizing legislation for the council and new legislation and activities related to implementation on phase 2 of the Justice Reinvestment Initiative. With respect to the Justice Reinvestment Initiative, members of the council are meeting with Laurie Joplin of the Crime and Justice Institute to lend feedback and input to the implementation phase of the initiative. The next meeting of

the Reentry Council is set for April 29, 2014.

District Attorney Gascón asked if anyone had questions or comments. With none, he stated that the meeting would proceed to item 5 and introduced Marlo Simmons, Director of the Mental Health Services Act (MHSA).

5. Presentation on the Mental Health Services Act Annual Report by Marlo Simmons, Department of Public Health (discussion only)

Marlo Simmons, Director of the Department of Public Health's MHSA, stated that the act provides funding for more than 75 programs that address a variety of mental health issues and age groups. Simmons gave an overview of the act, explaining that it was on the ballot in 2004 and that funding for the act comes from personal income tax from those who earn more than \$1 million annually. Simmons explained that the MHSA is about expanding and enhancing public mental health systems in the state. Explaining the quote, "as my life got bigger, my illness got smaller," she said that by helping people with jobs and social support, mental illness becomes less of a barrier.

Simmons explained a PowerPoint (PPT) slide, Guiding Principles. She said that funding for the act has decreased over the past seven years in many areas and that the act calls for a well-developed and integrative plan after all the components have been rolled out.

Simmons explained another slide, Overview of Seven Service Categories. She noted that the innovation category funds programs in all service categories.

Simmons described the criminal justice programs funded by the act. She also said that MHSA funds the Citywide Case Management Forensic Program (a full-service partnership program and case management model that also provides vocational and housing resources as in intended to be a community-based model of services), which serves clients with severe mental illness. Simmons said the MHSA also provides funding for the California Department of Rehabilitation. For every one dollar that MHSA contributes, the department contributes four dollars of funding for prevocational services (assessments, training, job coaching, and career exposure services). Simmons added that the last place in this category where MHSA provides funding is an emergency stabilization and permanent supported housing program accessed through Citywide Forensics. This funds 25 emergency stabilization rooms, which are single residency occupancy hotel units in the Tenderloin that are available for up to 60 days. These rooms are intended for stabilization for folks coming out of jail, off the streets, or going back into the community after a hospital stay.

Simmons said that regarding the juvenile justice population (PPT slide), the MHSA funds SF AIIM (assess, identify needs, match to services), which screens all youth who remain in the juvenile justice center for more than 72 hours. If they identify mental health issues, they partner with probation officers to get those issues addressed. Simmons also said MHSA funds psychiatric services at the San Francisco Youth Guidance Center, and San Francisco Achievement Collaboration Team an intensive outpatient treatment program for probation youth.

Simmons finished by pointing out eight more PPT slides in the packet that were not discussed; they cover other programs MHSA funds and its budget.

Roye said she would like to applaud this work. She stated that she is excited to hear that MHSA is taking

advantage of community services and organizations and helping communities get back on their feet. She said that it is a doable and successful model. She asked if the MHSA is seeing more culturally competent language access issues being resolved at the local level with these funding streams and community-based organizations. Simmons said yes and that MSHA has a huge focus on this area. She added that MHSA has population-focused areas, including African American, immigrant, Arab, and Asian American. MHSA looks for disparities in mental health services and then partners with grassroots organizations to increase their cultural competency. She also said that MHSA knows it needs to focus on languages.

Stephen Raphael asked if people leaving CDCR receive services and if they are referred through their probation or parole office. Craig Murdock explained that those being released from CDCR get access to these services through their parole officers, access centers, and other portals of entry into the larger system of care.

Roye asked about a bridge to services beyond 60 days and if more care is available beyond stabilization. Murdock answered, saying that after stabilization there is a continuum of care that goes beyond 60 days. Roye said it is necessary to articulate that the care does not end after 60 days.

Jeff Adachi asked if an individual needs to be in custody to get access to care? Murdock said that currently, the person receiving care has to be in custody and diagnosed with an Axis I psychiatric condition. At some point there was discussion about opening up this care to those out of custody, he said, but it did not get traction.

Martin Krizay added that the probation department services a large population coming out of prison and they routinely assess individuals they release to other care providers.

District Attorney Gascón asked what MHSA funding looks like at a local level for criminal justice sites. Simmons said it is roughly \$1 million, adding that the overall budget is \$30 million. Simmons said that this \$1 million is specifically for this population, but that a lot of overlap occurs between this population and other populations.

District Attorney Gascón asked how many clients in the criminal justice system are served by MHSA. Simmons said that Citywide serves about 150 clients, Citywide's vocational program serves roughly 150, and juvenile probation services serve roughly 600 a year.

Allen Nance added to this answer, saying that roughly 600 kids go through the juvenile probation system and about 300 of those youth a year are being served by a community mental health center.

District Attorney Gascón asked for other questions and seeing none, thanked Simmons and said that the sentencing commission recognizes the important connection between the justice system and community mental health.

District Attorney Gascón introduced item 6 on the agenda, a presentation by Michael A. Corriere, San Francisco Superior Court Business Analyst, by explaining that Corriere would provide an overview of some important baseline data as a foundation for discussion.

6. Presentation of the San Francisco Superior Courts Data on Felony Sentencing Outcomes and Juvenile Probation Department Data on Juvenile Sentencing Outcomes (discussion and possible action)

Corriere began his presentation by explaining PPT slide 1, a series of three graphs depicting San Francisco sentencing data on felonies from the past 20 years. He noted a drop-off in the number of felony filings taking place over the last 20 years and said that during the last five, up to a 50% reduction in felony filings has been seen. Corriere said this trend has been offset this year by a slight increase in motions to revoke probation filings; this increase from 150 to 200 felonies per month seems to have coincided with AB109. Corriere noted that the change in felony sentencing has corresponded to the decline in felony filing, although probation has had less of a decrease. Corriere said that in the mid-1990s, probation represented about 60% of sentences; from the late 1990s and on, probation fluctuated between 70 and 90 % of sentences given.

District Attorney Gascón asked if there were any questions regarding this presentation.

Corriere noted that 1170(h) data are not included, unless it was a probation sentence. In reference to a question about 1170(h) data, Corriere said that the San Francisco Superior Court has started to collect data on 1170(h). Corriere stated that when the Administrative Office of the Courts set the data standards, the court was supposed to collect a set of 30 data points. Unfortunately, because the court data system is so old, it has been difficult to look deeply at sentencing data on probation. He stated that as of the last year, the court has started collecting 1170(h) data, but has no framework for comparison since this data has only been collected for the last quarter of the year. Going forward, a lot of data on 1170(h) and probation sentences will be available.

Public Defender Jeff Adachi asked if the San Francisco Superior Court Case Management System (CMS) tracks race or ethnicity. Corriere said the CMS does not have the capacity to track race and ethnicity in a detailed way; the current system is too old and requires reprogramming in order to do so in a way that would be accurate, and significant. Corriere said the court does not currently analyze race due to the constraints of the old CMS program. Corriere repeated that the race data currently collected by the program is low-quality data.

Public Defender Jeff Adachi then asked if it is true that no distinction is made for Caucasians and Latinos. Corriere answered by saying that "Hispanic" and "Latino" are not recorded as race in the SFPD system, but as an ethnicity. He also said that the SFPD only records four races and Hispanic is not one of them currently. He also mentioned that prior to 2011, even less data was gathered on race than is presently. Four races and 18 ethnicities are currently recorded. Adachi stated that in order to get data on Latinos, one would look at SFPD's reports on ethnicity, not race.

District Attorney Gascón said that while this data shows that filings have gone down, it is important to remember that the work in 2013 went up; work levels are certainly not going down. District Attorney Gascón introduced Anderson and thanked Nance for his leadership in the Juvenile Probation Department.

Anderson stated that the Juvenile Probation Department is the source for the data being presented to the commission. She described the first chart (first PPT slide, left-hand side), which showed an overall

decline in referrals to Juvenile Probation Department throughout 2012. Anderson explained that the indicator of petitions filed is determined after referral and after a case comes through the District Attorney's office. Anderson explained that the yellow line on the graph (PPT slide) shows individuals detained who end up in custody at juvenile hall—there is a decline in all categories from 2007–2012. Anderson explained that when looking closely at outcomes, a decline in cases appears where petitions are sustained. Lastly, Anderson discussed the juvenile outcome summary bar chart showing distribution of supervision outcomes. This chart shows that we continue to rely very little on the California Youth Authority for outcomes for our youth. The most common is probation outcome. Anderson also noted that the largest proportion of juvenile referrals are for youth ages 15 to 18, which is something examined as part of the criteria for the "Make it Right" Restorative Community Conferencing program. Anderson said that they also see consistency in the reasons for youth coming into contact with the criminal justice system: robbery, assault, burglary, and theft. While narcotics was a primary reason in 2009, by 2010 that was no longer the case. She deferred to Chief Nance for detail on this data.

Chief Nance said that in addition to this data, there was a spike in 2008 of about 150-plus kids in juvenile hall. At the time, the population in juvenile hall was 123 youth; the subsequent five years saw a reduction of 40% and last year roughly 70 youth were in the hall, which is an extreme decline. The declining trend is consistent with referrals, probation, and out-of-home placement. Nance also noted that during that same five years, the collaborative courts program was enhanced, which he said may have had an impact.

Chief Nance said that while there has been reduction, the severity of risk continues to be high; reliance on mental health services is also high. Nance explained that many youth in the system have experienced trauma and many have mental health and substance abuse issues. He added that youth of color continue to dominate San Francisco's juvenile justice system; 80% of people in juvenile hall are African American or Latino. Nance added that San Francisco has seen a reduction of representation of African Americans in the community. He said that in 2005 African Americans made up 8% of the population, and now they make up roughly 6% of the overall population. Nance said this reduction may be related to the number of youth of color who end up in the criminal justice system. Nance added that the degree to which all organizations in the juvenile justice system are collaborating is better, and the effort at building core evidence-based programming aimed at mental health issues is yielding benefits; however, there is still work to be done.

District Attorney Gascón thanked Nance and Anderson and agreed that a lot of work still needs to be done. District Attorney Gascón said that those present should feel good about work that has taken place in many areas and stated his excitement regarding the roll-out of the Make it Right program. District Attorney Gascón said he has been told that the program is the only model in the nation to use rigorous data collection with a randomized process of collecting participants. District Attorney Gascón said that the Make it Right program is a full restorative justice model for juveniles who have committed crimes. This model is fashioned after the New Zealand process. District Attorney Gascón also noted that the program includes a control group and randomized selection. It is a completely blind study, and District Attorney Gascón is excited to see the data in two or three years.

Public Defender Jess Adachi said he would like to see race and ethnicity data, particularly with respect to sentencing outcomes and probation. Adachi said that if the group is trying to address racial disparity, data on race will be needed.

District Attorney Gascón said that current court data is inefficient to produce quality reports on race.

District Attorney Gascón said that current San Francisco Police Department data on race is better than San Francisco Superior Courts'.

District Attorney staff member Maria McKee, said that the court system's CMS is very old and the race options are antiquated. The San Francisco Police and Sheriff's departments have updated their race and ethnicity data fields, but CMS cannot be updated to accommodate the new options, thereby limiting research on race to date. Over the coming months, the DA's case management system, DAMION, will begin receiving data directly from the Sheriff, rather than via CMS, which means that the DA's Office will have access to much more accurate race data.

District Attorney Gascón said that the sentencing commission should think about forming a collective budget and ask for funding to improve the overall justice computer database system. District Attorney Gascón said that race information is important, and it is problematic that it is not recorded currently. District Attorney Gascón said we have been denied most of our budget asks to update our system; therefore a collective voice in this issue will help. District Attorney Gascón said that even if the Sheriff's Department and SFPD have good data, it is going into a centralized CMS that is not adequately able to record statistics on race.

Krizay said that the probation department collects data on race and that the system should be updated to track more variables on race.

District Attorney Gascón said that the problem is that the current data is separated at different collection points, while the need is for data to be integrated and centralized in a well-managed system. District Attorney Gascón stated that the problem will not be solved until another integrated system is in place. He stated the need for a collective urgency to get this issue addressed.

Nance said that because data is a larger issue, we need one system that works between agencies instead of a bunch of different systems. One system should be designed to support the justice system and shared.

District Attorney Gascón said the sentencing commission will make an agenda item for talking about the topic of data collection in the future. He stated that the action item will be to create an agenda item for the next meeting to discuss this further with the correct experts. District Attorney Gascón asked for public comment and seeing none, introduced item 7 on the agenda.

7. Presentation on the Realignment Sentencing Trends by Leah Rothstein, Adult Probation Department

Leah Rothstein, Reentry Division Research Director, introduced herself and began her presentation by referencing her PPT data on 1170(h) sentencing trends. Rothstein directed the group's attention to her slide that depicted a graph on 1170(h) Jail Sentence Lengths and Average Time Served since 2011. Rothstein explained that a total of 512 1170(h) sentences had been given in San Francisco, but the overall number has been declining. Rothstein explained that in the first quarter of 2011, the average was 25 per month, which decreased to 21 per month in 2012 and 16 per month in 2013. Rothstein added that as the total number of these sentences has gone down, the percentage of split sentences has increased; the overall percentage of 1170(h) sentences that were split sentences through the entire two-year period was 54%. She stated that you get 54% if you take out first month of realignment, when

there were only 13% split sentences. The percentage of split sentences has been going up since mid-2012. In the last quarter of 2013, the percentage of split sentences went up to 63% out of total sentences in this category.

Krizay asked how this data compared to other counties, and Rothstein answered by saying that other counties range from 0% to 90%. She noted that San Francisco appears to be above the statewide average, which is around 25%. District Attorney Gascón added that San Francisco is in the top 10% in the state.

Rothstein presented data on straight sentences and their sentence lengths, stating the average is 29 months for all straight sentences. Rothstein stated that individuals serve half of their sentence time in jail, which is about 15 months. About 37% of people sentenced to a straight sentence are released because of credits from time served prior to sentencing, leaving an average time served after sentencing to eight months for those individuals. Ms. Rothstein stated that for split sentences, the jail portion has ranged from 0 to 55 months, with an average sentence of 13 months. Rothstein stated that 40% of those with split sentences were released at sentencing for credit for time served and served an average of five months in jail after sentencing. Rothstein stated that those who are getting split sentences are serving longer sentences when you include jail time served. Taking into account those released at sentencing, those getting split sentences serve an average of 31 months, significantly longer than the eight months for straight sentences. Rothstein showed court data on gender and race and pointed out that the proportion of males and females varies little across split and straight sentences.

District Attorney Gascón asked if there is data on failure rates for those with and without supervision and split sentences. Rothstein replied that failure rate is not recorded, but it would be good to have. District Attorney Gascón commented that we should know whether or not supervision works and asked how this data could be captured. District Attorney Gascón also added that if supervision does not work, we should stop doing it. He asked if anyone had suggestions for how to capture this data. District Attorney Gascón then commented that the long-standing question is: What level of supervision works? If supervision is not working, we need to inform the system on this finding. Steven Raphael said that research shows that with intensive supervision, infractions go up. This most likely is due to the fact that individuals are being watched more closely and violations are found more easily.

Deputy Chief David Shinn added that the level of supervision and level of risk a person with supervision poses are issues, adding that the level of risk should match the level of supervision to avoid adverse outcomes. District Attorney Gascón asked the group for any other thoughts on this issue. Anderson stated that this topic could be explored in the realignment workgroup and incorporated into the 1170(h) outcomes research that will be done in the DA's office. District Attorney Gascón stated that this topic is very critical, and Anderson said staff will respond with a plan regarding this issue during the staff report at the next sentencing commission meeting.

District Attorney Gascón thanked Rothstein and introduced Antoinette Davis from NCCD.

8. Presentation by the National Council on Crime and Delinquency on San Francisco Criminal Justice Demographics (discussion and possible action)

Davis introduced herself and began her presentation by stating her appreciation of the discussion on race and ethnicity demographics of juvenile and adult criminal justice populations. Davis stated that

NCCD has been asked to look at criminal justice outcomes for San Francisco. Davis stated that her data is composed of juvenile probation, adult probation, and CDCR populations. She is currently working with the Sheriff's Department to collect their data, which has been challenging. Davis thanked the Juvenile Probation Department for making it easy to get ahold of sentencing data.

Davis stated that the source for the first part of the data she presented is the 2012 Statistical Summary, which shows 1,871 referrals and 937 bookings. However, the racial and ethnic data only represent criminal offenses. Davis pointed out that more than 80% of the bookings were given to African Americans (PPT slide). Davis presented data on petitions, noting that her graph showed that 687 petitions were filed and 427 petitions sustained. Davis noted that the juvenile and adult probation data were not from the same time period; ideally they would be. Davis said that though there were some increases and decreases, the proportion of African Americans consistently remained higher than other races, followed by Hispanics. Davis noted that sustained petitions typically are at 67% for all races, but for the white population it is around 47% for sustained petitions.

Davis moved on to look at data on adult probation, looking at a 2014 snapshot sourced from a 2014 Fact sheet provided by Leah Rothstein. Davis noted that the data have a number of challenges; a lot of the data have not been disaggregated and are not well-defined. She noted that more than 1,500 individuals do not have a category, but currently this is the only available data. Davis pointed out that the proportion of African Americans is also highest in this population.

Davis presented on the CDCR population, stating that she requested a data set from that department. One caveat with this data is that though this data is labeled as coming from San Francisco residents, the label actually means that San Francisco is the last known address for these individuals. Davis said that African Americans are the highest proportion in this data set as well, followed by the white population and Hispanics. She stated that these categories were set up by CDCR, so she did not have to manipulate the categories. Referring to her PPT slide, she said that the number of individuals sent to CDCR increased from 826 in 2003 to 1,057 in 2007, which includes both men and women. Davis said she disaggregated men and women, but the population of women was very small and did not add much to analysis. Davis said she is working with the Sheriff's Department to get more data.

District Attorney Gascón asked if there is any way to disaggregate data by type of offenses. Davis said that is definitely available for juvenile probation, and she can discuss disaggregation with CDCR. However, they were very limited in what they could provide. Davis stated that one question is whether data analysis for individuals with multiple offenses should only consider that person's most serious offense. District Attorney Gascón stated that using a person's most serious offense is probably best in order to avoid confusion. Davis stated she would look into this.

McCrary asked if this data captured any statistics about the LGBT population in juvenile probation. Nance said that this information is captured for youth who are detained, but not for those who are on probation. Nance added that it is difficult to capture this information for juveniles because they do not always solidly identify into sexuality categories.

Davis said that NCCD does a lot of LGBT surveying work and suggested that anyone who is interested in this work should talk to Dr. Angela Irvine, a gender specialist and an expert in asking juveniles those difficult questions.

District Attorney Gascón asked the group if there were any questions. Seeing none, he thanked Davis

and introduced item 9 on the agenda.

9. Presentation on the Report, “Public Safety Realignment and Crime Rates in California” by Professor Steven Raphael, UC Berkeley Goldman

Raphael thanked the sentencing commission for the opportunity to present and said that his PPT shows the results of study he did with Magnus Lofstmon at the Public Policy Institute of California, which studies the effects of realignment in California. Raphael stated that this particular study shows the impact of realignment on state crime rates. He said that realignment had an abrupt effect on weekly admissions to state prisons and discussed data on weekly admission to state prisons in multiple counties following realignment. Raphael pointed out that most of what the graph (PPT slide 1) depicts is a reduction in parolees being returned to custody, though some are 1170(h) sentences. He said that one of the interesting things is that if you look across counties, realignment revealed great disparity in the way counties were using incarceration (one PPT slide graph showed county incarceration rates pre- and post-realignment). He noted that the most interesting thing was the extent of the decline that was observed in some counties. Raphael stated that the main finding was that the more a county used incarceration before realignment, the more dramatically realignment affected the county. He stated that this is truly unprecedented change.

Raphael then discussed how realignment impacted crime. A PPT graph depicted the change in crime rates pre- and post-realignment. He said that despite large reduction in incarceration rates, there is zero evidence of any impact on violent crime rates (homicide, rape, and assault robbery).

He next explained research showing their best estimate of the effect of not keeping someone in prison for a year that was impacted by realignment reform. He noted that the only crime where there was an impact was motor vehicle theft—there is an increase in motor vehicle theft for every year not served. He concluded this portion of his presentation by stating that in general, not keeping someone in prison for a year had small impacts on crime.

Next, Raphael showed data that compared real California to “synthetic” California (a big data technique that finds the best combination of other states to approximate California prior to realignment). This analysis showed no impact on violent crime in California except for a small increase in property crime, which also appeared in cross-county comparisons.

Raphael discussed a cost benefit analysis, using estimates of the cost of crime provided by the Rand Corporation. These data showed that incarcerating marginal offenders generated a 20-cent return on the dollar in terms of crime prevention. He referenced other data that said each dollar spent on law enforcement generates \$1.20 in crime reduction. Raphael explained that justice reinvestment is the right thing to do in terms of money.

Raphael then discussed what this means for California crime rates relative to the past and showed state prison incarceration rates from 1992 to 2012. With realignment, incarceration rates have decreased to rates seen in 1992, historic lows. Raphael commented that even when jail population is included, rates have decreased to 1993 levels. He also stated that violent crime rates are at historic lows.

Raphael showed a couple of San Francisco figures sourced from the attorney general’s monthly data set and noted that before and after realignment, except for a slight increase in property crime, crime rates

did not change much. He also noted that burglaries and larcenies are trending upwards, though it is hard to say that realignment is the contributor; this is consistent with statewide data, and San Francisco data is consistent in general with statewide data. He stated that he prefers to discount larceny and burglaries because other data suggest that when statewide trends are controlled for, any evidence in effects for these two crimes disappears. Raphael stated that data suggested that in general, what happened in California also happened in San Francisco.

Nance thanked Raphael for his report. Nance stated that he is part of the Chief Probation Officers of California, which examines data especially related to realignment. Nance stated that in San Francisco's juvenile system, 25% to 30% of bookings are from those outside of San Francisco County, and he asked if this was considered in Raphael's report. Raphael answered by saying that these reports are based on police reports of crimes committed in San Francisco, regardless of whether the offender was a San Francisco resident. Raphael said that this is an issue, but in follow-up research, a recidivism study will use data on the offender's county of residence rather than solely on where crime is committed. Raphael ended by saying CDCR data already show that recidivism rates over time are declining for releases.

District Attorney Gascón asked the group if there were any questions. Seeing none, he thanked Raphael and introduced agenda item 10.

10. Presentation on the Report "California's Urban Violence Crime Rate Falls in First Half of 2013" by the Center on Juvenile and Criminal Justice (discussion only)

Brian Goldstein from the Center on Juvenile and Criminal Justice introduced himself and briefly described the location of his agency, which has 14 direct service programs for youth and adults, does policy analysis for justice reform, and provides technical assistance to other jurisdictions. Goldstein said it has been a mission of his agency to understand the impact of realignment on counties. He said the state is bound to reduce its prison population and realignment was adopted in October 2011. He said two publications that the Center on Juvenile and Criminal Justice have released examine the impact of realignment in California. The first report examines releases in January 2014, as well as 2012 and 2010 crime rates, and the most recent report in February uses crime rate data from the first six months of 2013. All data were sourced from the Federal Bureau of Investigations.

Goldstein said that the January report compared the most recent data available with 2010 data but did not use 2011 data because it was a transitional year. Goldstein stated that when considering realignment, it is important to look at five major populations: individuals going to state prisons, individuals on state parole, individuals on community supervision, individuals detained locally due to realignment mandates, and individuals held locally pre- and post-realignment). Goldstein stated that if realignment had caused an increase in crime, counties would be expected to have above-average crime rates. Analysis comparing 2010 and 2012 data showed that all counties experienced substantial decreases in prison admissions, but crime trends also varied dramatically. This shows that there is a slight correlation between realignment and change in crime rates, but when looking at changes in violent crime, there is no substantial difference between high-realignment and low-realignment counties. Goldstein also noted that Los Angeles was not included due to its unique population, but Los Angeles did experience drops in total crime, homicides, and motor vehicle thefts. He noted that San Francisco is unique in that there was an increase in total crime, property crime, and motor vehicle theft.

Goldstein said his research also examined whether prison use and county experience with realignment

would show a trend; data showed that counties with low state dependency experienced the lowest change in crime rates, whether their realignment rates were low or high. Goldstein noted that it is hard to find trends, and the fact that there is substantial variation within the counties in realignment makes correlation and causation, hard to prove.

Goldstein said the February 2014 report looked at urban crime rates for the first half of 2013. He described a graph that showed a slight fall in overall crime and a decrease in violent crime, and that violent crime's slight uptake in 2012 has decreased. Goldstein showed the data broken into different categories of crime and county.

Goldstein highlighted the challenge of getting accurate San Francisco felony arrest data; in 2010, San Francisco experienced a glitch in their system that resulted in less recording, and lower felony arrests since 2010 is potentially due to this technical glitch. Goldstein said they have asked repeatedly whether 2010 data were influenced by the glitch. He stated that another issue with respect to San Francisco data was the underreporting of Hispanic arrests, which undermines the attempt to determine current racial disparities in the county. As a result of these data issues, data have had to be adjusted accordingly, which has been a challenge.

Gascón asked the group if there were any questions. Seeing none, he thanked Goldstein and introduced agenda item 11.

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

Anderson said she has captured those agenda items brought up in this meeting.

District Attorney Gascón asked if others had questions or things to add.

Krizay (Deputy Chief, Adult Probation Department) said that Chief Still has approached the courts regarding the use of flash incarceration. He stated that the Adult Probation Department currently has access to the flash incarceration process and is in the fact-finding stage. Krizay said that the department will reach out with updates.

Adachi asked whether the commission would get a response from the court once the sentencing commission report is released to them. District Attorney Gascón stated that the only response from the court was about a concern for judicial ethics. He said that the commission has attempted to solve this by potentially inviting the court to participate in the commission, and he thinks that as the commission continues, there will be more judiciary representation.

12. Public Comment on Any Item Listed Above, as Well as Items Not Listed on the Agenda

District Attorney Gascón asked if any members of the public had comments. Donald Jones addressed the commission. Jones said that he was addressing item 6 of the agenda and was informing the commission about an email he sent concerning a California Clemency Board that he would like the sentencing commission to review. Jones explained that his policy would take the power of clemency and put it in the hands of competent citizens and that individuals would have power to grant clemency. Jones commented on the need to rethink how people are dealt with in reference to probation and

incarceration. He stated that in a 2010 article in the San Francisco Bay View, he vowed to stay homeless until someone in government took him seriously. Jones said homelessness is still his current situation. He asked the commission to review his email.

District Attorney Gascón said commission staff will make sure to get a copy of the email Jones sent and asked Anderson to make sure the information is received.

13. Adjournment

District Attorney Gascón asked if there was a motion to adjourn the commission's fourth meeting. This motion was seconded, all members voted in favor, and the motion passed. At 12:03 p.m., the meeting was adjourned.

Feasibility Analysis of Pre-Booking and Pre-Charging Alternatives for San Francisco Executive Summary

Recidivism among drug offenders is a central problem for the San Francisco criminal justice system. San Francisco has already implemented several successful initiatives aimed at reducing crime by rehabilitating offenders, including several collaborative courts. However, San Francisco does not have any current policies that divert drug offenders to rehabilitation at the first point of contact with the criminal justice process.

San Francisco's Sentencing Commission asked us to evaluate two alternative solutions to this problem: a pre-booking and a pre-charging diversion program. In this report, we seek to answer the following questions: how feasible is successful implementation of a pre-booking or pre-charging diversion program in San Francisco? And to what extent would the program effectively, efficiently, and equitably reduce recidivism among drug offenders in San Francisco?

The answers to these questions are not straightforward. The evidence suggests, however, that if implemented appropriately, a pre-booking diversion program would be more efficient and more effective than its pre-charging counterpart. San Francisco has the necessary tools and systems to meet the challenge of successfully implementing such a program. As a result, **we recommend the San Francisco Sentencing Commission pursue the adoption of a pre-booking diversion program.** This recommendation relies on quantitative and qualitative analysis presented throughout the report.

In the first section of this report, we describe the problem of drug crime and abuse in San Francisco. The general trends in drug offenses and recidivism among low-level, nonviolent drug offenders in San Francisco suggests that the current approach to punishing and rehabilitating these individuals falls short in alleviating the problem.

Second, we present an overview of drug-related crime incidents for the period 2004-2014, emphasizing the four most frequently illicitly possessed and sold drugs in San Francisco: cocaine, marijuana, methamphetamine, and heroin. We couple this information with data on trends in emergency department visits to examine the relationship between police encounters and underlying crime. In this section, we also present a geospatial analysis of drug incidents in San Francisco to identify where drug-related crimes tend to occur. We find the strongest concentrations of reported cocaine, marijuana, and meth-amphetamine incidents indisputably occur in the Tenderloin District, followed by the Tenderloin-Southern boundary.

In the third section, we characterize the two alternative programs that aim to divert individuals away from the criminal justice system and into treatment. The first alternative, a pre-booking diversion program, asks ***police officers*** to place select individuals who commit drug crimes into community-based treatment and social services rather than proceeding with booking. The second alternative, a pre-charging diversion program, asks ***prosecutors*** to place select individuals who

commit low-level drug crimes into a community-based treatment and social services rather than proceeding with charging. We compare both alternatives to the current criminal justice process.

In the fourth section, we present the criteria we use to compare the alternatives. They are: implementation feasibility, effectiveness, efficiency, and equity. Implementation feasibility is the extent to which a pre-booking or a pre-charging program would be successfully implemented given the existing conditions in San Francisco. Effectiveness is the extent to which a given alternative meets the objective of rehabilitating the target population as well as reducing recidivism and drug abuse rates among low-level drug offenders. We define efficiency as the ratio of an alternative's benefits to its costs from the perspective of the City and County of San Francisco. Finally, we conceptualize equity in terms of *differential access* among target beneficiaries.

In the fifth section of our report, we present our findings on each of these criteria. We summarize these findings below.

- In terms of their respective implementation feasibility, we find that a **pre-charging diversion program has a higher chance of successful implementation** than its pre-booking diversion counterpart. This is a result of the reduced need for effective partnerships in a pre-booking program. The qualitative evidence suggests, however, that San Francisco can achieve those partnerships under either program.
- We conclude that a **pre-booking diversion program is potentially more effective** than a pre-charging scheme. Our analysis revealed that the extent to which either program can result in behavioral change among its target beneficiaries depends on the ability of justice officials to match the target population to its treatment needs. A pre-booking program, which relies on street-level information on individuals and criminogenic dynamics provided by police officers, has a clear advantage on this front. A pre-charging program, by contrast, relies on decision-making from prosecutors, who will not have this granularity of information to make decisions on a case-by-case basis. Moreover, the overall effectiveness of either program is shaped by the degree to which they are implemented with fidelity.
- The evidence from past studies suggest that either a pre-booking or a pre-charging diversion program could be more efficient than the status quo. In either case, net social benefits are most likely positive. However, a **pre-booking diversion program would likely be more efficient** than a pre-charging program because of the incidence of its costs. To a large degree, these findings depend on the effectiveness of either program in reducing recidivism.
- The alternatives would differ in terms of differential access to target beneficiaries. A pre-booking diversion program would select individuals based on their geographic location, resulting in differential access among potential candidates to diversion. A pre-charging diversion program would not result in inequities from differential access among target beneficiaries. As a result, we conclude a **pre-charging diversion program is more equitable than a pre-booking diversion program**.

In this report, we find that a pre-booking diversion program is potentially more effective and more efficient than a pre-charging one. On the other hand, a pre-charging program is potentially more

equitable in terms of equal opportunity for potential candidates to diversion. Moreover, given its particular emphasis and reliance on effective partnerships, a pre-booking program could arguably require more effort to implement with fidelity than a pre-charging program.

The goal of the diversion programs is to reduce recidivism among drug offenders. Our research and a careful consideration of our evaluative criteria suggest that the additional effort associated with a pre-booking program improves the program's chances in more effectively and efficiently addressing the problem of drug offense and re-offense to a higher degree than a pre-charging program. As such, **San Francisco can design a pre-booking diversion program that has a high likelihood of success in effectively reducing recidivism and creating net social benefits for society, and should implement a pilot program to develop best practices and make program adjustments that are specific to San Francisco.**

The final section of this report provides the Sentencing Commission with the following guidelines for implementation that are geared towards bolstering the probability of success for a pre-booking diversion program in San Francisco:

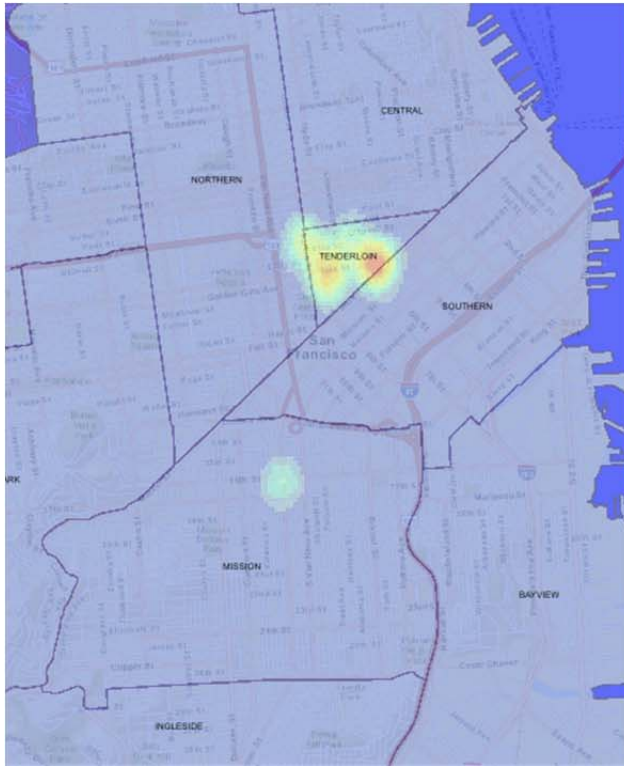
- **All stakeholders must reach a consensus on the rehabilitative approach that undergirds a diversion program and agree to implement diversion as an alternative to the punitive criminal justice process.** Qualitative interviews suggest that San Francisco stakeholders agree on the problem of recidivism, and existing alternatives such as the San Francisco Drug Court point to a shared philosophy in seeking non-punitive approaches in fight recidivism. Implementing a pre-booking diversion program would build upon these commonalities, and require clear agreement on using rehabilitation rather than punishment to address drug offense and re-offense.
- The degree to which institutional partnerships exist will determine the magnitude of benefits and extent of program effectiveness. San Francisco has exhibited a move towards establishing such partnerships, as evidenced by the creation of the Sentencing Commission and the Community Justice Center (CJC). To optimize the impact of a pre-booking diversion program, **San Francisco should continue developing existing partnerships and foster relationships between the criminal justice and social services sectors** to facilitate inter-institutional coordination and collaboration.
- **The target population of the pre-booking diversion program and eligibility specifications must be clearly defined.** Factors to consider include: qualifying offense (low-level, nonviolent drug offenses), history of arrests, and location of offense (focus on dense criminogenic areas of the county, such as the Tenderloin District).
- To ensure program sustainability, **secure funding support from a variety of sources, ranging from government to foundations.**
- To track program impact, the program needs to be monitored and evaluated. Specifically, **key outcomes and measures need to be defined in advance to inform the design of program monitoring and evaluation efforts.** Also, to ensure consistency in the program evaluation, an independent entity should be tasked with both developing the experimental design and evaluation of the pilot program.

- To help manage the program and coordinate between different institutional stakeholders, **a credible, third-party/independent entity should be considered to wield program management responsibilities.** The program manager would assist with the administrative operations of the diversion program and, of note, would **organize and manage the inter-institutional workgroup meetings** that have been key to the success of a similar program in Seattle.
- The pre-booking diversion program rests upon a **case management system to match the program beneficiaries with services that most directly addresses their rehabilitative needs.** Successful rehabilitation of program participants is contingent on the availability of treatment. As such, **an assessment of the inventory of social services is necessary to ensure adequate coverage of program participants.**
- The Law Enforcement Assisted Diversion (LEAD) program is a pre-booking drug diversion program that currently exists in Seattle and Santa Fe. **San Francisco should leverage peer-to-peer learning by connecting with existing programs to learn best practices, preempt obstacles, and develop a training curriculum for police officers, case managers, and social services staff that is specifically tailored to San Francisco.**

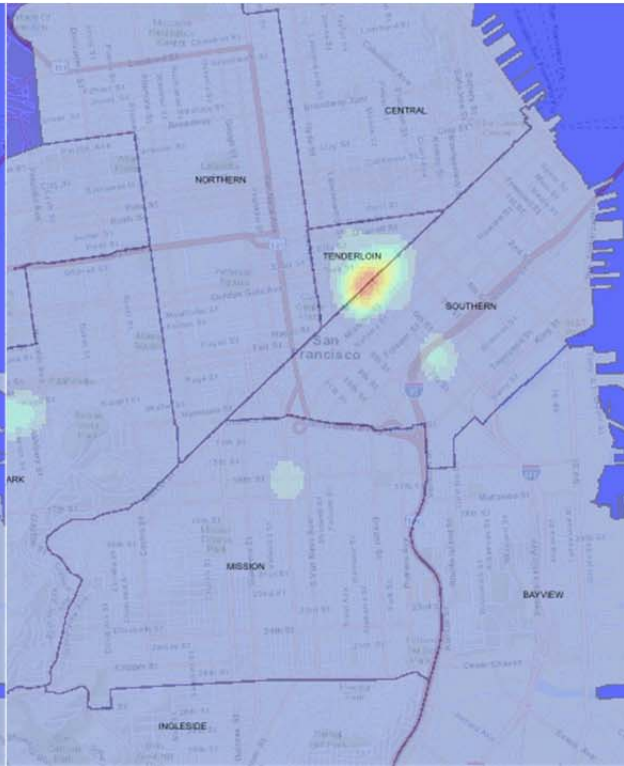
By implementing a pre-booking diversion program that targets individuals at the initial stages of the criminal process, San Francisco would also make a highly innovative move towards a justice system that values rehabilitation and reintegration of offenders to the community.

Figure 14. Drug Incident Maps by Drug Type, 2013

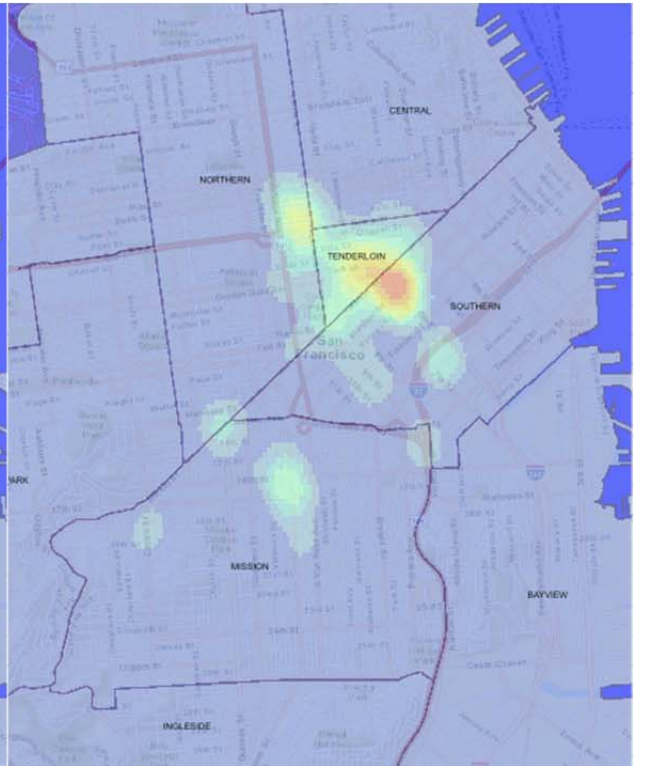
Cocaine Incidents, 2013



Marijuana Incidents, 2013



Meth-Amphetamine Incidents, 2013



7. Guidelines for Diversion Program Implementation

In Progress	Philosophy	<ul style="list-style-type: none"> • There is general consensus among stakeholders in finding alternatives to punitive criminal justice process • <i>Next</i>: All stakeholders should work towards agreement on the underlying philosophy that undergirds a pre-booking diversion program (i.e. rehabilitative rather than punitive).
	Partnerships	<ul style="list-style-type: none"> • San Francisco has already started moving in this direction, evidenced by the creation of the Sentencing Commission and the implementation of drug court. • Next: Partnerships should continue to be developed, especially among ground-level stakeholders who will interact and communicate on a daily basis in a pre-booking diversion program.
Next Steps	Eligibility	<ul style="list-style-type: none"> • Determine the target population and eligibility criteria such as: <ul style="list-style-type: none"> • Groups (low-level drug offenders/re-offenders and felons) • Qualifying Offense (consumption/possession of methamphetamine, cocaine, etc.) • Age (i.e. 18-30 years) • Geography (Tenderloin PD District)
	Funding	<ul style="list-style-type: none"> • Secure funding from a variety of sources, ranging from government to foundations.
	Monitoring and Evaluation	<ul style="list-style-type: none"> • Set up a randomized design study to facilitate reliable, rigorous evaluation of program. • Predetermine set of key measures for evaluation and design data collection accordingly. • Identify entity that would be responsible for both research design and evaluation.
	Program Management	<ul style="list-style-type: none"> • Determine who will manage the operations of the program. Desirable qualifications should include: <ul style="list-style-type: none"> • Familiarity with project management • Familiarity with criminal justice • Experience with institutional coordination • Experience with management of funds • Legitimacy within the criminal justice system • (Perceived as) Third-party/independent • Form an inter-institutional working group comprising representatives from each justice sector institution, social services, and the non-profit sector.
	Social Support and Follow-Up	<ul style="list-style-type: none"> • Case management system • Ensure that the inventory of social services is adequate in supporting the needs of program participants. • Housing capacity will be an issue, so identify an organization that could help provide participants with housing.
	Training	<ul style="list-style-type: none"> • Provide police officers, social services staff, and case managers with training on coordination mechanisms, program procedures and protocols. • Leverage peer-to-peer training; when possible, connect with implementers from Seattle and Santa Fe.

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Overhauling sentencing laws only way forward



Allen Hopper is the Criminal Justice and Drug Policy Director of the ACLU of California.

President Barack Obama's recently announced clemency campaign, following up the 2010 enactment of the Fair Sentencing Act reducing the federal penalties for crack cocaine, marks an important and historic step toward beginning to dismantle some of the worst excesses of the federal government's role in the war on drugs and the mass incarceration crisis it spawned. Unfortunately, in California our political leadership remains mired in the past and refuses to seriously consider reforms to our sentencing laws. It is time for Gov. Jerry Brown and the Legislature to address the fundamental problem that created the state's prison overcrowding crisis: We punish far too many nonserious, nonviolent offenses as felonies, and impose excessive sentences for them. Over 25 percent of the state prison population (33,678) is currently serving a prison term for a nonserious and nonviolent crime. Of this total, 11,471 inmates also do not have a conviction for *any* prior serious or violent crime.

The U.S. Supreme Court's 2011 *Brown v. Plata* ruling, ordering California to reduce its prison population to 137.5 percent of design capacity, and criminal justice realignment - the cornerstone of the state's plan to comply with the population cap - ignited the most significant criminal justice policy debate in California in decades. But the state now explicitly acknowledges that realignment alone will never reduce the prison population enough. The Department of Corrections predicts that by June 2014 the prison population will be about 3,700 *more* than it was last June. The state is apparently giving up on the idea of reducing the number of prisoners. Instead, its revised strategy is to increase capacity. Last September, Brown pushed through Senate Bill 105 to supplement realignment. The bill's thrust is to increase the state's prison capacity using new authority, and over \$300 million in new funding, to contract with private prisons.

Even if the state can meet *Plata's* population cap through some combination of realignment, expanded capacity, and prisoner release orders, California prisons will still be overflowing - the cap is only the reduction necessary to end constitutionally prohibited cruel and unusual punishment, a rather low bar. It would still leave state prisons with tens of thousands more incarcerated than the prisons were designed to house. Complying

with *Plata* ought to be the beginning, not the end, of the conversation about reforming the state's criminal justice policies.

Instead, Brown and the law enforcement lobby are urging the state to move backwards. Current law requires that anyone incarcerated for a nonviolent, nonserious offense, who has no prior convictions for serious or violent crimes, be sent to county jail rather than state prison. This is one of the central features of realignment that has helped the state reduce its prison population by 25,000 over the past three years. Yet lawmakers introduced Senate Bill 1441 during the 2011-12 legislative session, which proposed rolling back realignment to require all sentences of three years or more to be served in state prison rather than county jail. Though SB 1441 failed then, its authors have vowed to try again and, last month, Brown himself has suggested similar amendments.

It is true that under realignment far too many people are receiving jail sentences longer than jails were designed to accommodate, leading to denial of adequate health care and rehabilitative programming, and raising the spectre of *Plata*-like lawsuits against counties throughout the state. Indeed, the ACLU, along with Rosen Bien Grunfeld & Galvan and the Monterey County public defender, just last week released, as part of an ongoing lawsuit, expert reports exposing violent and unconstitutional conditions at the Monterey County Jail that are directly related to overcrowding. But sending more people back into overcrowded state prisons is not a solution. No one in Sacramento appears interested in answering the obvious question: *Why are we incarcerating people for such lengthy periods for nonserious, nonviolent offenses, especially people who have no violent or serious offenses at all in their entire criminal history?*

In the 2011-12 legislative session, Sen. Mark Leno (D-San Francisco) introduced Senate Bill 1506, which proposed to add California to the list of 13 states, the District of Columbia, and the federal government currently treating possession of drugs for personal use merely as a misdemeanor or a wobbler. Longer sentences have never been demonstrated to effectively deter drug abuse. Instead, research conducted by the Justice Policy Institute shows that states charging drug possession as a misdemeanor have higher rates of treatment admissions and slightly lower rates of illicit drug use. The Legislative Analyst's Office estimated that SB 1506 would have resulted in "an annual savings of nearly \$160 million for counties and just over \$64 million for the state," amounting to a billion dollars over five years. It also would have reduced "the average daily state prison population by about 2,200 people and the average daily county jails population by 2,000 people." Finally, SB 1506 would have reduced recidivism by eliminating the lifetime barriers to employment, housing and education that accompany felony convictions. Opposition from the District Attorneys', Sheriffs' and Police Chiefs' Associations defeated the bill.

Last year, a compromise version made it through the legislature, but the governor vetoed the bill. His veto message stated, "Under SB 105, *we are going to examine in detail California's criminal justice system, including the current sentencing structure. We will do so with the full participation of all necessary parties, including law enforcement, local government, courts and treatment providers. That will be the appropriate time to evaluate our existing drug laws.*"

Apparently the Brown administration led the *Plata* court to believe something similar: In its February 2014 court order granting the state a further two-year extension to reduce the prison population, the court stated that among the steps the state had agreed to take was,

"considering the establishment of a commission to recommend reforms of state penal and sentencing laws."

SB 105, however, contains no such provision. Quite the contrary, SB 105 *eliminated* the sentencing commission that would have been created under a competing bill offered by Senate Democrats (AB 84) but rejected by the legislature. That commission would have been tasked with, "*develop[ing] recommendations for the Legislature and the Governor to consider regarding criminal sentences and evidence-based programming for criminal offenders.*"

SB 105 did, however, require the Department of Finance to submit the Brown administration's interim report on the bill's implementation to the legislature by April 1, 2014, and to submit a final report by Jan. 10, 2015. The interim report reveals much about the administration's priorities. The report largely focuses on descriptions of the prison population and efforts underway to increase prison capacity, and mentions sentencing reform only in passing, in a long list of items suggested by various "stakeholders" interviewed for the report. This list is characterized as "topics that require further discussion."

Brown has stated that he "wants to respect the law of California, what the people have enacted or the legislature." Similarly, in October 2012 the State bluntly told the *Plata* court that the cap "cannot be achieved unless the Court alters state law." This statement was only half true. State sentencing laws must be changed, but the assertion that only the federal courts have the power to do so is false. This cloaks policy decisions in the false mantle of constitutional and statutory imperative.

The Legislature and the governor can reform California's sentencing laws. It would require changing existing statutes, just as realignment itself required hundreds of amendments to the California Penal Code, and a ballot initiative authored, financed and championed by the Brown administration (Proposition 30). Sentencing reform would also be possible if the political leadership in Sacramento pushed as hard in the Legislature and with the public as they did to enact and fund realignment. The choice not to do so is just that: a political choice, not an externally imposed mandate.

Overly punitive sentencing laws and prison expansion over the past four decades are precisely what created the current incarceration crisis. Recent public opinion research demonstrates that among California voters, the politics of fear are giving way to new demands for fiscal responsibility and effective government. Californians want their elected representatives to be smart on crime and are increasingly disenchanted with the billions spent each year incarcerating those who commit low-level, nonviolent crimes at the expense of public health, college tuition, primary education and the overall economic health of the state. Politicians who continue to cater to the law enforcement lobby risk more than just reelection. The state's fiscal wellbeing and community safety are at stake.

Allen Hopper is the Criminal Justice and Drug Policy Director of the ACLU of California.

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Co-Facilitation and Presentations: We are trained facilitators and speakers who can add a unique perspective to your programs and events.

Educational Resources: These resources are available from our website:

- *Resource Guide for Teens with a Parent in Prison or Jail:* an 80-page workbook covering topics from housing to legal issues to visiting one's parent (free)
- *A Sentence Apart:* a 12-minute CD following three individuals with incarcerated family members (fee)
- *The Bill of Rights for Children of Incarcerated Parents,* a booklet outlining the central principles of the children of incarcerated parents (CIP) advocacy movement, is distributed at our presentations.

Technical Assistance: We provide technical assistance to organizations wanting to replicate Project WHAT!. We tailor our assistance to meet the needs of your resources and goals. We will help you plan and realize your very own Project WHAT! team in your community.

OUTCOMES

Launched in 2006 by Community Works, Project WHAT! is the only program of its kind in California. We have:

- Delivered nearly 100 trainings to 5,500 people in 14 counties throughout California and 7 states
- Distributed 4,500 copies of our *Resource Guide*
- Supported state advocacy efforts resulting in important protections for CIP

FUNDERS

Project WHAT! was launched and is sustained by a generous grant from the Zellerbach Family Foundation. We have also received support from the Sills Foundation, Foss Foundation, Youth Funding Youth Ideas, San Francisco Department of Children, Youth and Their Families, East Bay Community Foundation, Alameda County Health Care Services Agency, Youth Grants 4 Youth Action, Bank of the West, GGS Foundation, Morris Stulsaft Foundation, and generous individuals.



Project WHAT! team with Writer/Actor Daniel Beaty, Feb 2012



PROJECT WHAT!

a program of  communityworks

Winter Newsletter 2014

We are thrilled to celebrate another incredible year with Project WHAT!. In 2013, we received a grant from the San Francisco Department of Children, Youth and their Families to expand Project WHAT!, allowing us to start a second cohort. We now have one group in the East Bay and one in San Francisco. This past summer, we hired 20 new youth, bringing our active membership to 35 youth. We've had a busy program year filled with presentations, including traveling to Little Rock, Arkansas, Washington, DC, Anaheim, Santa Ana, and Humboldt County, CA. We joined forces with Californian's United for a Responsible Budget in Sacramento to testify against building a new jail in San Francisco, and we've collaborated with supporting organizations, including the San Francisco Children of Incarcerated Parents Partnership and the Alameda County Children of Incarcerated Parents Partnership. We began building a relationship with the San Francisco Youth Commission and the San Francisco Board of Supervisors in preparation to launch a local campaign on behalf of children with incarcerated parents. In the midst of all this, we've increased our fundraising efforts to enhance our scholarship fund for Project WHAT! youth who are entering their first year of college. This year, we will be sending eight of our youth off to college with help from our generous donors and Peet's Coffee. We are so excited to show you a glimpse of what we've been working on and the exciting work that lies ahead in 2014.



New Voices from Project WHAT!

My First Presentation

Jessica Calderón, Youth Advocate



I found out about Project WHAT! through a distant cousin, her son's school was having a resource fair and she came across the *Project WHAT! Resource Guide for Teens with a Parent in Prison or Jail*. I applied for Project WHAT! several years before, but found myself unprepared to speak about my

experience as a child of an incarcerated parent. Once I was ready to speak about my experience a few years later I reapplied and was hired. My role within Project WHAT! is a Youth Advocate. Since I have been in Project WHAT! I have been happier than ever.

The experience is unlike any other program I have been a part of. My experience has been beyond positive; it has truly been life changing. Growing up I always felt like I was the only person in the world who had a parent incarcerated, and much of the time had to fib about where my father was; however since I have been in Project WHAT! I have felt an almost comforting normalcy in my experience. While it is not comforting to know other people have had to endure parental incarceration, it is a reality we face today in large numbers, and it is nice for our demographic to have a place to feel safe. While at Project WHAT! I am not judged and neither is my father. There is an understanding that our parents are not monsters, but people that acted as humans do and made mistakes in their lives whether we accept them or not.

Writing my story during summer training was extremely therapeutic. It was a chance to look back at my experience and really think about how I felt during those moments. I had lived it, but had never dwelled on how I felt about my situation because of so many other elements in my life at the time. In being asked to write my story I felt as though someone was actually asking

me about how I really felt about my dad. My whole life I never had to think about my dad except for the one day out of the month I would go see him in the visiting room, and it was refreshing for someone to want to know what was going on with me through the whole experience. In my life I only told my closest friends how I felt about my experience, so when it came time to present this close to heart story of mine I was quite nervous.

I was to present at a conference called Beyond the Bench where there were hundreds of people circulating between different workshops all having to do with juvenile's connection with the justice system. There were many judges, lawyers, social workers, and other youth amongst our audience. The night before the presentation I was a little nervous, but ready. By the time it was morning and we were heading to our workshop I was nothing but nerves trying not to shake and hoping my nervousness would not let my voice waver while presenting. Luckily I had my co-presenter Alisha there to back me up, and Zoe there to support me through this first huge presentation.

When it came time to read my story, I was a lot more comfortable in the room, but also a lot more emotional. Reading my story for the first time felt like reading a page of my diary to the whole world or giving a confession on a bullhorn, but it was also a huge catharsis of everything I had felt and endured through the years only in a matter of minutes. Once I finished my first presentation I felt like I was on top of the world, it was the moment I knew for a fact I could do whatever I wanted to achieve in life low or high.

If there was anything I would tell people about children with incarcerated parents it would be that we are a group of resilient young people who can be anyone we want to be and reach for any goal despite our parent's mistakes. As for Project WHAT! I would tell people that it is a group that doesn't strive to give potential to the youth in it but shows them the potential they already have.

Project WHAT! is a place where leaders and pillars of communities are born, and above all it is a sanctuary and family for us, the youth.

Project WHAT! Perspectives: Starting the San Francisco Cohort

Arvaughn, 15 and Azizi, 17, Youth Advocates

It's really exciting to be a part of the first San Francisco cohort of Project WHAT!. Our role in the program is youth advocates and the role of a youth advocate is to present our stories, learn how to make things better for other youth with incarcerated parents, and to raise awareness about our struggles. Our Project WHAT! experience has been not only eye-opening but life changing in one of the most positive possible ways. Since starting at Project WHAT! every time we go to program we learn new things and all of our outside problems are forgotten. In our experience Project WHAT! has allowed us to feel less lonely and less ashamed about having a parent in prison. Project WHAT! really makes us feel like family.

In San Francisco we are in the process of launching a campaign. We are working towards raising awareness with the end goal of creating a policy change that will impact the 17,993 children of incarcerated parents in San Francisco. Our campaign is important because it has the potential to positively affect a population that is usually forgotten when decisions that impact them are made. Right now we are in the Youth-Led Action Research phase of our campaign. Youth-led action research is when youth actively research a subject to find out information about an issue or event that they plan to change or will use to create a change. For our campaign research we are doing things such as developing a survey on the needs of children of incarcerated parents, handing out surveys, asking questions for focus groups, and taking in information about children with incarcerated parents. The process for developing the survey was a good experience, we took a lot of time coming up with good questions based on the *San Francisco Children of Incarcerated Parents Partnership's Bill of Rights for Children of Incarcerated Parents*, and took even more time narrowing down the questions that were the most important.

We took our survey to the San Francisco Youth Commission and asked them to endorse it and give us feedback on it. At first, we were nervous talking to the Youth Commission because we had never done it before. But once we started talking, we addressed certain issues, and asked for connections so that we can move forward on our campaign and they were very helpful. Talking to the Youth Commission was actually quite exciting. We enjoyed knowing that we were talking to youth who have influence on decisions made about youth in the city. In our opinion, we feel youth tend to be a forgotten population in politics. Our next steps are to analyze the data we collect from our surveys and use the information to create focus groups with children of incarcerated parents, policy makers and service providers before narrowing down our campaign platform. We are excited for what is to come this year with Project WHAT! and to be part of creating real changes.



Youth Advocates Desirae, Arvaughn, Jessica, Angelina, Daniel, Vanessa, and Azizi presenting at the SF Youth Commission.

Project WHAT! Advocates Visit the State Capitol



My name is Daniel Yan and I have been part of Project WHAT! since the summer of 2013. I go to Mission High School in San Francisco and will be graduating in May 2013. I initially joined Project WHAT! because I wanted to earn money over the summer, but it turns out that the friendships, knowledge, and self-satisfaction I have received from the program can never be measured with money. Before joining Project WHAT!, I thought I was one of few children with an incarcerated parents in the nation, so I'd been hiding my special identity because I was not proud of being a child with incarcerated parent. Joining Project WHAT! has helped me realized I'm not alone, and I can do something to improve the prison system.

On February 11th, 2014, 11 Project WHAT! Youth Advocates traveled to the State Capitol to testify against solitary confinement, also known as the SHU. Solitary confinement is a special form of imprisonment that isolates prisoners from human contact, with the exception prison staff. The reality is much worse than it sounds. This sort of isolated treatment deteriorates the mental health of prisoners. I was so excited about our field trip to Sacramento. I had been to Sacramento once for a soccer tournament, so I barely had time to explore the city, not to mention visiting the California State Capitol and speaking in front of our Legislature.

As I lined up to testify, I was so nervous I could barely focus on stepping forward. By the time I stood in front of the microphone, I had already forgotten everything I planned to say. I read off my phone and added my feelings to de-legalize solitary confinement. Here is my testimony:

"My dad is living under political asylum in the United States. He was arrested in China for corruption and was put in the SHU for five years due to his special identity. Later he was deported to the United States for having an aggressive political attitude. As a child of an prisoner who was in the SHU, I've experience first-hand how my father's personality has changed. As a father and husband, he used to be supportive, but now his aggression ruined his marriage and career. Solitary confinement is designed to stop aggressive behavior but it stimulates aggression by isolating inmates. So please stop solitary confinement not only for the inmates, but for their family members who are praying everyday that the person who gets out of the jail will still be the person they use to love. I cannot believe this wonderful country who accepted my father when he had nowhere to go is doing the exact same thing as the Chinese government."

I felt nothing but pride after testifying. I kept telling people that I would become part of the history and that is exactly how I feel, I am a part of history!

What I want you to know about children with incarcerated parents is that we are a group of children who seem to be rare, but actually we are around you every day. You were born with a pair of dear parents, and so were we. Your childhood was filled with joyful memories about the time you spent with your parents, but ours weren't. You love your parents and want them to be around you all the time, and so do we. You feel like you can't live without either one of your parents, but we had to. Please try your best to help us, not only because of what we have been through, but because we are also the future of the United States of America.

2013 Scholarship Recipient

Jalea Hill, Project WHAT! Alumni, Fresh Woman at Sacramento State University, 18

A scholarship fund for children with incarcerated parents has been our long-time dream. In 2012, we took a chance to fundraise for our college bound youth and were successful. In year one, we provided scholarships to four youth. Three years later we are proud to double that number, sending eight youth to college with support to pay for necessities such as books and registration fees. We could not have done it without support from our generous donors. Thank you for showing our youth that their dreams matter!



1. What is your favorite class? One of my favorite classes this semester was Introduction to Psychology. I've always been interested in psychology, so I jumped at the chance to take this course, even though it was at 7:30 am. I had a love-hate relationship with this class. I hated waking up, but I loved learning about the human mind and how people's mindsets affect their actions. This was by far the best class.

2. What is your major?

Right now my major is social work. For a while I was thinking about changing it to psychology, but I decided to minor in psychology

instead, so I could study two subjects I like.

3. How was your transition to college?

I had a difficult time at first because I had to adjust to being alone. I went from seeing my family and friends every day to not seeing them at all. Once I started to meet people, things got better. I don't feel as alone, which is nice.

4. How did Project WHAT! Influence your college experience?

Project WHAT! has influenced my college experience in many ways, but mostly I've been able to advocate for myself better.

5. How did the scholarship fund help you with your first semester of college?

The scholarship fund helped me buy the textbooks I needed for my first semester classes.

6. Tell us about an exciting moment that has helped shape your college experience.

When I first moved into the dorms, the Residential Assistants hosted a freshman welcome weekend. They put together movie nights, tie dye T-shirts, toga parties, volley ball tournaments, and mixers. Everyone was really welcoming and whenever they saw someone alone they went to talk to them and invited them to join others. I met some great people at the mixer. There was music, food, and lots of dancing. I'm not big on dancing but it was really fun. From that welcome weekend I realized how welcoming other people could be.

7. What do you like most about college?

Something I love about college is the freedom. I get to pick what classes to take, the days and times, and how to spend my free time. The professors challenge you and you have to be responsible for yourself.

8. Is college what you expected?

College is not what I expected at all. In movies and television, college is portrayed as one huge party and that is not how it is at all. Yes people go party, but it's not everyone, or as big as movies make it out to be.

What Project WHAT! Means to Us



One of the many things that I like about program is that we are a family. No matter what I may be going through, I can always go to Project WHAT! and feel better, and they will always be there to support me. Being a part of program reminds me that I am not alone and that there are other people around who can relate to me as well as people who I can go to if I ever need anything.

Alisha, 21



This program has given me the opportunity to feel comfortable in my own skin. Project WHAT! has taught me to embrace the life I live and background I come from. Through this job, I have learned more about myself as well as about other children with an incarcerated parent. This program is more than a job, but is a part of who I am and has influenced who I want to be.

Desirae, 17



This program has really helped me get through major obstacles. I never wanted to speak about my father's incarceration before. The fact that other people were in the same situation helped me feel more comfortable about speaking out to the group. I finally feel free from the internal pains that were affecting my everyday life. The most valuable thing I've gained from Project WHAT! is appreciation. Listening to other people's stories I realized a lot of people have it harder than me. That made me reflect on myself and I wrote my mom a letter of how much I appreciate her being in my life. That shows how much you can gain from hearing another person's story.

Lorenzo, 17



Since being in this program I have learned to take risks and step out of my comfort zone. Being out in the community with Project WHAT! is such a moving experience-to feel and be a part of something bigger that may have a huge impact on my community. Getting to be a part of that is undeniably life-changing.

Angelina, 15

Join us for our 2nd Annual Project WHAT! Fundraiser at SomaR:
Give your green for a celebratory Happy Hour to support

**Project WHAT!'s Scholarship Fund
to send 8 of our youth to college this year!
Wednesday, March 19th from 5:30-8pm**

Bring your wallet for drinks and raffle prizes, appetizers will be provided! (21+)
SomaR is located at 1727 Telegraph Avenue, Oakland
(near the 19th Street BART Station)

SomaR will generously donate 15% of all bar proceeds for the duration of our fundraiser

Happy 2014 from the Project WHAT! Family!



Like us on facebook: <https://www.facebook.com/CWProjectWHAT>
Visit us online at or donate to our scholarship fund at:
<http://www.communityworkswest.org>



RESOURCE GUIDE

for Teens with a Parent
in Prison or Jail

To download the full 80-page guide,
visit the Community Works website at:
www.communityworkswest.org

To contact Project WHAT! or Community Works,
email: cw.project.what@gmail.com or
call 510-486-2340.

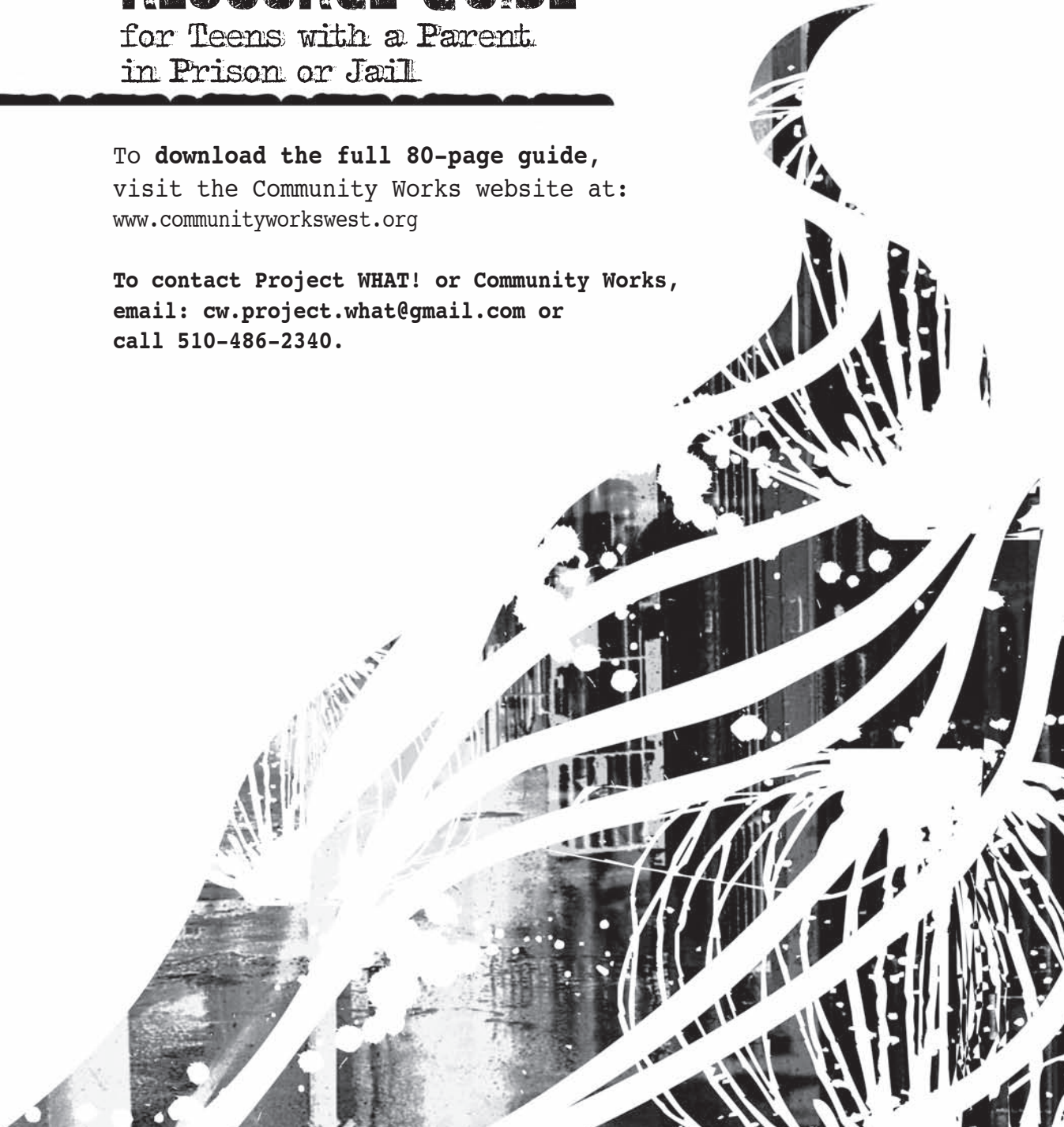




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