

# Reentry Council

## City & County of San Francisco

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### DRAFT MINUTES

Tuesday, March 29, 2011  
10:00 a.m.-12:00 p.m.  
California/Nevada Room  
Phillip Burton Federal Building  
450 Golden Gate Avenue  
San Francisco, CA 94102

Members in Attendance: Public Defender Jeff Adachi (co-chair), District Attorney George Gascón (co-chair), Mayor Edwin Lee (co-chair, arrived after Agenda 3 and left before Agenda 5), Undersheriff Jan Dempsey (co-chair, alternate for Sheriff Michael Hennessey), Chief Wendy Still (co-chair), Steve Arcelona (alternate for Trent Rhorer), ShaMauda Bishop, Mary Campbell, Joaquin Diaz de Leon (arrived after Agenda 3), Glenn Eagleson (arrived after Agenda 5), Armel Farnsworth (alternate for Matthew Goughnour), the Hon. Charles Haines, Chief Yador Harrell, Allison Magee (alternate for Chief William Siffermann), Gerald Miller, Jo Robinson, Lt. Rick Parry (alternate for Chief Jeff Godown), Karen Roye, Ronald Sanders, Maria Su, Eddy Zheng.

Members Absent: Duriel Gilmore.

Vacancies: A Supervisor appointed by the Board of Supervisors.

#### 1. Call to Order and Roll Call.

The meeting was called to order at 10:06am. Public Defender Jeff Adachi welcomed everyone and noted that this was the seventh meeting of the Reentry Council. Public Defender Adachi asked members to introduce themselves. Then, noting that new members had joined the Reentry Council, he asked each to say a few words.

District Attorney George Gascón said that he was very pleased to be a part of the Reentry Council and recognized that reentry would become increasingly important, particularly during the current budget constraints.

Judge Charles Haines introduced himself by saying that he's been working closely with Chief Wendy Still and the Adult Probation Department to implement evidence based practices and the new Probation Accountability Court. He said that he's looking forward to participating in this body, noting the Judge Mary Morgan had spoken highly of the Reentry Council when she was a member.

Jo Robinson greeted the Council, saying that in July 2010 she became the director of Community Behavioral Health Services, and prior to that she was the director of Jail Psychiatric Services and on the State Council on Mentally Ill Offenders. She also worked to help start the Behavioral Health Court.

Public Defender Adachi noted that two seats have been added to the Reentry Council, one for a member of the Board of Supervisors and one for a representative from the Department of Children, Youth and Their Families (DCYF).

Maria Su, Director of DCYF, thanked the members for adding the Department of Children, Youth and Their Families to the Council, since so many of the members of the reentry population have children and families. She noted that for the past four years, DCYF has been

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providing intensive services in the city and county for violence prevention work for young people age 14-18, but in the last two years has expanded that range to age 24. She said that DCYF has already started the conversation with many of the departments represented on the Reentry Council to leverage funding sources and activities.

### **2. Public Comment on any item listed below as for discussion only.**

Public Defender Adachi thanked the members of the public for attending the meeting, noting that the Reentry Council is about action. He asked for public comment on any of the items slated for discussion. There was none.

### **3. Review and Adoption of Meeting Minutes of December 7, 2010 (discussion & action).**

Public Defender Adachi asked for a motion to pass the minutes of the December 7, 2010 meeting. Chief Still moved, District Attorney Gascón seconded. The motion passed unanimously.

### **4. Staff Report about Council Activities, Update on Reentry Related Funding, and Update on Implementation of Annual Report and Subcommittees (discussion only). Regular Update on Activities of the Community Corrections Partnership Council, Juvenile Justice Coordinating Council, and the Workforce Investment Community Advisory Committee (discussion only).**

Public Defender Adachi introduced Jessica Flintoft, Reentry Policy Director and staff of the Reentry Council, to provide staff reports and regular updates to the Council.

Jessica noted that Ordinance 44-11 was passed by the Board of Supervisors and approved by the Mayor earlier this year. The Ordinance will be in effect as of April 10, 2011. Jessica summarized the changes, which included extending the sunset date of the Council to 2014; adding a seat for a representative from the Board of Supervisors and the Department of Children, Youth and Their Families to the Council; and making the Chief Adult Probation Officer a co-chair of the Reentry Council.

Jessica also noted that *Reentry in San Francisco: An Annual Report* was approved by the Reentry Council at its December 2010 meeting, adopted by the Board of Supervisors earlier in 2011, and would be approved by the Mayor shortly. Jessica reminded the Council that terms of the Board and Mayor-appointed members would expire in July 2011, and that staff would be in contact with each of the members to renew their commitment, as well as with the Board and Mayor's Office about the appointment process.

Jessica noted that a convening of reentry councils and task forces from around California would convene on April 28. She said that she would provide a report following that convening to share lessons learned from other jurisdictions dealing with the issue of reentry.

Jessica thanked Chief Harrell for facilitating the use of the California/Nevada room for this meeting, and reminded members that the Defendant/Offender Workforce Development conference would take place in San Francisco April 18-21.

Jessica then provided an update on the California Department of Corrections and Rehabilitation Division of Adult Parole Operations policy regarding transient registered sex offenders. Jessica said that she had had a preliminary meeting with staff from the Department of Public Health and indicated that a revision to the policy has been issued. She said that she would

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be holding more meetings in order to make a substantive presentation on this topic at the July meeting of the Reentry Council.

Jessica directed members' attention to the funding memo in the materials packet, which reports on funding received and applied for by the City and County of San Francisco. She reminded members that one of the charges of the Reentry Council is to report on reentry-related funding received by the city and county.

Jessica provided a brief update on the implementation of the annual report and the formation of new subcommittees. She said that staff had received statements of interest from about 50 members of the community for subcommittee involvement, and said that she would provide final subcommittee recommendations to co-chairs shortly. The subcommittees would likely start meeting in late April or early May to begin work on the implementation of the recommendations in the annual report. She mentioned that items 6 and 8 on the agenda relate directly to the recommendations contained in the annual report.

She also noted the written updates from the Community Corrections Partnership Council, the Juvenile Justice Coordinating Committee, and the Workforce Investment Community Advisory Committee.

During this presentation, Mayor Edwin Lee joined the meeting. The Mayor said that he holds a basic belief that there are better ways to address reentry and that the system can be improved. He expressed his desire to seek out the best ideas in spite of big financial challenges. He said that if he could lend his time to this very important work as Mayor of San Francisco, he would do so. He said that intervention and redirection are two strategies for changing people's lives. The Mayor indicated that he is working hard on creating jobs as one means of restoring dignity.

### **5. Legislative and Policy Update and Consideration of Support for AB568 (Skinner), AB828 (Swanson), and AB877 (Skinner) (discussion & action).**

Public Defender Adachi explained that AB568 would ensure that pregnant women would at no time be shackled during their incarceration, except under extreme circumstances. He asked Mary Campbell to address the Council about her position on AB568.

Mary said that when she was arrested she was 7 months pregnant. While in custody, she was transported to the hospital for ultrasounds and to give birth and was shackled in each instance. She said she did not need to be shackled; in her pregnant state, she was figuratively "shackled" by her own lack of mobility. She suggested that instead of shackling, correctional institutions could assign an additional guard to ensure security. Mary explained her view that shackling takes away dignity and shows no respect for the process of life. She also noted the potential danger of shackling a pregnant woman who would then not be able to break her own fall. Mary said that she would like to tell the Council more about her experiences at some time in the future.

Chief Still added that, during her years of service with the California Department of Corrections and Rehabilitation, she oversaw all women's prisons in the State of California. She said that she fully supports changes in the law because she presided over prisons when they eliminated shackling during childbirth and felt certain that if it could be done at the state level, it could be done at the local level.

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Shamauda Bishop said that she did not know she was pregnant when she turned herself in, and went on to serve eight months at Chowchilla prior to being released to a program called Project Pride in Oakland, which she would like to see replicated in San Francisco.

Public Defender Adachi asked for a motion to adopt the letter of support. Steve Arcelona moved and Karen Roye seconded. Judge Haines noted that he would be abstaining from a vote, citing that judges are prohibited from endorsing or recommending legislation.

Undersheriff Jan Dempsey said that current law expresses standards for the treatment of pregnant women throughout their pregnancy and local Sheriff's Departments like the San Francisco Sheriff's Department has extended those precautions to them throughout their pregnancy. Undersheriff Dempsey noted that the issue with this bill is that the language is too broad because staff do not always know who poses a safety issue to themselves or that they may be preyed upon by others. As the bill is currently written, Undersheriff Dempsey said that the Sheriff is concerned about how to ensure compliance and the safety of the individual involved.

*The motion carried with 18 ayes, one nay, and one abstention.*

Public Defender Adachi explained that the second piece of legislation that the Council was asked to consider was AB828, which would restore the rights of people convicted of certain drug felonies to receive food stamps. He asked Steve Arcelona to make a few remarks about support for AB 828. Steve reviewed the provisions of the bill and noted that Assembly Member Swanson, the sponsor of the bill, has authored similar bills in the past and the legislature passed it at least once before, but Governor Schwarzenegger vetoed it. Steve noted that the County Welfare Directors Association of California was in support of the bill. Steve said that the Human Services Agency is working on finding out the number of people who have been denied food stamps as a result of the drug felony exclusion. He said that he expects the number of people who have been discouraged from applying in the first place must be much higher. Steve asked that members approve the letter of support.

Public Defender Adachi first asked for public comment, then called for a motion. Gerald Miller moved, District Attorney Gascón seconded.

*The motion carried with 19 ayes and one abstention.*

Public Defender Adachi summarized the provisions of AB877 and then asked Undersheriff Dempsey to present further information. Undersheriff Dempsey explained that, under existing law, individuals in custody of the Department of Corrections and Rehabilitation are eligible to have non-felony Vehicle Code violations dismissed. The proposed bill would extend this relief to individuals spending six months or longer in jail or on supervision, or anyone who spends more than 90 days in a 12-month period. Individuals in county jail are currently excluded from these provisions. Undersheriff Dempsey said that the Sheriff's Department believes that these provisions are critically important to people who are getting out of jail and seeking a successful reentry.

Armel Farnsworth asked whether there is an existing mechanism for resolving these matters while in local custody. Undersheriff Dempsey said that she does not know of any parallel process for local prisoners.

Captain Rick Parry asked for clarification about whether the violation would be removed or adjudicated while in custody. Public Defender Adachi replied that it would be dismissed.

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Public Defender Adachi called for public comment, and then called for a motion. Joaquin Diaz Deleon moved, Chief Still seconded.

*The motion carried with 19 ayes and one abstention.*

### **6. Regular Update on Implementation of the five Second Chance Act funded projects and the Parole Reentry Court (discussion only).**

Public Defender Adachi postponed this agenda item pending the arrival of Judge Tauber, who was scheduled to present on the Parole Reentry Court.

### **7. Consideration of Support for Local Ordinance to Prohibit Discrimination on Basis of Arrest or Conviction Record (discussion & action).**

Public Defender Adachi introduced discussion of the draft letter of support for an antidiscrimination ordinance, explaining that this ordinance would prohibit discrimination on the basis of an individual's arrest or conviction history. He explained that local law already prohibits such discrimination; such an ordinance would expand the policy to include city contractors. He thanked the Human Rights Commission, All of Us or None, the Lawyers' Committee for Civil Rights, and the National Employment Law Project for their support in drafting the letter. He asked Jessica Flintoft to provide more information.

Jessica noted that this work grew out of a recommendation in the annual report to reduce barriers to employment and housing, and explained that the Human Rights Commission would eventually be the body responsible for developing language for an amended local code and any accompanying compliance guidelines. Jessica said the Reentry Council recognizes that there are appropriate uses of criminal records in employment and housing, but there need to be some balances that protect individual's need for equal opportunity and privacy. About one in four adults – or 7,000,000 people – in California has a criminal record. The expanding use of private criminal background checks is creating a serious barrier to accessing employment for many of these individuals. The recommendation would not conflict with any existing state or federal law prohibiting people with certain convictions from holding specific jobs.

Jessica explained that private businesses, private landlords, and city contractors would be affected by the recommendation. She said that the Mayor's Office of Housing has offered to convene the relevant stakeholders, and committed Reentry Council staff to conduct any additional necessary outreach. Jessica explained further that the recommended ordinance, which would amend the Article 33 of the Police Code and Chapter 12 of the San Francisco Administrative Code, would prohibit an employer from asking about an arrest that did not lead to a conviction, and from rejecting an applicant based on a conviction prior to determining whether the applicant would otherwise be qualified. The ordinance would also mandate that, if an applicant has a background check run, s/he be notified about the reason for any adverse determination and provided a copy of the background check, to the extent permitted by law. Jessica explained that, under the recommended policy, employment or housing could only be denied if a conviction were substantially related to a person's ability to perform a job or safely occupy a housing unit. These determinations would be made on a case by case basis.

Jessica introduced Theresa Sparks, Executive Director of the Human Rights Commission (HRC), who gave an overview of the scope of the HRC. Theresa noted that the laws enforced by HRC do sometimes conflict with state or federal law, including the Sanctuary City Ordinance. The HRC has a staff of about 35, half of whom are investigators. The HRC mediates up to 97%

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of complaints received and very rarely do they administer enforcement. The HRC finds that often individuals are simply ignorant of the law or ordinance, rather than maliciously discriminating against protected classes in violation of the law. The draft letter supporting an antidiscrimination ordinance for people with criminal records would allow the HRC to take the next step by adopting their own letter of support. The HRC would then turn to legislative counsel.

District Attorney Gascón said that he is in full support of the recommendation. He strongly suggested that the appropriate stakeholders in business and housing be engaged early on, to ensure successful implementation. He volunteered the District Attorney's Office to be a part of the process of convening and engaging stakeholders.

Joaquin Diaz de Leon said that he was denied a license at the state level due to a felony conviction and urged the Council to approve this recommendation.

Karen Roye said that the Department of Child Support Services has 15,000 cases in San Francisco. They have found that having a criminal record poses a huge barrier to employment among this population.

Mary Campbell said that, especially for victims of domestic violence, a job is incredibly important in establishing self-sufficiency.

Gerald Miller asked Jessica how to create buy-in among employers in the private sector.

Jessica clarified that under the proposal, employers would still be allowed to run a background check, but they would not be allowed to make a determination based on a conviction, unless that conviction was substantially job-related. Jessica pointed out that there are already laws on the books that protect people with records, but employers may not be following them. Jessica said that an accompanying public education campaign would be necessary for full implementation.

Theresa explained that the HRC invests a significant amount of staff time in helping employers distinguish between discrimination and discerning one's ability to perform a job.

Armel Farnsworth asked whether someone with a felony conviction could get a guard card. He also asked whether someone with a felony conviction could access housing that is funded by the federal government.

Jessica explained that this recommendation would not help with getting a guard card or obtaining any license that is state-issued. This ordinance would not supersede state or federal law. She said that it would protect against the policies that landlords adopt above and beyond the state or federal restrictions.

Theresa said that the HRC does not have jurisdiction over Section 8 housing. She said that many non-profit and for-profit housing providers receive funding from the City and County of San Francisco and the HRC would be able to enforce city funded and some state funded projects.

Eddy Zheng said that this an important step. Discrimination based on a criminal record is a public safety issue. He said that many young people who have convictions are discriminated against, and this effort would help those individuals.

Public Defender Adachi asked for public comment.

Tempe Priestley said that her company provides security training to individuals who are off of parole. She said that 100% of people who have been denied a guard card and then gone through the appeals process have had success in getting their card.

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Terry Anders shared anecdotes about barriers to employment services faced by individuals to whom he has provided services.

Linda Evans of All of Us or None said that San Francisco needs to be a leader in promoting antidiscrimination policies protecting people with criminal histories. Linda said that in addition to expanding services to the reentry population, there should be an emphasis on removing barriers.

Meredith Desautels said that the Lawyers' Committee for Civil Rights (LCCR) strongly supports this proposal. She encouraged the HRC to take a step further to expressly include expunged convictions among the ground that may not be a basis for denial of employment. LCCR has launched a Second Chance reentry clinic and would be happy to help with outreach.

Sasha Hauswald from the Mayor's Office of Housing said that MOH has been in close conversation with Jessica about the development of the proposal and is very much in support of the spirit of the proposal and of expanding access. She expressed the need for including property managers in the conversation.

Rudy Corpus from United Players said that he was denied employment following a felony conviction. He said that people with criminal histories should be given opportunities for employment. He stated the value of organizations that are led by formerly incarcerated people.

Wayne Garcia of Walden House said that he works with lifers throughout the state and has helped several of them secure successful careers.

Manuel La Fontaine, who introduced himself as a formerly incarcerated, emphasized the need for a support system for people leaving jail and prison.

Kim Clark emphasized the need to provide educational opportunities to this population.

Public Defender Adachi asked for a motion to approve the proposal. District Attorney Gascón moved, Joaquin seconded.

*The motion carried with 19 ayes and one abstention.*

Public Defender Adachi introduced Judge Jeffrey Tauber and invited him to present on the Parole Reentry Court, under Agenda 6.

Judge Tauber greeted the members of the Reentry Council and stated his belief that the work of the Council is extremely important. He clarified that the Parole Reentry Court is distinct from the Probation Alternatives Court, the other reentry court in San Francisco. He explained that the reentry court concept is the culmination of work that started 20 years ago. He said the Parole Reentry Court has served 40 parolees who are high risk offenders who have substance abuse and/or mental health problems and have violated the conditions of their parole. He said that providing a sense of community to this population is very important. He said that the goal of the reentry court is to route people into programs and volunteer work and away from the court. He thanked the Division of Adult Parole Operations, Pre-Trial Diversion Project, and the Adult Probation Department for their support. He said that they have lost 1% of clients since the court's inception.

Public Defender Adachi asked where and when court takes place.

Just Tauber responded that court is held every Thursday at 10:00am in Department 22 of the Civic Center Courthouse.

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### **8. Presentation on Federal, State, and Local Budget and Implications of Realignment on Reentry Population in San Francisco (discussion only).**

Public Defender Adachi introduced Kate Howard from the Mayor's Office. Kate suggested that this group continue this conversation over the coming months. She explained that government at all levels is facing a reduction in resources. President Obama has proposed reductions in community block grants and workforce investment funds; Congress has recommended cuts to family planning and Head Start. Governor Brown had proposed \$25 billion in solutions, half of which were cuts and half of which were revenues. The cuts are expected to come in part through realignment of services from the state to the local level, building on the assumption that counties will be more efficient and less expensive than the state in delivering services. The realignment model is tied to tax extensions, which have not yet been approved. Kate said that the Governor has made it clear that he will not begin realigning services until the funding is in place.

### **9. Adjournment.**

An emergency notice related to the building prompted Public Defender Adachi to adjourn the meeting at 11:58am.