

The San Francisco Sentencing Commission

City & County of San Francisco

(Administrative Code 5.250 through 5.250-3)

AGENDA

September 14, 2016

10:00 a.m. – 12:00 p.m.

Hall of Justice

District Attorney Law Library

850 Bryant Street Room 322

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 June 15, 2016 (discussion & possible action).
4. Staff Report on Sentencing Commission Activities (discussion & possible action).
5. Law Enforcement Assisted Diversion Workgroup Update by Laura Thomas, Drug Policy Alliance (discussion & possible action).
6. Presentation on Risk/Needs Assessment 101 by Michael Thompson, Council of State Governments Justice Center (discussion & possible action).
7. Presentation on Risk, Race & Recidivism: Predictive Bias and Disparate Impact by Jennifer Skeem, UC Berkeley (discussion & possible action).
8. Presentation on COMPAS Validation with Mentally Ill Offenders by Sarah Picard-Fritsche and Warren Reich, Center for Court Innovation (discussion & possible action).
9. Members' comments, questions, and requests for future agenda items.
10. Public Comment.
11. Adjournment.

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**The San Francisco Sentencing Commission
City and County of San Francisco
(Administrative Code 5.250 through 5.250-3)**

**Meeting Minutes
Wednesday, June 15, 2015
10:00 a.m. – 12:00 p.m.
Hall of Justice, Room 322, DA Law Library
San Francisco, CA 94102**

Members in Attendance: George Gascón (San Francisco District Attorney; Jeff Adachi and Simin Shamji (San Francisco Public Defender’s Office); Reentry Council appointee Joanna Hernandez (Five Keys Charter School); Karen Roye (Reentry Council); Craig Murdock (Department of Public Health); Chief Juvenile Probation Officer Allen Nance (Juvenile Probation Department); Steve Raphael (UC Berkeley); Vicki Hennessey (Sherriff); Beverly Upton (Family Violence Council); Chief Kenton Rainey (BART); Lee Hudson (Adult Probation).

1. Call or Order; Roll Call

At 10:09 a.m., District Attorney George Gascón called the meeting to order and welcomed commission members and members of the public to the San Francisco Sentencing Commission meeting.

2. Public Comment (discussion only)

No public comments received.

3. Review & Adoption of Meeting Minutes from March 30, 2016 (discussion & possible action)

District Attorney Gascón asked commission members to review minutes from the previous commission meeting and asked whether anyone had comments or edits.

There were no comments. Public Defender Jeff Adachi made a motion to accept the minutes from the March 30, 2016 meeting, seconded by Karen Roye.

4. Staff Report on Sentencing Commission Activities (discussion & possible action)

Tara Anderson provided an update on the Sentencing Commission activities.

The Recidivism Work Group, which met twice since the Sentencing Commission last convened. They worked on identifying how data collection and analysis at the three subsequent criminal justice points of contact—re-arrest, re-arraignment, and re-conviction—can better inform our work. They are also looking into defining a cohort that they will be following over time and establishing parameters as a next step from their last work group. Anderson and other key members of the work group are going to pull a sample to help define the cohort, looking at characteristics of the individuals who have subsequent contact with the criminal justice system.

Alissa Skog, Policy Fellow, and Anderson applied for and were accepted to be part of the GovLab coaching program. Over the course of the summer, they will participate in a peer-to-peer coaching work group to inform the design of a San Francisco recidivism dashboard. This dashboard will offer an interface that would allow key decision-makers to review information in real time and make decisions about resource allocation for supervision or programming. It would also be a tool to inform the public about how we are collectively reaching our goal to reduce recidivism in the criminal justice system.

The City and County of San Francisco has also signed on to participate in the White House data-driven justice initiative. The San Francisco Police Department joined a different data-driven initiative, but this initiative is more global and would include exposure to systems that are used in other jurisdictions that facilitate data and resource sharing across sectors, with a particular eye to the challenges that can occur when sharing data amongst criminal justice partners. We see this as a great resource to move forward the mission of the Sentencing Commission.

The Crime and Justice Research Alliance launched an information bank in May 2016. Professor Steve Raphael is a member of that research group. We are investigating how we can use scholarly research to inform the work of the Sentencing Commission and its overall goals.

Assistance Before Law Enforcement (ABLE), which is the new name we decided upon after discussion regarding law enforcement-assisted diversion. We have trainings and focus groups with BART police line officers and the San Francisco Police Department in the coming weeks. We secured funding for the Drug Policy Alliance to help facilitate these trainings. We finalized the key agreement for the policy coordinating group—an agreement about who is coming together to determine the criteria and referral process for ABLE. The next step is to get all partners to agree on the policy coordinating group, although the agreement may look a little different for BART police when compared to SFPD staff. The group visiting from Seattle's Sheriff's Department LEAD program joined us in these meetings, and we appreciate the expansion of those who want to join us in these discussions to benefit San Francisco.

Karen Roye then provided an update from the Reentry Council, which met on March 23, 2016. At the meeting, there was a continuing discussion about the impact of court-ordered debt as a barrier to reentry. Staff for the Lawyers' Committee for Civil Rights discussed their report on the challenges to court-ordered debt as a call to find alternatives to this debt as a strategy to reduce racial and ethnic disparities in criminal justice-impacted communities. There was also a presentation regarding proposed changes to the California State regulations regarding considerations of criminal history in employment decisions. It was agreed that the Reentry Council would send a letter to the California Fair Employment and Housing Council in support of the proposed regulations. The next Reentry Council meeting will be held on Thursday, June 30 from 10 am – 12 pm at the African-American Arts & Cultural Complex (762 Fulton Street, San Francisco). The meeting will include a continued discussion about fines, fees, and court-ordered debt, as well as a report concerning the five community meetings that have been held regarding racial and ethnic disparities.

Beverly Upton provided an update from the Family Violence Council, which met on May 18, 2016). The Council reviewed several key issues, including the gun relinquishment program being by the Sheriff's Department based on a model in San Mateo; and the formation of the elder justice subcommittee, organized by nonprofits and stakeholders in the District Attorney's office to address the physical and financial abuse of elders. In addition, the Council wants to be a content expert on the ongoing gun safety conversations. The Council also worked on a five-year plan to determine the necessary steps to end elder and child abuse and domestic violence. The plan was sent to the mayor, although they have yet to hear back from his office; the Council hopes that the plan will serve as a living, breathing document subject to input and revision. The next meeting of the Family Violence Council is August 31 at the courthouse (400 McAlister, 6th Floor Conference Room).

Tara Anderson provided an additional update on ABLE/Law Enforcement Assisted Diversion. Senator Hancock's bill, SB1110 is currently moving through the budget process, and if it is successful, it would create a fund through the Board of State and Community Corrections (BSCC) to fund a competitive grant program to enable select counties to pilot law enforcement assisted diversion. San Francisco would be very well positioned to benefit from this possible grant opportunity.

Chief Rainey noted his deputy chief, who represented his office at the last Sentencing Commission meeting, raised the concern that San Francisco might not be competitive enough for that funding because the local program is called ABLE, not LEAD.

District Attorney Gascón responded that this issue has been a concern of his office from the very beginning. The DA wants to stay true to the LEAD process and explained that his office would not support the initiative unless there was fidelity to the model, which he noted was very important in light of data regarding program implementation and outcomes. DA Gascón assured Chief Rainey that he shared his concern, especially because it might be challenging to get funding as LEAD is a nationally recognized name, where ABLE is not. DA Gascón also noted that the Public Health Department was involved in the name change, and invited Craig Murdock to speak on the matter.

Murdock explained that the Health Department Director had a conversation with police and other stakeholders in the process, and through negotiation proposed the name ABLE.

District Attorney Gascón then asked if anyone from the Drug Policy Alliance was present to speak on the matter of the LEAD name change, however no one was present.

He then made a motion to review the details of the negotiation regarding the name change of the LEAD program with both the San Francisco Public Health Department and the Drug Policy Alliance.

Karen Roye seconded the motion, which passed unanimously.

District Attorney Gascón opened the floor for public comment on the motion. No comment was received.

Tara Anderson noted that the Drug Policy Alliance has been very involved in the education advocacy efforts for the LEAD program at the state level. They are working to ensure that the core principles of the model have been distilled such that if a jurisdiction names the program something different, they would not be disqualified from the funding opportunity.

Jeff Adachi and Vicki Hennessey both asked for clarification regarding the new program name.

District Attorney Gascón responded that the new program name is Assistance Before Law Enforcement (ABLE).

5. Presentation on Project WHAT! by Alisha Murdock, Community Works West (discussion and possible action)

District Attorney Gascón introduced Alisha Murdock from Project WHAT!, an initiative of Community Works West, to discuss the collateral consequences of arrests and incarceration on children and youth. WHAT stands for "We're Here and Talking." The program is designed to raise awareness of the impacts on children with incarcerated parents and has a long-term goal of improving services and policies that affect young people.

Alisha Murdock explained that she is one of the program coordinators for Project WHAT!, as well as an alumna of the program. She then introduced the youth facilitators, Arvaughn Williams and Luna Garcia.

The pair explained that there are 2.7 million children of incarcerated parents as of 2013, and that the two main goals of Project WHAT! are to: 1) raise awareness of the impacts of having an incarcerated parent; and 2) change policies and services that affect children of incarcerated parents.

They also shared the process for developing and executing the Project WHAT! survey. The data collected from the survey illustrated the trauma many children of incarcerated parents undergo, for example, when they see a parent or guardian arrested.

Project WHAT! developed ten policy recommendations from the data collected from the survey, five of which have been successfully adopted in the previous year, including new curriculum regarding incarceration in the San Francisco Unified School District; an updated “Inmate Locator” tool; and a reduction in visiting age to 16 years of age, with parental consent.

Williams then shared an essay about his personal experience as the child of an incarcerated parent, followed by opportunity for Q&A.

Chief Allen Nance thanked Williams for sharing his story, and noted that as Chief of the Juvenile Probation Department, he sees many children with incarcerated parents. Chief Nance applauded Williams for his participation in Project WHAT! and his ability to put into words how many youths with incarcerated parents feel.

Public Defender Jeff Adachi concurred with Chief Nance’s sentiments and invited Williams and other Project WHAT! participants to attend a screening of a film called *Restore Me*, about the relationship between a man who is incarcerated and his daughter. He also invited Williams, Garcia, and other members of Project WHAT! to present their personal stories to the Public Defender’s Office.

District Attorney Gascón asked if there were any further questions.

Beverly Upton also thanked the youth for sharing their experiences with the Sentencing Commission.

Gascón also thanked the Project WHAT! presenters, and asked for clarification about the fifth and most recent policy success for the program.

The youth explained that the San Francisco Unified School District will provide services for children of incarcerated parents in the upcoming school year.

Gascón then asked for more information about the outstanding policy recommendations issued by Project WHAT!

Williams responded that the program is currently working to pass the recommendations.

Gascón asked if the program is getting enough support for these recommendations to be adopted.

Alisha Murdock interjected that Project WHAT! could always use more help in advocating for their policy proposals.

Gascón suggested that Project WHAT! coordinate with the District Attorney’s Office after the Sentencing Commission meeting, noting that many of the proposals seem reasonable and that his office can help to move the Project WHAT! agenda forward.

Joanna Hernandez then asked if Project WHAT! is open to serving siblings of incarcerated adults, especially young adults (18-24 years old). She mentioned that she sees many 14 and 15 year olds whose elder siblings are incarcerated and lack the support Project WHAT! provides. She also asked about “goodbye visits” for parents of young adults who are incarcerated.

Murdock explained that Project WHAT! is specifically designed to serve children of incarcerated parents. She also noted that the program is trying to determine other models that could enable them to expand to address the needs of those in the 18-24 age range, though they do not specifically serve those whose siblings alone are incarcerated. With respect to goodbye visits, services depend on the county and jail in which the parent is incarcerated. If the other parent or guardian does not want to take the youth to the jail for a goodbye visit, Project WHAT! will coordinate resources to facilitate the visit.

District Attorney Gascón asked if the Sentencing Commission would like to engage with Project WHAT! to support their recommendations.

Karen Roye made a motion to support the Project WHAT! recommendations. Steve Raphael seconded the motion, which passed unanimously.

Gascón opened the floor for public comments. None were received. He informed Alisha Murdock and the Project WHAT! youth facilitators that the Sentencing Commission would work with them to identify next steps and report back at the next quarterly meeting.

Jeff Adachi excused himself from the meeting; Simin Shamji took his place to represent the Public Defender’s Office.

6. Presentation on the “Sentence Unseen” by Katie Kramer, The Bridging Group and Children of Incarcerated Parents (discussion and possible action)

District Attorney Gascón explained that in 2014, the Alameda County Children of Incarcerated Parents Partnership (ACCIPP) and the San Francisco Children of Incarcerated Parents Partnerships (SFCIPP) collaborated with their respective County Sheriff’s Departments to survey more than 2,000 individuals incarcerated at the local jails. The purpose of the survey was to identify who within the Alameda and San Francisco County Jail Systems is a parent of a child or children 25 years old or younger, better understand how children are affected by their parents’ incarceration, and identify what resources are required to enable children to sustain a relationship with their parents during incarceration and after release. He introduced Katie Kramer, CEO of The Bridging Group and a member of the SFCIPP Steering Committee to present to the Sentencing Commission.

Katie Kramer explained that she represents a wider group of SFCIPP members, many of whom are in the audience and/or have attended past Sentencing Commission meetings. She also noted that she has worked very closely with Project WHAT!, which is part of SFCIPP. She noted that while there is increasing support for the effort to acknowledge children of incarcerated parents, rarely is the voice of those children part of this discussion; having Project WHAT! present is very important as SFCIPP goes forward with its work.

Kramer explained that SFCIPP partnered with the Sheriff's Department to issue the survey in 2014. The collaboration with both the Alameda and San Francisco Sheriff's Departments was critical, as children and families do not always live in the counties where their parents are incarcerated. This is particularly true in the Bay Area where county borders are quite porous as a result of economic and other conditions. To present a project that was done by sister counties makes the findings just that much more powerful. Kramer also took a moment to recognize both of the Sheriff's Departments, who were willing to pitch in and conduct the survey jail-wide. This effort is, as far as they know, the first ever in the country to systematically collect local-level information about children of incarcerated parents. To be able to do this project locally is really leading the way nationally; SFCIPP has already been contacted by other jurisdictions about the possibility of replicating this survey.

Kramer went on to indicate that SFCIPP provided presentation slides and the complete report to the Sentencing Commission, and that her presentation would highlight the San Francisco, but not the Alameda County data (about which information is contained in the executive summary of the report).

Kramer explained that SFCIPP is a partnership formed in 2000, with support from the Zellerbach Family Foundation. It is a joint public-private partnership and a leading coalition in the county working to bring the issue of children of incarcerated parents (CIP), specifically, to the forefront of local and county-wide services, practices, data, and policy.

Sheriff's Departments in both counties jumped on board and helped with the data collection, which was conducted in October and November 2014.. SFCIPP made the survey available to anyone who was in custody at the of the assessment. SFCIPP employed a full, independent team who conducted the surreys in the jails. They made a conscious choice not to present themselves as a representative of the Sheriff. Instead, they went in as SFCIPP and service providers, including a very large representation from Community Works and Center for Juvenile and Criminal Justice (CJCJ), who are known entities to many in custody, along with several formerly incarcerated individuals and the adult children of incarcerated parents.

All study team members were trained and certified in Human Subjects Protections as required by the Interval Review Board (IRB). Through the IRB process, and for ethical reasons, SFCIPP determined that individuals housed in solitary confinement, disciplinary housing units and/or housing units for individuals with severe mental illness were not eligible to participate in the survey. That said, SFCIPP did work with the jail psychiatric teams to survey individuals in the mental health units at the jails who did have the capacity to participate.

SFCIPP conducted surveys in both English and Spanish, and provided small snacks and resources during the survey window. Participants completed the surveys anonymously.

The primary survey outcome was that SFCIPP was to truly identify, for the first time, who within the Alameda County and San Francisco County Jail Systems is a self-identified parent of a child (or children) 25 years of age and younger. SFCIPP was able to gather basic information about these parents in order to gain a better understanding of how children are affected by their parents' incarceration, and to determine what kinds of resources are needed to maintain contact and relationships with their parents. Kramer noted that it was very important to SFCIPP that the survey captured the parents' perspective on how their incarceration impacts their children, as this often differs from the experiences and/or opinions of the children themselves.

In San Francisco, SFCIPP offered the survey to 991 participants, at a time when the total jail count was roughly 1300. Of the 991 survey participants, 907 (91 percent) completed the survey, which is a very high completion rate. There may be many reasons for the high completion rate, including the snack motivation;

however, SFCIPP also found that people in jail felt truly compelled to tell their stories—to be heard and seen as a parent inside of jails, and not just as a person who committed a crime.

Kramer noted that that participants' desire to tell their stories was a significant motivator, especially among fathers. In analyzing the differences in data between mothers and fathers, we found the stories of fathers in particular do not always get told. So, many fathers who participated in the survey were especially motivated to be heard and talk about themselves as fathers, regardless of the type of relationship they have with their children.

Kramer showed a distribution of the number of surveys completed per jail, and explained that of the 907 survey participants, 536 were self-identified parents of children under 25 years of age. Based on the data, we can definitively say that, at that point in time, roughly 60 percent of people in San Francisco's jails considered themselves parents or primary caregivers to minor or dependent children—a data point that we did not have prior to conducting this research. Those parents were parents to 1,100 children.

Kramer then presented some basic demographic information about the parents. The ethnicity of parents surveyed more or less mirrors that of the population of the jail as a whole. With respect to gender categories, some survey respondents identify as transgender. For those individuals who self-identified as transgender, some were residing in the designated transgender housing area, though not all.

The children's demographics show that the average age of children was 9 years old; gender ratios were roughly 50-50 male/female; and that the ethnicity of the kids more or less paralleled that of their parents, though there was a little more multi-racial and mixed-ethnicity identification among the children, reflective of the Bay Area. The collection of language data for children was a little different from that for parents: surveys only captured the primary language spoken by children at home.

Kramer noted that although none of the findings of the SFCIPP survey were particularly groundbreaking, the survey allowed them to link anecdotal evidence to concrete, rigorously-collected data. Some of the key findings of the SFCIPP survey included:

- Over 60 percent of individuals within our jails self-identify as parents.
- Parents incarcerated in our jails are disproportionately people of color, in keeping with racial disparities in incarceration more broadly.
- On any given day, at least 1,200 children in San Francisco (a conservative estimate) have a parent in jail. Kramer explained that this number may be different today, as the jail population is changing, but we can say that we daily have over 1,000 children with a parent in our local jails. If we extrapolate that over time, across patterns of incarceration over the year, we're looking at tens of thousands of children.
- Children experience multiple cycles of parental incarceration that may exacerbate the isolation, stigma, and disruptions that occur in their lives. Kramer described that, in particular, SFCIPP asked, "How many times have you been incarcerated?" and, "How many times have you been incarcerated since become a parent?" The key here is that a number of participants have had more than one incarceration: 30 percent of respondents report that their children had experienced six or more instances of incarceration.
- Forty-four percent of participants reported that their own parents had been incarcerated. Kramer explained that this data point is important because, as Chief Nance has noted, while SFCIPP chose to hear from adults first, we need to understand who in our juvenile justice system has parents who are incarcerated, or if they themselves are parents. That said, it is important to note that having an incarcerated parent does not make the child six to nine times more likely to be incarcerated themselves. This is a common myth which research has debunked. When we talk

about multi-generational cycles of incarceration, we must be careful not to project the futures of children, instead of talking about the impacts on their present conditions.

- Forty-eight percent of children identified by survey respondents live in San Francisco County. Kramer noted that while not all incarcerated parents may have up-to-date or entirely accurate information about where their children are staying, the information was still important to determine as best possible within the constraints of the survey. When we add in the local Bay Area counties, we find that over 75 percent of these children are living locally. This data suggests that we have opportunities to keep these children connected to their parents. Kramer mentioned that this trend may change in response to demographic shifts and displacement.
- There are barriers to maintaining contact with children and their parents. Parents self-reported several barriers to reach out to their kids, including the cost of phone calls. Kramer noted that it would be worth investigating this particular barrier, as the costs of phone calls have been going down—an effort in which San Francisco’s current and former Sheriff have led the way, although they have not yet been able to eliminate the barrier altogether by offering free calls.
- When asked, “Do your children know you are in jail right now? If they do not know, where do they think you are?” survey respondents that identified as parents indicated they sometimes tell different stories told to their children to protect them. Kramer explained that these results run counter to the fact that honesty is still better for most children. The more SFCIPP can do to help incarcerated parents know those connections are important, the better off the children will be.
- Thirty-four percent of participants reported receiving jail visits with at least one child. Kramer went on to say that this data point is complicated in and of itself. There are a variety of reasons why some people do not have jail visits, including the fact that some people are in and out of jail before someone can visit. On another note, this data point is a moment to appreciate San Francisco’s leadership: of those, 56 percent were contact visits (where children have a chance to hug and touch their parents), which is much higher than most jails throughout the country.
- The vast majority of parents—94 percent—do plan to reconnect with their children after their release. Kramer noted that SFCIPP did not define ‘reconnection,’ thus it does not necessarily mean living in the same home and being a primary provider to their children. She then asked the Sentencing Commission, and members of the public, to think how they can serve this community, to help facilitate a safe and happy reconnection.

Kramer then concluded her presentation with a few requests of the Sentencing Commission. She identified three recommendations from the Sentencing Commission’s 2015 Annual Report that could be expanded to address the needs of children of incarcerated. For example, as the Commission is looking to increase data collection, it should consider adding data points relating to parental incarceration and how it affects children. Kramer underscored how much SFCIPP learned from the survey process and expressed an interest in sharing what the organization did well and what it could have done better.

She explained that if the Commission chooses to collect these data points, it must be sure to do so intentionally and thoughtfully, and ensure that the voices of children and formerly incarcerated parents are part of that discussion. There was much concern on the part of respondents about the survey questions; many of them treated the survey with suspicion, asking if it was for child support, child welfare, Immigration and Customs Enforcement (ICE), and so on. Kramer re-emphasized that these questions remain important to ask, but that they must be asked with support and intentionality.

Kramer also noted that it is important for the Sentencing Commission to expand its membership so that it can include voices of formerly incarcerated people at the table. SFCIPP also encourages the Commission to include the voice of a youth or an adult child of incarcerated parents, because they could offer a different voice than that of a formerly incarcerated individual.

Finally, Kramer suggested that, as the Commission is looking to incorporate trauma-informed approaches, there are some very innovative trauma-informed approaches happening in San Francisco—the goodbye visits that Joanna (Hernandez) already talked about one good example, but we need to expand these approaches from small pockets of services to coverage for all. Similarly, while the arrest protocols with the DA and the Police Department are a strong starting point, we need to follow up with implementation and accountability so that those arrest protocols are happening for all.

District Attorney Gascón asked if there were any questions or comments from the members of the Commission.

Professor Steve Raphael had a question about visitation. He explained that in the Federal system, at least in several locations, there has been some experimentation with video visitations with kids. The technology is fairly cheap. For the people who are doing it, there are perhaps some salutary behavioral benefits in terms of institutional misconduct. He asked if it was possible, physically or in the budget in the Sheriff's Department to explore this option as an additional resource, expressing that he does not know how much it costs.

Sheriff Vicki Hennessey responded that it is possible for the Sheriff's Department to explore this problem. She noted that we want to be wary of making video visits the standard, because we do not want it to replace face-to-face interaction. The issue is a big concern of jurisdictions with which Sheriff Hennessey has spoken. She explained that video visitation should not become a substitute for in-person meetings, because if it is cheaper and easier—and it is—it could easily replace other visits, which should not happen.

Kramer added to this answer, explaining that research indicates that some jurisdictions are making a complete shift to video visitation, which is dangerous. She emphasized the need for good, honest conversations with criminal justice partners who understand that fact; if we revisit the SFCIPP data that shows 56 percent of visits are contact visits, we would not want to see that number decrease as a result of video visitation. If we can shift that value to 60 or 70 percent, and have the remaining visits, for those individuals who may not be getting any visits, shift to video visits, that would be an appropriate use of the technology. It should act as a substitute for the children who are not getting visits, not for those who are.

Chief Nance asked about the SFCIPP's use of parents and caregivers combined, and asked if there was any attempt to examine custodial parents to see if the data looks different depending on whether a custodial or noncustodial parent was surveyed.

Karen Roye interjected to say that when a parent is incarcerated, they become a noncustodial parent.

Chief Nance clarified that his question had more to do with the parent's custodial status before they were incarcerated.

Kramer explained that SFCIPP struggled with that question, and this was an area in which they learned from some mistakes in the survey process. They used the word, "custody" twice in the survey—once, in the sense of being in custody, and another in terms of having custody over one's child. Moreover, evaluators let survey respondents self-define, allowing people to identify as parents or primary caregivers regardless of legal custodial status (which many people did not know). This choice was made deliberately, especially because SFCIPP wanted to hear from fathers who may not have been in their children's lives. The survey did ask what the parent's relationship was like with their child before they had been incarcerated, and Kramer suggested that SFCIPP could have discovered more information on that point had they developed a longer survey.

Chief Nance followed up by asking if there was a higher percentage of women who are custodial parents as compared to men.

Karen Roye responded that we can answer that question with respect to child support. The majority of incarcerated parents are noncustodial parents. There is a population in San Francisco of about three percent, however, where the parent was custodial prior to sentencing and incarceration. She thanked Kramer for SFCIPP's work, especially with regard to the point of understanding parenting with respect to child support and the relationship between parents and children. She noted that the Reentry Council has been working with the SFCIPP team to see if there is a way to combine the two to see how they can learn not just about the fiscal relationship, but also an emotional one that is healthy and supported.

Roye also to mention that the number of children that are in foster care in San Francisco (roughly 62 percent) may skew some of the numbers with respect to the number of children that are living outside, because although their county of origin may be San Francisco, they are temporarily placed in foster care outside the county. She suggested that SFCIPP consider that fact in their research.

Kramer responded that SFCIPP may be able to look at that information further, although the survey did ask if parents were living with their children before incarceration, which allowed them to understand less about legal custodial status and more about living arrangements and relationship between parent and child.

District Attorney Gascón interjected to move the meeting forward, asking if there were any last burning questions from anyone on the Commission. There were no further questions. Gascón noted that Kramer made several recommendations and suggested that the Sentencing Commission make a motion to have staff approach various stakeholders involved in the recommendations and report back to the Commission during the next meeting.

Beverly Upton made the motion. Craig Murdock seconded the motion, which passed unanimously and without public comment.

7. Presentation on Enhancing Trauma-Informed Practices by Gena Castro Rodriguez, Chief of Victim Services at Office of District Attorney George Gascón (discussion only)

District Attorney Gascón introduced Dr. Gena Castro Rodriguez, Chief of Victim Services at the District Attorney's Office, to present on enhancing trauma-informed practices.

Dr. Castro explained that the Victim Services Division includes the Advocacy Program, the Compensation and Claims Unit, the Restitution Unit, and the Sentencing Planning Unit. She said that she wanted to provide an update on the work her division has been doing over the last year to improve and enhance those services.

She noted that though the Victim Services Division had a large number of advocates who were taking cases ranging from general litigation to homicide cases, they were all generalists. About one and a half years ago, the Division put those advocates into teams by crime specialty to parallel the work that the Assistant District Attorneys (ADA) are doing. The division now has units in Intake, General Litigation, Domestic Violence, Elder Abuse, Sex Abuse and Exploitation, Sex Assault, Human Trafficking, Homicide, and a Juvenile Division. Organization by crime type which allows the Division to not only provide better and more specific supervision, but it also allows them to deliver specialized training to each of those teams so they can better serve the different kinds of victims.

Last year, the Division served almost 8,000 victims of violent crime. The Division has yet to expand to serve victims of misdemeanor, non-violent crimes. As it is, the advocates carry caseloads of roughly 600-700 victims a year. The Division has been able to increase its advocacy team by about 25 percent; by the end of next week, they should have 36 staff members as part of the Victim Services Division.

The Division has also tried to improve both ongoing and up-front training for the Victim Advocacy team. They now have a two-week advocacy boot-camp for new staff members (of which there have been 12 under Dr. Castro's leadership). This boot camp helps to train new staff not only on how to be a victim advocate and work in the Division office, but also on how to be more aware of and responsive to the trauma of victim.

The Division advocated for AB 1140, which expands the capacity to serve victims of crime. Dr. Castro noted a few highlights that were important to the Victim Services Division, which the Division's Deputy Chief, Jackie Ortiz, pushed for through the victim-centered wording of the legislation. One success was to remove the requirement in the initial draft bill that domestic violence clients must participate early in the process. Another was to change the status for people on probation so they can be treated as a victim of crime and served while on probation. A third was to change the amount of money allocated to someone who had been a victim of homicide to conduct funeral services for their loved one, which increased from \$5,000 to \$7,500.

The San Francisco Victim Services Division is able to supplement this new State funding with an internal pool that allows it to compensate victims that are ineligible for State funding. For example, eligibility for the State funding often requires a victim to cooperate or participate in the investigation. Oftentimes the anticipated re-traumatization that the victim and/or their families would experience prompts them not to participate. The Victim Services Division can use its internal funding to compensate these victims who are ineligible for State funding, but nonetheless need the support.

The Division was also able to expand the services for which it can pay. As an example, the division can now issue funding to help people access mental health services immediately. Finally, the Division is able to be more creative with the type of funding they can offer to do everything from helping pay for caregivers to come into a home, to getting food for people, to moving people into hotels or to get them out of the city very quickly. The way the Division is using money now is very responsive to the needs of individual victims, and the advocates have become very good at assessing needs and thinking outside of the box while helping to get people to safety.

Dr. Castro then explained that in the Claims area, there have been some very drastic changes. Jackie Ortiz and Maria Cava spent the last year drastically reducing denials of victims' compensation. In San Francisco, the Division not only assists with filling out forms and applications for victims of crime, they also process those claims for San Francisco. In the last year and a half, they have decreased denials by 85 percent. One of the ways they have done that is to implement a three-step process for making a denial. If a claim does not fit the initial standards for the State, they have the advocate work very closely with claims specialists to think outside the box, to try to get documentation from other areas, to work with law enforcement and attorneys to get extra information, etc. If the Division does have to make a denial due to insufficient information or it because an application does not meet other criteria, they help that person apply for an appeal.

Additionally, the Division has helped the Claims team, which is on Brannon Street, to integrate with the Advocacy team. They have conducted significant cross-training with advocates so that they are not strictly in a claims role, but rather they better understand how to work directly with victims, the impact of trauma, and why a victim might have certain behaviors surrounding their trauma.

Moreover, the Division recently conducted a training on trauma and memory, focusing on the behaviors—especially incongruent behaviors—that can sometimes occur after trauma, and why, in the moments surrounding a police report, a victim might look like they are not cooperating, participating, or lack information. Following the trauma, given some time, those victims can actually help to advocate on their own behalf, which helps with the claims process.

The Restitution Unit has conducted training in partnership with the Adult Probation Department so that they can better file restitution for their clients. The next step is that they want to get better at collecting restitution for the victims so that compensation is one part of making the victim whole, and that restitution is the other piece that can help them get their lives back together.

Finally, the Sentencing Planning Program, came under Dr. Castro's supervision roughly six months ago, formerly known as the Alternative Sentencing Program. Luis Aroche, who was working with defendants in a pre-plea capacity to assess their needs and ability to participate in treatment, over the last six months, was able to expand that service. The program now has two sentencing planners, and they have been able to formalize the process using a new evaluation tool, which is compatible with the YASI and other tools used in the juvenile justice realm. The tool helps them to understand both the needs and capacities of the defendants they are working with.

They are also doing a comprehensive pre- and full-assessment for ADAs, which provides them with information about the needs of the defendant, their capacity to participate in treatment, and the specific recommendations of treatment that would address their criminogenic factors and other things that have contributed to their incarceration. The program also has new criteria for referrals. One of the sentencing planners focuses entirely on 18-25 year olds, so they are really trying to target young adults who have entered the criminal justice system and examine all of the factors that have led them there, and how they can make recommendations for treatment and determine how to increase public safety while they help people get better. The other specialist focuses on gang cases and all other ages.

The Division is looking to expand to misdemeanor cases where they see great opportunities for early intervention. They would also like to look at juvenile cases, where they see a lot of crossover between victim and offender. Dr. Castro went on to mention that her personal passion is for adolescents and young adults, and disrupting the cycle of violence. She noted that there is a lot of room for growth and potential in the Sentencing Planning area, a great opportunity to both provide support for victims of crime and to people who have criminal behavior, as well as to contribute to the overall public safety of San Francisco.

District Attorney Gascón opened the floor to questions from the Sentencing Commission members.

Sheriff Hennessey asked if all of the advocates of the Division are attorneys.

Dr. Castro responded that no, most are Master's degree holders with a social work focus. She explained that Victim Service staff go through 40 hours of state training and 40 hours of internal training. About one-third of staff members have been with the Division for 10 years or longer.

Sheriff Hennessey asked if these staff are classified as social workers.

Dr. Castro explained that they are classified as "Victim Witness Investigators."

Chief Allen Nance made a comment that the fact that 85 percent of claim applications are accepted is impressive. From the standpoint of a person of color, the frustration that he hears from other communities of color is that government processes are not worth the bother. That the Division advocates so fiercely on victims' behalf is huge, and he wished to commend them on their efforts.

District Attorney Gascón interjected that Dr. Castro has worked very hard.

Karen Roye also thanked Dr. Castro for her and her team's work, and congratulated them on their achievements.

Beverly Upton also thanked Dr. Castro on behalf of the domestic violence community. She noted that they see so many survivors whose trauma gets worse as they go through the system because it is magnified by the bureaucracy. So, to have a team that really understands that experience and can use the justice system as a way to heal, as opposed to magnify, the trauma is a huge benefit to the community.

DA Gascón asked if anyone else had further questions or comments. No additional questions or comments were received.

8. San Francisco Juvenile Probation Department's 2015 Sentencing Trends, presentation by Chief Allen Nance, JPD (discussion & possible action)

District Attorney Gascón introduced Chief Allen Nance's report on the Juvenile Probation Department's (JPD) 2015 Sentencing Trends, a complement to the Adult Probation Department's presentation on its sentencing trends during the last Commission meeting.

Chief Nance explained that he was sharing data from JPD's annual report from 2015, but also looking at a comparison of the data over the last five to better understand the longer term trends. He noted that the Department has worked hard to strengthen its internal data collection and analysis capabilities.

He previewed the main discussion points of his presentation: the demographics of those referred to the juvenile justice system; petitions filed and sustained (the equivalent of a guilty verdict in an adult matter); the average daily population in the juvenile hall; the disposition of youth in the juvenile system; and the priorities for the Department in 2016 and beyond.

Chief Nance reported the Department had 779 unduplicated referrals in 2015, down by more than 55 percent since 2010. When the numbers are broken down by race, 53 percent are African American and 28 percent are Hispanic. The proportion of African Americans in the system number is particularly stark, especially given the fact that the percentage of African American youth in San Francisco is roughly eight percent. Overall, the population of African Americans in the city is roughly four to six percent, so this is a very disproportionate number. With respect to Latinos and Hispanics, this population is four to eight percent. Examining the distribution of referrals by gender, 75 percent of the young people are male and 26 percent are female. We can also see the breakdown of referrals by zip code of the residence of the young person who is referred, with 17 percent coming from the 94124 area. We have a number of young people arrested in San Francisco who live outside of the city, and the Department has a number of theories as to why that might be the case.

There were 380 unduplicated bookings to Juvenile Hall in 2015, because not every referral results in a booking. This number is down 44 percent from 2010. Demographics by race, gender, and zip code are consistent with overall referrals.

In examining the petitions filed, 77 percent of those petitions were felonies. Seventy-nine percent of the male filings were felonies; 63 percent of the female filings were felonies. Of the felony petitions filed, African Americans made up 60 percent of male petitions filed and 80 percent of female petitions filed.

Hispanics made up 24 percent of male felony petitions and 12 percent of female felony petitions—so a much greater percentage of Hispanic males than Hispanic females result in a petition being filed.

Of all petitions filed, 71.5 percent resulted in a sustained petition in the juvenile justice system. Females had a slightly higher rate of overall sustained petitions, as compared to males. There were minimal differences in the rate of sustained petitions between the races. Males had 50 percent of their felony petitions sustained, while females had 47 percent of their felony petitions sustained; often, the felonies were pled down to misdemeanors. For example, when we look at African American females, only 39 percent of their felony petitions were sustained as felonies, so even though the original offense was a felony, when the petition got to the adjudication phase of the proceedings, they were charged for an offense less than a felony.

A Sentencing Commission Member asked if this trend was a result of overcharging or plea bargaining.

Chief Nance responded that he did not know the answer to that question. It is an issue that the Juvenile Probation Department could investigate in the future, in conversation with the DA's Office and other juvenile justice practitioners and police.

Simin Shamji asked a follow-up question regarding whether or not Chief Nance knows what proportion of those cases is a result of a judicial finding that the petition should not be sustained versus a plea bargain down to a misdemeanor, noting that this is an important distinction.

Chief Nance explained that the Department does have that data, and said that he would welcome the opportunity to come back at a later date to speak to these additional data points, because the Department does have the capacity to make that distinction.

Hudson mentioned that she was interested in everything—not just the charging practices, but also how personnel are arresting people. How does it start? Are personnel arresting people for the right charges? What is the role of the DA? What happens when these cases get to the courts; are they bringing down the charges?

Chief Nance noted that one of the dynamics they see quite often in the juvenile justice system is multiple juveniles arrested for the same incident. By the time the dust settles and culpability is sorted out and evidence is reviewed, there is a better understanding of what role a particular juvenile may have played. In those instances, the case either gets dismissed for a specific juvenile, or the case gets pled down from a felony for that juvenile, because they were not the primary offender. But there are a number of factors, and the Department could do a deeper dive into that data to get a better understanding of what some of those dynamics are and report back with that data.

The next slide showed the average daily population of Juvenile Hall over the last five years. In 2008, the average daily population in Juvenile Hall was 123. The Department built a new Juvenile Hall facility in 2007, going from an 80-bed facility to a 150-bed facility. In April 2008, we exceeded capacity in that 150-bed facility. That same year, the average daily population was 123. Over the course of the following years, the Department implemented a number of very important policies around detention screening. They created more capacity in the community for detention alternatives, such as evening reporting and electronic monitoring and other ways to get kids out of custody and yet still have a level of security and supervision that would keep those kids from new arrests between hearings. Subsequently, the Department was able to support these youths while they were on probation. So, last year, the average daily population in Juvenile Hall was 56. Today, our census is somewhere in the 40s—a really remarkable reduction in our juvenile justice system over the last several years.

When we examine the dispositions of adjudicated youth, the vertical axis shows the typical dispositions youth receive in San Francisco. The top bar represents what the data looked like in 2010, whereas the bottom bar shows data from last year (2015). By far, the most frequent disposition of choice is ward probation, where the youth is made a ward on a 602 petition and placed under the supervision of a probation officer. Typically, that term of probation is one year, although that term could be extended if violated, or if the youth commits a new offense. Informal probation was the second most common disposition in 2010; however, fewer than ten percent of youth received this disposition in 2015. We also see a large number of children being transferred out of County. Earlier, roughly a quarter of kids who were booked in Juvenile Hall are kids who live elsewhere, outside of San Francisco. What the Department is learning from the data is that a lot of those young people previously lived in San Francisco and have been displaced from the city as a result of lack of housing and affordability issues. Yet, they still have connections, and family, and friends, and they return to the city and unfortunately commit offenses and are detained in Juvenile Hall as a result. However, the State practice is that when a young person is adjudicated with a sustained petition, that matter is transferred to the county of residence for the disposition in those cases. This explains the increase in the number of cases that are transferred out to another county.

Another very important statistic is the out of home placement statistic. San Francisco has one of the largest out of home placement practices in the State. Many of the counties are in single digits with regard to out of home placement dispositions, where a young person is removed from the custody of their parent or guardian, placed under the authority of a probation officer, and then ultimately placed in a group home or residential treatment facility, or in some instances with a relative. The Department has been working very hard to bring those numbers down.

The last dispositional option is the Log Cabin Ranch (LCR) facility. The Department has seen an increase in the percentage of youth assigned to this disposition. The LCR facility has the capacity for 24 youth, with 13 currently in custody. This disposition is reserved for chronic, serious, and violent offenders in the system. Many of these young people have been placed in group homes or residential treatment facilities prior to their commitment to LCR. The Department recently celebrated the graduation of 9 of these youth from high school, who have completed their participation at LCR; a number of them are going on to college.

Chief Nance continued his presentation, describing Juvenile Probation Department priorities for 2016 and beyond. The Department recently replaced the Youth Assessment and Screening Inventory (YASI), which they had used for about eight years, with the Youth Level of Service Case Management Inventory (YLSCMI). This new tool is evidence-based, utilized to examine criminogenic, risk, and protective factors for young people. The Department is also moving to a new case management system, which will capture richer demographic data. What they do not yet have is the capacity to mine that data and perform analysis, so they are looking to enhance their internal capacity to do more of that work. The Department has had the opportunity to work with graduate students from the Goldman School of Public Policy at the University of California, Berkeley over the course of the last two years to do analysis on placement data and detention alternatives. As a result, the Department is learning important information about those practices, which will help them to inform policy. Chief Nance noted that he hopes to bring that data and analysis before the Sentencing Commission as well.

He explained that the Department also wishes to expand vocational training and opportunities for on-the-job training. In addition, they have a vacant space in Juvenile Hall, which they plan to repurpose to build out a "Merit Center," which will serve as an alternative to room confinement for young people. So, instead of focusing on consequences for youth when they do not do well, they are looking to build incentives for youth to behave appropriately while they are in custody. The Department plans to build out this recreation center, decorating it with murals painted by the children and community agencies, and

including features like a mobile recording studio and other activities that will help to incentivize positive behaviors. This strategy will allow the Department to focus less on confinement issues.

Senator Leno's bill (S.B. 1143) regarding how room confinement is utilized in the State, will likely pass and be signed by the Governor; if this is the case, juvenile centers will rely less on keeping kids in their rooms, and instead looking at other alternatives to their conduct as ways to keep kids and institutions safe. The Department is excited about this bill, and the Chief Probation Officers of California have endorsed this legislation as well. A prior iteration of this bill came before the Sentencing Commission, which required considerable revision; they worked closely with the Senator to make necessary changes. The Juvenile Probation Department's efforts to build a Merit Center were directly related to their desire to create alternatives to solitary confinement and room confinement.

Another big move for the State, the Department, and the juvenile justice system is the implementation of the Continuum of Care Reform Act (A.B. 403), introduced by Assembly Member Mark Stone. This legislation has completely transformed how out-of-home placements will be handled in California. It will require both the child welfare and juvenile justice realms to create a new rubric for out-of-home placements, including local facilities. The first iteration of the bill is due to be implemented by January 1, 2017, which will change the payment structure for residential facilities. But the bigger challenge for San Francisco is in building out more capacity for foster home placements for kids in our juvenile justice system, given the density and affordability concerns in the city.

Lastly, the Department is working very closely with Department of Children, Youth and their Families (DCYF) in the Juvenile Justice Coordinating Council to revise the Local Action Plan, a document required by to continue receiving State funding. It requires the Department to set priorities for juvenile justice interventions and to identify the kinds of programs and services they will implement. They have been very successful over the past several years in augmenting State funding with some local dollars from DCYF to create a number of community-based agencies that are working with youth in the juvenile justice system; develop new case management systems; work with families; address substance abuse issues, treatment, and rehabilitation for kids in the community; and provide recreational programming that keeps kids off the street.

Chief Nance concluded his presentation and welcomed the opportunity to do a deeper dive of the data, which raises important questions that will help the Juvenile Probation Department in its policy development and internal practices, and ultimately help children better.

District Attorney Gascón opened the floor for questions and comments.

Shamji noted that unduplicated referrals and bookings have drastically been reduced to 55 percent and 44 percent, respectively, which has been reflected in the average daily population. However, when we look at the outcomes of what is happening to these youth, it is a little disconcerting. She asked two things: 1) whether Chief Nance had an explanation for why this might be the case; and 2) what interventions the juvenile justice stakeholders are exploring to better respond to this increase in the transfer out of the county, and whether this included discussions about dual-jurisdiction. Furthermore, the out-of-home placement appears to speak to the increasing break-up of families, yet we see an increase in this disposition and in placements at Log Cabin Ranch. In the adult system, that would be the equivalent of a State prison sentence, being the harshest sentence. Shamji asked if Chief Nance could explain why these numbers had increased while the numbers of referrals and bookings have decreased, and what interventions stakeholders could perform to make gains similar to reforms in the adult criminal justice system.

Chief Nance responded that the Log Cabin Ranch facility is not equivalent to a harsher sentence, and he does not think it is comparable to a commitment to an adult criminal institution. He explained that the Juvenile Probation Department has been very intentional about working in San Francisco to develop programs that are working with the Public Health Department, the San Francisco Unified School District, community partners, and others to create a more therapeutic programs. In particular, they are working to bring in the Missouri Youth Institute Services model to be supportive and corrective rather than punitive. Those commitments to LCR are more akin to commitments to residential treatment facilities than they are commitments to prisons.

With respect to the demographics the increase in the number of youth going to out-of-home placements and youth with sustained petitions, Chief Nance noted that San Francisco is ahead of the curve, as the city has a very robust diversion strategy. For example, most misdemeanor arrests and some low-level felonies are immediately diverted to the Community Assessment and Referral Center (CARC). The Department has a probation officer assigned to CARC, but the youth diverted here will never see the juvenile justice system if they successfully complete the CARC programming. What the Department sees, then, is kids with a higher acuity of their mental health needs, children with a far higher degree of chronic and violent offenses, kids with higher need than what they have seen in the past. Because they have culled out many of the moderate- and low-risk children from the system, what is left is children who really do require a great deal of intervention and support, and whose families require a great deal of intervention and support as well. They face a higher concentration of youth with the highest level of needs in their system.

Katherine Miller interjected to note that it is not a higher number of kids who are receiving sustained petitions, but rather a higher percentage of cases that are resolved that way. For their Juvenile Justice Division, when their managing attorney screens cases now to file, many of the cases she would have filed for formal probation now go back to CARC without filing.

Shamji responded that she understood those points and found these diversion efforts commendable. But she emphasized that we still have the issue of who remains—a high needs population. What interventions are being used to address those very specific issues, what is the strategy to address this change in population, an issue we face in the adult system as well?

Chief Nance replied that we often look at solving these problems through a somewhat narrow lens. We know the challenges are broader than that: they are multi-systemic; they require multi-discipline strategies to resolve the issues. So, while JPD is concerned and will do all possible to respond to youth in the system today, the real solutions are the long-term, driven by communities, neighborhoods, and individual families' homes.

District Attorney Gascón noted that the meeting was running over time and made a call for any final questions. No further questions or comments were received. Gascón went on to say that he noted concern about the data on charging practices and pleadings. He asked if that was something the Sentencing Commission would like to make a motion on.

Shamji interjected to say that Chief Nance had mentioned charging and booking as issues of interest.

DA Gascón updated his list of data points of interest to include booking versus charging by the DA and pleadings versus court findings.

Hernandez also added that the Commission should look into out-of-home placements and family reunification numbers to discover that, if this value is high, how many children are going back home.

Chief Kenton Rainey made a motion to pursue further analysis of these data points. Shamji seconded the motion, which passed unanimously and without any comment from the public.

9. Public Comment

Maureen Washburn, representative from the Center for Juvenile and Criminal Justice, highlighted two new publications: “The Prosecution of Youth as Adults: A County-Level Analysis of Prosecutorial Direct File in California and its Disparate Impact on Youth of Color” and “Justice by Geography: Do Politics Influence the Prosecution of Youth as Adults?”

10. Adjournment

Chief Rainey moved to adjourn the meeting at 12:04 p.m.; Vicki Hennessey seconded. Meeting adjourned.



Sentencing Commission City and County of San Francisco

Maria Su
Executive Director
Department of Children, Youth & Their Families
1390 Market Street, Suite 900
San Francisco, CA 94102

Re: Support for Youth with Incarcerated Parents

Dear Director Su:

The San Francisco Sentencing Commission is committed to better outcomes for children of incarcerated parents. On June 16, 2016, the San Francisco Sentencing Commission unanimously passed a motion to support the unmet needs of children of incarcerated parents. The San Francisco Sentencing Commission urges the Department of Children, Youth & Their Families (DCYF) to consider the needs and resiliency of children of incarcerated parents in the development of the Service Allocation Plan (SAP) and encourages DCYF to create funding opportunities through the SAP that address the specific needs of children with incarcerated parents.

The San Francisco Board of Supervisors passed a resolution in 2005, which endorsed the Bill of Rights for Children of Incarcerated Parents and encouraged agencies across the city to work together to attain these rights. The true scope of parental incarceration is unknown as it is not a standard data point collected in the criminal justice system, however a survey conducted in November 2014 by the San Francisco Children of Incarcerated Parents Partnership (SFCIPP), in collaboration with the Sheriff's Department, found that on the days the survey was administered, 59 percent of the adults in the San Francisco County jail system were parents to approximately 1,110 children aged 25 years or younger.

The DCYF 2016 Community Needs Assessment (CNA) recognized that children of incarcerated parents have unmet emotional needs and often face extreme social stigmatization. The assessment also found that current service providers lack adequate training on the unique set of issues facing children of incarcerated parents.

In 2015, Project WHAT! surveyed children of incarcerated parents, families of incarcerated individuals, and service providers to inform 10 policy recommendations to enable San Francisco's children with incarcerated parents to live free of judgement and blame; five policy recommendations remain open:

- Free phone calls between children and incarcerated parents at San Francisco County Jail.
- When a parent is transferred from San Francisco County Jail to state prison, the city of San Francisco should provide funding to the family to cover transportation costs for a minimum of six visits per year.
- Re-entry support services should be offered to all children and their parents who are being released from San Francisco County Jail.
- When a parent has been incarcerated for more than one year, restorative justice services should be offered to all children whose parents are released from San Francisco County Jail, both pre- and post-release.

The San Francisco Sentencing Commission, an initiative of the District Attorney's Office, was created through local legislation to analyze sentencing patterns and outcomes, to advise the Mayor, Board of Supervisors, and other City departments on the best approaches to reduce recidivism, and to make recommendations for sentencing reforms that advance public safety and utilize best practices in criminal justice.

- Free therapy and/or counseling should be offered to all children and youth with incarcerated parents.

The San Francisco Sentencing Commission recognizes the important contributions that DCYF has made to support children of incarcerated parents, an all too often overlooked population, and we know San Francisco will continue to be a national leader on this issue. We encourage DCYF to consider all that is above in the development of the SAP and to create funding opportunities which respond to the specific needs of children with incarcerated parents.

Sincerely,

Members of the San Francisco Sentencing Commission

CC: Edwin Lee, Mayor of San Francisco
San Francisco Board of Supervisors

Petitions Filed

- 76% of petitions filed were felonies (80% for males, 64% for females)
- 74% of the females with felony petitions filed were African American while 59% of the males with felony petitions filed were African American
- 26% of the males with felony petitions filed were Hispanic while 15% of the females with felony petitions filed were Hispanic
- There were no other significant differences between gender or race in petitions being filed

*Due to the low numbers of White females, Asian females, and Other females in the system, some rates could not be adequately compared

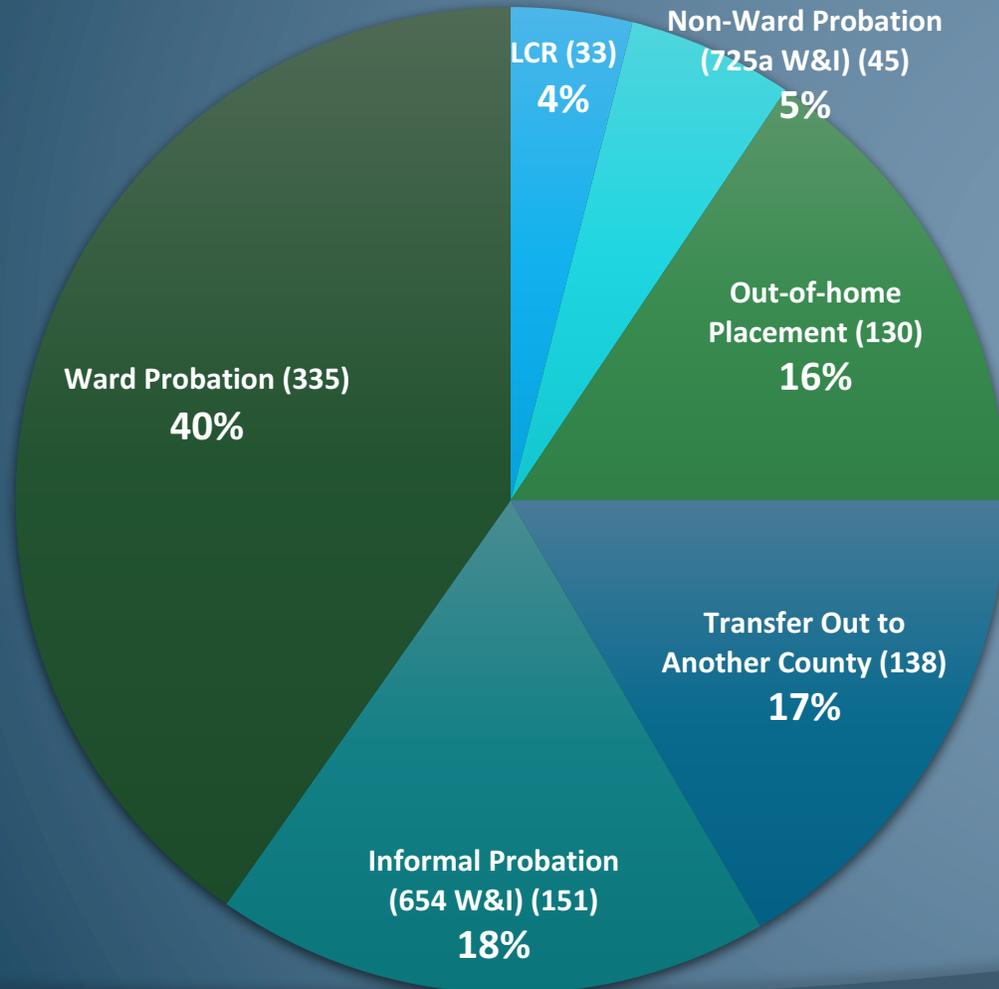
Petitions Sustained

- 88% of all petitions filed were sustained
- Females had a higher rate of sustained petitions (91%) compared to males (88%)
- Males had 67% of felony petitions sustained (as felonies) while females had 66% of felony petitions sustained (some would be plead down to a misdemeanor)
- African American females had 61% of felony petitions sustained as felonies

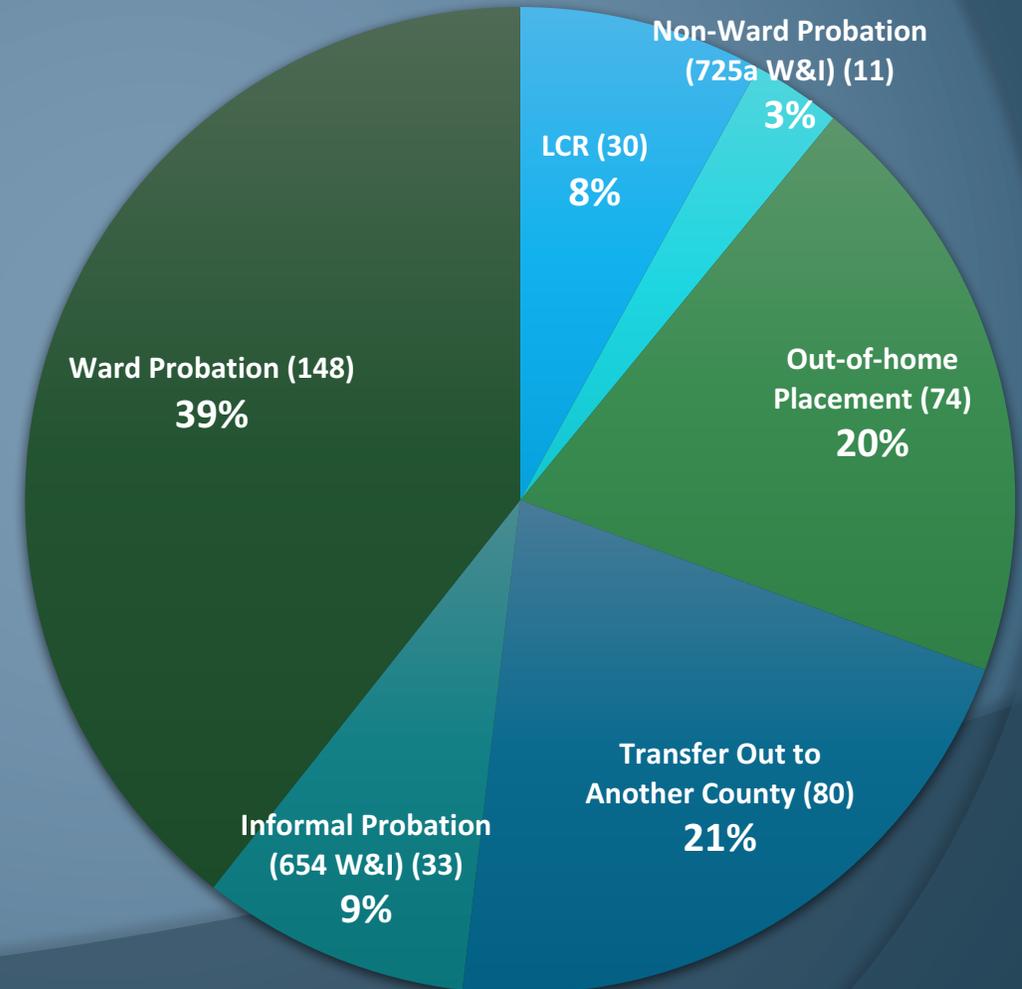
*Due to the low numbers of Asian males, White females, Asian females, and Other females in the system, some rates could not be adequately compared

Disposition of Adjudicated Youth

2010



2015



INVENTORY OF SAN FRANCISCO RISK AND NEED ASSESSMENT TOOLS

Table One: Adult Justice System

Instrument	Responsible Agency	Administered By	Purpose	Point of Usage	Scoring	Who is Assessed?	Validated (Y/N)
Adult Needs and Strengths Assessment (ANSA)	Collaborative Courts	Clinical members of the Collaborative Court treatment team	The ANSA is used to support decision making for adult behavioral health services, including level of care and service planning.	Upon referral to the Collaborative Courts.	Scoring is not necessary, rather each item suggests different pathways for service planning and action.	Men or women referred to the Collaborative Courts.	N/A
Alternatives to Custody Eligibility Assessment	Sheriff's Department	Community Programs Deputy Sheriffs and Leaders in Community Alternatives	To determine eligibility for Sheriff's Work Alternative Program or Electronic Monitoring.	Court referred pretrial and after sentencing.	Eligible or not eligible based on criteria.	Court referred Pretrial defendants and all sentenced individuals.	No
Columbia Suicide Severity Rating Scale	Jail Behavioral Health Services	Jail Behavioral Health Services staff	To assess risk for suicide.	Initial assessment by Jail Behavioral Health Services staff.	Low, Medium, High.	Everyone referred to Jail Behavioral Health Services.	Yes
Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)	Adult Probation Department and California Department of Corrections & Rehabilitation	Probation Officers	COMPAS is utilized to assist Corrections staff in the placement, supervision, and case management of offenders in community and secure setting.	Pre-sentence, and post-sentence if a client doesn't have one post sentence or transfer.	Low, Medium to Medium-High, and High.	All supervision types: probation, mandatory supervision, PRCS, and parole.	SF validated COMPAS in 2015. CDCR validated COMPAS in 2010.
COMPAS (Short Form)	Collaborative Courts	Deputy Probation Officer (DPO) located at the CASC	The short-form COMPAS results are provided to the program manager and the senior case manager of the respective Collaborative Court treatment team.	Upon referral to the Collaborative Courts.	Low, Medium to Medium-High, and High.	Men or women referred to the Collaborative Courts.	SF validated COMPAS in 2015.

INVENTORY OF SAN FRANCISCO RISK AND NEED ASSESSMENT TOOLS

Correctional Mental Health Screen (CHMS)	Collaborative Courts	Deputy Probation Officer (DPO) located at the CASC	The CMHS uses distinct questionnaires for men and women: the CMHS–M asks 12 yes/no questions, and the CMHS–F asks eight yes/no questions about current and lifetime indications of serious mental disorder.	The Collaborative Court Judge makes the referral for the assessment.	It is recommended that male inmates who answer “yes” to five or more questions and female inmates who answer four or more questions “yes” be further evaluated.	Men or women referred to the Collaborative Courts.	N/A
High Lethality Screening <i>(Under development)</i>	San Francisco Police Department	Responding Officer and/or Sergeant, depending on final protocol.	This is a hybrid tool that incorporates elements from the DA, DA-LE, and LAP.	Under development.	Automatically screened in based on aggregate score and/or response to critical questions.	Victim-survivor of domestic violence.	Under validation.
In-Custody Assessment	Sheriff’s Department	Custody Operations, Classification Deputy Sheriff	To determine safe and secure housing.	After booking and prior to housing.	Minimum, Medium and Maximum.	All individuals who are booked and not immediately released and will be housed.	Yes
Presentence Investigation (PSI)	Adult Probation Department	Investigations, SOU, and occasionally ISU.	Provided at the sentencing hearing for all defendants charged with eligible felony cases and some misdemeanor cases at the Court’s request. Utilizes the COMPAS general recidivism risk level, reported in PSI, to assign sentence length determinations.	Post-plea or jury trial. Very occasionally pre-plea.	Low, Medium to Medium-High, and High.	All defendants charged with probation eligible felony cases and select misdemeanor cases.	Pre-Sentence Report is mandated by PC 1203.10.
Public Safety Assessment (PSA)	Sheriff’s Department	San Francisco Pretrial Division Project	A validated risk assessment tool used to inform Judges’ release decisions for pre-arraignment and arraignment releases. This tool has been found to be race and gender neutral.	Before arraignment.	Scale of 1-6 for risk of new criminal activity and of failure to appear and a flag for risk of new violent criminal activity.	Anyone booked into jail on a new felony or non-cited misdemeanor.	In process

INVENTORY OF SAN FRANCISCO RISK AND NEED ASSESSMENT TOOLS

Table Two: Juvenile Justice Systems

Detention Risk Instrument (DRI)	Juvenile Probation Department	Probation Officers	Determines whether the youth should be detained while awaiting arraignment.	After an arrest.	0-7: do not book into custody 8-10: wobbler, release w/ conditions 11+: detain <i>**Can override with supervisor approval.</i>	Anyone who is arrested and will conceivably be booked into the Hall.	No, but it includes components from other tools that have been validated.
Youth Level of Service Case Management Inventory (YLS/CMI)	Juvenile Probation Department	Probation Officers	A criminogenic risk and needs assessment.	Conducted within two weeks of a filed petition on a youth.	Low, Moderate, High, and Very High Risk.	All youth that has a petition filed. Every 6 months or if circumstance changes.	Validated nationally, not locally.
Child and Adolescent Needs and Strengths (CANS)	Juvenile Probation & Department of Public Health	Aim Higher Clinical Staff	A multi-purpose tool developed for children’s services to support decision making, including level of care and service planning, to facilitate quality improvement initiatives, and to allow for the monitoring of outcomes of services. Not a diagnostic tool, it is a needs tool.	Once a youth is referred to Aim Higher to determine appropriate level of service.	Tier 1: outpatient, with treatment provided at office. Tier 2: intensive community and home based care. Tier 3: residential care. Tier 4: treated in hospital.	Any youth that is referred to the Aim Higher program. A youth can be referred by their attorney, the DA, Probation Officer, etc.	N/A
Juvenile Sexual Offense Recidivism Risk Assessment Tool – II (JSORRAT – II)	Juvenile Probation	Clinical Psychologist	Sexual recidivism risk assessment tool. Utilized to inform a range of decisions, including placement, programming, supervision, and other resource allocation decisions.	Utilized at various points.	12-item actuarial risk assessment tool.	Juvenile males between the ages of 12 and 18 at the time of their most recent sexual offense.	Yes.

INVENTORY OF INTIMATE PARTNER VIOLENCE (IPV) RISK AND NEED ASSESSMENT TOOLS

Instrument	Purpose	Instrument Contents	Who is Assessed?	Example Jurisdictions	Validation
The Danger Assessment	This is the oldest of the spousal assault risk scales. It provides a structured assessment of the victim-survivor's risk level and is typically administered by hospital personnel or advocate.	Twenty yes/no questions, with a weighted scoring system. Questions cover the offender's domestic and non-domestic violence history, access to weapons, substance abuse, jealousy, sexual assault, threats, and the victim-survivor's fear for their safety.	It is intended as a collaborative effort between the victim-survivor and survey administrator, who can assist with the development of a safety plan.	Brooklyn, NY and Baltimore, MD.	A case-controlled study led by Jacquelyn Campbell was implemented across 11 cities in 2009, ultimately demonstrating that the DA could accurately predict intimate partner femicide and attempted femicide. The DA has also been demonstrated to predict intimate partner re-assault.
Danger Assessment – Law Enforcement (DA-LE)	A short form of the Danger Assessment, used by law enforcement to inform interventions focused on offender accountability. This screens women into a resource-intensive intervention intended to both enhance the criminal justice response and enable the victim-survivor to remain safely in the community. This is costlier and more intensive than the LAP.	Eleven risk factors, answered 'yes' or 'no' by the victim-survivor at the scene of the IPV crime. Eight of these questions probe risk factors that are directly derived from the DA, including extreme jealousy, use of or threats with a weapon, gun ownership & access, the victim-survivor's belief that the partner is capable of killing, and an increase in the severity of abuse. The DA-LE also includes a partner's previous attempts to kill the victim-survivor.	The victim-survivor is assessed by law enforcement.	This is still a fairly new tool, with the intention of being used in any jurisdiction with a Domestic Violence High Risk Team (DVHRT).	The DA-LE was normed with factors included in the Oklahoma Lethality Assessment database. Practitioners provided knowledge regarding feasibility and implementation.
Domestic Violence Inventory (DVI)	The DVI is used with male and female adults accused or convicted of domestic violence to assess both the risk of re-assault and to determine treatment needs.	155 question self-report test with six measures: truthfulness, violence, control, alcohol, drugs, and ability to cope with stress.	This is a structured questionnaire intended to be completed by the perpetrator.	Available online, and used by probation departments, courts, and treatment providers throughout the country.	All six DVI measures demonstrated high reliability in a 2011 study (.88-.93). Significant gender differences were found in all measures, thus each has been standardized on male and female domestic violence offenders to improve reliability.

INVENTORY OF INTIMATE PARTNER VIOLENCE (IPV) RISK AND NEED ASSESSMENT TOOLS

Domestic Violence Screening Instrument (DVSI - R)	It is designed to assess the risk of re-assault. It is often completed by a person affiliated with the probation department and is used to determine the level of supervision the offender requires. Can be used as a pre-screen for the SARA.	Twelve questions that focus primarily on criminal history, but also probe employment status, presence of children during the incident, and recent separation.	The DVSI can be completed by a review of prior court and probation records and/or interviews with the defendant.	Utilized by Probation in Colorado to set the probation supervision level.	Normed in Hennepin County, MN against 2000 individuals arrested for domestic assault. A predictive validity test was completed in Colorado as well (2003).
Lethality Assessment Protocol (LAP)	An abridged version of the Danger Assessment utilized by law enforcement to engage victim-survivors that are thought to be at high danger. It is intended to screen the maximum number of victim-survivors deemed at high risk into brief education and advocacy interventions. This version prioritizes sensitivity over specificity (DA-LE).	Eleven risk factors, answered ‘yes’ or ‘no’ by the victim-survivor at the scene of the IPV crime. Eight of these questions probe risk factors that are directly derived from the DA, including extreme jealous, use of or threats with a weapon, gun ownership & access, and the victim-survivor’s belief that the partner is capable of killing. The LAP also includes three additional questions about partner’s unemployment, stalking, and whether the victim-survivor has a child with another partner.	Police officers utilize this at the scene of an IPV incident to screen which victim-survivors are high risk for homicide.	Utilized by law enforcement in all Maryland counties and jurisdictions in 34 other states.	The quasi-experimental Oklahoma Lethality Assessment Study found the LAP decreased future violent victimization and increased the defense actions taken by a victim-survivor.
Ontario Domestic Assault Risk Assessment (ODARA)	This is an actuarial tool that predicts the likelihood that a perpetrator of IPV will reoffend. It also predicts the likely amount of time until the new assault, and the anticipated severity.	The ODARA has 13 yes-or-no questions to identify the perpetrator’s history of substance abuse, criminal history, details of assault under investigation, and the victim-survivor’s vulnerabilities (i.e. economic, shared children, etc.)	Available for use in victim-survivor support services, policing, and corrections. Information is gathered through criminal records and investigation reports.	Maine enacted legislation in 2015 requiring the use of the ODARA by all law enforcement personnel.	A 2016 assessment (Hilton and Eke) concluded that the ODARA holds promise for assessing the general recidivism risk among IPV perpetrators. In 2014, the ODARA was preliminarily validated for female IPV perpetrators.

INVENTORY OF INTIMATE PARTNER VIOLENCE (IPV) RISK AND NEED ASSESSMENT TOOLS

Stalking and Harassment Assessment and Risk Profile (SHARP)	SHARP can be used alongside other tools to determine what to consider in dealing with a harassing or stalking situation. Based on the assessment, two reports are produced: one detailing the stalking situation, and the second provides information about risk and safety suggestions.	The SHARP is 43 item web-based assessment developed from the empirical research, clinical literature, stories from stalking victims, case studies, as well as feedback from victims, advocates, and other professionals in the field. SHARP provides an assessment of the “big picture” of the stalking situation.	Victims of harassment and/or stalking answer the questions, either through a free web-based platform or through structured interviews with law enforcement and other professionals.	Web version can be accessed from any locale.	Validation has only been gathered anecdotally at this point.
Spousal Assault Risk Assessment (SARA)	Intended for use by criminal justice professionals, such as parole and review boards, lawyers, victims’ rights groups, etc. The guide can help assess the degree to which an individual poses a domestic violence threat to his/her spouse, children, etc. It is an interview-based assessment.	It is comprised of 20 items covering criminal history, psychological functioning, and current social adjustment. Access to correctional and clinical records is needed to complete the assessment.	The SARA is completed by: interviews with the victim-survivors and the accused perpetrator, and review of case documents, such as police reports.	The SARA is used widely in Canada and Vermont for probation supervision and treatment decisions.	Research conducted by the authors of the tool indicate that interrater reliability is high for judgements regarding the presence of overall risk factors and provides a decent overall risk summary.

Sources

Data utilized in the above table was obtained from the following sources:

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Risk/Needs Assessment 101: Science Reveals New Tools to Manage Offenders

Every day, criminal justice officials make decisions that have enormous implications for public safety and spending: Should this offender be sentenced to prison or probation? What conditions of supervision are appropriate? Does this violation of supervision warrant a revocation to prison? Historically such critical decisions about offender punishment and treatment were guided by personal experience, professional judgment and a limited understanding about the most effective ways to deter offenders from committing future crimes.

Today our knowledge has vastly improved. After decades of experience managing offenders and analyzing data, practitioners

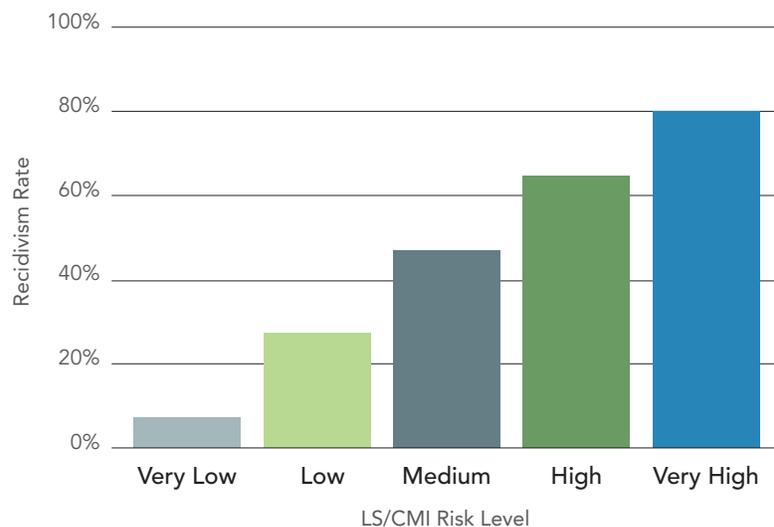
and researchers have identified key factors that can help predict the likelihood of an individual returning to crime, violence or drug use. The instruments that have been developed—and fine-tuned over time—to measure the likelihood of future criminal behavior can help officials to better identify individuals at a high risk of reoffending, while also identifying the types of supervision and services that are most likely to slow the revolving door of America's prisons (see Figure 1). When developed and used correctly, these risk/needs assessment tools can help criminal justice officials appropriately classify offenders and target interventions to reduce recidivism, improve public safety and cut costs.

Figure 1

Data Driven: Assessment Tools Can Accurately Identify Offender Risk

A validation study of one of the most commonly used tools, the Level of Service/Case Management Inventory (LS/CMI), demonstrated its ability to accurately identify offenders' risk of reoffending.¹

SOURCE: Andrews et al, 2004



1 What Are Risk/Needs Assessment Tools?

A risk/needs assessment tool is essentially a uniform report card that measures offenders' criminal risk factors and specific needs that, if addressed, will reduce the likelihood of future criminal activity.

Tools typically consist of a set of questions that guide face-to-face interviews with offenders, probing behaviors and attitudes that research shows are related to criminal reoffending. The questionnaire often is supplemented with an official records check, including prior arrests and incarcerations. Responses are statistically weighted, based on research that shows how strongly each item correlates with recidivism. The tool then calculates an overall score that classifies an individual's risk of reoffending. This risk level and accompanying information about an offender's unique needs can then inform decisions about the best course of action.

2 How Are These Tools Used?

Risk/needs assessment tools can be customized for use by different agencies at various decision points in the sentencing and corrections process.

- **Courts** use risk/needs instruments to help make pretrial bail and release decisions, sentencing and revocation decisions and to set conditions of supervision.
- **Probation and parole agencies** often use such tools to decide levels of supervision, determine the need for specialized treatment programs (such as substance abuse, mental health and cognitive skill building), develop an offender's supervision plan and inform decisions about sanctions and revocations.
- **Prison and jail systems** typically use risk tools to help set inmate security classification levels and identify which programs inmates should attend.
- **Parole boards** use the instruments to guide release decisions and to set conditions of supervision.

3 What Are Criminal Risk Factors?

Research has identified both changeable (dynamic) and unchangeable (static) risk factors related to criminal behavior. Studies have revealed seven dynamic risk factors closely associated with criminal conduct that can be assessed and altered through effective interventions.²

1. **Antisocial Personality Pattern**—impulsive, adventurous pleasure seeking, restlessly aggressive and irritable behavior
2. **Procriminal Attitudes**—offering rationalizations for crime and expressing negative attitudes toward the law
3. **Social Supports for Crime**—having criminal friends and being isolated from prosocial peers
4. **Substance Abuse**—abuse of alcohol and/or drugs
5. **Poor Family/Marital Relationships**—poor family relationships and inappropriate parental monitoring and disciplining
6. **School/Work Failure**—poor performance and low levels of satisfaction with school or work
7. **Lack of Prosocial Recreational Activities**—a lack of involvement in prosocial recreational and leisure activities

Research also has identified a number of static risk factors linked to a high risk of reoffending including age at first arrest, number of prior convictions and current offense.³

4 Why Is It Important to Differentiate Individuals by Risk Level?

Matching offenders to programs based on their risk levels is one of the keys to reducing recidivism. Research has revealed that certain intensive programs work very well with high-risk offenders but actually can increase recidivism rates among low-risk offenders (see Figure 2). One program, for example, cut recidivism for high-risk offenders by more than 25 percent but increased reincarceration of low-risk offenders by almost 18 percent.⁴ Researchers think this counterintuitive finding may occur because mixing risk groups exposes the lower-risk offenders to the more destructive behaviors of higher-risk offenders and jeopardizes prosocial relationships and productive community engagement they may have.⁵

Further, risk classifications help criminal justice officials maximize use of limited resources. Targeting higher-risk offenders with proven programs ensures that resources are concentrated on offenders with whom they can have the greatest impact.

5 How Effective Are Risk/Needs Tools?

Numerous studies have demonstrated that validated risk assessments accurately differentiate between high-, medium- and low-risk offenders. In other words, individuals classified as high risk reoffend at a higher rate than those classified as low risk.⁶

Risk/needs assessments have become a cornerstone of good correctional practice. Research consistently has shown that assessing each individual’s risk of reoffending, matching supervision and treatment to an offender’s risk level and targeting his or her unique criminal risk factors and needs with proven programs

significantly improves offender outcomes, reduces recidivism and enhances public safety.⁷ In fact, studies have demonstrated that evidence-based community supervision and treatment strategies consistently reduce recidivism as much or more than incarceration.⁸

6 What Tools Are Available?

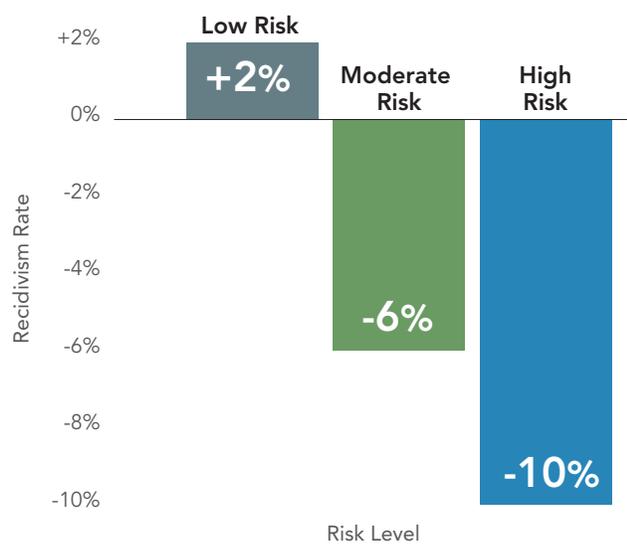
A wide range of instruments is available and careful consideration should be given to selecting or developing an appropriate risk/needs assessment. Many tools are available off the shelf, some of which measure only risks or needs while others assess both. There also are specialized instruments that assess the risk of

Figure 2

Targeting High Risk Offenders Maximizes Recidivism Reduction

A 2010 study demonstrated the effectiveness of matching offenders to programs by risk level. The study of 44 halfway house programs in Ohio found that the programs reduced recidivism for high-risk offenders by 10 percent but increased recidivism of low-risk offenders by two percent. One program decreased recidivism rates by more than 25 percent for high-risk offenders but increased new incarcerations by almost 18 percent for low-risk individuals.

SOURCE: Latessa et al, 2010



committing certain offenses (such as sex offenses and violent offenses) or specific areas of need (such as substance abuse and mental health). A number of agencies have opted to modify existing instruments or to develop tools themselves.

7 What Considerations Should Be Made When Implementing an Assessment Tool?

Effective implementation of a risk/needs assessment is critical to successful recidivism reduction. Each instrument must be validated to ensure that risk classifications accurately represent the likelihood of reoffending among the group of offenders for which it will be used. Corrections agencies should ensure that tools are widely available, standardized and routinely used to inform decisions affecting case planning and offender management. Staff should have consistent access to training opportunities, and officials should regularly assess whether supervising officers are successfully reducing the risk level of their charges. In larger agencies, the use of a centralized assessment unit can improve consistency and objectivity. Finally, because offender risk and need factors change over time, offenders must be reassessed periodically to ensure accurate classification and to maximize efficient use of limited resources.

8 What Are the Challenges and Limitations of Risk/Needs Assessment?

- Risk/needs assessments cannot predict an individual's behavior with absolute precision. Inevitably there will be lower-risk offenders who reoffend and higher-risk offenders who do not reoffend. However, objective tools more accurately predict behavior than subjective assessments by individuals, making them critically important in helping agencies to classify and manage groups of offenders.
- Risk/needs assessments can help guide decisions, but they should not be dispositive. These tools serve as an anchor for decision-making, but professional discretion remains a critical component.
- Risk/needs instruments must be well designed, well implemented, validated and used routinely to inform decision-making. Staff must be adequately trained and supervised to ensure the assessment consistently and effectively informs decisions and drives case management plans.
- There is no one-size-fits-all risk assessment tool. Agencies frequently employ multiple tools to inform decision-making at points throughout the criminal justice process, and significant attention must be dedicated to ensuring that the appropriate instruments are selected or developed.

WHAT CAN POLICY MAKERS DO?

State policy makers across the country are putting research into action by passing legislation that requires their courts and corrections agencies to use evidence-based practices. Over the past few years, a number of states have passed comprehensive corrections reform packages that require the use of risk/needs assessment and are projected to save taxpayers millions of dollars. For example:

- Arkansas:** The Public Safety Improvement Act of 2011, a comprehensive sentencing and corrections reform law, directs the Department of Community Correction to use risk/needs assessments to set conditions of supervision and to assign programming as part of an overall strategy for improving supervision practices.⁹ The full package is projected to save Arkansas \$875 million in averted prison costs through 2020.¹⁰
- Kentucky:** The wide-ranging Public Safety and Offender Accountability Act of 2011 requires the courts and corrections authorities to incorporate risk/needs assessments to inform decisions at multiple points in the criminal justice process.¹¹ The Act further requires that 75 percent of state expenditures on individuals under community supervision be spent on evidence-based programming within five years. The state estimates the overall legislation will save \$422 million over 10 years.¹²
- New Hampshire:** In 2010, the state legislature mandated the use of risk/needs assessments to inform decisions about the length of active supervision for all offenders on probation and parole.¹³ Along with the establishment of a new system for handling technical violations of supervision, this provision is expected to save the state nearly \$11 million over five years.¹⁴
- South Carolina:** The legislature in 2010 required probation agents to conduct actuarial assessments of offenders' risks and needs, and make decisions about the type of supervision and services consistent with evidence-based practices. The law was part of the Omnibus Crime Reduction and Sentencing Reform Act,¹⁵ which is projected to save the state \$241 million over five years.¹⁶

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Running head: RACE, RISK & RECIDIVISM

**Risk, Race, & Recidivism:
Predictive Bias and Disparate Impact**

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* The views expressed in this article are those of the authors alone and do not reflect the official position of the Administrative Office of the U.S. Courts. Lowenkamp specifically advises against using the PCRA to inform front-end sentencing decisions or back-end decisions about release without first conducting research on its use in these contexts, given that the PCRA was not designed for those purposes.

Abstract

One way to unwind mass incarceration without compromising public safety is to use risk assessment instruments in sentencing and corrections. Although these instruments figure prominently in current reforms, critics argue that benefits in crime control will be offset by an adverse effect on racial minorities. Based on a sample of 34,794 federal offenders, we examine the relationships among race, risk assessment (the Post Conviction Risk Assessment [PCRA]), and future arrest. First, application of well-established principles of psychological science revealed little evidence of test bias for the PCRA—the instrument strongly predicts arrest for both Black and White offenders and a given score has essentially the same meaning—i.e., same probability of recidivism—across groups. Second, Black offenders obtain higher average PCRA scores than White offenders ($d = 0.34$; 13.5% non-overlap in groups' scores), so some applications could create disparate impact. Third, most (66%) of the racial difference in PCRA scores is attributable to criminal history—which is already embedded in sentencing guidelines. Finally, criminal history is *not* a proxy for race, but instead mediates the relationship between race and future arrest. Data are more helpful than rhetoric, if the goal is to improve practice at this opportune moment in history.

Key words: risk assessment, race, test bias, disparities, sentencing

C E N T E R
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Center for Court Innovation: Risk Assessment Portfolio

The Center for Court Innovation seeks to help criminal justice officials make more informed decisions at all stages of the process--from bail to sentencing to reentry. The risk-need-responsivity model is a framework for developing treatment plans based on individuals' histories and needs.

Risk refers to an individual's chance of re-offending. Need refers to underlying problems such as addiction or joblessness that research has documented to impact the chances of re-offending. By using an evidence-based assessment to identify both risks and needs, criminal justice agencies can craft individualized treatment plans that target the problems that lead to criminal behavior.

The Center for Court Innovation attempts to promote the risk-need-responsivity model and evidence-based interventions through its operating programs and through its technical assistance work with reformers around the world. The Center is currently developing a short risk-need assessment instrument for busy urban criminal courts.

For more information, please visit: <http://www.courtinnovation.org/topic/risk-assessment>

Presenters: Warren Reich and Sarah Picard-Fritsche

Warren Reich is a Principal Research Associate at the Center for Court Innovation. His published work at CCI includes an assessment of predictors of success in mental health courts, an analysis of mental health indicators and recidivism among youth under community supervision, a report on the impact of inpatient placement on drug court participant recidivism, a recidivism analysis of drug court participants with severe mental illness, and an impact study of New York State's Alternative to Detention program for young offenders. Among his current projects are a validation study of a risk/need assessment tool for mental health court participants, a validation study of a novel risk/needs assessment tool for misdemeanor defendants, and a national impact study of District Attorneys' Pretrial Diversion programs. Prior to joining the Center, he was the Research and Evaluation Manager at The Family Center, where he published work on predictors of reunification of Child Protective Service-involved children with their HIV-positive and substance-using mothers, adherence to HIV medications, and psychological well-being in young adults. Dr. Reich also teaches at Hunter College. He received a B.S. in Psychology from the Pennsylvania State University and a Ph.D. in Social-Personality Psychology from Rutgers University in New Brunswick, NJ.

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Sarah Picard- Fritsche is Associate Director of Research and Deputy Director of Research-Practice Strategies at the Center for Court Innovation. She currently co-leads the Center's research and technical assistance effort to reduce the use of jail incarceration nationally, funded by the MacArthur Foundation. She is also the principal investigator on several federally funded studies, including a quasi-experimental evaluation of neighborhood-oriented probation funded by the National Institute for Justice, and several studies examining the use of actuarial risk assessment in justice system settings. Recently, she was the lead researcher evaluating an adaptation of the Cure Violence model in Crown Heights, Brooklyn. She also co-leads a multisite project, funded by the National Institute of Corrections, to develop evidence-based assessment and case management protocols for justice-involved veterans. Ms. Fritsche provides technical assistance nationally on the use of evidence-based assessments in justice system settings and place-based violence prevention strategies. Since 2011, she has served as a co-chair of the Center's institutional review board. Ms. Fritsche is pursuing a doctorate in criminal justice at the CUNY Graduate Center, where her dissertation work focuses on the ecology of misdemeanor offending in New York City.

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