

# Reentry Council

## City & County of San Francisco

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### AGENDA

Thursday, March 24, 2016

10:00 a.m.

Milton Marks Auditorium  
California State Building  
455 Golden Gate Ave.  
San Francisco, CA

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

1. Call to Order and Introductions.
2. Public Comment on Any Item Listed Below as for “Discussion Only.”
3. Review and Adoption of Meeting Minutes of December 8, 2015 (discussion & possible action).
4. Staff Report on Activities of the Reentry Council and its Subcommittees (discussion & possible action).
  - a. Staff updates
    - a. Racial and Ethnic Disparities Community Meetings
    - b. Introduction of new Board of Supervisor Appointee Angela Coleman
  - b. Subcommittee updates:
    - a. Subcommittee retreat 1/28/16
    - b. Other updates
5. Regular Update on Legislation and Funding Related to Reentry (discussion and possible action).
  - a. Proposal from Policy & Operational Practices Subcommittee
  - b. Update on Funding
  - c. Update on MIOCR Grant from Sheriff’s Department
6. Regular Update on Activities of the Juvenile Justice Coordinating Council, Sentencing Commission, Collaborative Courts, and Community Corrections Partnership (discussion only).
7. By-Laws Change: Meeting day change from Tuesday to Thursday (discussion and action)
8. Presentation from Lawyer’s Committee on Civil Rights regarding state and municipal fines and fees (discussion and possible action)
9. California administrative change: Consideration of Criminal History in Employment Decisions Regulations: presentation by National Employment Law Project (discussion and action)
10. Council Members’ Comments, Questions, and Requests for Future Agenda Items (discussion only).
11. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.
12. Adjournment.

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### SUBMITTING WRITTEN PUBLIC COMMENT TO THE REENTRY COUNCIL

Persons who are unable to attend the public meeting may submit to the Reentry Council, by the time the proceedings begin, written comments regarding the subject of the meeting. These comments will be made a part of the official public record, and brought to the attention of the Reentry Council. Written comments should be submitted to: Karen Shain, Reentry Policy Planner, Adult Probation Department, 880 Bryant Street, Room 200, San Francisco, CA 94103, or via email: [reentry.council@sfgov.org](mailto:reentry.council@sfgov.org).

### MEETING MATERIALS

Copies of agendas, minutes, and explanatory documents are available through the Reentry Council's website at <http://sfreentry.com> or by calling Karen Shain at (415) 553-1047 during normal business hours. The material can be FAXed or mailed to you upon request.

### ACCOMMODATIONS

To obtain a disability-related modification or accommodation, including auxiliary aids or services, to participate in the meeting, please contact Karen Shain at [reentry.council@sfgov.org](mailto:reentry.council@sfgov.org) or (415) 553-1047 at least two business days before the meeting.

### TRANSLATION

Interpreters for languages other than English are available on request. Sign language interpreters are also available on request. For either accommodation, please contact Karen Shain at [reentry.council@sfgov.org](mailto:reentry.council@sfgov.org) or (415) 553-1047 at least two business days before the meeting.

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Administrator  
Sunshine Ordinance Task Force  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place,  
San Francisco, CA 94102-4683.  
Telephone: (415) 554-7724  
E-Mail: [soft@sfgov.org](mailto:soft@sfgov.org)

### CELL PHONES

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### DRAFT MINUTES

Tuesday, December 8, 2015

10:00 a.m.

Milton Marks Auditorium

California State Building

455 Golden Gate Ave.

San Francisco, CA

Members in Attendance: Chief Karen Fletcher (co-chair), Joyce Crum (alternate for Trent Rhorer), Cristine Soto DeBerry (alternate for District Attorney George Gascón, co-chair), Paul Henderson (alternate for Mayor Edwin Lee, co-chair), Ernest Kirkwood, Sheriff Ross Mirkarimi (co-chair), Simin Shamji (alternate for Public Defender Jeff Adachi, co-chair), Joseph Calderon, Omorede Rico Hamilton, Leslie Levitas, Fernando Mata (alternate for Steve Lin), Jeffrey Mori (alternate for Michael Carr), Laura Moyé (alternate for Maria Su), Craig Murdock (alternate for Jo Robinson), Chief Alan Nance, Commander Robert O’Sullivan (alternate for Chief Gregory Suhr), Karen Roye

Members Absent: Kim Courtney, Jane Kim, Keenia Williams

1. Call to Order and Introductions.

At 10:03 am, Karen Fletcher called the meeting to order and welcomed the public and the Council. She acknowledged the co-chairs and asked other members to introduce themselves.

Public Comment on Any Item Listed Below as for “Discussion Only.”

Karen Fletcher invited members of the public to review the agenda and speak on any agenda item. There was no comment.

2. Review and Adoption of Meeting Minutes of August 18, 2015 (discussion & possible action).

Karen Fletcher asked members to review the minutes from the last meeting. She asked for any comments from Council members and upon hearing none, asked for a motion to approve the minutes. Motioned, seconded and carried at 10:07.

3. Staff Report on Activities of the Reentry Council and its Subcommittees (discussion & possible action).

Karen Fletcher announced that Lauren Bell is serving in the role of Acting Director of Reentry with Adult Probation and is available to provide any Reentry Council assistance. She welcomed and congratulated Lauren Bell and then asked Karen Shain of the Adult Probation Department to provide an update on the activities of the Reentry Council and its subcommittees.

Karen Shain gave the Reentry Council staff report. Jane Kim was confirmed by Board of Supervisors as the newest member of the Council, but is not here today because Tuesdays are Board of Supervisors meeting days. In 2016, in order to accommodate her, meetings will move to Thursdays. Karen commented that this is Sheriff Mirkarimi’s last Reentry Council meeting. She thanked him for his service

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to the Council. She announced two vacancies on Council: Mayor's office appointee Keenia Williams will not be continuing, and Dominique Leslie has resigned due to health issues. The person replacing Keenia must be between the ages of 18 and 24. The person replacing Dominique must have experience providing direct services to reentry clients. Both positions are reserved for people who have personal experience in the criminal justice system. Paul Henderson asked for the recruitment information to be sent electronically. Karen Shain said she would email it to members, and it is on the website.

Karen Shain discussed the recent ruling regarding driver's license amnesty which is now in effect. There has been a citywide working group and we will discuss this later in the agenda.

A recent court decision regarding eligibility to vote clarifies that all adult citizens except those in state prison or on parole are eligible to vote. Adult Probation and Reentry Council subcommittees will be doing voter registration drive to register all those eligible by June. Karen asked that departments and individuals let her know if they would like to participate in this voter registration drive. Karen introduced Steve Adami, Reentry Resources Coordinator at Adult Probation.

Steve gave an update on the status of the *Getting Out & Staying Out* resource guide and a recent visit to Soledad as well as a story about the impact the resource guide has had. In September, 2500 guides were printed. About 1500 have been distributed. Most have been distributed to community based organizations and government agencies, including Reentry Council departments, Five Keys Charter Schools, etc. On a weekly basis 10-20 guides are distributed.

Recently, three employees from the Reentry Division went to Soledad Prison and talked with inmates regarding lifers coming out of prison. Prisoners stated they could use help creating a parole plan and fulfilling the requirements that they have to meet once they are released. The Support & Opportunities Subcommittee is discussing how to incorporate this information into future versions of the guide. Los Angeles and San Bernardino counties have contacted us about creating their own guides. At the end of January, the Reentry Division will be contacting departments for support in reprinting the guide. Steve stated that he is working with 311 and the Volunteer Brigade to build prototype to turn the guide into a website where all information is accessed online.

Steve described an individual who received the guide a few years ago while in prison and as a result of information in the guide, got into treatment, GED, San Francisco City College, and Citybuild. He stated that the guide has an impact on people and sparks hope.

Karen Roye thanked the reentry team for putting together the guide year after year.

Karen Shain directed Council members to the new roster in the packet and asked that members provide her with corrected information.

Ernest Kirkwood reported that the Support and Opportunities Subcommittee discussed the status of driver's license amnesty. They will also be working on a new section of *Getting Out and Staying Out* addressed to inmates preparing a parole plan. He said this is critical for lifers so that they have a complete plan when they go to the parole board. He said that a lot of people don't know how to create a viable parole plan and so are not found suitable for parole. He said the Subcommittee would like to explore the availability of Muni passes for reentry population. The next meeting will be Jan 21<sup>st</sup>.

Karen Shain explained a plan to bring all subcommittees together in January to discuss future goals for the year and perhaps reconfigure the subcommittees. She explained that Assessment and Connections began the process of calling for a subcommittee retreat. As part of defining itself more clearly, this committee discussed changing its focus to "first 72 hours" subcommittee so it is clear that it is

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concentrating on the needs of people immediately after their release. This might clarify the difference between this subcommittee and Support & Opportunities, which is more about long-range reentry planning.

Karen reported that the Policy & Operational Practices Subcommittee discussed timing of their state legislative work so the subcommittee will come to the full Council early enough for the Council to take a position on pending legislation.

#### 4. Regular Update on Legislation and Funding Related to Reentry (discussion only).

Karen Fletcher asked Karen Shain to provide an overview of the legislative and funding work of the Council. Karen Shain referred to page 21 of the materials packet. This list contains all bills that the subcommittee and Council tracked last year. Karen highlighted a few bills that were signed by the governor: AB 1036 (Quirk) allows notaries serving people in county jails to accept jail identification. AB 1056 (Atkins) provided guidelines for BSCC appropriations to counties for Prop 47 allotments. AB 1156 (Brown) was an AB 109 clean-up bill. SB 405 (Hertzberg) expanded availability of driver's license amnesty.

Karen Shain stated that the grants planning committee began meeting for the new grant cycle recently. The Board of State & Community Corrections will be sending out their RFP for Proposition 47 funding soon. The BSCC has not yet announced their funding formula but will likely be based on a county's reduction of the number of people sent to state prison. If that formula is used, San Francisco County will likely not get very much. Community Corrections Partnership members will be meeting about this soon. The grants planning committee also discussed the trend of requiring Pay for Success grants. These grants are difficult to apply for, especially if "success" is based on recidivism. The grants committee has begun to discuss this.

Leslie Levitas asked about the Prop 47 funding formula: is there a formula for the savings generated and how much will go to treatment? Tara Anderson stated that the state Department of Finance will release an estimate of savings in January. The BSCC is in process of formulating criteria for how to use the funds. She explained that the BSCC is currently calling for applicants to become members of the Executive Steering Committee to determine criteria and rate applications. She said that it is likely the RFPs for Prop 47 funding will be out in late spring.

#### 5. Regular Update on Activities of the Juvenile Justice Coordinating Council, Sentencing Commission, Collaborative Courts, and Community Corrections Partnership (discussion only).

Karen Roye reported on the Sentencing Commission. She said the next meeting is Dec 9<sup>th</sup> from 10 am until noon. James Austin will be presenting on his recent report on eliminating mass incarceration. Commission members will also vote on the 2015 annual report. Meetings are open to the public and meeting materials on their website.

Karen Fletcher reported that the Communities Corrections Partnership will now be meeting twice a year. The next meeting will be on Tuesday, January 10, 2016.

Alan Nance reported that the Juvenile Justice Coordinating Council met last met on September 15<sup>th</sup>. He said there was a presentation by Department of Children, Youth & Families on its Our Children Our Families Council and its purpose. He said the Council will be re-convening in January. Laura Moyé stated that there is a plan to merge the Local Action Plan with the development of the Community Needs Assessment, which launched in October and will be developing a service allocation plan to guide RFP development in 2017. The Council meeting also had a presentation regarding Roadmap to Peace, a

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document developed with/by Mission community in response to violence in community. The Roadmap has a strategy focused on housing, employment, and economic development.

Karen Fletcher asked for questions. There were none.

### 6. Driver's License Amnesty Program (discussion only)

Karen Fletcher asked Karen Shain to provide background on driver's license amnesty.

Karen Shain stated that fines and fees were linked to driver's licenses in order to achieve revenue and assure payment of those fines and fees. However, she stated, by tying those who most need their transportation to fines and fees has created serious problem especially for reentry population. Many clients in the criminal justice system don't have licenses so are driving without insurance, etc. Karen explained that in 2015, Governor Brown approved an amnesty program. San Francisco's Office of Employment and Workforce Development has taken lead on convening a citywide working group to work on this issue. She introduced Jeff Mori who provided an update.

Jeff Mori discussed driver's license suspensions as a workforce barrier. Originally, driver's license suspensions were designed to remove unsafe drivers from the road, but now it results in people having suspended licenses who are not unsafe drivers. He stated that half a million licenses are suspended in one year alone. In a 7 year period, 7 million licenses were suspended statewide. From 2012 through 2014, 10,000 San Francisco residents had their licenses suspended primarily for failure to appear for a court hearing. Jeff explained that this situation affects lower income neighborhoods disproportionately. As a local issue, OEWD has convened a working group to look at driver's license suspensions. In April, the Lawyers' Committee on Civil Rights released a report on this issue, *Not Just a Ferguson Problem*. On October 1<sup>st</sup>, California began an 18-month amnesty program to provide opportunities to reduce unpaid fines and fees and have licenses restored. Jeff stated there are challenges to the program. It is run out of county superior courts so each county has its own process, creating a barrier for those with multi-county violations. San Francisco has outsourced its collections to a private agency which may have a negative impact on some people applying for amnesty. In November, San Francisco partnered with LCCR and Bay Area Legal Aid to train case managers and other service providers on how to assist their clients in applying for amnesty. Over 100 people attended. The work group is also exploring a model from Milwaukee of creating a center to help people deal with driver's license suspensions. OEWD is exploring state legislative action related to driver's license suspensions and will continue to discuss developing an alternative in San Francisco.

Karen Fletcher asked for comments.

Karen Roye stated that Department of Child Support Services has been working with OEWD to come up with a plan for addressing this issue with non-custodial parents. She stated that her department has identified 476 people who had their driver's licenses suspended for non-payment of child support and have reached out to them to help restore their licenses. The goal is to restore driver's licenses for those parents. She stated that DCSS has worked with DMV to get express service to restore driver's licenses.

Cristine Soto DeBerry reminded members that LCCR came to a Council meeting to discuss the process of collecting fines and fees and whether there is opportunity for changing some of those rules, to see if there is local action we can take to improve. She would be interested in following up on this.

Simin Shamji stated that the amnesty program will end in 2017. She would like the Council to rethink the policy of suspending driver's license for failing to pay fines and fees. It was not clear to her that suspensions have any effect on payment of fines and fees.

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Karen Fletcher asked Karen Shain if the Council can follow up on this? Karen Shain said that LCCR can come to an upcoming meeting to follow up. She also said that the Policy & Operational Practices subcommittee is looking at possible legislative action.

Alan Nance noted that if driver's licenses are not suspended for failure to pay fines and fees, what are the incentives for paying them? Or, if not levied, what is the alternative to levying fines and fees? He is concerned that dismissing the consequence without an alternative is potentially problematic and dismisses importance of the fee. He stated that he was not advocating for the fees, but that it's a matter that needs to be addressed. He asked if there is an option to convert fines and fees into community service so people can give back to the communities they are returning to, recognizing that there is a debt to be paid and that the repayment of that debt can be meaningful.

Karen Roye replied that for DCSS, when work on restoring a parent's driver's license, it requires a commitment for the parent to establish meaningful orders. Her department has worked with OEWD on a demonstration grant over 3 years and has learned how to structure child support orders differently, in ways that make sense, and that the money collected goes directly to families. She stated, however, that it is a commitment for parent and department.

Jeff Mori stated that the amount of debt accrual is unfair. He said that fines increase quickly and low income communities are hit the hardest. He stated that he believes the fact that the state is conducting an amnesty program suggests that they know they are not going to collect all of the fines they levied. The question is about how to address the unrelated issue of driver's licenses.

### 7. Follow-Up on Justice Reinvestment Initiative (discussion & possible action).

Karen Fletcher introduced the Justice Reinvestment Initiative and asked Karen Shain for updates on the three strategies.

Karen Shain gave background on JRI and reminded the Council of the three strategies:

- (1) Risk-Based Probation Sentencing
- (2) Risk-Based Pre-Trial Assessment
- (3) Racial and Ethnic Disparities

Karen Shain then asked Ali Riker to update the Council on the pretrial strategy. Ali gave update on Arnold Foundation PSA. She explained that the PSA Implementation Workgroup has been meeting since August and has convened two stakeholder trainings so far. She reminded Council members that the Sheriff's pre-trial alternatives are provided through Pretrial Diversion Project which has put the assessment tool into their case management system and are now working with Arnold Foundation on testing. In coming weeks, the workgroup will be working on decision making framework and convene stakeholder and user trainings. She said that their goal is that the tool will be up and running by February 2016.

Karen Shain stated that Adult Probation is implementing risk based sentencing and working with partners to develop an implementation plan. Adult Probation will provide more information at a future meeting.

Karen Shain then reported on the disproportionality strategy of the JRI. She reminded members that there were two meetings of the Reentry Council looking at the Burns report. Following those, the Mayor's office convened a meeting on September 8<sup>th</sup> of key stakeholders where three strategies were developed:

1. Data clean up – The Mayor's office is taking the lead on working with criminal justice partners to identify a common plan for data collection on race/ethnicity

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2. Develop decision-point analysis for each criminal justice agency so each department can address issue internally. Some departments have made more progress on this than others. The next meeting will be devoted to hearing more from these individual departments
3. Mandate to address racial disparities through the Mayor's office and the Board of Supervisors

Karen then reminded members that Reentry Council staff was asked to convene community meetings to discuss this issue. The first of these meetings was held on November 20<sup>th</sup> in the Bayview. 75 people attended the meeting, with city departments, CBOs, and community members. Staff worked with community organizations to develop the agenda for the meeting.

At the meeting, participants were asked to discuss: impact of disparities on the Bayview community, strength the community brings to address this issue, concrete actions that can be taken.

Page 37 of the materials begins a report on the meeting with suggestions and evaluation. The next step will be to hold three more meetings: in the Mission, Tenderloin and Western Addition. These meetings will be completed by March 31<sup>st</sup>.

Karen noted that this report-back is happening in light of recent heart-breaking events. She stated that the meeting gave feeling of hope that change can be made. Subcommittees will be working with the suggestions on how to move forward.

Karen Fletcher added it was a great gathering. It was a nice opportunity to put your agency aside and discuss issues with community partners. She thanked staff for the work that it took to put that together.

Alan Nance acknowledged Adult Probation staff for work to convene that session. He stated that he approached the meeting with a great deal of apprehension because it is a sensitive and important topic. He was very impressed with the level of seriousness and investment the community brought and he felt that Ophelia Williams facilitated the meeting extremely well. He walked away feeling that participants accomplished something meaningful. He felt this was an important step in the process and he is looking forward to participating in the remaining convenings. He said that he believes we have to continue to look internally at issue of implicit bias. He saw at that meeting that the Bayview community that is ready, willing, able to work with us on this.

Ernest Kirkwood said that he went to the meeting and was glad he did. He was impressed with the agenda and seriousness of the meeting. He is concerned about how follow up will happen. He asked what is going to happen with this information now? He noted that similar conversations have happened before and nothing was done. The community has again provided input and we are planning more community meetings. But, he asked, what are we going to do with the information we have gathered?

Karen Shain responded that the San Francisco Organizing Projected committed to following up with the Bayview community and those that attended. She also said that the subcommittee retreat will happen before some of the next three meetings and the community meetings will work on informing the subcommittees with the information gathered in the meetings.

Ernest said that his understanding was that we were providing information to the stakeholders and that they would then come up with a plan.

Paul Henderson stated that the information is being aggregated and is being shared with all departments. He expressed the importance of everyone coming to the table to have this discussion – community and agencies. Without that, he said, it would be difficult to move forward. He believes this meeting was a first



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step to outline what needs to happen and then prioritize and merge ideas from community and government agencies.

Cristine DeBerry stated that she can't count how many times we've sat at this table and had the same conversation. Each department needs to put money into finding out where its disparities are and develop a plan to overcome them. She also pointed out that no new jail suggestion came up at her table and she would like that added to the action steps. She believes that it is not right to keep asking the community what the problem is. She stated that our departments are creating this problem and if we aren't acting in earnest to address it, we are part of the problem. She said that the district attorney has money towards a decision point analysis. She would like to know what each department is doing to get funding to do these analyses or commit money from their current budget to address the disparities. She would like to see an update on this at every Council meeting. Cristine expressed frustration that those on the Council need to do more within their own departments without being prompted by the community.

Karen Roye announced that DCSS has been working seriously on these issues and is focusing on how to address disparity – from language used to programs offered. She stated that this is a living breathing issue in DCSS that is not going away.

Simin Shamji stated that having community meetings is important but it's time now for departments to be held accountable. She reminded Council members that there is disproportionality in arrest, charging, convictions. She believes that now is time for departments to respond with actions to address those disparities. She would like to know what each department is going to do to change the disparities. She also stated that, given the death of Mario Woods, there also needs to be a discussion on the use of deadly force. She stated that we cannot hide behind the fact that San Francisco has always been known as progressive. She pointed out that there are problems here and said that responsibility needs to lie with the departments that create the disparities.

Leslie Levitas said that the problem that won't be solved overnight. In the minutes from the August Council meeting, there was a call for transparency and accountability. Knowing this will be a long process, she would like departments to report back regularly regarding where they are in the process to the community and to Reentry Council. She also asked about a timeline. She believes that if there is to be a change to the administrative code, that is a long process and there needs to be education of the public about that and how long it will take.

Joe Calderon said that this is an opportunity to understand the distrust of the community, and that having departments willing to sit around this table and showing action within each department could make a difference in that trust. He believes this will show the community that city departments are listening and taking action. That will build a foundation of trust with the community.

Sheriff Mirkarimi stated that he agrees with comments that have been made. He observed that there is little mandate from City on any department to keep statistics. It might be a good idea for the Council to ask for legislation requiring statistics are more readily available to keep city departments on target. It is stunning to him that the jail population is so low, but the racial disparity is still the same. He pointed out that sometimes San Francisco will rest on our liberal laurels but the math speaks for itself. He said that if we are satisfied with a low jail number without being concerned about disparities, we are doing a disservice. He believes each department should be required to report on what they are doing to address disproportionality and where they stand on monthly or quarterly basis.

Jeff Mori said that he agrees with many of the statements made. He said that OEWD is reviewing how barriers can be removed for those who have been chronically unemployed, including those in the reentry population. He believes that having employment is the best deterrent to re-incarceration. He thought the

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convening was great. He thinks the Council should let the process run through because different needs will come up in different communities. In the meantime, each department should be developing strategies to report on our failures and successes.

Rico Hamilton said that he sees all departments working together to make change but realistically, it's not just the departments that need to change. He believes it's necessary to address poverty in the communities. He pointed out that we can address disproportionality in departments but if people are still living in poverty there will be crime. He asked how we can address poverty and look at opportunities to really address disparity through addressing poverty and social issues. The disparity will always be there if we don't address it from social and economic standpoint.

Karen Fletcher stated that this was a very important discussion. She asked for public comment on the Justice Reinvestment Initiative.

There was none.

### 8. Council Members' Comments, Questions, and Requests for Future Agenda Items (discussion only).

Karen Fletcher stated that at the August meeting of the Council, there was a request to discuss immigration issues. That has not been forgotten and will be added to an agenda in the new year. She also directed staff to add report backs from departments on addressing racial and ethnic disparities. She then asked for additional comments or suggestions from Council members.

Sheriff addressed the ICE/immigration issue and reiterated the importance of taking it up in the full Council. He also stated that the Sheriff's Department is looking at addressing transgender issues within the jails. He said they started with training of staff regarding programming and housing. He recommended a presentation on this in the near future. He said that he and the public defender worked together to sign on to a case demanding an end of the bail system in San Francisco. He said this issue is central to the discussion of race and disparities. He believes the bail issue touches on poverty and disproportionality. He said that he hopes the Council will look seriously at this issue in the future.

The Sheriff then stated that it was bittersweet that this was his last meeting. He said it has been a joy and delight to work with all members of the Council and that it was heartening to see the development and progress and leadership on this body since its creation 7 years ago. He said that he hears the concerns and frustrations of where the Reentry Council is going. He said that it's been an honor and privilege to work with all of members of the Council.

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

Karen Fletcher asked for public comment.

A woman identified herself as a patients' rights advocate. She said that she has been hearing from a lot of parolees and probationers with mental health issues. One of main issues she deals with is housing and criminalization of mental health within the criminal justice system. She stated that she has been doing this work for years and doesn't see changes. She said that two-thirds of those incarcerated have mental health disabilities and they are treated worse in jails and prisons. One of things she does is investigate complaints. She has been trying to work more with probation department. She believes a reentry plan should include a relapse plan and that Probation should be providing more intensive case management. If Probation doesn't, this leads to more anger and frustration and that often leads people back to jail. She said that she does trainings on mental health needs, stigma, and discrimination.

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Mark Walsh stated that he is a member of the Policy & Operational Practices Subcommittee. He noted that he has been involved with the Reentry Council since 2009. He thanked Sheriff Mirkarimi for being part of founding the Reentry Council. He said that he was bringing up topic that is controversial. He has heard a lot of talk during the meeting about discrimination in housing, employment, education. He asked the Reentry Council to consider issue of PC 290 registrants and take serious look at facts and latest research and data on this issue and put something on the agenda for 2016 that would speakers who don't profit on the backs of 290 registrants. He noted that there are over 100,000 registrants in California. Legislation regularly comes up that stigmatizes these people and that can put them in danger. He requested that this be put on the agenda for 2016. The Reentry Council has a duty is to civil, constitutional, and human rights. He believes there is a lot of room to improve.

Leslie Levitas added a future agenda item regarding driver's license amnesty. She would like to hear a presentation about the question of fines and fees and possible adjustments or alternatives that are possible. She would like to hear of opportunities within local court to address the issue and have alternatives. She then thanked Sheriff for his leadership as Supervisor and Sheriff and for his commitment to bring the Reentry Council to this point.

### 10. Adjournment.

Karen Fletcher spoke for the entire Reentry Council in thanking the Sheriff for his vision and leadership. She wishes the best for him and his family.

Jeff Mori moved to close meeting and stated that he acknowledged Sheriff and thanked him for his service as Supervisor and Sheriff. He noted that he did not always agree with the Sheriff but he never questioned his commitment to those in need.

Paul Henderson moved to adjourn. Cristine DeBerry seconded. Passed unanimously at 11:47am.

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### *Roster of Members*

#### Co-Chairs

##### **Jeff Adachi**

##### ***Public Defender***

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##### **Karen Fletcher**

##### ***Chief Adult Probation Officer***

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For more information about the Reentry Council of the City and Council of San Francisco visit [www.sfgov.org/reentry](http://www.sfgov.org/reentry)



# BUILDING JUSTICE IN THE FILLMORE/WESTERN ADDITION

Let's create a racial and ethnic justice agenda for the Fillmore/Western Addition.

What concrete actions can be taken to address disparities in the criminal justice system?

Bring your ideas for improving justice in the Fillmore/Western Addition to this crucial discussion between city officials and community members.

**\*\*Free\*\***  
Childcare  
Provided!

**April 13, 2016**

3:30 - 6p.m.

African American Art &  
Culture Complex  
762 Fulton St., SF

For more info contact:  
Karen Shain  
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**community**  
**sponsors**

Reentry Council of San Francisco • Community Housing Partnership • Lawyers Committee for Civil Rights • Raw Talk for Life • Young Women's Freedom Center



# — Community Meetings Summary —

## *Racial and Ethnic Disparities in the Criminal Justice System in San Francisco*

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### Introduction

The Reentry Council of the City and County of San Francisco (CCSF), made up of 23 public officials and private individuals, embarked on a Justice Reinvestment Initiative in 2013, with support from the Bureau of Justice Assistance (BJA). In 2014, the Council developed three separate but related strategies for justice reinvestment, concentrating on reducing the numbers of people in custody and under supervision while at the same time reducing the racial and ethnic disparities across the entire criminal justice system.

In June 2015, as part of that work, the W. Haywood Burns Institute produced and presented a report for the Reentry Council—San Francisco Justice Reinvestment Initiative: Racial and Ethnic Disparities Analysis for the Reentry Council—and produced a Summary of Key Findings. Both reports can be found on the Projects and Progress page of the Reentry Council’s website, [www.sfgov.org/reentry](http://www.sfgov.org/reentry).

The Burns Institute’s disparity analysis report outlined severe disproportionality at every stage of the criminal justice system. “While Black adults represent 6% of the adult population, they represent 40% of people arrested, 44% of people booked in County Jail, and 40% of people convicted... Black adults are 7.1 times as likely as White adults to be arrested, 11 times as likely to be booked into County Jail, and 10.3 times as likely to be convicted of a crime in San Francisco.”<sup>1</sup>

In addition, the report pointed out severe inadequacies in data reporting by San Francisco’s criminal justice partners. Some data were simply unavailable. Other data were incomplete when it came to reporting ethnicity. “Justice system stakeholders must improve their capacity to collect and record data on ethnicity of justice system clients.”<sup>2</sup> Given the data collection inadequacies, it is likely that actual disparities are even greater than those described in the report because the vast majority of Hispanics are likely counted as White, leading to an inflated number of White people and therefore an underestimate of the disparity gap between Whites and Blacks.

The Burns Institute presented its report at the June 23, 2015, meeting of the Reentry Council. James Bell, the Burns Institute’s executive director, returned to the Council’s August 18 meeting to point out the significance of the report and the urgent need for action from city and county stakeholders, as well as the community at large. Mr. Bell stated that the CCSF must take the call for changes in data collection and management seriously, pointing out that the data showed the depth of the problem but that without better data, it will be extremely difficult to understand why these disparities occur or how to reduce them. However, Mr. Bell also stated that the situation is too urgent to wait for new data—that

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<sup>1</sup> W. Haywood Burns Institute for Juvenile Justice Fairness & Equity: *San Francisco Justice Reinvestment Initiative: Racial and Ethnic Disparities Analysis for the Reentry Council: Summary of Key Findings*, June 2015.

<sup>2</sup> *Ibid.*

all members of the criminal justice community must take immediate steps to change their practices in order to reduce racial and ethnic disparities as quickly as possible.

At both Reentry Council meetings, there was an outpouring of community support for change. More than 20 community members came forward, providing personal testimony of the impact of these disparities on their lives and the devastating impact on their communities.

As a first step, the Reentry Council decided to hold a series of meetings. The Mayor's Office convened a first meeting of criminal justice leadership and other key stakeholders on September 8, 2015, to begin a conversation and develop a plan for change. Participants agreed to three priorities: (1) commitment to consistently measure disparity across systems, using standardized categories for race and ethnicity and being publicly accountable through data reporting, (2) decision point analysis for each department, with a commitment to share findings publicly, and (3) gaining the support of the Mayor and Board of Supervisors to fund solutions that emerge.

Following the September 8 meeting convened by the Mayor's Office, Reentry Council staff were charged with planning and holding community meetings in communities that have been most affected by the racial and ethnic disparities. These meetings are partially funded by the BJA's Justice Reinvestment Initiative. The first of these meetings, Building Justice in the Bayview, was held at the Southeast Community Facility on November 20, 2015. The meeting was cosponsored by the Reentry Council of the City and County of San Francisco (CCSF), Five Keys Charter School, Lawyers Committee for Civil Rights, 3<sup>rd</sup> St Youth Center and Clinic, Transitions Clinic, and Young Women's Freedom Center. The meeting was facilitated by Ophelia Williams.

The second meeting, Building Justice in the Mission, was held at the San Francisco Women's Building on February 10, 2016. Sponsors for this meeting included the Reentry Council of CCSF, Lawyers Committee for Civil Rights, Faith in Action, Young Women's Freedom Center, Roadmap to Peace Initiative, Transitions Clinic, and the Senior Ex-Offender Project. The meeting was facilitated by Marlene Sanchez-Roy.

The third meeting, Building Justice in the Tenderloin, was held at St. Anthony's Foundation on March 15, 2016. This meeting was cosponsored by the Reentry Council of CCSF, Lawyers Committee for Civil Rights, Youth Women's Freedom Center, Hospitality House, Tenderloin Housing clinic, St. Anthony's Foundation, Community Housing Partnership, and the Coalition on Homelessness. The meeting was facilitated by Lisa Marie Alatorre.

A fourth meeting, Building Justice in the Western Addition, is scheduled to be held at the African American Art and Culture Complex on April 13, 2016. This meeting will be facilitated by Ophelia Williams.

The three meetings that had been held as of March 18, 2016, were well attended, with strong community and CCSF policy maker attendance. Each meeting was held in the afternoon from 3:30 to 6:00 p.m. and included an introduction from Reentry Council staff and facilitation by a local facilitator. Childcare and interpretation services were provided at the Mission and Tenderloin meetings.

At each meeting, Reentry Council staff provided an overview of the Justice Reinvestment Initiative and the disparities report. Participants discussed and agreed to a set of discussion round rules. An example of these agreements included the following from the Mission Community meeting:

- Be respectful
- Be present
- Own your voice and speak your truth
- Expose yourself to new ideas
- Be ok with silence – give people a little bit of time to respond
- Open minds and open hearts
- One microphone – only one person talks at a time
- Check your own inventory
- Amnesty – temporary forgiveness
- Agree to disagree
- Step up, step back – let others have a chance to speak up
- Emphasize the voices of community members
- This is a safe space
- This is not a one shot deal – joint voices make change
- Make sure we have enough time at the end to allow for coming together for next step solutions
- Importance of follow-up.

Participants were then asked to break into discussion tables and discuss the following questions:

1. How do racial disparities in the criminal justice system affect individuals and this community?
2. What strengths do this community and San Francisco government agencies bring to correct racial disparities?
3. What are three actions that could be taken right now to address racial disparities? Which agencies or community resources are responsible for each action step?

Participants then reconvened as a large group and reported out about their discussions, highlighting key points. A summary of each meeting is included in the Meeting Summary Section of this document.

### **Next Steps - PENDING**

Recommendations for next steps will be developed upon completion of the final community meeting, which is scheduled for April 13, 2016.

## **Bayview Meeting: Participant Discussion Summary**

1. **Impact of Racial Disparities: How do racial disparities in the criminal justice system affect individuals and the Bayview community?**
  - Family/community impact
    - Parents are taken out of the home/families torn apart/families run by single mothers and grandmothers
    - Financial impact on families as well as emotional/traumatic effects
    - Too many CPS cases

- Intergenerational gaps
- Institutionalized poverty/ fewer people are working and contributing to the economy/accumulation of debt/few financial opportunities
- Disconnect between youth and elders
- High rate of substance abuse
- Impact from law enforcement
  - No community policing
  - Disproportionate incarceration of the Black population/generational cycle of incarceration/feeding of stereotypes and racial profiling/cycle of oppression/unfair treatment
  - Community does not feel safe
  - People cringe when they see police officers
- Impact from public officials/departments/rest of the city
  - Bad data, particularly with ethnic data (e.g., Latinos counted as White, Samoans counted as Asian)
  - Lack of public services
  - Lack of access to good trades
  - Unfair treatment
  - Stereotypes
  - City is unable to adequately address disparities

**2. Strengths: What strengths do the Bayview community and San Francisco government agencies bring to correct racial disparities?**

- Resilience
- People love living in the Bayview/strong sense of community/community pride
- Community collaboration/power of gathering together/people want the best for our community
- Small community agencies
- City services through probation and parole/city government is willing to provide resources (though they need to be put in the right places)
- Strong faith community
- Neighborhood connections
- Health programs
- Sports programs
- Senior programs
- Community events
- Strength in diversity
- Youth and formerly incarcerated are untapped strengths
- Best real estate

**3. Action Steps: What are three actions that could be taken right now to address racial disparities? Which agencies or community resources are responsible for each action step?**

- City/State government and courts
  - Create accessible data systems—with public accountability (Mayor’s Office, Board of Supervisors)
  - Provide support for Bayview businesses
  - Affordable housing with wraparound services

- Expand Ban the Box
- Share resources and information
- Link all services with healthcare (Department of Public Health)
- More alternatives from a racial justice approach
- Fund more hands-on navigators and community health workers (Department of Public Health)
- Expand crisis intervention training with more funding for community mental health services (DPH)
- Provide direct services and easy access for support for Black fathers
- Increase union apprenticeship programs and waive criteria
- Law enforcement
  - Implicit bias training for all law enforcement. Mandatory ongoing and continual cultural competency workshops for all officers across all departments (All criminal justice partners)
  - Include therapeutic/education/resources program at jail and for outcoming probationers (Sheriff, Adult Probation, Juvenile Probation)
  - Trauma-informed training for all (All criminal justice partners)
  - Mandatory psychological and behavioral assessment for officers periodically (SFPD)
  - Automatic evaluations if officers receive X number of complaints in a given time period (SFPD)
  - Expand crisis intervention training (SFPD)
  - Evaluate productivity measures for police (count arrests where charges are dropped vs. where charges are filed) (SFPD)
  - Moratorium on filing gang charges and allegations on children in the Bayview and Sunnyvale (District Attorney)
  - Elimination of field investigation charges (District Attorney)
  - No jail rebuild
- Education/Youth Empowerment (SF Unified School District, Juvenile Probation)
  - Destroy the school-to-prison pipeline/address discipline issues and behavior with youth of color without suspensions and expulsions
  - Provide stipends and incentives for youth
  - Peer-led support and advocacy
  - Paid opportunities for incarcerated youth and young adults to address recidivism and increase economic power
- Courts
  - Address financial barriers—eliminate fines & fees and connection to driver’s licenses
  - Implement an economic-class-informed sliding scale for ticketing
  - Sentencing reform
  - More opportunities and action at neighborhood courts
  - More funding for collaborative courts

## Mission Meeting: Participant Discussion Summary

### 1. Impact of Racial Disparities: How do racial disparities in the criminal justice system affect individuals and the Mission community?

- Decreases trust in law enforcement and creates an “us versus them” mentality
  - Increases fear of reporting crime

- Appears as racial profiling and reflects bigger system issues
- Increases tension between police, communities of color, and white residents
- Leads to gang injunctions
- Increased incarceration rates lead to:
  - Inter-generational instability and incarceration
  - Economic instability while in jail and after release
  - Increased poverty
  - Long-term employment/educational impact
  - Displacement of children of incarcerated parents
- Supports social and economic injustice
  - Increased fear and trauma
  - Increased hopelessness, frustration, despair – impact on individual and community
  - Lack of opportunity leads to depression and anxiety
  - Lack of role models, especially male role models for youth
  - Hinders community mobilization
  - Lack of knowledge of resources / how to navigate
  - Loss of life
- Gentrification and community displacement leads to:
  - Loss of jobs/legal income
  - Loss of opportunity
  - Loss of homes
  - Loss of diversity
  - Marginalization

**2. Strengths: What strengths do the Mission community and San Francisco government agencies bring to correct racial disparities?**

- Community-based programs and service providers
  - Models for community-based solutions already exist in the Mission
  - Community-based organizations have experience and knowledge, and work well together
  - We have a strong community-based partner assign people with reentry
  - Diversion programs
  - Collaborative courts
  - Violence intervention and prevention for youth, including after school activities
- Families and Community
  - Strong families with multi-generational roots in the community
  - Community culture, e.g., Latino, Black, PRIDE
  - Local mom and pop business owners
  - Community resiliency with a strong sense of identify
  - Strong community advocates
  - Decades of violence prevention work
  - We know what needs to be changed, e.g., cleaner streets
  - Si se puede (Yes, we can) attitude (political, social, economic)
  - Deep potential for empowerment
- Government partners
  - Free thinkers in government
  - Engaged district supervisor and other public officials

- A healthy city budget / funding for non-profits

**3. Action Steps: What are three actions that could be taken right now to address racial disparities? Which agencies or community resources are responsible for each action step?**

- Law Enforcement
  - Improve police discipline system
  - Increase training for police, including cultural sensitivity, positive community integration, and de-escalation practices
  - Implement psychological evaluations and regular mental health screenings with a focus on bias, especially following citizen complaints
  - Recruit from the communities they serve
  - Develop more cohesive policies regarding immigration/ICE raids, including strict separation between local law enforcement and ICE
- General criminal justice system
  - Government/Community Interaction
    - Increase intra-government cooperation, e.g., SFPD & Mayor/blue ribbon panel
    - Build better relationships with the community
    - Community and government leaders need to be more visible and interact more with the community, e.g., district leaders
  - Create a commission on racial disparities and conduct a racial impact analysis on any policy passed in SF
  - Increase individual and system accountability
  - Recruitment, hiring and training
    - Increase diversity in recruitment and hiring practices in all criminal justice system agencies
    - Mandate cultural competency and implicit bias training for all criminal justice agencies
  - Improve data collection and sharing
    - Publicize data using a CompStat model
    - Identify people correctly in the system
    - Pedestrian and traffic stops by race and gender (both self initiated and direct by community member)
  - Policies and Programs
    - Build on successful programs from other jurisdictions
    - Implement community-based conflict resolution programs, e.g., community justice and restorative justice courts.
    - Decriminalize petty and quality of life crimes, including street vendor ticketing
    - Revisit/study the impact of the gang injunction
    - Reform/review bail system
    - Expand alternative sentencing to the transition age youth (TAY) population
    - Engage in sentencing and bail reform
    - Increase post-incarceration support
    - Increase use of preconviction-based models
- Service Provision and Access
  - Provide mental health treatment to deal with trauma experienced in the criminal justice system
  - Increase availability of substance abuse treatment
  - Increase public health and mental health service availability through local clinics

- Provide one stop shopping for resources through on-line technology
- Conduct more street outreach and provide resources in different languages
- Education
  - Expand preschool for all
  - Change income restriction for after school programs
  - Pay our teachers better
  - Better monitor educational outcomes
  - Change the perception of youth that education takes too long
  - Increase use of nontraditional modes of education
- Community
  - Implement a moratorium on building development and instead build affordable housing
  - Demand that tech companies be held accountable as community partners
  - Community engagement and activation
    - The people can be catalysts for change
    - Hold town hall meetings
    - Community leaders step up and intervene when problems arise “my brother’s keeper mentality”
    - Provide space for meetings and access to technology
    - Increase voting – educate and participate

## **Tenderloin Meeting: Participant Discussion Summary**

### **1. Impact of Racial Disparities: How do racial disparities in the criminal justice system affect individuals and the Tenderloin community?**

- Law enforcement and criminal justice system involvement
  - Lack of trust between the community and law enforcement
  - Residents are reluctant to report crimes for fear of being targeted
  - The community feels like they are treated disrespectfully
  - Arrests result in loss of resources, including access to public benefits, housing, employment, and voting, and negatively affect families
  - Some groups, including women and trans of color, feel profiled and victimized
  - Law enforcement doesn’t know the community well, doesn’t know where services are located
  - Low income communities become targets of police focus Lack of ability to communicate between law enforcement and community, i.e., Spanish language access
  - Law enforcement is perceived to respond more quickly to new residents and businesses and to be non-responsive to non-white residents
  - There is a cultural, economic, and social disconnect between public servants and the community. They don’t live here.
- Social and economic impacts
  - Dehumanizes and stigmatizes individuals/groups
  - Creates more one parent families
  - Creates barriers to employment, education, and housing
  - Individuals feel targeted and resentful
  - Negatively impacts mental health, decreasing self-esteem and increasing depression
  - Leads to lack of investments in the community
  - Negatively impacts health and foster care system service provision



- Engagement of new companies is superficial and yet public services and resources are being redirected toward these companies. This impacts residents' access to services.
- Gentrification leads to displacement.
- Economic stability results in more reliance on safety net services
- Lack of resources for homeless services/SRO, quality of service providers, the box (convicted of a felony) on job/housing
- Community-based Organizations
  - Services agencies need a better understanding and respect for different ethnic groups. There is an assumption that you can treat everyone the same, when engaging the community.
  - Lack of communication among non profits

**2. Strengths: What strengths do the Tenderloin community and San Francisco government agencies bring to correct racial disparities?**

- Community members
  - Value respect, diversity and dignity
  - Desire to make things better
  - Tolerance
  - Strong sense of community
  - Sense of pride
  - Focus on civil rights and advocacy for low income people
  - Interest in preserving history
  - Resilient
  - Social justice awareness and a history of leading difficult conversations
  - Diversity of cultures, languages, histories, perspectives
  - Opportunities for resident engagement and community coalitions
  - There is a tremendous organizing base of people directly affected by disparities. The people and the community organizations are strong.
- Community Organizations
  - There are a significant number of providers and services in the community
  - Advocacy organizations fighting for justice and tenants' rights
  - Clean up crews promoting healthy/clean neighborhood
  - A significant percent of the city's (theoretically) affordable housing exists in the Tenderloin
- Government
  - The community has a voice and access to policy makers
  - Reentry Council members are willing to come to the table with us
  - Active CCSF Supervisors representing neighborhood needs
  - Proximity to the seat of government

**3. Action Steps: What are three actions that could be taken right now to address racial disparities? Which agencies or community resources are responsible for each action step?**

- Law enforcement polices
  - Moratorium on homeless sweeps and enforcement of quality of life crimes
  - Change police procedures and policies to increase accountability
  - Increase training of law enforcement to include self care, psychological assessment

- Increase diversity in law enforcement
- Increase community-based policing and communication with community leaders/stakeholders
- Organize series of meet and greets between community organizations and law enforcement
- Improve training of /expand utilization of crisis intervention team (prevent needless deaths/decrease incarceration of residents needing mental health services)
- Revise traffic/homeless citation policies so that they do not disproportionately affect the poor.
- General criminal justice system
  - Improved data collection and analysis, including self report race
  - More collaboration with the community
  - Change criteria for diversion programs to reduce disparities and expand collaborative courts
  - Revise the bail system to be fairer to the poor.
  - Accept blue ribbon panel recommendations (DA)
  - Set higher standards for charging to reduce disparities
  - Decriminalize drugs/open supervised injection services.
  - Change jail release hours
  - Implement pre-arrest diversion
  - Abolish laws that criminalize people based on status versus behavior
- Increased and improved access to:
  - affordable housing
  - reentry programs that work
  - medical and behavioral health services
  - education opportunities
  - employment opportunities, including mentorships and internship fairs
  - support for parents and children of incarcerated parents.
- Community
  - Increased communication between new neighbors and local businesses and residents. This demystifies different community members – should lead to decrease in police calls
  - New community members need to participate in key activities associated with building community, beyond just giving dollars
  - Shift mindsets to recognize that there is value in all community members
  - Ensure greater access to translation/interpretation services for monolingual/limited English speakers, i.e., Latino community (especially during regular business hours)
  - Increase voter turnout of residents (registration, education, and mobilization)
  - Revisit suspension/expulsion policies in schools.
  - Increase partnerships between private sector and community-based organizations to support job readiness for those with barriers
  - Increase accountability for organizations running shelters and SROs

# Appendix A: Agenda Example

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## San Francisco Racial and Ethnic Disparities Community Meeting: Building Justice in the Bayview

### Agenda

3:30-3:45pm **Arrival**

- Food
- Gather at Tables

3:45-4pm **Introduction**

- Welcome
- History of Burns Institute Report
- Overview of Breakout Groups

4-5pm **Breakout Groups**

- Impact
- Strengths
- Action Steps
- Accountability

5-5:45pm **Report Back from Groups**

5:45-6pm **Wrap-Up and Closing**

#### Additional Resources

Burns Institute – San Francisco Racial and Ethnic Disparities Analysis  
<http://www.burnsinstitute.org/tag/san-francisco/>

Ella Baker Center Report – Who Pays?  
<http://ellabakercenter.org/sites/default/files/downloads/who-pays.pdf>

# Appendix B: Meeting Evaluations

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## Bayview Meeting: Evaluation Summary

About 40 people filled out evaluation forms. Overall, people enjoyed the meeting and felt it was very valuable.

1. Introduction:
  - a. The purpose was very clear
  - b. It was important to involve the community
  - c. Disparities report was very helpful
  - d. I was not clear before I came because the flyer had very little information on it
  - e. Agenda was helpful
  - f. I knew I would learn new things, meet new people, plus loved hearing so many perspectives
  - g. Good discussion
  - h. Needed fewer items on breakout/discussion group agendas
2. Facilitation (Ophelia Williams):
  - a. Very effective
  - b. Did a good job of managing time during the event
  - c. She was excellent
  - d. Engaging and inclusive of all in attendance
  - e. She asked if participants understood
  - f. Well spoken but approachable
  - g. Awesome
  - h. Good spirit
  - i. Fair
  - j. Kept it real
3. Table set up
  - a. Helped facilitate the conversation well
  - b. Able to look into everyone's eyes easily
  - c. Encouraged open and equal discussion
  - d. Good size groups—not too big or too small
  - e. Diverse group
  - f. Loved that it was assigned—got diverse group of stakeholders
  - g. Good ideas and nice people
  - h. Good ground group rules and respectful
  - i. Met new people and small enough that everyone could speak
4. Group participation
  - a. Everyone participated equally
  - b. Everyone was respectful
  - c. Everyone seemed engaged and had the opportunity to contribute
  - d. Guidelines given were enforced well
  - e. Everyone was comfortable sharing honest perspectives

- f. Understood suggestions from other tables
- g. Would have liked more concrete actions steps
- h. Time was too short to understand commitments and roles of city officials
- i. Did not hear commitments
- 5. Was coming to meeting a good use of time
  - a. I really enjoyed the meeting. I would have appreciated the opportunity to talk to more service providers as well as service recipients
  - b. Motivating and inspiring to see others working to improve racial disparities
  - c. Great opportunity to hear from the community
  - d. Always good to hear the struggles and work together to find a solutions
  - e. Very good and on time
  - f. Made me proud of my community
  - g. Time was not good in terms of including enough community leaders
  - h. It is important for all city government agencies to speak with each other about the steps which are needed to address social disparities in the criminal justice system
  - i. A needed discussion
  - j. This issue is critical and we need community input and accountability
  - k. Wanted more networking with other tables after the presentation

## Mission Meeting: Evaluation Summary

About 12 people filled out evaluation forms.

- 1. Introduction:
  - a. The purpose was clear
  - b. Most productive, well-organized, the facilitator kept us on track
  - c. Enjoyed the dialog
  - d. Facilitator asked clear questions, ideas for group agenda was outlined
- 2. Facilitation (Marlena Sanchez)
  - a. Effective
  - b. Okay
  - c. Wonderful!
  - d. From time to time the facilitator had to get her message across
  - e. Great and effective
  - f. Timely
- 3. Table set up
  - a. Liked sitting at the tables
  - b. Nice to get to know my group
  - c. Met new people
  - d. Easier to write on
  - e. No – less intimate circles are better
  - f. Encouraged communication
  - g. Great knowledge experience from different fields
  - h. Allowed individuals to engage and communicate
  - i. Liked that police were at the table
  - j. Allowed for circle discussions

4. Group participation
  - a. People actively participated
  - b. Everyone listened respectfully
  - c. Sufficient, fair, and impartial, everyone had equal opportunity to provide input
  - d. Came late but felt part of the group, engaged, but no introductions were made
  - e. Everyone had time to step up
5. Childcare
  - a. Did not use childcare
  - b. Did not use childcare but great to have
6. Action step development
  - a. Yes, table developed action steps
  - b. Actions steps were realistic
7. Understanding of other tables' suggestions
  - a. Understood other tables' suggestions
  - b. One table was confusing
  - c. Understood to an extent
  - d. They explained in great detail
  - e. The police participated
8. Understanding of city officials' role and commitment
  - a. Yes, understood role and commitment
  - b. Somewhat
  - c. N/A
9. Participate in the future?
  - a. N/A
  - b. Seven out of 11 provided email address
10. Was coming to the meeting a good use of time?
  - a. Yes. One complaint Thank you to every city agency at the start really grating especially since 90% of them left early it felt like a lot of thanks you for people graciously giving up their time to talk to people they serve
  - b. Yes
  - c. N/A
  - d. Good use, very focused and productive
  - e. Great to express my idea and concerns
  - f. Quick but powerful, allowed for different perspectives

## **Tenderloin Meeting: Evaluation Summary**

Pending

## **Western Addition Meeting: Evaluation Summary**

Pending

**Reentry Council Subcommittee Retreat**  
**January 28, 2016**  
**1-4pm**

455 Golden Gate Ave., San Diego Rooms

**Notes**

**Objectives: Develop a collective understanding of the purpose of the subcommittees**  
**Determine a 12-month plan of action for each subcommittee**  
**Assure participation of formerly-incarcerated people**  
**Restructure the subcommittees as necessary to accomplish above**

Members Present:

**Assessment & Connections: Andy Chu, Melissa Gelber-O'Dell, Amarita King, Destiny Pletsch, Simin Shamji, Yasi Shirazi, George Smith, Kelly Winter**

**Policy & Operational Practices: Laura Thomas, Tara Anderson, Terri Curd, Melody Fountila, Nicholas Gregoratos, Jennifer Johnson, Kathleen Connolly Lacy, Becky LoDolce, Ellie Tumbuan, Mark Walsh**

**Support & Opportunities: Ernest Kirkwood, Steve Adami, Jose Bernal, James Lowden, Phoebe Vanderhorst**

**Others: Lauren Bell, Janean Mathis, Curtis Penn, Raquel Pinderhughes, Jared Rudolph, Karen Shain**

- I. Reentry Council and Subcommittees—What has been the relationship of subcommittees to Council
  - a. Key words from Reentry Council bylaws
    - i. Aid people reentering
    - ii. Advice to public, Board of Supervisors, Mayor
    - iii. Diversity of membership
    - iv. Collaborative effort
    - v. Engagement of public and community
  - b. Accomplishments of Council and subcommittees
    - i. Fair Chance Ordinance
    - ii. Film series
    - iii. Resource Guide
    - iv. Voter Rights educational drive
    - v. Issue awareness
    - vi. Late night jail release presentations
    - vii. Justice Reinvestment Initiative
  
- II. How has the landscape changed since the Council began?
  - a. Realignment
  - b. Prop 47
  - c. Justice Reinvestment/Burns Report
  - d. Alternatives to incarceration
  - e. Reentry Pod

## Subcommittee Retreat Notes

1/28/16

- f. Solitary confinement & life sentences for youth
  - g. Housing has gotten more complex
  - h. Determinate sentencing
  - i. Healthcare reform
  - j. Transgender issues
  - k. Civil rights movement of formerly incarcerated people
  - l. Bi-partisan support for criminal justice reform
  - m. Increased tension with law enforcement
  - n. Expanded release for lifers
  - o. Visibility of families and children of people in custody
  - p. Unresolved jail rebuild issue—continues
  - q. Three strikes reform
  - r. Data challenges
  - s. Clean slate
  - t. Social Impact Funding
  - u. For-profit organizations/privatization
  - v. Profiteering on phone calls, etc.
  - w. Bad conditions for women prisoners/bad conditions for everyone in prison
  - x. CA 290 barriers and reforms
  - y. Post-secondary funding for people in custody and reentrants (SF City College & WayPass not funded)
  - z. Emphasis on career tech jobs/coding training in some prisons
  - aa. Immigration detentions
  - bb. Creation of veterans courts
  - cc. Etc., etc., etc.
- III. Increasing voice of formerly incarcerated in Council and subcommittees
- a. People want to feel part of something that accomplishes things—want to feel respected and get tangible results
  - b. Want to have their issues addressed
  - c. Needs must be aligned with the Council
  - d. Meetings happen far from the community—have meetings in the community
  - e. Issues for formerly incarcerated people are not qualitatively different than for subcommittee members—members also want to feel part of the accomplishments of the Council, want to have issues addressed and need to have their issues aligned with those of the Council
  - f. Perhaps Council should be restructured and allow for a sixth co-chair (formerly incarcerated member)
  - g. Change mandate so there can be more than merely advice to Mayor and BOS
- IV. Issues—what specific issues do committee members want to tackle and have impact on (Subcommittee Tables)—2:15-3:45
- a. Table discussions
    - i. What is the focus of this subcommittee?
    - ii. What issues do you want to concentrate on?
    - iii. How does that relate to your focus?
    - iv. How can subcommittees better impact work of the Reentry Council?



Subcommittee Retreat Notes  
1/28/16

- b. Report Back
  - c. Structuring of subcommittees, finalizing identities of each—setting of one-year objectives
    - a. Assessment & Connections: Connect the individual with resources
      - Focus will be to connect those coming out immediately to community services, government agencies, and mental health.
      - Provide custody release bags—including basic forms to access GA, medical care, GOSO, Meds and prescriptions, food, gate \$ if coming out of prison, education possibilities, create an incentive for the next step
      - Long-term goal would be to create a Reentry Navigation Center where people could drop in as they are released, receive benefits counseling, psycho-social help, a place to go when everything else is closed
    - b. Policy & Operational Practices—want to continue working on both legislation and operations
      - Will engage in annual review of priorities
      - Will formalize recommendations coming from other subcommittees providing policy support
      - 1. Communications between departments (data-sharing)
      - 2. Public response from community meetings
      - 3. Barriers removal legislation (CA290, drivers licenses, child support, voting rights)
      - Mental Health issues are so large they should become a fourth subcommittee
    - c. Support & Opportunities
      - Update sections of the Reentry Guide:
        - Women (using women’s blueprint)
        - Veterans
        - Lifers
        - Seniors
      - Digitize the Reentry Guide
      - Develop a peer support network that is formed and led by formerly incarcerated people
        - The subcommittee will take this on as a project that will involve formerly incarcerated people that will have activities, a regular meeting time and a place to meet
- V. Next Steps/Evaluation
- a. Must develop alignment between the Council and the subcommittees
  - b. Council must express respect for the subcommittees as well as the general community
  - c. Each subcommittee must have active participation of formerly incarcerated people AND representation from all City departments that are represented on the Council
  - d. Every agenda must include time for subcommittees and there must be a plan for response to subcommittees when calling for an action
  - e. Subcommittees must communicate better so there is alignment between them as well
  - f. Reconvene subcommittee retreat in six months to evaluate progress

**Reentry Council of City and County of San Francisco**  
**Policy & Operational Practice Subcommittee**  
**Legislative Support Proposals**  
**3/9/2016**

<b>Bill No.</b>	<b>Author</b>	<b>Title</b>	<b>Brief Summary</b>	<b>Status at 3/23/16</b>
AB 1597	Stone	County jails: performance milestone credits	Programming credits to apply to anyone held in county jail. Credits to be applied to sentence once they are awarded.	Assembly Third Reading
AB 2466	Weber	Voting: felons	Would define "imprisoned" as currently serving a state or federal prison sentence and "parole" as under the supervision of California Department of Corrections and Rehabilitation. Anyone not imprisoned or on parole would be entitled to register to vote.	Assembly Committee on Elections and Registration
SB 881	Hertzberg	Vehicles: violations	Ensures that courts and counties will not suspend driver's licenses as a means of collecting court-ordered debt associated with non-safety traffic offenses.	Senate Transportation & Housing 4/12/16
SB 1157	Mitchell	Inmates: visitation	Prohibits video or other types of electronic visitation from replacing in-person visits. Income attributable to use of video visitation equipment to be deposited in the inmate welfare fund.	Senate Public Safety 4/12/16

SB 876	Liu	Homelessness	<p>This bill would afford persons experiencing homelessness the right to use public spaces without discrimination based on their housing status and describe basic human and civil rights that may be exercised without being subject to criminal or civil sanctions, including the right to use and to move freely in public spaces, the right to rest in public spaces and to protect oneself from the elements, the right to eat in any public space in which having food is not prohibited, and the right to perform religious observances in public spaces, as specified. The bill would state the intent of the Legislature that these provisions be interpreted broadly so as to prohibit policies or practices that are discriminatory in either their purpose or effect.</p>	<p>Senate Transportation &amp; Housing 3/29/16</p>
SB 1286	Leno	Peace officers: records of misconduct	<p>Expands requirements for law enforcement transparency. Covers all peace officers.</p>	<p>Senate Public Safety 4/12/16</p>



## Reentry Council City and County of San Francisco

March 24, 2016

Mayor Edwin Lee, Mayor  
City of San Francisco  
Hon. London Breed, President  
Members, San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Support for AB 1597 – County jails: performance milestone credits

Dear Mayor Lee, President Breed, and Members:

As an advisory body to the Board of Supervisors, the San Francisco Reentry Council has reviewed and enthusiastically supports Assembly Bill 1597 (AB1597). Under existing law a sheriff or a county director of corrections is permitted to award additional credits to an inmate who is sentenced to a county jail for a felony under Realignment.

This bill would expand that authority with all other existing limitations intact, to allow persons awaiting sentencing and those sentenced to probationary terms to earn those same milestone credits for participating in educational and rehabilitative programs. These programs can include: substance abuse treatment, anger management and violence prevention programs, academic and vocational education as well as parenting classes.

AB-1597 has the potential to benefit the City and County of San Francisco in multiple ways. It will incentivize program participation and education opportunities in the jails which will lead to lower recidivism rates, give the sheriff a tool to assure each inmate is actively participating in their specific program and will work to lower our daily population at a time when we face the imminent closure of County Jail 4.

For these reasons, the Reentry Council supports this bill and urges the City/County Committee on Legislation to support it as well. Thank you for your consideration. If you have any further questions please do not hesitate to contact Karen Shain, Reentry Policy Planner at 415.553.1047 or karen.shain@sfgov.org .

Sincerely,

Members of the Reentry Council of the City and County of San Francisco

Encl: Introduced Legislation

*The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.*

880 Bryant Street, Room 200 • San Francisco, California 94103 • ph: 415.553.1593 • email: reentry.council@sfgov.org • web:

[www.sfgov.org/reentry](http://www.sfgov.org/reentry)

AMENDED IN ASSEMBLY MARCH 9, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1597**

**Introduced by Assembly Member Mark Stone**

January 7, 2016

An act to amend Section 4019.4 of the Penal Code, relating to county jails.

LEGISLATIVE COUNSEL'S DIGEST

AB 1597, as amended, Mark Stone. County jails: performance milestone credits.

Under existing law, when a prisoner is confined to a county or city jail, an industrial farm, or a road camp, for each 4-day period in which he or she is confined, he or she may have one day deducted from his or her period of confinement, as specified. Existing law also authorizes a sheriff or county director of corrections, in addition to the credits otherwise earned, to award an inmate who is sentenced to county jail for a felony, program credit reductions from his or her term of confinement for successful completion of specific program performance objectives for rehabilitative programming, including academic programs, vocational programs, vocational training, substance abuse programs, and core programs such as anger management and social life skills. These program credit reductions may be for one to 6 weeks and may be forfeited in the same manner as other program credit reductions.

This bill would make the provisions applicable to *sentenced and unsentenced* inmates who are ~~sentenced to confined in a county jail for a misdemeanor and to people who are held in a county jail prior to sentencing~~ *jail*. The bill would require credits awarded prior to sentencing to be applied to the sentence for the offense for which the

inmate was awaiting sentence when the credits were awarded. *The bill would prohibit evidence of an inmate's participation, or attempted participation, in this program from being admitted as an admission of guilt in any proceeding.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1 SECTION 1. Section 4019.4 of the Penal Code is amended to  
2 read:

3 4019.4. (a) (1) In addition to credit awarded pursuant to  
4 Section 4019, a sheriff or county director of corrections may also  
5 award an inmate program credit reductions from his or her term  
6 of confinement as provided in this section. A sheriff or county  
7 director of corrections who elects to participate in this credit  
8 reduction program shall create guidelines that provide for credit  
9 reductions for inmates who successfully complete specific program  
10 performance objectives for approved rehabilitative programming,  
11 including, but not limited to, credit reduction of not less than one  
12 week to credit reduction of not more than six weeks for each  
13 performance milestone.

14 (2) Guidelines adopted by a sheriff or county director of  
15 corrections pursuant to this subdivision shall specify the credit  
16 reductions applicable to distinct objectives in a schedule of  
17 graduated program performance objectives concluding with the  
18 successful completion of an in-custody rehabilitation program.  
19 Upon adopting the guidelines, the sheriff or county director of  
20 corrections shall thereafter calculate and award credit reductions  
21 authorized by this section. An inmate may not have his or her term  
22 of imprisonment reduced by more than six weeks for credits  
23 awarded pursuant to this section during any 12-month period of  
24 continuous confinement.

25 (b) Program credit is a privilege, not a right. An inmate shall  
26 have a reasonable opportunity to participate in program credit  
27 qualifying assignments in a manner consistent with institutional  
28 security, available resources, and guidelines set forth by the sheriff  
29 or county director of corrections.

30 (c) As used in this section, "approved rehabilitation  
31 programming" shall include, but is not limited to, academic

1 programs, vocational programs, vocational training, substance  
2 abuse programs, and core programs such as anger management  
3 and social life skills.

4 (d) Credits awarded pursuant to this section may be forfeited  
5 pursuant to the provisions of Section 4019. An inmate shall not  
6 be eligible for program credits that result in him or her being  
7 overdue for release.

8 (e) This section shall apply to ~~inmates sentenced to~~ and  
9 *unsentenced inmates confined in a county jail*.

10 (f) (1) Nothing in this section shall prevent a person who has  
11 not been sentenced from participating in an approved rehabilitation  
12 program pursuant to this section.

13 (2) If a person is awarded credits prior to sentencing, the credits  
14 shall be applied to a sentence for the offense for which the person  
15 was awaiting sentence when the credits were awarded ~~under~~ *in the*  
16 ~~same terms and conditions~~ *manner* as all other credits awarded.

17 (g) *Evidence that an inmate has participated in, or attempted*  
18 *to participate in, an approved rehabilitation program eligible for*  
19 *credit pursuant to this section is not admissible in any proceeding*  
20 *as an admission of guilt.*

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## Reentry Council City and County of San Francisco

March 24, 2016

Mayor Edwin Lee, Mayor  
City of San Francisco  
Hon. London Breed, President  
Members, San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Support for AB 2466 – Voting: Felons

Dear Mayor Lee, President Breed, and Members:

The Reentry Council of the City and County of San Francisco writes to express its support for AB 2466, which will codify a recent court ruling on voter eligibility and eliminate residual ambiguity in state law regarding the impact a felony conviction has on voting. The current confusion surrounding felony disenfranchisement threatens the integrity of California's elections and results in the exclusion of eligible voters, a disproportionate number of whom are people of color. AB 2466 would clarify existing California law on voter eligibility and guarantee a more inclusive and participatory electorate.

In 1976, our state Constitution was amended to end permanent disenfranchisement and prohibit only people who are currently "imprisoned or on parole for the conviction of a felony" from voting. The meaning of the terms "imprisoned" and "parole," however, has been the subject of ongoing litigation and confusion, particularly as criminal justice reforms and sentencing laws have evolved. Most recently, voter eligibility was the subject of litigation following the passage of the Criminal Justice Realignment Act of 2011 (CJRA), which created three new categories of sentencing for people convicted of low-level felonies: mandatory supervision, post-release community supervision, and a term in county jail.

While courts have consistently interpreted the constitutional provision in favor of the enfranchisement of voters, California's voter eligibility laws cannot be subject to change, litigation, and clarification every time a sentencing reform is enacted. Elections officials and the Secretary of State need guidance and clarity in order to ensure consistent application of voter eligibility law and accurate maintenance of the voter file. AB 2466 would thus amend the Elections Code to codify the recent decision in *Scott v. Bowen*, ensuring that more than 50,000 people under mandatory and post-release community supervision can vote. AB 2466 also clarifies that the third category of CJRA sentencing – a term in county jail – likewise does not strip people of their right to vote. Finally, AB 2466 would clarify the information courts provide to elections officials.

*The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.*

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Felony disenfranchisement laws remain a lasting vestige of Jim Crow laws. In California alone, three of every four men in prison are African American, Latino, or Asian American. Thus, overly expansive or inconsistent interpretations of the law defining who can vote with a felony conviction risk further disenfranchisement of communities of color. The legislature has the power to reverse this trend and ensure no eligible California voter is excluded from our democracy.

For these reasons, the Reentry Council supports this bill and urges the City/County Committee on Legislation to support it as well.

Sincerely,

Members of the Reentry Council of the City and County of San Francisco

Encl: Introduced Legislation

DRAFT

*The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.*

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[www.sfgov.org/reentry](http://www.sfgov.org/reentry)

**ASSEMBLY BILL****No. 2466**

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**Introduced by Assembly Member Weber**  
(Principal coauthor: Senator Mitchell)

February 19, 2016

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An act to amend Sections 2101, 2106, and 2212 of the Elections Code, relating to voting.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2466, as introduced, Weber. Voting: felons.

The California Constitution requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony. Existing law provides that a person is entitled to register to vote if he or she is a United States citizen, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election.

This bill, for purposes of determining who is entitled to register to vote, would define imprisoned as currently serving a state or federal prison sentence and would define parole as a term of supervision by the Department of Corrections and Rehabilitation. The bill would clarify that conviction does not include a juvenile adjudication.

Existing law requires any program adopted by a county pursuant to certain provisions, that is designed to encourage the registration of electors, with respect to any printed literature or media announcements made in connection with the program to contain a statement that a person entitled to register to vote must be a United States citizen, a California resident, not in prison or on parole for conviction of a felony, and at least 18 years of age at the time of the election.

This bill would instead require that the statement, as described above, state that a person entitled to register to vote must be a United States citizen, a California resident, not currently in state or federal prison or on state parole for the conviction of a felony, and at least 18 years of age at the time of the election. By requiring a county to change the statement included as part of its voter registration program, as described above, the bill would impose a state-mandated local program.

Existing law requires the clerk of the superior court of each county, on the basis of the records of the court, to furnish to the chief elections official of the county, at least on April 1 and September 1 of each year, a statement showing the names, addresses, and dates of birth of all persons who have been convicted of felonies since the clerk's last report. Existing law requires the elections official to cancel the affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony.

This bill would instead require that the statement furnished by the clerk of the superior court of each county to the county elections official show the names, addresses, and dates of birth of all person who have been committed to state prison as the result of the conviction of a felony since the clerk's last report.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. Section 2101 of the Elections Code, as enacted
- 2 by Section 2 of Chapter 920 of the Statutes of 1994, is amended
- 3 to read:
- 4 2101. (a) A person entitled to register to vote shall be a United
- 5 States citizen, a resident of California, not ~~in prison~~ *imprisoned*
- 6 or on parole for the conviction of a felony, and at least 18 years
- 7 of age at the time of the next election.

1 (b) (1) For purposes of this section the following definitions  
2 apply:

3 (A) “Imprisoned” means currently serving a state or federal  
4 prison sentence.

5 (B) “Parole” means a term of supervision by the Department  
6 of Corrections and Rehabilitation.

7 (2) For purposes of this section, “conviction” does not include  
8 a juvenile adjudication.

9 SEC. 2. Section 2101 of the Elections Code, as amended by  
10 Section 2 of Chapter 728 of the Statutes of 2015, is amended to  
11 read:

12 2101. (a) A person entitled to register to vote shall be a United  
13 States citizen, a resident of California, not imprisoned or on parole  
14 for the conviction of a felony, and at least 18 years of age at the  
15 time of the next election.

16 (b) A person entitled to preregister to vote in an election shall  
17 be a United States citizen, a resident of California, not imprisoned  
18 or on parole for the conviction of a felony, and at least 16 years  
19 of age.

20 (c) (1) For purposes of this section the following definitions  
21 apply:

22 (A) “Imprisoned” means currently serving a state or federal  
23 prison sentence.

24 (B) “Parole” means a term of supervision by the Department  
25 of Corrections and Rehabilitation.

26 (2) For purposes of this section, “conviction” does not include  
27 a juvenile adjudication.

28 SEC. 3. Section 2106 of the Elections Code, as enacted by  
29 Section 2 of Chapter 920 of the Statutes of 1994, is amended to  
30 read:

31 2106. ~~Any~~A program adopted by a county pursuant to Section  
32 2103 or 2105, that is designed to encourage the registration of  
33 electors, ~~shall, with respect to~~ shall contain the following statement  
34 in any printed literature or media announcements made in  
35 connection with ~~these programs, contain this statement:~~ the  
36 program: “A person entitled to register to vote must be a United  
37 States citizen, a resident of California, not *currently* in state or  
38 federal prison or on state parole for the conviction of a felony, and  
39 at least 18 years of age at the time of the election.”

1 SEC. 4. Section 2106 of the Elections Code, as amended by  
 2 Section 2 of Chapter 619 of the Statutes of 2014, is amended to  
 3 read:

4 2106. A program adopted by a county pursuant to Section 2103  
 5 or 2105, that is designed to encourage the registration of electors,  
 6 ~~shall, with respect to a~~ *shall contain the following statement in*  
 7 ~~printed literature or media-announcement~~ *announcements* made  
 8 in connection with ~~these programs, contain this statement:~~ *the*  
 9 *program:* “A person entitled to register to vote must be a United  
 10 States citizen, a resident of California, not *currently in state or*  
 11 *federal* prison or on *state* parole for the conviction of a felony, and  
 12 at least 18 years of age at the time of the election. A person may  
 13 preregister to vote if he or she is a United States citizen, a resident  
 14 of California, not *currently in state or federal* prison or on *state*  
 15 parole for the conviction of a felony, and at least 16 years of age.”  
 16 A county elections official may continue to use existing materials  
 17 before printing new or revised materials required by any changes  
 18 to this section.

19 SEC. 5. Section 2106 of the Elections Code, as amended by  
 20 Section 5 of Chapter 728 of the Statutes of 2015, is amended to  
 21 read:

22 2106. A program adopted by a county pursuant to Section 2103  
 23 or 2105, that is designed to encourage the registration of electors,  
 24 ~~shall, with respect to a~~ *shall contain the following statement in*  
 25 ~~printed literature or media-announcement~~ *announcements* made  
 26 in connection with ~~these programs, contain this statement:~~ *the*  
 27 *program:* “A person entitled to register to vote must be a United  
 28 States citizen, a resident of California, not *currently imprisoned*  
 29 *in a state or federal prison* or on *state* parole for the conviction of  
 30 a felony, and at least 18 years of age at the time of the election. A  
 31 person may preregister to vote if he or she is a United States citizen,  
 32 a resident of California, not *currently imprisoned in a state or*  
 33 *federal prison* or on *state* parole for the conviction of a felony,  
 34 and at least 16 years of age.” A county elections official may  
 35 continue to use existing materials before printing new or revised  
 36 materials required by any changes to this section.

37 SEC. 6. Section 2106 of the Elections Code, as amended by  
 38 Section 6 of Chapter 728 of the Statutes of 2015, is amended to  
 39 read:

1 2106. ~~Any~~ A program adopted by a county pursuant to Section  
 2 2103 or 2105, that is designed to encourage the registration of  
 3 electors, ~~shall, with respect to~~ *shall contain the following statement*  
 4 *in any printed literature or media announcements made in*  
 5 *connection with these programs, contain this statement: the*  
 6 *program: “A person entitled to register to vote must be a United*  
 7 *States citizen, a resident of California, not currently imprisoned*  
 8 *in a state or federal prison or on state parole for the conviction of*  
 9 *a felony, and at least 18 years of age at the time of the election.”*

10 SEC. 7. Section 2212 of the Elections Code, as amended by  
 11 Section 95 of Chapter 784 of the Statutes of 2002, is amended to  
 12 read:

13 2212. The clerk of the superior court of each county, on the  
 14 basis of the records of the court, shall furnish to the ~~chief county~~  
 15 ~~elections official of the county,~~ *official*, not less frequently than  
 16 the first day of April and the first day of September of each year,  
 17 a statement showing the names, addresses, and dates of birth of  
 18 all persons who have been ~~convicted of felonies~~ *committed to state*  
 19 *prison as the result of a felony conviction* since the clerk’s last  
 20 report. The elections official shall, during the first week of April  
 21 and the first week of September in each year, cancel the affidavits  
 22 of registration of those persons who are currently imprisoned or  
 23 on parole for the conviction of a felony. The clerk shall certify the  
 24 statement under the seal of the court.

25 SEC. 8. Section 2212 of the Elections Code, as amended by  
 26 Section 65 of Chapter 728 of the Statutes of 2015, is amended to  
 27 read:

28 2212. The clerk of the superior court of each county, on the  
 29 basis of the records of the court, shall furnish to the Secretary of  
 30 State and the county elections official in the format prescribed by  
 31 the Secretary of State, not less frequently than the first day of every  
 32 month, a statement showing the names, addresses, and dates of  
 33 birth of all persons who have been ~~convicted of felonies~~ *committed*  
 34 *to state prison as the result of a felony conviction* since the clerk’s  
 35 last report. The Secretary of State or county elections official shall  
 36 cancel the affidavits of registration of those persons who are  
 37 currently imprisoned or on parole for the conviction of a felony.  
 38 The clerk shall certify the statement under the seal of the court.

39 SEC. 9. If the Commission on State Mandates determines that  
 40 this act contains costs mandated by the state, reimbursement to

**AB 2466**

— 6 —

- 1 local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

O



## Reentry Council City and County of San Francisco

March 24, 2016

Mayor Edwin Lee, Mayor  
City of San Francisco  
Hon. London Breed, President  
Members, San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Support for SB 881 – Vehicles: Violations

Dear Mayor Lee, President Breed, and Members:

The Reentry Council of the City and County of San Francisco is pleased to support SB 881 (Hertzberg) Vehicles: Violations, to stop the use of license suspensions as a means of collecting court-ordered debt. Traffic offenses represent the largest number of charges prosecuted in state and local courts throughout the nation, according to the American Association of Motor Vehicle Administrators.

Currently, a ticket in California for an infraction such as a broken tail light, expired tags, or fare evasion, can ultimately lead to a suspended driver's license if a defendant does not pay or make a court appearance. Suspending a license for failure to appear or pay a fine is an overly harsh punishment that does not fit the offense and undermines the defendant's ability to hold a job and make amends.

Studies show that people who lose their driver's licenses often lose their jobs, too. That makes it tougher for them to pay any fines or fees charged for minor traffic offenses. In addition, unnecessary driver's license suspensions add to the burden – and costs – of law enforcement agencies and courts.

SB 881 ensures that courts and counties will not suspend driver's licenses as a means of collecting court-ordered debt associated with non-safety traffic offenses. This is a bill that will revitalize economic security by restoring driver licenses suspended due to non-public safety violations. For these reasons, the Reentry Council supports this bill and urges the City/County Committee on Legislation to support it as well.

Sincerely,

Members of the Reentry Council of the City and County of San Francisco

Encl: Introduced Legislation

*The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.*

880 Bryant Street, Room 200 • San Francisco, California 94103 • ph: 415.553.1593 • email: reentry.council@sfgov.org • web:

[www.sfgov.org/reentry](http://www.sfgov.org/reentry)



AMENDED IN SENATE MARCH 17, 2016

**SENATE BILL****No. 881****Introduced by Senator Hertzberg***(Coauthors: Senators Anderson, Beall, Galgiani, and Wieckowski)**(Coauthor: Assembly Member Cristina Garcia)*

January 15, 2016

An act to amend Sections 1214.1 and 1463.007 of the Penal Code, and to amend Sections 12807, 12808, 40508, 40509, and 40509.5 of, to add Section 13365.7 to, ~~to repeal Sections 13365 and 13365.5 and~~ *to repeal Section 13365* of, the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 881, as amended, Hertzberg. Vehicles: violations.

Existing law authorizes in addition to any other penalty in infraction, misdemeanor, or felony cases, the court to impose a civil assessment of up to \$300 against any defendant who fails, after notice and without good cause, to appear in court for any proceeding authorized by law or who fails to pay all or any portion of a fine ordered by the court or to pay an installment of bail, as specified. *Existing law requires the court to vacate the civil assessment under these circumstances if the defendant appears within the time specified in the notice and shows good cause for the failure to appear or for the failure to pay a fine or installment of bail.*

This bill would provide that the ability to pay the civil assessment shall not be a prerequisite to trial, arraignment, or other court proceedings. *The bill would require the driver's failure to appear or pay to be willful in order to be subject to the civil assessment. Payment of bail, fines, penalties, fees, or a civil assessment would not be required to schedule a court hearing on the pending underlying charge.*

Existing law authorizes any county or court to implement a “comprehensive collection program” as a separate revenue collection activity, and requires the program to meet certain criteria, one of which is that the program ~~engage~~ *engages* in specified activities in collecting fines or penalties. One of those activities is initiating suspensions or holds for driver’s licenses, as specified.

This bill would delete initiating suspensions or holds for driver’s licenses from the list of activities the program may engage in. *The bill would require the county’s or court’s program to provide payment plans, based on the debtor’s ability to pay.*

Existing law authorizes the court to notify the Department of Motor Vehicles when a person has failed to appear, failed to pay a fine or bail, or failed to comply with a court order, with respect to various violations relating to vehicles. Existing law requires the department to suspend, *and prohibits the department from issuing or renewing*, a person’s driver’s license upon receipt of one of those notices, as specified.

*This bill would require a court to notify the department only when the driver’s failure to appear or pay is willful. This bill also would revise certain court and department administrative procedures with respect to related certifications and records. The bill would ~~delete~~ repeal certain provisions requiring the department to ~~suspend~~ suspend, or prohibiting the department from issuing or renewing, a person’s driver’s license upon receipt of one of those notices, with respect to designated violations. The bill would require the department to restore driving privileges that had been suspended pursuant to the deleted provisions, upon the request of the suspended ~~driver.~~ driver, no later than July 1, 2017. This bill would specifically prohibit the department from using information reported pursuant to these provisions to suspend a driver’s license. The bill would declare that its provisions do not alter existing law related to suspension of the privilege to operate a motor vehicle in connection with violations relating to reckless driving or driving under the influence of alcohol or drugs, as specified.*

*Existing law requires the department to check the record of an applicant for driver’s license issuance or renewal for notices of failure to appear in court that have been filed with the department, and to take specified actions with respect to the issuance or renewal of the license.*

*This bill would limit the above requirement to notices of failure to appear for specified offenses involving driving under the influence of drugs or alcohol, or vehicular manslaughter.*

Existing law provides that if a person convicted of an infraction fails to pay bail in installments as agreed to or a fine or an installment of a fine within the time authorized by the court, the court may impound the person's driver's license and order the person not to drive for a period not to exceed 30 days. Existing law also provides that if a defendant with a class C or M driver's license satisfies the court that impounding his or her driver's license and ordering the defendant not to drive will affect his or her livelihood, the court shall order that the person limit his or her driving for a period not to exceed 30 days to driving that is essential in the court's determination to the person's employment, including the person's driving to and from his or her place of employment if other means of transportation are not reasonably available.

This bill would delete the class C and M license restrictions for that exemption, thereby permitting the holder of any driver's license to utilize that exemption.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares that this act  
2 shall not be interpreted to alter existing law regarding suspension  
3 of the privilege to operate a motor vehicle in connection with any  
4 of the following violations:  
5 (a) Reckless driving, pursuant to Section 23103 of the Vehicle  
6 Code.  
7 (b) Reckless driving proximately causing bodily injury to a  
8 person, pursuant to Sections 23104 and 23105 of the Vehicle Code.  
9 (c) Driving under the influence of alcohol, drugs, or both,  
10 pursuant to Section 23152 of the Vehicle Code.  
11 (d) Driving under the influence of alcohol, drugs, or both, and  
12 causing bodily injury to another person, pursuant to Section 23153  
13 of the Vehicle Code.  
14 SEC. 2. Section 1214.1 of the Penal Code is amended to read:  
15 1214.1. (a) In addition to any other penalty in infraction,  
16 misdemeanor, or felony cases, the court may impose a civil  
17 assessment of up to three hundred dollars (\$300) against a  
18 defendant who *willfully* fails, after notice and without good cause,  
19 to appear in court for a proceeding authorized by law or who

1 *willfully* fails to pay all or any portion of a fine ordered by the  
2 court or to pay an installment of bail as agreed to under Section  
3 40510.5 of the Vehicle Code. This assessment shall be deposited  
4 in the Trial Court Trust Fund, as provided in Section 68085.1 of  
5 the Government Code.

6 (b) (1) The assessment imposed pursuant to subdivision (a)  
7 shall not become effective until at least 20 calendar days after the  
8 court mails a warning notice to the defendant by first-class mail  
9 to the address shown on the notice to appear or to the defendant's  
10 last known address. ~~If the defendant appears within the time  
11 specified in the notice and shows good cause for the failure to  
12 appear or for the failure to pay a fine or installment of bail, the  
13 court shall vacate the assessment.~~ *Payment of bail, fines, penalties,  
14 fees, or a civil assessment shall not be required to schedule a court  
15 hearing on the pending underlying charge.*

16 (2) Payment of bail, fines, penalties, fees, or a civil assessment  
17 shall not be required in order for the court to vacate the assessment  
18 at the time of appearance pursuant to paragraph (1). Payment of a  
19 civil assessment shall not be required to schedule a court hearing  
20 on a pending underlying charge.

21 (c) If a civil assessment is imposed pursuant to subdivision (a),  
22 no bench warrant or warrant of arrest shall be issued with respect  
23 to the failure to appear at the proceeding for which the assessment  
24 is imposed or the failure to pay the fine or installment of bail. An  
25 outstanding, unserved bench warrant or warrant of arrest for a  
26 failure to appear or for a failure to pay a fine or installment of bail  
27 shall be recalled prior to the subsequent imposition of a civil  
28 assessment.

29 (d) The assessment imposed pursuant to subdivision (a) shall  
30 be subject to the due process requirements governing defense and  
31 collection of civil money judgments generally. The ability to pay  
32 the assessment shall not be a prerequisite to arraignment, trial, or  
33 other court proceedings.

34 (e) Each court and county shall maintain the collection program  
35 that was in effect on July 1, 2005, unless otherwise agreed to by  
36 the court and county. If a court and a county do not agree on a plan  
37 for the collection of civil assessments imposed pursuant to this  
38 section, or any other collections under Section 1463.010, after the  
39 implementation of Sections 68085.6 and 68085.7 of the  
40 Government Code, the court or the county may request arbitration

1 by a third party mutually agreed upon by the Administrative  
 2 Director of the Courts and the California State Association of  
 3 Counties.

4 SEC. 3. Section 1463.007 of the Penal Code is amended to  
 5 read:

6 1463.007. (a) Notwithstanding any other law, any county or  
 7 court that operates a comprehensive collection program may deduct  
 8 the costs of operating that program, excluding capital expenditures,  
 9 from any revenues collected under that program. The costs shall  
 10 be deducted before any distribution of revenues to other  
 11 governmental entities required by any other law. Any county or  
 12 court operating a comprehensive collection program may establish  
 13 a minimum base fee, fine, forfeiture, penalty, or assessment amount  
 14 for inclusion in the program.

15 (b) Once debt becomes delinquent, it continues to be delinquent  
 16 and may be subject to collection by a comprehensive collection  
 17 program. Debt is delinquent and subject to collection by a  
 18 comprehensive collection program if any of the following  
 19 conditions is met:

20 (1) A defendant does not post bail or appear on or before the  
 21 date on which he or she promised to appear, or any lawful  
 22 continuance of that date, if that defendant was eligible to post and  
 23 forfeit bail.

24 (2) A defendant does not pay the amount imposed by the court  
 25 on or before the date ordered by the court, or any lawful  
 26 continuance of that date.

27 (3) A defendant has failed to make an installment payment on  
 28 the date specified by the court.

29 (c) For the purposes of this section, a “comprehensive collection  
 30 program” is a separate and distinct revenue collection activity that  
 31 meets each of the following criteria:

32 (1) The program identifies and collects amounts arising from  
 33 delinquent court-ordered debt, whether or not a warrant has been  
 34 issued against the alleged violator.

35 (2) *The program provides payment plans based on the debtor’s*  
 36 *ability to pay, pursuant to Section 68632 of the Government Code.*

37 ~~(2)~~

38 (3) The program complies with the requirements of subdivision  
 39 (b) of Section 1463.010.

40 ~~(3)~~

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1 (4) The program engages in each of the following activities:

2 (A) Attempts telephone contact with delinquent debtors for  
3 whom the program has a ~~phone~~ *telephone* number to inform them  
4 of their delinquent status and payment options.

5 (B) Notifies delinquent debtors for whom the program has an  
6 address in writing of their outstanding obligation within 95 days  
7 of delinquency.

8 (C) Generates internal monthly reports to track collections data,  
9 such as age of debt and delinquent amounts outstanding.

10 (D) Uses Department of Motor Vehicles information to locate  
11 delinquent debtors.

12 (E) Accepts payment of delinquent debt by credit card.

13 ~~(4)~~

14 (5) The program engages in at least five of the following  
15 activities:

16 (A) Sends delinquent debt to the Franchise Tax Board's  
17 Court-Ordered Debt Collections Program.

18 (B) Sends delinquent debt to the Franchise Tax Board's  
19 Interagency Intercept Collections Program.

20 (C) Contracts with one or more private debt collectors to collect  
21 delinquent debt.

22 (D) Sends monthly bills or account statements to all delinquent  
23 debtors.

24 (E) Contracts with local, regional, state, or national skip tracing  
25 or locator resources or services to locate delinquent debtors.

26 (F) Coordinates with the probation department to locate debtors  
27 who may be on formal or informal probation.

28 (G) Uses Employment Development Department employment  
29 and wage information to collect delinquent debt.

30 (H) Establishes wage and bank account garnishments where  
31 appropriate.

32 (I) Places liens on real property owned by delinquent debtors  
33 when appropriate.

34 (J) Uses an automated dialer or automatic call distribution  
35 system to manage telephone calls.

36 *SEC. 4. Section 12807 of the Vehicle Code is amended to read:*

37 12807. The department shall not issue or renew a driver's  
38 license to any ~~person~~ *person under either of the following*  
39 *circumstances:*

1 (a) When a license previously issued to the person under this  
 2 code has been suspended until the expiration of the period of the  
 3 suspension, unless cause for suspension has been removed.

4 (b) When a license previously issued to the person under this  
 5 code has been revoked until the expiration of one year after the  
 6 date of the revocation, except where a different period of revocation  
 7 is prescribed by this code, or unless the cause for revocation has  
 8 been removed.

9 ~~(c) When the department has received a notice pursuant to  
 10 Section 40509 or 40509.5, unless the department has received a  
 11 certificate as provided in those sections:~~

12 *SEC. 5. Section 12808 of the Vehicle Code is amended to read:*

13 12808. (a) ~~The department shall, before~~ *Before* issuing or  
 14 renewing any license, ~~the department shall~~ *the department shall* check the record of the  
 15 applicant for conviction of traffic violations and traffic accidents.

16 (b) ~~The department shall, before~~ *Before* issuing or renewing  
 17 any license, ~~the department shall~~ *the department shall* check the record of the applicant  
 18 for notices of failure to appear in court filed with ~~it~~ *the department*  
 19 *pursuant to subdivision (c) of Section 40509.5* and shall withhold  
 20 or shall not issue a license to any applicant who has violated his  
 21 or her written promise to appear in court unless the department  
 22 has received a certificate issued by the magistrate or clerk of the  
 23 court hearing the case in which the promise was given showing  
 24 that the case has been adjudicated or unless the applicant's record  
 25 is cleared as provided in Chapter 6 (commencing with Section  
 26 41500) of Division 17. In lieu of the certificate of adjudication, a  
 27 notice from the court stating that the original records have been  
 28 lost or destroyed shall permit the department to issue a license.

29 (c) (1) Any notice received by the department pursuant to  
 30 Section 40509, 40509.1, or 40509.5, except subdivision (c) of  
 31 Section 40509.5, that has been on file five years may be removed  
 32 from the department records and destroyed at the discretion of the  
 33 department.

34 (2) Any notice received by the department under subdivision  
 35 (c) of Section 40509.5 that has been on file 10 years may be  
 36 removed from the department records and destroyed at the  
 37 discretion of the department.

38 ~~(d) This section shall become operative on January 1, 2011.~~

39 ~~SEC. 4.~~

40 *SEC. 6. Section 13365 of the Vehicle Code is repealed.*

1 ~~SEC. 5.~~ Section 13365.5 of the Vehicle Code is repealed.

2 ~~SEC. 6.~~

3 *SEC. 7.* Section 13365.7 is added to the Vehicle Code, to read:

4 13365.7. The department shall restore all driving privileges  
5 suspended pursuant to former Section 13365 or 13365.5 upon the  
6 request of the suspended ~~driver.~~ *driver, no later than July 1, 2017.*

7 ~~SEC. 7.~~

8 *SEC. 8.* Section 40508 of the Vehicle Code is amended to read:

9 40508. (a) A person willfully violating his or her written  
10 promise to appear or a lawfully granted continuance of his or her  
11 promise to appear in court or before a person authorized to receive  
12 a deposit of bail is guilty of a misdemeanor regardless of the  
13 disposition of the charge upon which he or she was originally  
14 arrested.

15 (b) A person willfully failing to pay bail in installments as  
16 agreed to under Section 40510.5 or a lawfully imposed fine for a  
17 violation of a provision of this code or a local ordinance adopted  
18 pursuant to this code within the time authorized by the court and  
19 without lawful excuse having been presented to the court on or  
20 before the date the bail or fine is due is guilty of a misdemeanor  
21 regardless of the full payment of the bail or fine after that time.

22 (c) A person willfully failing to comply with a condition of a  
23 court order for a violation of this code, other than for failure to  
24 appear or failure to pay a fine, is guilty of a misdemeanor,  
25 regardless of his or her subsequent compliance with the order.

26 (d) If a person convicted of an infraction fails to pay bail in  
27 installments as agreed to under Section 40510.5, or a fine or an  
28 installment thereof, within the time authorized by the court, the  
29 court may, except as otherwise provided in this subdivision,  
30 impound the person's driver's license and order the person not to  
31 drive for a period not to exceed 30 days. Before returning the  
32 license to the person, the court shall endorse on the reverse side  
33 of the license that the person was ordered not to drive, the period  
34 for which that order was made, and the name of the court making  
35 the order. If a defendant satisfies the court that impounding his or  
36 her driver's license and ordering the defendant not to drive will  
37 affect his or her livelihood, the court shall order that the person  
38 limit his or her driving for a period not to exceed 30 days to driving  
39 that is essential in the court's determination to the person's  
40 employment, including the person's driving to and from his or her



1 place of employment if other means of transportation are not  
 2 reasonably available. The court shall provide for the endorsement  
 3 of the limitation on the person's license. The impounding of the  
 4 license and ordering the person not to drive or the order limiting  
 5 the person's driving does not constitute a suspension of the license,  
 6 but a violation of the order constitutes contempt of court.

7 ~~SEC. 8.~~

8 *SEC. 9.* Section 40509 of the Vehicle Code is amended to read:

9 40509. (a) Except as required under subdivision (c) of Section  
 10 40509.5, if any person has *willfully* violated a written promise to  
 11 appear or a lawfully granted continuance of his or her promise to  
 12 appear in court or before the person authorized to receive a deposit  
 13 of bail, or violated an order to appear in court, including, but not  
 14 limited to, a written notice to appear issued in accordance with  
 15 Section 40518, the magistrate or clerk of the court may give notice  
 16 of the failure to appear to the department for any violation of this  
 17 code, or any violation that can be heard by a juvenile traffic hearing  
 18 referee pursuant to Section 256 of the Welfare and Institutions  
 19 Code, or any violation of any other statute relating to the safe  
 20 operation of a vehicle, except violations not required to be reported  
 21 pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b)  
 22 of Section 1803. If thereafter the case in which the promise was  
 23 given is adjudicated or the person who has violated the court order  
 24 appears in court or otherwise satisfies the order of the court, the  
 25 magistrate or clerk of the court hearing the case shall sign ~~and file~~  
 26 ~~with the department~~ a certificate to that effect. *If the court provided*  
 27 *the department with notice of the initial failure to appear, the*  
 28 *certificate also shall be filed with the department.*

29 (b) If any person has willfully failed to pay a lawfully imposed  
 30 fine within the time authorized by the court or to pay a fine  
 31 pursuant to subdivision (a) of Section 42003, the magistrate or  
 32 clerk of the court may give notice of the fact to the department for  
 33 any violation, except violations not required to be reported pursuant  
 34 to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section  
 35 1803. If thereafter the fine is fully paid, the magistrate or clerk of  
 36 the court shall issue ~~and file with the department~~ a certificate  
 37 showing that the fine has been paid. *If the court provided the*  
 38 *department with notice of the initial failure to pay, the certificate*  
 39 *also shall be filed with the department.*

1 (c) (1) Notwithstanding subdivisions (a) and (b), the court may  
 2 notify the department of the total amount of bail, fines,  
 3 assessments, and fees authorized or required by this code, including  
 4 Section 40508.5, which are unpaid by any person.

5 (2) Once a court has established the amount of bail, fines,  
 6 assessments, and fees, and notified the department, the court shall  
 7 not further enhance or modify that amount.

8 (3) This subdivision applies only to violations of this code that  
 9 do not require a mandatory court appearance, are not contested by  
 10 the defendant, and do not require proof of correction certified by  
 11 the court.

12 (d) With respect to a violation of this code, this section is  
 13 applicable to any court that has not elected to be subject to the  
 14 notice requirements of subdivision (b) of Section 40509.5.

15 (e) Any violation subject to Section 40001, which is the  
 16 responsibility of the owner of the vehicle, shall not be reported  
 17 under this section.

18 (f) ~~This section does not authorize the department to~~*The*  
 19 *department shall not* suspend a driver's license on the basis of  
 20 information reported to the department pursuant to this section.

21 ~~SEC. 9.~~

22 *SEC. 10.* Section 40509.5 of the Vehicle Code is amended to  
 23 read:

24 40509.5. (a) Except as required under subdivision (c), if, with  
 25 respect to an offense described in subdivision (e), a person has  
 26 *willfully* violated his or her written promise to appear or a lawfully  
 27 granted continuance of his or her promise to appear in court or  
 28 before the person authorized to receive a deposit of bail, or violated  
 29 an order to appear in court, including, but not limited to, a written  
 30 notice to appear issued in accordance with Section 40518, the  
 31 magistrate or clerk of the court may give notice of the failure to  
 32 appear to the department for a violation of this code, a violation  
 33 that can be heard by a juvenile traffic hearing referee pursuant to  
 34 Section 256 of the Welfare and Institutions Code, or a violation  
 35 of any other statute relating to the safe operation of a vehicle,  
 36 except violations not required to be reported pursuant to paragraphs  
 37 (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. If  
 38 thereafter the case in which the promise was given is adjudicated  
 39 or the person who has violated the court order appears in court and  
 40 satisfies the order of the court, the magistrate or clerk of the court

1 hearing the case shall sign ~~and file with the department~~ a certificate  
2 to that effect. *If the court provided the department with notice of*  
3 *the initial failure to appear, the certificate also shall be filed with*  
4 *the department.*

5 (b) If, with respect to an offense described in subdivision (e), a  
6 person has willfully failed to pay a lawfully imposed fine, or bail  
7 in installments as agreed to under Section 40510.5, within the time  
8 authorized by the court or to pay a fine pursuant to subdivision (a)  
9 of Section 42003, the magistrate or clerk of the court may give  
10 notice of the fact to the department for a violation, except violations  
11 not required to be reported pursuant to paragraphs (1), (2), (3), (6),  
12 and (7) of subdivision (b) of Section 1803. If thereafter the fine or  
13 bail is fully paid, the magistrate or clerk of the court shall issue  
14 ~~and file with the department~~ a certificate showing that the fine or  
15 bail has been paid. *If the court provided the department with notice*  
16 *of the initial failure to pay, the certificate also shall be filed with*  
17 *the department.*

18 (c) If a person charged with a violation of Section 23152 or  
19 23153, or Section 191.5 of the Penal Code, or subdivision (a) of  
20 Section 192.5 of that code has violated a lawfully granted  
21 continuance of his or her promise to appear in court or is released  
22 from custody on his or her own recognizance and *willfully* fails to  
23 appear in court or before the person authorized to receive a deposit  
24 of bail, or violated an order to appear in court, the magistrate or  
25 clerk of the court shall give notice to the department of the failure  
26 to appear. If thereafter the case in which the notice was given is  
27 adjudicated or the person who has violated the court order appears  
28 in court or otherwise satisfies the order of the court, the magistrate  
29 or clerk of the court hearing the case shall prepare ~~and forward to~~  
30 ~~the department~~ a certificate to that effect. *If the court provided the*  
31 *department with notice of the initial failure to appear, the*  
32 *certificate also shall be filed with the department.*

33 (d) Except as required under subdivision (c), the court shall mail  
34 a courtesy warning notice to the defendant by first-class mail at  
35 the address shown on the notice to appear, at least 10 days before  
36 sending a notice to the department under this section.

37 (e) If the court notifies the department of a failure to appear or  
38 pay a fine or bail pursuant to subdivision (a) or (b), no arrest  
39 warrant shall be issued for an alleged violation of subdivision (a)  
40 or (b) of Section 40508, unless one of the following criteria is met:

1 (1) The alleged underlying offense is a misdemeanor or felony.

2 (2) The alleged underlying offense is a violation of any provision  
3 of Division 12 (commencing with Section 24000), Division 13  
4 (commencing with Section 29000), or Division 15 (commencing  
5 with Section 35000), required to be reported pursuant to Section  
6 1803.

7 (3) The driver's record does not show that the defendant has a  
8 valid California driver's license.

9 (4) The driver's record shows an unresolved charge that the  
10 defendant is in violation of his or her written promise to appear  
11 for one or more other alleged violations of the law.

12 (f) Except as required under subdivision (c), in addition to the  
13 proceedings described in this section, the court may elect to notify  
14 the department pursuant to subdivision (c) of Section 40509.

15 (g) This section is applicable to courts that have elected to  
16 provide notice pursuant to subdivision (b). The method of  
17 commencing or terminating an election to proceed under this  
18 section shall be prescribed by the department.

19 (h) A violation subject to Section 40001, that is the  
20 responsibility of the owner of the vehicle, shall not be reported  
21 under this section.

22 (i) (1) ~~This section does not authorize the department to~~ *The*  
23 *department shall not* suspend a driver's license on the basis of  
24 information reported to the department pursuant to this section.

25 (2) This subdivision does not apply to a suspension pursuant to  
26 Section 13365.2 as a result of information provided under  
27 subdivision (c).

O



## Reentry Council City and County of San Francisco

March 24, 2016

Mayor Edwin Lee, Mayor  
City of San Francisco  
Hon. London Breed, President  
Members, San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Support for SB 1157 – Inmates: visitation

Dear Mayor Lee, President Breed, and Members:

As an advisory body to the Board of Supervisors, the San Francisco Reentry Council has reviewed and wholeheartedly supports Senate Bill 1157 (SB1157) which would preserve meaningful visitation rights for people in local correctional facilities, juvenile halls, juvenile homes, ranches, and camps by codifying their right to a minimum amount of in-person visitation that cannot be replaced with video visits.

The mission of the Reentry Council is to find and advocate for legislation and programs that assist in breaking down barriers to successful reentry. One major obstacle to a successful return to society is the lack of meaningful family connections. This bill will help strengthen those connections by ensuring access to in-person visits between incarcerated and detained persons and their loved ones. Providing this in-person access has been shown to improve behavior inside institutions, reduce recidivism, as well as diminish the negative impacts of incarceration on the children of incarcerated parents.

Unfortunately, 74% of county jails across the country that have implemented video visitation have also eliminated in-person visitation. Families with members in these institutions must pay for video calls from home or can video call their incarcerated family member from the jail lobby for free. In the latter situation, both the visitor and the incarcerated person are often in the same building, but instead of having a real visit, they can only see each other through a video screen. Even when family members travel to these jails to “visit” their loved ones through a video screen, equipment often malfunctions, leaving them unable to see their loved ones at all.

Furthermore, this bill would amend Penal Code Section 4025 to require that any money, refund, rebate or commission made from or paid by a communications company which provides video visitation services to a county be placed in an inmate welfare fund (IWF) which can only be used to benefit the inmates of that facility. Current law requires that only funds from telecommunications be placed in an IWF. This bill would close that loop hole.

*The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.*

880 Bryant Street, Room 200 • San Francisco, California 94103 • ph: 415.553.1593 • email: reentry.council@sfgov.org • web:

[www.sfgov.org/reentry](http://www.sfgov.org/reentry)

For these reasons, the Reentry Council supports this bill and urges the City/County Committee on Legislation to support it as well. Thank you for your consideration. If you have any further questions please do not hesitate to contact Karen Shain, Reentry Policy Planner at 415.553.1047 or karen.shain@sfgov.org .

Sincerely,

Members of the Reentry Council of the City and County of San Francisco

Encl: Introduced Legislation

DRAFT

*The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.*

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**SENATE BILL****No. 1157**

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**Introduced by Senator Mitchell  
(Coauthor: Senator Hancock)**February 18, 2016

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An act to amend Sections 4025 and 6030 of the Penal Code, and to amend Sections 210 and 885 of the Welfare and Institutions Code, relating to inmates.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1157, as introduced, Mitchell. Inmates: visitation.

(1) Existing law requires any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate, or commission is attributable to the use of pay telephones that are primarily used by inmates while incarcerated to be placed in the inmate welfare fund in a county treasury, to be expended for the benefit, education, and welfare of the inmates confined within the jail.

This bill would also require money, refunds, rebates, and commissions from communication companies that are attributable to the use of video visitation equipment primarily used by inmates while incarcerated to be deposited in the inmate welfare fund.

(2) Existing law requires the Board of State and Community Corrections to establish minimum standards for local correctional facilities, juvenile ranches, camps, forestry camps, and juvenile halls.

This bill would require the minimum standards to include requirements that prohibit video or other types of electronic visitation from replacing in-person visits. The bill would also require the board to review the minimum standards for juvenile ranches, camps, forestry camps, and juvenile halls biennially and to make appropriate revisions.

SB 1157

— 2 —

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares that  
2 opportunities for in-person visitation in local correctional facilities,  
3 juvenile halls, juvenile homes, ranches, and camps are essential  
4 for persons who are incarcerated and detained to maintain family  
5 stability, reduce disciplinary infractions and violence while  
6 incarcerated, reduce recidivism, increase the chances of obtaining  
7 employment postrelease, and facilitate successful reentry. Other  
8 types of visitation shall only be used to supplement in-person  
9 visitation to further promote the above-mentioned goals. This act  
10 does not interfere with the ability of the Board of State and  
11 Community Corrections to issue regulations with regards to  
12 visitation. It is the intent of the Legislature to strengthen family  
13 connections by facilitating in-person visitation.

14 SEC. 2. Section 4025 of the Penal Code is amended to read:

15 4025. (a) The sheriff of each county may establish, ~~maintain~~  
16 *maintain*, and operate a store in connection with the county jail  
17 and for this purpose may purchase confectionery, tobacco and  
18 tobacco users' supplies, postage and writing materials, and toilet  
19 articles and supplies and sell these goods, articles, and supplies  
20 for cash to inmates in the jail.

21 (b) The sale prices of the articles offered for sale at the store  
22 shall be fixed by the sheriff. Any profit shall be deposited in an  
23 inmate welfare fund to be kept in the treasury of the county.

24 (c) There shall also be deposited in the inmate welfare fund 10  
25 percent of all gross sales of inmate hobbycraft.

26 (d) There shall be deposited in the inmate welfare fund any  
27 money, refund, rebate, or commission received from a ~~telephone~~  
28 *communications* company or ~~pay telephone~~ *communications*  
29 provider when the money, refund, rebate, or commission is  
30 attributable to the use of pay telephones ~~which are~~ *or video*  
31 *visitation equipment* primarily used by inmates while incarcerated.

32 (e) The money and property deposited in the inmate welfare  
33 fund shall be expended by the sheriff primarily for the benefit,  
34 education, and welfare of the inmates confined within the jail. Any  
35 funds that are not needed for the welfare of the inmates may be



1 expended for the maintenance of county jail facilities. Maintenance  
2 of county jail facilities may include, but is not limited to, the salary  
3 and benefits of personnel used in the programs to benefit the  
4 inmates, including, but not limited to, education, drug and alcohol  
5 treatment, welfare, library, accounting, and other programs deemed  
6 appropriate by the sheriff. Inmate welfare funds shall not be used  
7 to pay required county expenses of confining inmates in a local  
8 detention system, such as meals, clothing, housing, or medical  
9 services or expenses, except that inmate welfare funds may be  
10 used to augment those required county expenses as determined by  
11 the sheriff to be in the best interests of inmates. An itemized report  
12 of these expenditures shall be submitted annually to the board of  
13 supervisors.

14 (f) The operation of a store within any other county adult  
15 detention facility which is not under the jurisdiction of the sheriff  
16 shall be governed by the provisions of this section, except that the  
17 board of supervisors shall designate the proper county official to  
18 exercise the duties otherwise allocated in this section to the sheriff.

19 (g) The operation of a store within any city adult detention  
20 facility shall be governed by the provisions of this section, except  
21 that city officials shall assume the respective duties otherwise  
22 outlined in this section for county officials.

23 (h) The treasurer may, pursuant to Article 1 (commencing with  
24 Section 53600), or Article 2 (commencing with Section 53630) of  
25 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government  
26 Code, deposit, invest, or reinvest any part of the inmate welfare  
27 fund, in excess of that which the treasurer deems necessary for  
28 immediate use. The interest or increment accruing on these funds  
29 shall be deposited in the inmate welfare fund.

30 (i) The sheriff may expend money from the inmate welfare fund  
31 to provide indigent inmates, prior to release from the county jail  
32 or any other adult detention facility under the jurisdiction of the  
33 sheriff, with essential clothing and transportation expenses within  
34 the county or, at the discretion of the sheriff, transportation to the  
35 inmate's county of residence, if the county is within the state or  
36 within 500 miles from the county of incarceration. This subdivision  
37 does not authorize expenditure of money from the inmate welfare  
38 fund for the transfer of any inmate to the custody of any other law  
39 enforcement official or jurisdiction.

40 SEC. 3. Section 6030 of the Penal Code is amended to read:

1 6030. (a) The Board of State and Community Corrections shall  
 2 establish minimum standards for local correctional facilities. The  
 3 board shall review those standards biennially and make any  
 4 appropriate revisions.

5 (b) The standards shall include, but not be limited to, the  
 6 following areas: health and sanitary conditions, fire and life safety,  
 7 security, rehabilitation programs, recreation, treatment of persons  
 8 confined in local correctional facilities, and personnel training.

9 (c) The standards shall require that at least one person on duty  
 10 at the facility is knowledgeable in the area of fire and life safety  
 11 procedures.

12 (d) The standards shall also include requirements relating to the  
 13 acquisition, storage, labeling, packaging, and dispensing of drugs.

14 (e) The standards shall require that inmates who are received  
 15 by the facility while they are pregnant be notified, orally or in  
 16 writing, of and provided all of the following:

17 (1) A balanced, nutritious diet approved by a doctor.

18 (2) Prenatal and post partum information and health care,  
 19 including, but not limited to, access to necessary vitamins as  
 20 recommended by a doctor.

21 (3) Information pertaining to childbirth education and infant  
 22 care.

23 (4) A dental cleaning while in a state facility.

24 (f) The standards shall provide that a woman known to be  
 25 pregnant or in recovery after delivery shall not be restrained, except  
 26 as provided in Section 3407. The board shall develop standards  
 27 regarding the restraint of pregnant women at the next biennial  
 28 review of the standards after the enactment of the act amending  
 29 this subdivision and shall review the individual facility's  
 30 compliance with the standards.

31 *(g) The standards shall also include requirements related to*  
 32 *visitation that prohibit video or other types of electronic visitation*  
 33 *from replacing in-person visits.*

34 ~~(g)~~

35 (h) In establishing minimum standards, the board shall seek the  
 36 advice of the following:

37 (1) For health and sanitary conditions:

38 The State Department of Public Health, physicians, psychiatrists,  
 39 local public health officials, and other interested persons.

40 (2) For fire and life safety:

1 The State Fire Marshal, local fire officials, and other interested  
2 persons.

3 (3) For security, rehabilitation programs, recreation, and  
4 treatment of persons confined in correctional facilities:

5 The Department of Corrections and Rehabilitation, state and  
6 local juvenile justice commissions, state and local correctional  
7 officials, experts in criminology and penology, and other interested  
8 persons.

9 (4) For personnel training:

10 The Commission on Peace Officer Standards and Training,  
11 psychiatrists, experts in criminology and penology, the Department  
12 of Corrections and Rehabilitation, state and local correctional  
13 officials, and other interested persons.

14 (5) For female inmates and pregnant inmates in local adult and  
15 juvenile facilities:

16 The California State Sheriffs' Association and Chief Probation  
17 Officers' Association of California, and other interested persons.

18 (6) *For visitation:*

19 *The California State Sheriffs' Association, organizations working*  
20 *directly with people who are incarcerated, organizations working*  
21 *directly with, or that are operated by, family members of people*  
22 *who are incarcerated, and other interested persons.*

23 SEC. 4. Section 210 of the Welfare and Institutions Code is  
24 amended to read:

25 210. (a) The Board of *State and Community* Corrections shall  
26 adopt minimum standards for the operation and maintenance of  
27 juvenile halls for the confinement of minors. *The board shall*  
28 *review those standards biennially and make appropriate revisions.*

29 (b) *The standards adopted pursuant to subdivision (a) shall*  
30 *include requirements that prohibit video or other types of electronic*  
31 *visitation from replacing in-person visits.*

32 SEC. 5. Section 885 of the Welfare and Institutions Code is  
33 amended to read:

34 885. (a) The Board of *State and Community* Corrections shall  
35 adopt and prescribe the minimum standards of construction,  
36 operation, programs of education and training, and qualifications  
37 of personnel for juvenile ranches, camps, or forestry camps  
38 established under Section 881. *The board shall review those*  
39 *standards biennially and make appropriate revisions.*

## SB 1157

— 6 —

1 (b) *The standards adopted pursuant to subdivision (a) shall*  
2 *also include requirements that prohibit video or other types of*  
3 *electronic visitation from replacing in-person visits.*

4 (b)

5 (c) ~~The Board of Corrections~~ *board* shall conduct a biennial  
6 inspection of each juvenile ranch, camp, or forestry camp situated  
7 in this state that, during the preceding calendar year, was used for  
8 confinement of any minor for more than 24 hours.

9 (e)

10 (d) The custodian of each juvenile ranch, camp, or forestry camp  
11 shall make any reports that may be required by the board to  
12 effectuate the purposes of this section.

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## Reentry Council City and County of San Francisco

March 24, 2016

Mayor Edwin Lee, Mayor  
City of San Francisco  
Hon. London Breed, President  
Members, San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Support for SB 876 – Homelessness

Dear Mayor Lee, President Breed, and Members:

The Reentry Council of the City and County of San Francisco is pleased to support SB 876, which will prohibit certain forms of discrimination against homeless people and promote basic human and civil rights for all people, regardless of their housing status. We support SB 876 because it would prevent the arrest of homeless people for sitting and resting, which many housed people do in public every day without facing criminal consequences.

California, with only 12 percent of the country's overall population but 22 percent of its homeless population and 25 percent of its homeless veteran population, is at the epicenter of the criminalization of homelessness. According to the National Law Center on Homelessness and Poverty, California cities are substantially more likely than cities in other states to ban rest. While only 33 percent of non-California cities restrict this activity, 74 percent of California cities ban the practice.

Researchers from the Policy Advocacy Clinic at the University of California at Berkeley Law School analyzed the prevalence of these types of municipal codes restricting rest and sharing of food in 58 California cities for its report "California's New Vagrancy Laws: The Growing Enactment and Enforcement of Anti-Homeless Laws in the Golden State." Researchers identified over 500 municipal laws criminalizing standing, sitting, resting, sleeping and sharing of food in public places as well as laws making it illegal to ask for money, nearly nine laws per city, on average. The study also found that the number of ordinances targeting those behaviors rose along with the rise in homelessness following the sharp decline of federal funding for affordable housing that was cut in the early 1980s and again with the Great Recession in 2008.

Criminalizing necessary life-sustaining practices not only worsens the condition of people without homes, but also narrows their opportunities to escape homelessness. By acknowledging the failure of municipal laws that criminalize poverty and homelessness, we hope that passage of this legislation will improve the focus on more humane and effective responses to homelessness.

*The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.*

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SB 876 will end the discriminatory practice of citing and imprisoning Californians for resting and sharing food in public.

For these reasons, the Reentry Council supports this bill and urges the City/County Committee on Legislation to support it as well.

Sincerely,

Members of the Reentry Council of the City and County of San Francisco

Encl: Introduced Legislation

DRAFT

*The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.*

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AMENDED IN SENATE MARCH 7, 2016

AMENDED IN SENATE FEBRUARY 22, 2016

**SENATE BILL**

**No. 876**

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**Introduced by Senator Liu**

January 14, 2016

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An act to add Part 2.2 (commencing with Section 53.8) to Division 1 of the Civil Code, and to add Section 11139.2 to, the Government Code, relating to homelessness.

LEGISLATIVE COUNSEL'S DIGEST

SB 876, as amended, Liu. Homelessness.

Existing law provides that no person shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

This bill would afford persons experiencing homelessness the right to use public spaces without discrimination based on their housing status and describe basic human and civil rights that may be exercised without being subject to criminal or civil sanctions, including the right to use and to move freely in public spaces, the right to rest in public spaces and to protect oneself from the elements, the right to eat in any public space in which having food is not prohibited, and the right to perform religious observances in public spaces, as specified. The bill would state the intent of the Legislature that these provisions be interpreted broadly so as to prohibit policies or practices that are discriminatory in either their purpose or effect.

The bill would authorize a person whose rights have been violated pursuant to these provisions to enforce those rights in a civil action in which the court may award the prevailing ~~party~~ *plaintiff* injunctive and declaratory relief, restitution, damages, statutory damages of \$1,000 per violation, and fees and costs.

The bill would also require all applicants for the United States Department of Housing and Urban Development's Continuum of Care Homeless Assistance Program to annually provide to the Department of Housing and Community Development's Division of Housing Policy Development a copy of its application for funding from the United States Department of Housing and Urban Development that includes the organization's response to the application question regarding steps that its community is taking to reduce criminalization of homelessness. Because the bill would require local agencies to perform additional duties, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) According to the United States Department of Housing and
- 4 Urban Development's report to Congress, 115,738 people were
- 5 estimated to be homeless in California in 2014, a rate that is
- 6 unprecedented following a deep and prolonged economic recession,
- 7 a severe shortage of safe and affordable housing, a failed veteran
- 8 and civilian mental health system, and a diminished social safety
- 9 net.
- 10 (b) According to the United States Department of Education,
- 11 284,086 schoolchildren were known to have experienced
- 12 homelessness in the 2013–14 school year.



1 (c) Homelessness is an independent risk factor for a number of  
2 illnesses, making people more susceptible to increased health  
3 problems due to high stress, sleep deprivation, unsanitary  
4 surroundings, lack of access to hygiene facilities, and a myriad of  
5 other situational stressors experienced by people without stable  
6 housing. Subsequently, people who are chronically homeless are  
7 more medically frail and three to four times more likely to die  
8 prematurely than their housed counterparts.

9 (d) Throughout California, local governments have enacted  
10 ordinances that make it illegal to rest or receive nourishment in  
11 public spaces.

12 (e) Ending homelessness in California will require significant  
13 state and federal resources and there is ample evidence that policies  
14 that invest in ending homelessness, rather than criminalizing and  
15 marginalizing people who are experiencing homelessness,  
16 adequately balance the needs of all parties: community residents,  
17 government agencies, businesses, and men and women who are  
18 experiencing homelessness.

19 (f) Passing this act will not reduce homelessness, but neither  
20 will local ordinances that criminalize homelessness. Instead,  
21 ordinances that criminalize homelessness result in increased  
22 incarceration rates and financial indebtedness of people who simply  
23 have no means of support and prolong homelessness by making  
24 it more difficult for people to secure housing, employment, and  
25 medical care. Criminalization policies further marginalize men  
26 and women who are experiencing homelessness, fuel inflammatory  
27 attitudes, and may even unduly restrict constitutionally protected  
28 liberties.

29 (g) That is why, on September 18, 2015, the United States  
30 Department of Housing and Urban Development included in the  
31 annual Notice of Funding Availability for the 2015 Continuum of  
32 Care *Program* funding competition, provisions that would award  
33 additional points to any application that could include steps the  
34 community is taking to reduce criminalization of homelessness.

35 (h) It is also why, on August 6, 2015, the United States  
36 Department of Justice submitted a rare statement of interest in a  
37 United States District Court in opposition to the criminalization  
38 of people who are homeless, calling it cruel and unusual  
39 punishment to punish someone for a crime with the potential for  
40 imprisonment and a violation of constitutional rights.

1 (i) While these ordinances apply to all residents, they  
2 disproportionately impact people without homes, who have no  
3 private place to rest or seek nourishment, and are often selectively  
4 applied by law enforcement to people based upon their appearance  
5 or an assumption of homelessness.

6 (j) In practice, these ordinances deprive persons experiencing  
7 homelessness and those who may be perceived as homeless of a  
8 safe and legal place to rest and seek nourishment, which adversely  
9 impacts their health and well-being.

10 (k) Sleep deprivation impairs cognitive processes and puts one  
11 at risk for obesity, heart disease, heart attack, heart failure, irregular  
12 heartbeat, high blood pressure, stroke, diabetes, and depression.  
13 People who are homeless suffer from sleep deprivation and, absent  
14 a place to rest, they suffer it more frequently.

15 (l) Because current practices have denied the right to adequate  
16 legal representation to people cited or arrested while resting or  
17 sharing food, homeless persons are often denied relief or damages  
18 through the courts.

19 (m) Both the federal government, through its Interagency  
20 Council on Homelessness, and the United Nations have recognized  
21 that discrimination and criminalization violate a homeless person's  
22 human rights and have called upon state and local governments to  
23 cease enactment and enforcement of those laws.

24 (n) Homelessness and the increasing criminalization of  
25 homelessness and discrimination against those experiencing  
26 homelessness are widespread throughout California and are matters  
27 of statewide concern.

28 (o) Section 1 of Article I of the California Constitution provides  
29 that "[a]ll people are by nature free and independent and have  
30 inalienable rights. Among these are enjoying and defending life  
31 and liberty, acquiring, possessing, and protecting property, and  
32 pursuing and obtaining safety, happiness, and privacy," without  
33 qualification as to whether or not a person is, or appears to be,  
34 homeless.

35 (p) Subdivision (a) of Section 7 of Article I of the California  
36 Constitution provides that "[a] person may not be deprived of life,  
37 liberty, or property without due process of law or denied equal  
38 protection of the laws ... ."

39 (q) Concordant with this fundamental belief, a person should  
40 not be subject to discrimination based on his or her income, housing

1 status, or ability or desire to appear housed. Therefore, it is the  
2 intent of the Legislature in enacting this legislation to protect the  
3 rights of all Californians, regardless of their housing status, and  
4 ameliorate the adverse effects caused by the criminalization of  
5 homelessness on our communities and our citizens.

6 (r) Decriminalization of rest allows municipal governments to  
7 redirect resources from local enforcement activities to activities  
8 that address the root causes of homelessness and poverty.

9 SEC. 2. Part 2.2 (commencing with Section 53.8) is added to  
10 Division 1 of the Civil Code, to read:

11  
12 PART 2.2. HOMELESS PERSONS

13  
14 53.8. For purposes of this part, the following definitions shall  
15 apply:

16 (a) “Homeless persons,” “homeless people,” or “persons  
17 experiencing homelessness” means those individuals or members  
18 of families who lack a fixed, regular, and adequate nighttime  
19 residence, including people defined as homeless using the criteria  
20 established in the Homeless Emergency Assistance and Rapid  
21 Transition to Housing (HEARTH) Act of 2009.

22 (b) “Public space” means any property that is owned by a  
23 government entity or any property upon which there is an easement  
24 for public use and that is held open to the public, including, but  
25 not limited to, plazas, courtyards, parking lots, sidewalks, public  
26 transportation facilities and services, public buildings, shopping  
27 centers, and parks.

28 (c) “Rest” means the state of not moving, holding certain  
29 postures that include, but are not limited to, sitting, standing,  
30 leaning, kneeling, squatting, sleeping, or lying.

31 53.81. (a) It is the intent of the Legislature that this section be  
32 interpreted broadly so as to prohibit policies or practices that are  
33 discriminatory in either their purpose or effect.

34 (b) Persons experiencing homelessness shall be permitted to  
35 use public space in the ways described in this section at any time  
36 that the public space is open to the public without discrimination  
37 based upon their housing status, and without being subject to  
38 criminal, civil, or administrative penalties. Permitted use of the  
39 public space include, but are not limited to, all of the following:

40 (1) Free movement without restraint.

1 (2) Sleeping or resting, and protecting ~~onself~~ *oneself* from the  
2 elements while sleeping or resting in a nonobstructive manner.

3 (3) Eating, sharing, accepting, or giving food in a space in which  
4 having food is not otherwise generally prohibited.

5 (4) Praying, meditating, worshiping, or practicing religion.

6 (c) Nothing in this section shall prevent law enforcement from  
7 enforcing laws to protect the right of people to use the sidewalk  
8 pursuant to the *federal* Americans with Disabilities Act of 1990  
9 (42 U.S.C. Sec. 12101 et seq.).

10 (d) Nothing in this section shall prevent law enforcement from  
11 enforcing the Penal Code, except subdivision (e) of Section 647  
12 of the Penal Code, so far as it prohibits rest.

13 53.82. (a) Any person whose rights have been violated pursuant  
14 to this part may enforce those rights in a civil action.

15 (b) The court may award appropriate injunctive and declaratory  
16 relief, restitution for loss of property or personal effects and  
17 belongings, actual damages, compensatory damages, exemplary  
18 damages, statutory damages of one thousand dollars (\$1,000) per  
19 violation, and reasonable attorney's fees and costs to a prevailing  
20 party: *plaintiff*.

21 SEC. 3. Section 11139.2 is added to the Government Code, to  
22 read:

23 11139.2. To improve monitoring of discrimination based upon  
24 housing status and violations of Part 2.2 (commencing with Section  
25 53.8) of Division 1 of the Civil Code, and to ensure that people  
26 who are experiencing homelessness are not unlawfully denied full  
27 and equal access to the benefits of state-funded programs or  
28 assistance, or unlawfully subjected to discrimination, all applicants  
29 for the United States Department of Housing and Urban  
30 Development's Continuum of Care Homeless Assistance Program  
31 shall annually provide to the Department of Housing and  
32 Community Development's Division of Housing Policy  
33 Development a copy of its application for funding from the United  
34 States Department of Housing and Urban Development that  
35 includes the organization's response to the application question  
36 regarding steps that its community is taking to reduce  
37 criminalization of homelessness.

38 SEC. 4. If the Commission on State Mandates determines that  
39 this act contains costs mandated by the state, reimbursement to  
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O



**Reentry Council**  
**City and County of San Francisco**

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San Francisco, California 94103  
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March 24, 2016

Mayor Edwin Lee, Mayor  
City Hall of San Francisco  
San Francisco, CA 94102

Hon. London Breed, President  
Board of Supervisors Members  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Support for SB 1286

Dear Mayor Lee, President Breed, and Members:

The Reentry Council of the City and County of San Francisco supports SB 1286, which will significantly increase transparency and accountability within our law enforcement agencies, and build trust and respect within the community for our law enforcement agencies, as a result of granting the public access to information on procedures, facts, and disciplinary actions connected with serious uses of force and proven misconduct by peace officers.

**Existing Law**

California existing law, Section 832.7 of the Penal Code, protects the confidentiality of personnel records for peace officers who receive complaints by members of the public. Thus, law enforcement agencies are prohibited from disclosing personnel records and information contained in such records to the public about matters relating to any criminal or civil proceedings, except by discovery, and for matters conducted by a grand jury, a district attorney's office, or the Attorney General's office. Consequently, there is a lack of public transparency regarding an officer's misconduct, including officer-involved shootings and serious uses of force incidents, and subsequent disciplinary action imposed, if any, on an individual who violates laws, department policies or community norms.

**Proposed Law**

SB 1286 addresses current inadequacies in California law by allowing the public access to information about serious uses of force and misconduct by peace officers. Substantive changes proposed by SB1286 will:

1. Allow the public to access records related to substantiated charges of serious misconduct.
2. Allow the public to access records relating to any use of force that causes or is likely to cause death or serious bodily injury.

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3. Allow people who file complaints alleging misconduct to access basic information related to the complaint, including whether the complaint was substantiated, the factual findings, and any discipline imposed or corrective actions taken.
4. Allow localities to determine if they would like to hold public hearings and administrative appeals based on allegations of peace officer misconduct.
5. Allow law enforcement records to be withheld if a court determines that a privacy interest outweighs the public's interest in disclosure, or if there is a showing of a significant danger to an officer or another person.<sup>1</sup>

California is among the most restrictive in the United States regarding the public's access to information concerning peace officer misconduct and investigations into critical police-community incidents. The states of Texas, Florida, Kentucky, Utah, and nearly a dozen others currently provide the public access to such information when misconduct is confirmed. Furthermore, in matters relating to complaints against officers, at least 10 additional states make records available to the public, regardless of whether misconduct is found to have occurred. As the Los Angeles Times' Editorial Board stated this past February:

*Far from being a beacon of transparency, California — when it comes to the public's ability to assess the performance of its law enforcement agencies — is the nation's information black hole . . . [SB 1286] would restore the disclosure that Californians once considered a basic element of police oversight here, as it still is in many other states.<sup>2</sup>*

Removing secrecy and creating transparency around peace officer misconduct is critical to reducing the pervasive community mistrust for our justice system, especially within communities of color, where people are killed by police at alarming rates. A recent Pew Research Center poll found that only 30% of Americans, and just 10% of African Americans, believe law enforcement agencies are doing a good or excellent job of holding officers accountable for misconduct.<sup>3</sup> Another poll shows that nearly 80% of Californians believe the public should have access to information about confirmed officer misconduct, and nearly two-thirds believe that the public should have access in all cases in which an officer is accused of misconduct.<sup>4</sup>

<sup>1</sup> To account for any privacy or safety interests, SB 1286 permits non-disclosure whenever either is shown to outweigh the tax-paying public's significant interest in government transparency.

<sup>2</sup> <http://www.latimes.com/opinion/editorials/la-ed-0224-police-transparency-20160224-story.html>.

<sup>3</sup> Pew Research Center: Few Say Police Forces Nationally Do Well in Treating Races Equally. <http://www.people-press.org/2014/08/25/few-say-policeforces-nationally-do-well-in-treating-races-equally/>.

<sup>4</sup> Tulchin Research: California Statewide Survey Finds Voters Have Strong Concerns About Police Discrimination, Profiling, and Use of Force; Strongly Support Reforms. [https://www.aclunc.org/sites/default/files/20150715-acluca\\_police\\_reform\\_poll\\_profiling\\_memo.pdf](https://www.aclunc.org/sites/default/files/20150715-acluca_police_reform_poll_profiling_memo.pdf)

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All too often the public remains uninformed and left in the dark because our current laws are restrictive and deny the public access to key information when there is alleged police wrongdoing. Each occurrence of police secrecy erodes public trust. SB 1286 would break this wall of silence, and would allow the tax-paying public to get meaningful answers concerning the conduct of our public servants.

For the above reasons, the Reentry Council supports SB 1286 and urges support from the Legislative Committee of the City and County of San Francisco.

Sincerely,

Reentry Council Members  
The City and County of San Francisco

Encl: Introduced Legislation

DRAFT



**SENATE BILL****No. 1286**

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**Introduced by Senator Leno**February 19, 2016

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An act to amend Sections 1043 and 1045 of the Evidence Code, to amend Section 3304.5 of the Government Code, and to amend Sections 832.5 and 832.7 of the Penal Code, relating to peace officers.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1286, as introduced, Leno. Peace officers: records of misconduct.

(1) The Public Safety Officers Procedural Bill of Rights Act provides a set of rights and procedural protections to specified public safety officers. That act requires an administrative appeal instituted by a public agency under the act to be conducted in conformance with rules and procedures adopted by the local public agency. Existing law also establishes the Administrative Procedure Act, and requires enumerated state agencies to hold hearings under that act that are conducted by administrative law judges.

This bill would, notwithstanding any confidentiality afforded the personnel records of peace officers or custodial officers, authorize a municipality or local public agency that employs peace officers or custodial officers to hear and adjudicate administrative appeals, or to empower a body to hear and adjudicate those appeals, in proceedings that are open to the public and in which some or all documents filed are available for public inspection.

(2) Existing law requires a department or agency that employs peace officers to establish a procedure to investigate complaints by members of the public against those officers. Existing law authorizes a department or agency that employs custodial officers to establish a similar procedure for its officers. Existing law establishes retention requirements and access privileges, as specified, for those complaints and related reports

or findings. Existing law requires the department or agency to provide written notification to the complaining party of the disposition of a complaint made pursuant to those provisions within 30 days of the disposition.

This bill would require that notification to include, at a minimum, the charges framed in response to the complaint, the agency's disposition with respect to each of those charges, any factual findings on which the agency based its dispositions, and any discipline imposed or corrective action taken. By increasing the duties of local officials, the bill would impose a state-mandated local program.

(3) The California Public Records Act requires a state or local agency, as defined, to make public records available for inspection, subject to certain exceptions. Existing law provides that peace officer or custodial officer personnel records, as defined, and records maintained by any state or local agency relating to complaints against peace officers and custodial officers, or information obtained from these records, are confidential and prohibits the disclosure of those records in any criminal or civil proceeding except by discovery. Existing law describes exceptions to this policy for investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill would expand the scope of the exceptions to apply to, among other things, investigations or proceedings conducted by civilian review agencies, inspectors general, personnel boards, police commissions, civil service commissions, city councils, boards of supervisors, or any entities empowered to investigate peace officer misconduct on behalf of an agency, conduct audits of peace officer discipline on behalf of an agency, adjudicate complaints against peace officers or custodial officers, hear administrative appeals, or set policies or funding for the law enforcement agency. The bill would also require an entity described in those exceptions to comply with specified confidentiality provisions.

This bill would require, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to complaints against peace officers and custodial officers to be available for public inspection pursuant to the California Public Records Act. The bill would provide that this information includes but is not limited to, the framing allegation or complaint, the agency's full investigation file, any evidence gathered, and any findings or recommended findings, discipline, or corrective action taken. The bill would require records

disclosed pursuant to this provision to be redacted only to remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the physical safety of the peace officer, custodial officer, or others.

(4) Existing law establishes discovery procedures for obtaining peace officer and custodial officer personnel files and files relating to complaints against peace officers and custodial officers.

This bill would specify that those provisions do not bar or limit access in any proceeding to peace officer or custodial officer personnel records or records relating to complaints against peace officers and custodial officers, and would provide that those provisions do not require a party to a proceeding pending in a court or administrative agency to seek records through alternate means before filing a motion pursuant to the discovery provisions described above.

(5) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Peace officers help provide one of our state's most  
4 fundamental government services — keeping our communities  
5 safe. These working men and women risk their lives daily in order  
6 to protect the people of California. The public greatly appreciates  
7 peace officers' hard work and dedication to public safety. The  
8 good names of these public servants should not be tarnished by  
9 the actions of those amongst their ranks who may engage in  
10 wrongdoing.

11 (b) To empower peace officers to fulfill their mission, the people  
12 of California vest them with extraordinary authority — the powers  
13 to detain, search, arrest, and use deadly force. Our society depends  
14 on peace officers' faithful exercise of that authority. Its misuse  
15 can lead to grave constitutional violations, harms to liberty, and  
16 the inherent sanctity of human life, as well as significant public  
17 unrest.

18 (c) Concealing crucial public safety matters such as officer  
19 violations of civilians' rights, or inquiries into deadly use of force  
20 incidents, undercuts the public's faith in the legitimacy of law  
21 enforcement, makes it harder for tens of thousands of hardworking  
22 peace officers to do their jobs, and endangers public safety.

23 (d) The public has a strong, compelling interest in law  
24 enforcement transparency because it is essential to having a just  
25 and democratic society.

26 SEC. 2. Section 1043 of the Evidence Code is amended to read:

27 1043. (a) ~~In any case in which~~ *If* discovery or disclosure is  
28 sought of peace *officer* or custodial officer personnel records or  
29 records maintained pursuant to Section 832.5 of the Penal Code  
30 *and for which that section or Section 832.7 of the Penal Code bar*  
31 *or limit disclosure*, or information from those records, the party  
32 seeking the discovery or disclosure shall file a written motion with  
33 the appropriate court or administrative body upon written notice  
34 to the governmental agency ~~which~~ *that* has custody and control of  
35 the records. The written notice shall be given at the times  
36 prescribed by subdivision (b) of Section 1005 of the Code of Civil  
37 Procedure. Upon receipt of the notice the governmental agency

1 served shall immediately notify the individual whose records are  
2 sought.

3 (b) The motion shall include all of the following:

4 (1) Identification of the proceeding in which discovery or  
5 disclosure is sought, the party seeking discovery or disclosure, the  
6 peace *officer* or custodial officer whose records are sought, the  
7 governmental agency ~~which~~ *that* has custody and control of the  
8 records, and the time and place at which the motion for discovery  
9 or disclosure shall be heard.

10 (2) A description of the type of records or information sought.

11 (3) Affidavits showing good cause for the discovery or  
12 disclosure sought, setting forth the materiality thereof to the subject  
13 matter involved in the pending litigation and stating upon  
14 reasonable belief that the governmental agency identified has the  
15 records or information from the records.

16 (c) ~~No~~ A hearing upon a motion for discovery or disclosure shall  
17 *not* be held without full compliance with the notice provisions of  
18 this section except upon a showing by the moving party of good  
19 cause for noncompliance, or upon a waiver of the hearing by the  
20 governmental agency identified as having the records.

21 (d) *A party to a proceeding pending in a court or administrative*  
22 *agency is not required to seek records through alternate means*  
23 *before filing a motion pursuant to this section.*

24 SEC. 3. Section 1045 of the Evidence Code is amended to read:

25 1045. (a) ~~Nothing in this article shall be construed to~~ *This*  
26 *article does not* affect the right of access to records of complaints,  
27 or investigations of complaints, or discipline imposed as a result  
28 of those investigations, concerning an event or transaction in which  
29 the peace officer or custodial officer, as defined in Section 831.5  
30 of the Penal Code, participated, or which he or she perceived, and  
31 pertaining to the manner in which he or she performed his or her  
32 duties, provided that information is relevant to the subject matter  
33 involved in the pending litigation.

34 (b) In determining relevance, the court shall examine the  
35 information in chambers in conformity with Section 915, and shall  
36 exclude *all of the following* from disclosure:

37 (1) Information consisting of complaints concerning conduct  
38 occurring more than five years before the event or transaction that  
39 is the subject of the litigation in aid of which discovery or  
40 disclosure is sought.

1 (2) In any criminal proceeding the conclusions of any officer  
 2 investigating a complaint filed pursuant to Section 832.5 of the  
 3 Penal Code.

4 (3) Facts sought to be disclosed that are so remote as to make  
 5 disclosure of little or no practical benefit.

6 (c) In determining relevance where the issue in litigation  
 7 concerns the policies or pattern of conduct of the employing  
 8 agency, the court shall consider whether the information sought  
 9 may be obtained from other records maintained by the employing  
 10 agency in the regular course of agency business ~~which~~ *that* would  
 11 not necessitate the disclosure of individual personnel records.

12 (d) Upon motion seasonably made by the governmental agency  
 13 ~~which~~ *that* has custody or control of the records to be examined  
 14 or by the officer whose records are sought, and upon good cause  
 15 showing the necessity thereof, the court may make any order ~~which~~  
 16 *that* justice requires to protect the officer or agency from  
 17 unnecessary annoyance, ~~embarrassment~~ *embarrassment*, or  
 18 oppression.

19 (e) The court shall, in any case or proceeding permitting the  
 20 disclosure or discovery of any peace *officer* or custodial officer  
 21 records requested pursuant to Section 1043, order that the records  
 22 disclosed or discovered may not be used for any purpose other  
 23 than a court proceeding pursuant to applicable law.

24 (f) *This article does not bar or limit access in any proceeding*  
 25 *to peace officer or custodial officer personnel records or records*  
 26 *maintained pursuant to Section 832.5 of the Penal Code for which*  
 27 *Sections 832.5 or 832.7 of the Penal Code do not prohibit*  
 28 *disclosure.*

29 SEC. 4. Section 3304.5 of the Government Code is amended  
 30 to read:

31 3304.5. (a) An administrative appeal instituted by a public  
 32 safety officer under this chapter shall be conducted in conformance  
 33 with rules and procedures adopted by the local public agency.

34 (b) *Notwithstanding any confidentiality given to the personnel*  
 35 *records of peace officers or custodial officers under this chapter*  
 36 *or under the provisions governing regulation of peace officers*  
 37 *contained in Chapter 4.5 (commencing with Section 830) of Title*  
 38 *3 of Part 2 of the Penal Code, a municipality or local public agency*  
 39 *that employs peace officers may hear and adjudicate an*  
 40 *administrative appeal under this chapter, or the municipality or*

1 *local public agency may empower a body to hear and adjudicate*  
2 *those appeals, in proceedings that are open to the public and in*  
3 *which some or all documents filed are available for public*  
4 *inspection.*

5 SEC. 5. Section 832.5 of the Penal Code is amended to read:

6 832.5. (a) (1) ~~Each~~A department or agency in this state that  
7 employs peace officers shall establish a procedure to investigate  
8 complaints by members of the public against the personnel of these  
9 departments or agencies, and shall make a written description of  
10 the procedure available to the public.

11 (2) ~~Each~~A department or agency that employs custodial officers,  
12 as defined in Section 831.5, may establish a procedure to  
13 investigate complaints by members of the public against those  
14 custodial officers employed by these departments or agencies,  
15 provided however, that any procedure so established shall comply  
16 with the provisions of this section and with the provisions of  
17 Section 832.7.

18 (b) Complaints and any reports or findings relating to these  
19 complaints shall be retained for a period of at least five years. All  
20 complaints retained pursuant to this subdivision may be maintained  
21 either in the peace *officer's* or custodial officer's general personnel  
22 file or in a separate file designated by the department or agency  
23 as provided by department or agency policy, in accordance with  
24 all applicable requirements of law. However, prior to any official  
25 determination regarding promotion, transfer, or disciplinary action  
26 by an officer's employing department or agency, the complaints  
27 described by subdivision (c) shall be removed from the officer's  
28 general personnel file and placed in separate file designated by the  
29 department or agency, in accordance with all applicable  
30 requirements of law.

31 (c) Complaints by members of the public that are determined  
32 by the peace *officer's* or custodial officer's employing agency to  
33 be frivolous, as defined in Section 128.5 of the Code of Civil  
34 Procedure, or unfounded or exonerated, or any portion of a  
35 complaint that is determined to be frivolous, unfounded, or  
36 exonerated, shall not be maintained in that officer's general  
37 personnel file. However, these complaints shall be retained in  
38 other, separate files that shall be deemed personnel records for  
39 purposes of the California Public Records Act (Chapter 3.5

1 (commencing with Section 6250) of Division 7 of Title 1 of the  
2 Government Code) and Section 1043 of the Evidence Code.

3 (1) Management of the peace *officer's* or custodial officer's  
4 employing agency shall have access to the files described in this  
5 subdivision.

6 (2) Management of the peace *officer's* or custodial officer's  
7 employing agency shall not use the complaints contained in these  
8 separate files for punitive or promotional purposes except as  
9 permitted by subdivision (f) of Section 3304 of the Government  
10 Code.

11 (3) Management of the peace *officer's* or custodial officer's  
12 employing agency may identify any officer who is subject to the  
13 complaints maintained in these files ~~which~~ *that* require counseling  
14 or additional training. However, if a complaint is removed from  
15 the officer's personnel file, any reference in the personnel file to  
16 the complaint or to a separate file shall be deleted.

17 (d) As used in this ~~section~~, *section and Section 832.7*, the  
18 following definitions apply:

19 (1) ~~General~~ *“Exonerated” means that the investigation clearly*  
20 *established that the actions of the peace officer or custodial officer*  
21 *that formed the basis for the complaint are not violations of law*  
22 *or department policy.*

23 (2) *“General personnel file” means the file maintained by the*  
24 *agency containing the primary records specific to each peace*  
25 *officer's or custodial officer's employment, including evaluations,*  
26 *assignments, status changes, and imposed discipline.*

27 (3) *“Sustained” means that the investigation disclosed sufficient*  
28 *evidence to prove, by a preponderance of evidence, the truth of*  
29 *the allegation in the complaint or that the actions of the peace*  
30 *officer or custodial officer violated law or department policy.*

31 ~~(2)~~

32 (4) *“Unfounded” means that the investigation clearly established*  
33 *that the allegation is not true.*

34 ~~(3) “Exonerated” means that the investigation clearly established~~  
35 ~~that the actions of the peace or custodial officer that formed the~~  
36 ~~basis for the complaint are not violations of law or department~~  
37 ~~policy.~~

38 (e) (1) *A municipality, county, or agency that employs peace*  
39 *officers may do both of the following:*



1 (A) Hold hearings to hear complaints by members of the public,  
 2 consider evidence, and adjudicate the complaints or recommend  
 3 adjudications.

4 (B) Establish a body to hold the hearings described in  
 5 subparagraph (A).

6 (2) Notwithstanding any confidentiality given to the general  
 7 personnel file or other personnel records of peace officers or  
 8 custodial officers, the hearings described in paragraph (1) may  
 9 be open to the public.

10 SEC. 6. Section 832.7 of the Penal Code is amended to read:

11 832.7. (a) ~~Peace~~ Except as set forth in subdivision (c), peace  
 12 officer or custodial officer personnel records and records  
 13 maintained by any state or local agency pursuant to Section 832.5,  
 14 or information obtained from these records, are confidential and  
 15 shall not be disclosed in any criminal or civil proceeding except  
 16 by discovery pursuant to Sections 1043 and 1046 of the Evidence  
 17 Code. ~~This~~

18 (b) (1) This section shall not apply to investigations or  
 19 proceedings concerning the conduct of peace officers or custodial  
 20 officers, or an agency or department that employs those officers,  
 21 conducted by a grand jury, a district attorney's office, ~~or the~~  
 22 Attorney General's ~~office~~, office, civilian review agencies,  
 23 inspectors general, personnel boards, police commissions, civil  
 24 service commissions, city councils, boards of supervisors, or any  
 25 entities empowered to investigate peace officer misconduct on  
 26 behalf of an agency, conduct audits of peace officer discipline on  
 27 behalf of an agency, adjudicate complaints against peace officers  
 28 or custodial officers, hear administrative appeals pursuant to  
 29 Section 3304.5 of the Government Code, or set policies or funding  
 30 for the law enforcement agency.

31 (2) An entity allowed access to the personnel and complaint  
 32 records of peace officers or custodial officers under this  
 33 subdivision shall comply with the confidentiality provisions of this  
 34 section.

35 (c) (1) Notwithstanding any other law, all of the following peace  
 36 officer or custodial officer personnel records and records  
 37 maintained by any state or local agency pursuant to Section 832.5  
 38 shall be available for public inspection pursuant to the California  
 39 Public Records Act (Chapter 3.5 (commencing with Section 6250)  
 40 of Division 7 of Title 1 of the Government Code):

1 (A) A record related to the investigation or assessment of any  
2 use of force by a peace officer that is likely to or does cause death  
3 or serious bodily injury, including but not limited to, the discharge  
4 of a firearm, use of an electronic control weapon or conducted  
5 energy device, and any strike with an impact weapon to a person's  
6 head.

7 (B) A record related to any finding by a law enforcement agency  
8 or oversight agency that a peace officer or custodial officer  
9 engaged in sexual assault, an excessive use of force, an unjustified  
10 search, detention or arrest, racial or identity profiling, as defined  
11 in subdivision (e) of Section 13519.4, discrimination or unequal  
12 treatment on the basis of race, color, ethnicity, national origin,  
13 age, religion, gender identity or expression, sexual orientation, or  
14 mental or physical disability, or any other violation of the legal  
15 rights of a member of the public.

16 (C) A record related to any finding by a law enforcement agency  
17 of job-related dishonesty by a peace officer or custodial officer,  
18 including, but not limited to, perjury, false statements, filing false  
19 reports, or destruction or concealment of evidence.

20 (2) Records that shall be released pursuant to this subdivision  
21 include, but are not limited to, the framing allegation or complaint,  
22 the agency's full investigation file, any evidence gathered, and  
23 any findings or recommended findings, discipline, or corrective  
24 action taken.

25 (3) A record disclosed pursuant to this section shall be redacted  
26 only to remove personal data or information, such as a home  
27 address, telephone number, or identities of family members, other  
28 than the names and work-related information of peace and  
29 custodial officers, to preserve the anonymity of complainants and  
30 witnesses, or to protect confidential medical, financial, or other  
31 information in which disclosure would cause an unwarranted  
32 invasion of personal privacy that clearly outweighs the strong  
33 public interest in records about misconduct by peace officers and  
34 custodial officers, or where there is a specific, particularized  
35 reason to believe that disclosure of the record would pose a  
36 significant danger to the physical safety of the peace officer,  
37 custodial officer, or others.

38 (b)

1 (d) Notwithstanding ~~subdivision (a)~~, subdivisions (a) and (c),  
2 a department or agency shall release to the complaining party a  
3 copy of his or her own statements at the time the complaint is filed.

4 (e)

5 (e) Notwithstanding ~~subdivision (a)~~, subdivisions (a) and (c),  
6 a department or agency that employs peace officers or custodial  
7 officers may disseminate data regarding the number, type, or  
8 disposition of complaints (sustained, not sustained, exonerated, or  
9 unfounded) made against its officers if that information is in a  
10 form which does not identify the individuals involved.

11 (f)

12 (f) Notwithstanding ~~subdivision (a)~~, subdivisions (a) and (c), a  
13 department or agency that employs peace officers or custodial  
14 officers may release factual information concerning a disciplinary  
15 investigation if the officer who is the subject of the disciplinary  
16 investigation, or the officer's agent or representative, publicly  
17 makes a statement he or she knows to be false concerning the  
18 investigation or the imposition of disciplinary action. Information  
19 may not be disclosed by the peace officer's or custodial officer's  
20 employer unless the false statement was published by an  
21 established medium of communication, such as television, radio,  
22 or a newspaper. Disclosure of factual information by the employing  
23 agency pursuant to this subdivision is limited to facts contained  
24 in the officer's personnel file concerning the disciplinary  
25 investigation or imposition of disciplinary action that specifically  
26 refute the false statements made public by the peace officer or  
27 custodial officer or his or her agent or representative.

28 (g)

29 (g) (1) The department or agency shall provide written  
30 notification to the complaining party of the disposition of the  
31 complaint within 30 days of the disposition. *The notification shall*  
32 *include, at a minimum, the charges framed in response to the*  
33 *complaint, the agency's disposition with respect to each of those*  
34 *charges, any factual findings on which the agency based its*  
35 *dispositions, and any discipline imposed or corrective action taken.*

36 (2) The notification described in this subdivision shall not be  
37 conclusive or binding or admissible as evidence in any separate  
38 or subsequent action or proceeding brought before an arbitrator,  
39 court, or judge of this state or the United States.

40 (f) ~~Nothing in this section shall~~

1     *(h) This section does not* affect the discovery or disclosure of  
2 information contained in a peace *officer's* or custodial officer's  
3 personnel file pursuant to Section 1043 of the Evidence Code.

4     SEC. 7. The Legislature finds and declares that Section 6 of  
5 this act, which amends Section 832.7 of the Penal Code, furthers,  
6 within the meaning of paragraph (7) of subdivision (b) of Section  
7 3 of Article I of the California Constitution, the purposes of that  
8 constitutional section as it relates to the right of public access to  
9 the meetings of local public bodies or the writings of local public  
10 officials and local agencies. Pursuant to paragraph (7) of  
11 subdivision (b) of Section 3 of Article I of the California  
12 Constitution, the Legislature makes the following findings:

13     The public has a strong, compelling interest in law enforcement  
14 transparency because it is essential to having a just and democratic  
15 society.

16     SEC. 8. No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution for certain  
18 costs that may be incurred by a local agency or school district  
19 because, in that regard, this act creates a legislative mandate that  
20 is within the scope of paragraph (7) of subdivision (b) of Section  
21 3 of Article I of the California Constitution.

22     However, if the Commission on State Mandates determines that  
23 this act contains other costs mandated by the state, reimbursement  
24 to local agencies and school districts for those costs shall be made  
25 pursuant to Part 7 (commencing with Section 17500) of Division  
26 4 of Title 2 of the Government Code.

O

**By Laws**  
**Reentry Council**  
**City & County of San Francisco**  
(San Francisco Administrative Code 5.1)

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**Article I – Name and Purpose**

Section 1. Name

The name of the Reentry Council shall be the Reentry Council of the City & County of San Francisco.

Section 2. Purpose

The Reentry Council is established by Chapter 5.1 of the San Francisco Administrative Code, and shall carry out duties enumerated therein. The purpose of the Reentry Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities.

**Article II – Officers and Duties**

Section 1. Officers

The Officers of this Reentry Council shall be five Co-Chairs. The Co-Chairs shall be the four members appointed by the District Attorney's Office, the Public Defender's Office, the Adult Probation Department, and the Sheriff's Department, respectively, as well as the Mayor or the Mayor's representative.

Section 2. Duties of the Co-Chairs

The Co-Chairs shall preside at all meetings of the full Reentry Council, with support of the Reentry Council staff. The Co-Chairs, working with other members of the Reentry Council and the Reentry Council staff, shall oversee the preparation and distribution of the agenda for the Reentry Council meetings. The Co-Chairs shall appoint members to any standing or ad hoc subcommittees that are established by a majority of the Reentry Council. Subcommittees shall be open to non-members of the Council, and the Co-Chairs shall direct Reentry Council staff to recruit potential subcommittee members from a range of diverse experiences, identities, and interests related to the issue of reentry. Co-Chairs may act as spokespersons for the Council.

**Article III – Staff**

## Section 1. Staff

The Reentry Council shall be staffed by a collaborative team of four, composed of one staff person from each of the Co-Chairs' departments. The staff person assigned from the Reentry Division of the Adult Probation Department shall serve as the Reentry Council staff contact for all requests for meeting notices and agendas, written public comment, public records requests, and requests for accommodations and translation services.

**Article IV – Meetings**

## Section 1. Regular Meetings

Regular meetings of the Reentry Council shall be held at least three times a year. Regular meetings will be held on ~~Tuesdays~~ *Thursdays* at 10:00 a.m. at a publicly accessible location within the City & County of San Francisco.

## Section 2. Special Meetings

A Co-Chair or a majority of the members of the Reentry Council may call special meetings.

## Section 3. Notice of Meetings

The agendas of all regular meetings and notices and agendas of all special meetings shall be posted on the Reentry Council web site (<http://sfreentry.com>), at the meeting site, the San Francisco Main Library—Government Information Center and the Offices of the District Attorney, Mayor, Public Defender, and Sheriff. Agendas and notices shall be e-mailed to each Reentry Council member and any person who files a written request for such notice with the Reentry Council at [reentry.council@sfgov.org](mailto:reentry.council@sfgov.org).

## Section 4. Cancellation of Meetings

Co-Chairs may cancel a meeting if she or he is informed by Reentry Council staff that a quorum of the body will not be present or if the meeting date conflicts with a holiday or other responsibilities of the Reentry Council members. Notices of cancellation shall be posted on the Reentry Council web site (<http://sfreentry.com>), at the meeting site, the San Francisco Main Library—Government Information Center and the Offices of the District Attorney, Mayor, Public Defender, and Sheriff. If time permits, notices of meeting cancellations shall be mailed to all members of the public who have requested, in writing, to receive notices and agendas of Reentry Council meetings.

## Section 5. Conduct of Meetings

(a) All Reentry Council meetings shall be conducted in compliance with all applicable laws, including but not limited to the Ralph M. Brown Act (Government Code Section 54950 et. seq.), the San Francisco Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the Reentry Council's By-laws. Except where state or local laws or other rules provide to the contrary, meetings may be governed by Robert's Rules of Order.

(b) When a member of the Reentry Council desires to address the Reentry Council, she or he shall seek recognition by addressing a Co-Chair, and when recognized, shall proceed to speak. The member shall confine her or his comments or remarks to the question before the Reentry Council.

(c) Cell phones and pagers shall be turned off during meetings of the Reentry Council. Co-Chairs may issue a warning to any member of the public whose pager or cell phone disrupts the Reentry Council meeting. In the event of repeated disruptions caused by pagers and cell phones, the Co-Chairs shall direct the offending member of the public to leave the meeting.

(d) Text messaging or use of other personal electronic communication devices during meetings is prohibited. Communication on personal electronic devices may be subject to disclosure under Public Record Act and Sunshine Ordinance if the communication would otherwise be a public record subject to disclosure under those laws.

(e) Reentry Council members have extraordinarily diverse life experiences, and unique responsibilities in their roles outside of their membership on the Reentry Council. All members of the Reentry Council shall treat each other with respect, and seek to understand the views and perspectives of fellow members.

## Section 6. Setting Agendas

Reentry Council staff, at the direction of the Co-Chairs, shall prepare the agenda for meetings. The agenda for all regular meetings shall contain an item during which Reentry Council members may request items for the Reentry Council to consider at future meetings.

## Section 7. Action at a Meeting; Quorum and Required Vote

The presence of eleven members of the Reentry Council shall constitute a quorum for all purposes. If a quorum is not present, no official action may be taken, except roll call and adjournment.

## Section 8. Voting and Abstention

Reentry Council members must be present to vote and participate. Teleconference participation is not permitted. Each member present at a Reentry Council meeting shall vote "Yes" or "No" when a question is put, unless the member is excused from voting on a matter by a motion

*As Amended and Adopted, March 24, 2016.*

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adopted by a majority of the members present or the member has a conflict of interest that legally precludes participation in the discussion and vote.

The Reentry Council shall take action on items on the agenda by roll call, voice vote or by show of hands. The minutes shall reflect how each Reentry Council member voted on each item.

#### Section 9. Public Comment

The Reentry Council and all subcommittees of the Reentry Council shall hold meetings open to the public in full compliance with state and local laws. The Reentry Council encourages the participation of all interested persons. Members of the public may address the Reentry Council on any matter within the subject matter jurisdiction of the Reentry Council for up to three minutes during public comment. Co-Chairs may limit the time permitted for public comment consistent with state and local laws.

### **Article V – Reentry Council Records**

#### Section 1. Minutes

Minutes shall be taken at every regular and special Reentry Council meeting and shall comply with the provisions of the San Francisco Sunshine Ordinance, including the provisions that apply to Charter boards and commissions. (See San Francisco Administrative Code, Chapter 67.16) Minutes shall be approved by the majority vote of the Reentry Council.

#### Section 2. Public Review File

The Reentry Council shall maintain a public review file in compliance with the San Francisco Sunshine Ordinance. (See San Francisco Administrative Code, Section 67.23.)

#### Section 3. Records Retention Policy

The Reentry Council shall prepare, maintain and adopt a records retention and destruction policy as provided in Section 8.3 of the San Francisco Administrative Code.

#### Section 4. Tape Recordings

The Reentry Council shall audio or video record all regular and special meetings of the Full Reentry Council. The recordings shall be maintained in accordance with the San Francisco Sunshine Ordinance. (See San Francisco Administrative Code, Section 67.14(b).)

### **Article VI – Attendance**

Members of the Reentry Council (or their designee) shall notify the Reentry Council staff if she or he is unable to attend a regular or special meeting of the Reentry Council. If a member of the Reentry Council misses two regular meetings in any twelve-month period without prior notice to



*As Amended and Adopted, March 24, 2016.*

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Council staff, the Co-Chairs shall request that member's appointing authority appoint a new member.

**Article VII - Amendment of By Laws**

The By Laws of the Reentry Council may be amended by a vote of a majority of the members of the Reentry Council after presentation of the proposed amendments as an agenda item at a meeting of the Reentry Council. The Reentry Council shall give ten days notice before considering any amendments to its by laws.

## Fair Employment & Housing Council

### Consideration of Criminal History in Employment Decisions Regulations

#### CALIFORNIA CODE OF REGULATIONS

Title 2. Administration

Div. 4.1. Department of Fair Employment & Housing

Chapter 5. Fair Employment & Housing Council

Subchapter 2. Discrimination in Employment

Article 2. Particular Employment Practices

### TEXT

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Text proposed to be deleted for the 45-day comment period is displayed in ~~strikethrough~~ type.

#### § 11017. Employee Selection.

(a) Selection and Testing. Any policy or practice of an employer or other covered entity that has an adverse impact on employment opportunities of individuals on a basis enumerated in the Act is unlawful unless the policy or practice is job-related and consistent with business necessity (–as defined in section 110107~~(be)~~). The Council herein adopts the *Uniform Guidelines on Employee Selection Procedures* promulgated by various federal agencies, including the EEOC and Department of Labor. [29 C.F.R. 1607 (1978)].

(b) Placement. Placements that are less desirable in terms of location, hours or other working conditions are unlawful where such assignments segregate, or otherwise discriminate against individuals on a basis enumerated in the Act, unless otherwise made pursuant to a permissible defense to employment discrimination. An assignment labeled or otherwise deemed to be “protective” of a category of persons on a basis enumerated in the Act is unlawful unless made pursuant to a permissible defense. (See also section 11041 regarding permissible transfers on account of pregnancy by employees not covered under Title VII of the federal Civil Rights Act of 1964.)

(c) Promotion and Transfer. An employer or other covered entity shall not restrict information on promotion and transfer opportunities to certain employees or classes of employees when the restriction has the effect of discriminating on a basis enumerated in the Act.

(1) Requests for Transfer or Promotion. An employer or other covered entity who considers bids or other requests for promotion or transfer shall do so in a manner that does not discriminate against individuals on a basis enumerated in the Act, unless pursuant to a permissible defense.

(2) Training. Where training that may make an employee eligible for promotion and/or transfer is made available, it shall be made available in a manner that does not discriminate against individuals on a basis enumerated in the Act.

(3) No-Transfer Policies. Where an employment practice has operated in the past to segregate employees on a basis enumerated in the Act, a no-transfer policy or other practice that has the effect of maintaining a continued segregated pattern is unlawful.

(d) Specific Practices.

(1) Criminal Records. ~~See Section 11017.1 Except as otherwise provided by law (e.g., 12 U.S.C. § 1829; Labor Code section 432.7), it is unlawful for an employer or other covered entity to inquire or seek information regarding any applicant concerning:~~

~~(A) Any arrest or detention that did not result in conviction;~~

~~(B) Any conviction for which the record has been judicially ordered sealed, expunged, or statutorily eradicated (e.g., juvenile offense records sealed pursuant to Welfare and Institutions Code section 389 and Penal Code sections 851.7 or 1203.45); any misdemeanor conviction for which probation has been successfully completed or otherwise discharged and the case has been judicially dismissed pursuant to Penal Code section 1203.4; or~~

~~(C) Any arrest for which a pretrial diversion program has been successfully completed pursuant to Penal Code sections 1000.5 and 1001.5.~~

(2) Height Standards. Height standards that discriminate on a basis enumerated in the Act shall not be used by an employer or other covered entity to deny an individual an employment benefit, unless pursuant to a permissible defense.

(3) Weight Standards. Weight standards that discriminate on a basis enumerated in the Act shall not be used by an employer or other covered entity to deny an individual an employment benefit, unless pursuant to a permissible defense.

(e) Permissible Selection Devices. A testing device or other means of selection that is facially neutral, but that has an adverse impact (as ~~described~~ defined in the *Uniform Guidelines on Employee Selection Procedures* (29 C.F.R. 1607 (1978)) upon persons on a basis enumerated in the Act, is permissible only upon a showing that the selection practice is ~~sufficiently related to an essential function of the job in question to warrant its use.~~ (See section 11017(a).) job-related and consistent with business necessity (as defined in section 11010(b)).

Note: Authority cited: Section 12935(a), Government Code. Reference: Sections 12920, 12921, 12940, and 12941, Government Code.

§ 11017.1. Consideration of Criminal History in Employment Decisions

(a) Introduction. Employers and other covered entities (“employers” for purposes of this section) in California are explicitly prohibited under other state laws from utilizing certain enumerated criminal records and information (hereinafter “criminal history”) in hiring, promotion, training, discipline, termination, and other employment decisions as outlined in subsection (b) below. Employers are prohibited under the Act from utilizing other forms of criminal history in employment decisions if doing so would have an adverse impact on individuals on a basis enumerated in the Act and the employer cannot demonstrate that the criminal history is job-related and consistent with business necessity (as defined in section 11010(b)) or if the employee or applicant has demonstrated a less discriminatory alternative means of achieving the specific business necessity as effectively.

(b) Criminal History Information Employers Are Prohibited from Seeking or Considering, Irrespective

of Adverse Impact. Except if otherwise provided by law, employers are prohibited from considering the following types of criminal history, or seeking such history from the employee, applicant or a third party, when making employment decisions such as hiring, promotion, training, discipline, and termination:

(1) An arrest or detention that did not result in conviction (Labor Code section 432.7);

(2) Referral to or participation in a pretrial or post-trial diversion program (Id.);

(3) A conviction that has been judicially dismissed or ordered sealed, expunged or statutorily eradicated pursuant to law (Id.); and

(4) A non-felony conviction for possession of marijuana that is two or more years old (Labor Code section 432.8).

(c) Additional Criminal History Limitations, Irrespective of Adverse Impact.

(1) State or local agency employers are prohibited from asking an applicant for employment to disclose information concerning her or his conviction history, including on an employment application, until the employer has determined that the applicant meets the minimum employment qualifications as stated in the notice for the position (Labor Code section 432.9).

(2) Employers may also be subject to local laws or city ordinances that provide additional limitations. For example, in addition to the criminal history outlined in subsection (b), San Francisco employers are prohibited from considering a conviction or any other determination or adjudication in the juvenile justice system; offenses other than a felony or misdemeanor, such as an infraction; and convictions that are more than 7 years old (unless the position being considered supervises minors or dependent adults) (Article 49, San Francisco Police Code).

(d) Consideration of Other Criminal Convictions and the Potential Adverse Impact. Depending on factors such as the type of convictions considered, the job position, and the geographic bounds of the applicant pool, consideration of other forms of criminal convictions, not enumerated above, may have an adverse impact on individuals on a basis protected by the Act, including, but not limited to, gender, race, and national origin. An adversely affected applicant or employee bears the burden of demonstrating that the policy of considering criminal convictions has an adverse impact on a basis enumerated in the Act. For purposes of such a determination, adverse impact is defined at Section 11017 and the *Uniform Guidelines on Employee Selection and Procedures* (29 C.F.R. 1607 (1978)) incorporated by reference in Section 11017(a) and (e). As used in this section, “adverse impact” has the same meaning as “disparate impact” as used and defined in the Equal Employment Opportunity Commission’s *Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964* (Apr. 2012).

(e) Establishing Job-Relatedness and Business Necessity.

(1) If the policy or practice of considering criminal convictions creates an adverse impact for applicants or employees on a basis enumerated in the Act, the burden shifts to the employer to establish that the policy is nonetheless justifiable because it is job-related and consistent with business necessity. The criminal conviction consideration policy or practice needs to bear a demonstrable relationship to successful performance on the job and in the workplace and measure

the person's fitness for the specific job, not merely to evaluate the person in the abstract. In order to establish job-relatedness and business necessity, any employer must demonstrate that the policy or practice is appropriately tailored, taking into account at least the following factors:

(A) The nature and gravity of the offense or conduct;

(B) The time that has passed since the offense or conduct and/or completion of the sentence; and

(C) The nature of the job held or sought.

(2) Demonstrating that a policy or practice of considering conviction history in employment decisions is appropriately tailored to the job for which it is used as an evaluation factor requires that an employer either demonstrate that any bright-line, across the board conviction disqualification can properly distinguish between applicants or employees that do and do not pose an unacceptable level of risk and that the convictions being used to disqualify, or otherwise adversely impact, have a direct and specific negative bearing on the person's ability to perform the duties or responsibilities necessarily related to the employment position or that an employer conduct an individualized assessment of the circumstances or qualifications of the applicants or employees excluded by the conviction screen.

(3) Bright-line conviction disqualification policies or practices that do not incorporate an individualized assessment and include conviction related information that is seven or more years old (measured from the date of disposition, release, or parole) are subject to a rebuttable presumption that they are not sufficiently tailored to meet the job-related and consistent with business necessity affirmative defense (except if justified by subsection (f) below).

(4) Before an employer may take an adverse action such as declining to hire, discharging, or declining to promote an adversely impacted individual based on conviction history obtained (e.g. through a credit report or internally generated research), the employer must give the impacted individual notice of the disqualifying conviction and a reasonable opportunity to present evidence that the information is factually inaccurate. If the employee establishes that the record is factually inaccurate, then that record cannot be considered in the employment decision.

(f) Compliance with Federal or State Laws, Regulations, or Licensing Requirements Permitting or Requiring Consideration of Criminal History. In some instances, employers are subject to federal or state laws or regulations that prohibit individuals with certain criminal records from holding particular positions or occupations or mandate a screening process employers are required or permitted to utilize before employing individuals in such positions or occupations (e.g., 21 U.S.C. § 830(e)(1)(G); Labor Code §§ 432.7, 432.9). Examples include, but are not limited to, government agencies employing individuals as peace officers, employers employing individuals at health facilities where they will have regular access to patients, and employers employing individuals at health facilities or pharmacies where they will have access to medication or controlled substances. Some federal and state laws and regulations make criminal history a determining factor in eligibility for occupational licenses (e.g., 49 U.S.C. § 31310). Compliance with such federal or state laws, regulations, or licensing requirements is a form of job-relatedness, is consistent with business necessity, and constitutes a defense to an adverse impact claim under the Act.

(g) Less Discriminatory Alternatives. If an employer demonstrates that its policy or practice of considering conviction history is job-related and consistent with business necessity, adversely impacted

employees or applicants may still prevail under the Act if they can demonstrate that there is a less discriminatory policy or practice that serves the employer's goals as effectively as the challenged policy or practice, such as a more narrowly targeted list of convictions or another form of inquiry that evaluates job qualification or risk as accurately without significantly increasing the cost or burden on the employer.

Note: Authority Cited: Section 12935(a), Government Code. Reference: Sections 12920, 12921, and 12940, Government Code; Title 12, Section 1829, United States Code; Title 21, Section 830, United States Code; *Griggs v. Duke Power Co.* (1971) 401 U.S. 424; *Watson v. Fort Worth Bank and Trust* (1988) 487 U.S. 977; *Green v. Missouri Pac. R.R. Co.* (8th Cir. 1975) 523 F.2d 1290; *El v. SEPTA* (3d Cir. 2007) 479 F.3d 232; *Guerrero v. California Department of Corrections and Rehabilitation* (N.D. Cal. July 21, 2015) 2015 WL 4463537; *Rankin v. Longs Drug Stores California, Inc.* (2009) 196 Cal.App.4th 1246; Equal Emp't Opportunity Comm'n, *Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964* (Apr. 2012).



## Reentry Council City and County of San Francisco

March 24, 2016

Fair Employment and Housing Council  
c/o Brian Sperber, Legislative & Regulatory Counsel  
Department of Fair Employment and Housing  
320 West 4th Street, 10th Floor  
Los Angeles, CA 90013

Via E-mail: [fehCouncil@dfeh.ca.gov](mailto:fehCouncil@dfeh.ca.gov)

### **RE: Comments in Support of the FEH Council's Proposed Regulations on Criminal Background Checks for Employment**

Dear Mr. Sperber:

The Reentry Council of the City and County of San Francisco is happy to take this opportunity to support the Fair Employment and Housing Council's proposed regulations on the consideration of criminal history in employment decisions. As detailed below, we strongly support the Council's actions clarifying the employment rights of people with arrest and conviction records under California's civil rights laws. In addition, we recommend several improvements that will complement and expand on these timely protections.

Since 2011, the Reentry Council has served to coordinate efforts to support adults exiting the criminal justice system and their return to San Francisco. The Council serves as an advisory body to the Mayor of San Francisco and to the Board of Supervisors on all matters relating to reentry. Members of the Council and its subcommittees were involved in the drafting and building of support for San Francisco's Fair Chance Ordinance and continue to be interested in and supportive of efforts to reduce discrimination against people coming out of jails and prisons.

The Reentry Council of the City and County of San Francisco commends the Council for its actions to implement strong regulations to reduce discrimination against Californians of color who are disproportionately denied employment due to criminal background checks. People of color in California have been hardest hit by decades of excessive law enforcement measures that have produced record rates of arrests, convictions, and incarceration. African Americans are nearly 4 times more likely to be arrested for a felony than whites and nearly 11 times more likely to be incarcerated in the state's prisons. Latinos in California are also significantly overrepresented at all levels of the criminal justice system.

Responding to these racial and ethnic disparities and the vast expansion of criminal background checks for employment, in 2012 the U.S. Equal Employment Opportunity Commission (EEOC) updated its 1987 guidance regulating the use of arrest and conviction information in the employment screening process.

The EEOC Enforcement Guidance implements the protections of Title VII of the Civil Rights Act of 1964 by clarifying (i) the “disparate impact” of criminal background checks on people of color, (ii) the Title VII standards drawn from the major federal cases on the issue, and (iii) the best practices for employers to limit discrimination in the hiring process due to criminal background checks. The EEOC also made clear that job applicants seeking to make a showing of disparate impact may rely on national statistics detail the wide racial and ethnic disparities in arrest, conviction, and incarceration rates.

As emphasized in the Council’s proposed regulations, California relies on the EEOC’s interpretation of Title VII in implementing the employment discrimination protections of the state’s Fair Employment and Housing Act. Thus, building on the EEOC’s Enforcement Guidance, the Council’s proposed regulations clarify the state law protections for job applicants with records who are seeking to support themselves and their families, while also guiding California employers in their efforts to more fairly evaluate an applicant’s conviction record.

Most importantly, the Council’s proposed regulations detail the range of factors that employers must consider under the state’s civil rights laws before disqualifying an applicant based on a conviction record. The proposed regulations also require employers to provide “notice of the disqualifying conviction and a reasonable opportunity to present evidence that the information is inaccurate,” thus recognizing the errors often generated by criminal background checks.

We urge the Council to complement the above strengths with a few key improvements: (i) more specifically detail the “individualized assessment” process required by the regulations, (ii) clarify that state “adverse impact” statistics are sufficient to satisfy a plaintiff’s burden of demonstrating disparate impact, (iii) remove the occupational licensing restriction defense in favor of a case-by-case analysis, and (iv) require licensing boards to evaluate the adverse impact of the background checks required by state laws.

The Council’s proposed regulations will go a long way toward restoring hope and opportunity to the one in three Californians who have a record as they seek to navigate the challenging realities of employment background checks. Thank you for your consideration.

Sincerely,

Members of the Reentry Council of the City and County of San Francisco