

Remarks of San Francisco District Attorney Kamala D. Harris
to the State of California's Little Hoover Commission

October 26, 2006

Chairman Alpert, Distinguished Commissioners, I am honored that you asked me to share my views on this very important subject. Let me begin by applauding the Commission's tenacity in taking up this very timely set of complex issues.

Underlying the current attention on sentencing reform is the crisis in our prisons and parole systems. That crisis poses great risks to crime victims, to the front line officers who work in our prisons and jails and to public safety in all of our communities.

There is general agreement that central to reform is the need to reduce recidivism. California has the highest recidivism rate in the nation. Recidivism has emerged as the primary threat to public safety in the State. Behind every re-offense statistic is a new crime and often a new direct victim. I suggest that the time is upon us to make an historic State investment to reduce the likelihood of re-offense.

I want to focus my remarks today on recommendations designed to:

1. reduce recidivism and thus make our communities safer
2. integrate sentencing with the reality that almost all prisoners return from prison
3. develop a framework for state and local collaboration together with public/private partnerships to make effective reentry part of the local and state systematic approach to sentencing and corrections

Based on innovative work being done in San Francisco and best practices around the nation, I want to offer the following three primary recommendations:

- First, to achieve near term impacts on recidivism and prison overcrowding, the State should make a serious investment in local capacity to manage offenders.
- Second, the state should invest in locally run reentry centers and reentry courts.
- Third, long term investments in local probation and jail capacity will enable the continued expansion of local management of offenders and the implementation of effective, comprehensive reentry approaches.

To start, I would like to share with you some of our experiences in San Francisco. Our local criminal justice system has a rich history of innovation, including being home to award-winning programs within our courts, prosecutor's office and county jail. We were among the first jurisdictions to open a drug court, juvenile drug court, and mental health court.

Most importantly, we have one of the lowest violent crime rates among the nation's major cities. We have found that it works to focus resources on serious and violent offenders and insist on severe consequences for those criminals, while, with low level, non-violent offenders, we can implement rehabilitative and reentry approaches that lead them out of criminality early on.

We are well aware of how challenging it can be to address the underlying issues among our inmate populations. One study in our County Jail showed that more than 50 percent of the inmates are functionally illiterate, most of those could not take a simple phone message. Almost all our inmates have very low reading and math levels and little or no work histories. Most are out of compliance with their child support obligations. 55 percent of our inmates and prisoners have children under 18, and incarcerated parents owe on average more than \$20,000 in child support. Many are homeless and nearly 75 percent have substance abuse and/or mental health histories. Jail inmates and prisoners tend to be sicker than the general population. The prevalence of infectious diseases among this population is four times greater for active tuberculosis and nine to 10 times greater for Hepatitis C.

Because rehabilitation and reentry involves so many factors, in San Francisco we approach the task through collaboration among many agencies. In 2005, we formed a citywide reentry council, consisting of more than fifty partners, including all of the criminal justice partners, many other government agencies, private sector employers, organized labor, service providers, the faith community, and other partners dedicated to protecting crime victims, reducing recidivism and turning around the lives of offenders.

I am proud to have created the Reentry Council together with San Francisco's innovative Sheriff, Michael Hennessey. Our Sheriff has created a rich menu of in-custody services that address a wide range of needs, including education, vocational services, substance abuse and mental health, STD prevention, conflict resolution, anger management and parenting, to name a few. He has created the nation's first charter high school operating within a jail, and the school also continues once an inmate is out-of-custody. This month, Sheriff Hennessey is opening a Women's Reentry Center, an out-of-custody, comprehensive, gender-specific service center located literally across the street from the central jail house doors, so that women will now be walked right into the center the moment they are released.

Out of my office, early in 2004, I created a program called Back on Track. This is a reentry program for individuals in our County Jail. The approach is swift accountability for young offenders who have just been arrested for their first adult felony. Through a carrot-and-stick approach, Back on Track leads young offenders to stop committing crime.

The program targets 18-25 year-olds with felony narcotics offenses, including sales and possession for sale. I decided to focus on this population because, as you know, drug sales is absolutely a gateway to a life of crime. Nationwide, approximately 75 percent of people released from jail or prison have history of drug crimes. The July 2006 U.S.

Bureau of Justice Statistics report shows that 40% of felony convictions in the country's most populous counties are drug offenses. In my office, it's even higher.

Currently, Back on Track has 100 participants, and we are growing to 150 by the end of the year. The average age is 22. About half of the participants are women. Many of the participants have young children.

In this program, my Office determines eligibility, and our requirements are simple but stringent: you are not eligible if you have any history of gang involvement, gun possession or violence. If we find a defendant is eligible and they opt in, first they must plead guilty to the most serious charge they are facing. The guilty plea is about accountability, defendants must acknowledge their guilt and accept responsibility. The plea is also about having offenders put something on the table. We use what is called a Deferred Entry of Judgment, so although the guilty plea has been entered, we hold off sentencing for 12 months. If the participant fails to comply with the program rules or is rearrested, they go right to sentencing.

After the participant is released from jail, they enter a six week boot camp. During the six weeks, they must perform 220 hours of rigorous community service and get their lives together to be ready for the program, stabilizing their housing, getting their driver's license back, etc. During the boot camp phase, each participant also develops an Individual Responsibility Plan that includes specific 12-month goals covering education, employment, housing, family engagement and health care.

After the boot camp, participants have access to a rich menu of services, including: job readiness; job placement and retention support; G.E.D. classes; college enrolment and help navigating financial aid; health and fitness; money management and banking instruction; anger management; parenting support, and; help with child support arrangements.

Back on Track is working to prevent crime and saving significant taxpayer dollars. The program has a better than 90 percent success rate. Now, nearly three years into the program, we have reduced recidivism to less than five percent. 100 percent of our participants are employed or in school, 65 percent are working and going to school at the same time. More than 90 percent are in compliance with their child support obligations.

This program is a bargain for taxpayers with a cost per participant of just under \$5,000 for the 12 months. For every \$1 spent on this program, San Francisco saves \$5 in jail costs alone.

I am asked all the time why I think the program is working so well. I believe it comes down to the combination of accountability and opportunity that is turning lives around. For example, a young 21 year old woman was arrested for selling crack on a San Francisco street corner. She pled guilty and entered Back on Track. She was closely supervised while she enrolled in school, performed community service and held down a full-time job. She got her G.E.D. and took classes at community college. Through Back

on Track, she received a full scholarship to the Academy of Art University, where she now has 3.8 grade point average.

Based on our local experiences, I would like to offer some specific recommendations for the Commission to consider:

1. To reduce criminality and recidivism, the State should support approaches that address criminal behavior early. Based on our experience in San Francisco, the State should support local initiatives that intervene early in criminality and pull offenders back to a responsible, law-abiding life.

State policy should encourage and fund the development, by prosecutors and others, of programs that lead less serious, non-violent offenders to make permanent exits from the criminal justice system. In particular, the use of deferred entry of judgment for individuals who have committed offenses that are not serious or violent should be encouraged to leverage the incentives and sanctions available to the criminal justice system.

As I have described, we have found the tool of the Deferred Entry of Judgment, coupled with close court supervision and opportunities for employment and education to be an extraordinarily effective mechanism in changing behavior. I believe we need to explore legal changes and local incentives to expand the use of Deferred Entry of Judgment.

2. To achieve near term impacts on recidivism and prison overcrowding, the State should make a serious investment in local capacity to manage offenders.

Several populations that could be managed locally include: the 5%-8% of prisoners who will serve less than 90 days; prison commitments involving low level drug offenders and other non-serious, non-violent offenders who score low on a risk assessment scale, and; that same category of offender facing a parole or probation revocation and return to state prison. Adding those populations together, we are talking about a significant part of the prison population.

State funding and incentives should be directed to innovative programs developed by local prosecutors, courts, sheriffs and probation departments.

Graduated sanctions, including local detention in county jail, should be developed for violations of probation or parole. Probation and parole caseloads should be reduced so that we can have much more intensive supervision of serious and violent criminals.

We should pursue state-local partnerships, especially with those counties, like San Francisco, Marin, Santa Clara and others that have available jail bed space. I have proposed that we explore using those jail beds to create reentry centers where non-serious, non-violent prisoners could serve the last 12 months of their sentence. We could also use these reentry centers for parolees and probationers facing a return to prison. The reentry centers would be linked to reentry courts. In-custody rehabilitative programming

would include the development of detailed Personal Reentry Plans for each offender. Services in-custody would be linked directly and personally to out of custody programs. An intensive focus would be placed on the crucial 72 hours post-release.

Legal reform needs to be pursued to address jurisdictional issues that are a barrier to empowering local authorities to manage prisoners and parolees. And resources for probation departments, county sheriffs and other criminal justice partners will have to be substantially increased.

3. Reentry must be made a cornerstone of our sentencing and corrections policies.

I believe that the principles of reentry should be applied at sentencing in almost every case. Since nearly every prisoner will be released and return home, sentencing should contemplate that reality and make provision for it. Since a majority of individuals sentenced to prison or jail will be released within less than two years, the time of sentencing should be leveraged to creatively apply carrots and sticks to reward good behavior and punish bad behavior. Tailored conditions of probation and parole should be imposed as part of sentencing. To develop our reentry courts and begin integrating reentry planning into sentencing, I have started what may be the country's first reentry unit in a local prosecutor's office, staffed with an attorney, investigator, paralegal and program coordinator.

The State should encourage and fund reentry courts that provide clear accountability and consequences with supports for positive behaviors.

Sophisticated risk assessment instruments should be developed to distinguish between offenders who are good candidates for rehabilitative and reentry programs and those who are not.

Effective reentry programs should begin as soon as someone enters prison or jail. Individualized reentry plans are key to the process and should address employment, housing, family engagement, education, health care and substance abuse.

For programs both in and out of custody, we should insist on results accountability. For example, good time credits for programs should depend upon actual achievement. It's not enough just to show up for G.E.D. classes, you need to get your G.E.D. Program providers should also be held accountable for real results.

I am convinced that living wage employment is the most important of all reentry components. State and local agencies should work with private employer groups to develop job opportunities for people with a criminal record, and hiring incentives. We also should work with organized labor in a variety of industries and sectors to develop training, apprenticeship and employment opportunities for former offenders.

Reentry is extremely cost-effective. A high-quality reentry program costs \$10,000 on average, including the cost of a pre-apprenticeship program in the building trades or other

sectors. We spend more than that to adjudicate one case, let alone to incarcerate. And most importantly, we will see immeasurable savings by reducing victimization.

I want to thank you again for affording me this opportunity to address these crucial issues with you. We have much more work to do, but the early success of innovative programs in California and around the country offer us hope. We can take this opportunity to make bold investments and institute very new ways of doing business. I am convinced that if we do that aggressively and creatively, we will see very significant reductions in recidivism. Ultimately, that is the right and smart approach for victims of crime and for all of us.