

REFORMING YOUTH DIVERSION IN SAN FRANCISCO

INTRODUCTION

San Francisco has a strong foundation of youth diversion programming, anchored by its renowned Community Assessment and Referral Center (CARC), operated by Huckleberry Youth Programs. CARC has been a model program for over twenty years, providing a community-based intake option in lieu of detention in juvenile hall, and offering diversion programming for youth with minor cases in lieu of referral to juvenile court.

Today, San Francisco has an opportunity to take its diversion efforts to the next level. Based on youth arrest data, San Francisco could expand the scope of its diversion programming to keep more youth out of the juvenile justice system. Academic research supports expanding diversion, as it leads to better outcomes for youth and the community as compared to conventional juvenile court processing. When youth are diverted, they can connect with services without juvenile court involvement, reducing contact with police and probation and avoiding detention in juvenile hall. For these reasons, the Data & Needs Assessment Subcommittee of the Close Juvenile Hall Work Group (CJHWG) has identified reform of San Francisco’s diversion policies and practices as critical for achieving closure of the juvenile hall.

This policy brief outlines the primary issues related to diversion and makes recommendations for reform.

I. SUMMARY OF RECOMMENDATIONS

Below is a summary of our recommendations. See Section VI. for a full description of each.

- 1) San Francisco needs a diversion pathway that does not rely on arrest. San Francisco should establish a community-based intake and connection “Hub” that is available citywide, including to schools, parents, and service providers. The “Hub” should apply a holistic approach that focuses on health and well-being and centers the youth and their family.
- 2) San Francisco’s community-based intake “Hub” should serve as the direct referral pathway for any youth who comes into contact with the police. This “Hub” should be

utilized for every arrested youth prior to contact with Probation, including youth who are unaccompanied minors and youth who reside outside of San Francisco County.

- 3) San Francisco must eliminate the juvenile traffic court program; instead, citation cases should be processed through the "Hub."
- 4) San Francisco should work with the San Francisco Police Department to reform booking practices to incorporate adolescent development. Current booking practices, particularly related to robbery offenses, trigger juvenile law consequences that cut off diversion options for young people and may contribute to long standing racial and ethnic disparities in delinquency system processing.
- 5) San Francisco should aim to divert at least 80% of youth at the point of law enforcement contact (i.e. "pre-arrest"). Youth who are eligible for diversion should be provided with individualized programming that includes: a) addressing the basic needs of the entire family, b) offering strengths-based, trauma-informed, and culturally responsive programming to the youth, and c) incorporating healing, mental health services, and restorative justice, only as appropriate to the individual youth.
- 6) When a youth is ineligible for pre-arrest diversion because the law requires the youth be transported to Probation, their detention hearing should be expedited to avoid booking into juvenile hall whenever possible.
- 7) For youth who are detained in juvenile hall, San Francisco must set up systems and programming that maximize post-detention diversion options.

II. ISSUE OVERVIEW

What is diversion?

Generally, the term "diversion" in youth justice means programs and approaches that respond to youth behavior without formal involvement in the justice system. California law defines diversion as "a program that promotes positive youth development by relying on responses that prevent a young person's involvement or further involvement in the justice system."¹

Diversion programming may include a range of responses, from a simple "warning and release" to more intensive services coordinated through an individualized service plan.²

¹ Welf. & Inst. Code § 1457(d).

² Annie E. Casey Foundation Blog, "What is Diversion in Juvenile Justice?", Oct. 22, 2020, *available at*: https://www.aecf.org/blog/what-is-juvenile-diversion?utm_source=The+Annie+E.+Casey+Foundation&utm_campaign=d5f3f0941a-EMAIL_CAMPAIGN_2020_11_09_04_24&utm_medium=email&utm_term=0_cbe3aa8104-d5f3f0941a-84965085.

California law recognizes that diversion program models may vary widely, and referrals for diversion may come from a variety of agencies, including schools, service organizations, police, probation, or prosecutors.³ The common goal for any type of diversion programming is preventing/redirecting youth from justice system engagement at the “earliest possible point.”⁴

The focus of this brief is on maximizing the use of diversion as a redirection from any system response at all. This means utilizing pre-arrest diversion at the point of police contact. It also means that whenever Probation or the District Attorney’s (DA) Office receives a diversion-eligible referral, they would redirect it back to community-based diversion instead of processing it through the delinquency system or maintaining the case on any system caseload.

How does diversion work under the law?

The law states that when a youth comes into contact with law enforcement, the youth may be referred or transported to a public or private agency for diversion services.⁵ There is no requirement to notify Probation, the DA’s Office, or the Court in this type of case. Instead, the Board of Supervisors could establish for the county an office or division with the responsibility for coordinating intake, assessment, and service referral, providing “direct and indirect services to prevent a youth from engaging in delinquency.”⁶

In general, records related to a youth’s participation in diversion are confidential.⁷ When a youth satisfactorily completes a diversion program, the police are required to seal and destroy their records and the offense is deemed not to have occurred.⁸ By law, the youth does not have to disclose the offense to anyone after it has been sealed or destroyed.⁹

Probation and the DA’s Office may also divert young people out of the delinquency system, and when they do, similar sealing laws apply.¹⁰ Once a youth satisfactorily completes the diversion, Probation and the police must seal their records and the offense is deemed not to have occurred, giving the youth the right not to disclose it.¹¹

Are all youth eligible for diversion?

When diversion is initiated by the police, eligibility is broad. All youth are eligible, except those youth who are ages 14 and older and who have been taken into custody by law enforcement

³ Welf. & Inst. Code § 1457(d).

⁴ *Id.*

⁵ Welf. & Inst. Code § 626(b).

⁶ Welf. & Inst. Code § 234.

⁷ Welf. & Inst. Code § 827.95(a)(1).

⁸ Welf. & Inst. Code § 827.95(b)(1).

⁹ *Id.*

¹⁰ Welf. & Inst. Code § 786.5.

¹¹ *Id.*

for an offense listed in section 707(b) of the Welfare & Institutions Code and any attempt or commission of a felony with the personal use of a firearm.¹²

When diversion is initiated after intake with Probation, eligibility is more limited. Probation can make a referral to diversion in many cases, but Probation must refer several categories of cases to the DA's Office.¹³ For example, a youth who is over 14 years old and charged with a low-level felony, must still be referred to the DA's Office without exception.¹⁴ The DA's Office then has the power to decide what is next in the youth's case, and may initiate diversion at that point, among other options.¹⁵ If Probation is not required to refer the case to the DA's Office, Probation can also initiate diversion at the point of intake.¹⁶

When youth are required by law to be transported to Probation, can they still be eligible for diversion?

As stated above, there are specific categories of cases where law enforcement is required by law to transport the youth to the custody of Probation.¹⁷ Youth being held in custody for such offenses cannot be released by Probation until they have been brought before the court for a detention hearing.¹⁸

Youth in these categories *can still be eligible for diversion*. First, if the facts surrounding the arrest are insufficient to support the severity of the charges, the youth will be released and can be referred to diversion at that point. When a youth is taken to juvenile hall, both Probation and the DA's Office will conduct an investigation to determine whether there is a factual basis for the charges.¹⁹ If it is determined that there are not sufficient facts to justify the charges, the youth must be released from custody.²⁰ If it is determined that the facts support lesser charges, the youth can also be released from custody. Thereafter, Probation and/or the DA's Office can refer the youth to supportive services or diversion programming as appropriate, instead of moving forward with a delinquency petition in juvenile court.

Second, even if the youth must be held in detention initially, the youth can be referred to diversion after the detention hearing if the court orders the youth to be released. The law requires that the youth's detention hearing be held "as soon as possible," which can help

¹² Welf. & Inst. Code § 626.6.

¹³ Welf. & Inst. Code § 653.5.

¹⁴ Welf. & Inst. Code § 653.5(c)(3).

¹⁵ See Welf. & Inst. Code §§ 650(c), 653.1, 653.5(c), 786.5; Gov. Code § 26500. Cal. Rule of Court, rule 5.520(a).

¹⁶ See Cal. Rule of Court, rule 5.514(c)(1).

¹⁷ These cases are those where the youth is age 14 and older and has been taken into custody by law enforcement for one of the offenses listed in section 707(b) of the Welfare & Institutions Code or an attempt or commission of a felony with the personal use of a firearm. Welf. & Inst. Code § 626.6.

¹⁸ Welf. & Inst. Code § 629.1.

¹⁹ Welf. & Inst. Code §§ 628(a), 630, 652, 653.5, 656.

²⁰ U.S. Const., amend. IV.

expedite release of youth.²¹ If a youth is released by the court, it may be possible for the delinquency case to be “paused” while the youth completes diversion.²² More commonly, once a petition has been filed, the court may order a term of informal supervision by the probation department instead of proceeding forward on the delinquency charges.²³

How is diversion different from probation?

The goal of diversion is to redirect youth away from justice system involvement. To serve this goal, diversion differs from probation in several important ways:

- Diverted youth are not assigned to a probation officer, they are not supervised by a probation officer, and they are not part of a probation officer’s caseload in any way.
- Diverted youth are not subject to arrest or confinement as a way to enforce the terms of the diversion program.
- The diversion program does not include any court-ordered terms.²⁴

In San Francisco, some youth are placed on “informal supervision” (often called informal probation), but this is not considered “diversion” as defined in this brief. Youth on informal probation are supervised by a probation officer for up to six months.²⁵ Informal probation serves an important function in minimizing a youth’s involvement in the juvenile justice system because it can result in a dismissal of charges and record sealing upon satisfactory completion.²⁶ However, because of the involvement of Probation, informal probation should not be considered diversion.²⁷

Does San Francisco already have diversion through the CARC program?

Since 1998, the Community Assessment and Referral Center (CARC) has served as a crucial resource for arrested youth in San Francisco. CARC has dual roles: it offers a community-based intake option in lieu of detention in juvenile hall, and it offers diversion programming for youth with minor cases in lieu of referral to juvenile court. However, because the police consult with

²¹ See Welf. & Inst. Code § 632.

²² After a petition has been filed, a referral to diversion would require approval from the court to allow the case to be paused while diversion is completed. This approach to diversion is more complicated and less desirable because it includes formal court processing.

²³ See Welf. & Inst. Code § 654.2.

²⁴ See Annie E. Casey Foundation Blog, *supra* note 2, [“What is Diversion in Juvenile Justice?”](#), Oct. 22, 2020.

²⁵ See Welf. & Inst. Code §§ 654, 654.2.

²⁶ See Welf. & Inst. Code § 786.

²⁷ Informal probation is not also an ideal approach to diversion because youth can generally only participate in informal diversion once. See Welf. & Inst. Code § 654.3(e).

the Juvenile Probation Department prior to bringing a youth to CARC, it is limited in its ability to divert youth away from the justice system entirely for the reasons described above.

San Francisco has an opportunity to embrace a more robust model of diversion that prioritizes the goal of redirecting youth away from the system at the earliest point possible. San Francisco can do this by operating a diversion program that conducts *all* intake and assessment *prior to any contact with Probation*. This approach is discussed in the recommendations section below.

What happens if a youth is referred for diversion, but no diversion program is initiated?

As described above, the police can initiate diversion programming by referring or delivering a youth to an agency that has an agreement with the city/county to provide diversion services.²⁸

The law specifies that the diversion provider is responsible for determining a response and implementing a diversion program if appropriate.²⁹ If the provider decides not to implement a program, it must notify the police, who may contact Probation for a review of that decision.³⁰

What happens if a youth starts a diversion program, but fails to complete it?

Diversion is considered successful when a youth has “satisfactorily completed” the diversion program.³¹ *Satisfactory completion is not perfect compliance*. Instead, the law defines satisfactory completion as “substantial compliance by the participant with the reasonable terms of program participation that are within the capacity of the participant to perform, as determined by the service provider.”³² In other words, the diversion provider determines when a youth has completed the program, and the standard for completion depends on the circumstances of the individual youth.

If a diversion provider determines that a youth has not satisfactorily completed the program, there are a number of possible responses. One response is to take no action, which may be particularly appropriate where the youth has had no new contact with law enforcement. In other cases, for example where there are significant safety concerns, a referral back to the police for potential referral to Probation is allowed by law.³³ Diversion programs should strive for a policy in which youth cannot fail out. Instead, the program should rely on incentives rather than sanctions, and incremental improvements rather than perfect performance.³⁴

²⁸ See Welf. & Inst. Code § 626(b).

²⁹ See Welf. & Inst. Code § 652.5(a).

³⁰ See Welf. & Inst. Code §§ 652.5(c); 655.5.

³¹ See Welf. & Inst. Code § 827.95(a)(1)(A).

³² See Welf. & Inst. Code § 827.95(d)(6).

³³ See Welf. & Inst. Code §§ 652.5(c); 655.5.

³⁴ The Annie E. Casey Foundation (2018). “Transforming Juvenile Probation: A Vision for Getting It Right.” Baltimore, Maryland, pp. 10 and 29, available at: <https://www.aecf.org/m/resourcedoc/aecf-transformingjuvenileprobation-2018.pdf>.

III. DATA ANALYSIS

CARC provided 2020 arrest data to the Data & Needs Assessment Subcommittee of the Close Juvenile Hall Working Group. These data revealed 451 youth arrests in 2020.³⁵ Analysis of the arrest data, portions of which were shared with the Close Juvenile Hall Work Group in May 2021, are included below.

1. Youth of color are significantly more likely to be arrested than White youth.

Black and Latino youth are significantly more likely be arrested than White youth in San Francisco. According to CARC data, in 2020, Black youth were 29 times more likely than White youth to be arrested. Latino youth were four times more likely.



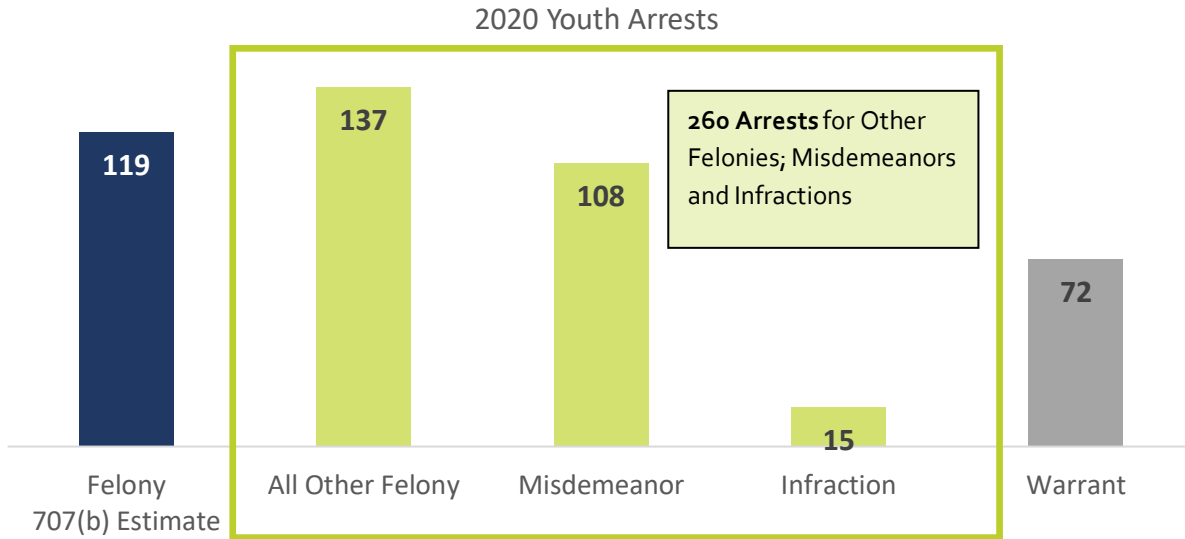
	White	Black	Latino	API	Other	Total
Youth Population (ages 12-17)³⁶	10,226	2,805	7,963	14,236		35,691
Youth Arrested	20	160	67	8	96	351
Rate of Arrest (per 1000 youth)	2.0	57.0	8.4	0.6		9.8
Disparity in Arrests (times more likely than White)	1	29	4	0.3		

³⁵ CARC Data revealed that 351 youth were arrested in 2020: 65 percent of youth (229 youth) were arrested once in 2020 and 35 percent of youth (122 youth) were arrested on more than one occasion. For the analysis, only the most serious alleged offense associated with the arrest is counted. For example, a youth who is arrested and charged with robbery and battery is only counted for more serious charge. In this example that would be, robbery.

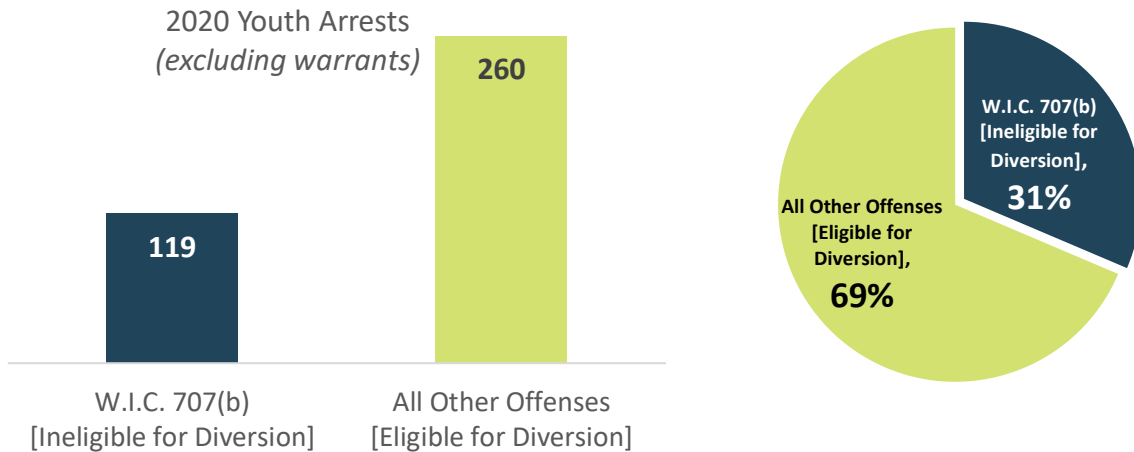
³⁶ Puzanchera, C., Sladky, A. and Kang, W. (2020). "Easy Access to Juvenile Populations: 1990-2019." Online. Available: <https://www.ojjdp.gov/ojstatbb/ezapopl/>.

2) The majority of youth arrests in San Francisco are diversion eligible.

Data reveal that of the 451 arrests in 2020, 119 arrests (26 percent of all arrests) were for an offense that requires transport to the custody of Juvenile Probation.³⁷ An additional 72 arrests (16 percent of all arrests) were for warrant arrests. The remaining 260 youth (58 percent of all arrests) were for all other felonies, misdemeanors, and infractions.



For the purposes of studying arrests that eligible for diversion, youth arrested for warrants are excluded from the chart below.³⁸ After excluding warrant arrests, 69 percent of arrests (260 of the remaining 380 arrests) were eligible for diversion.

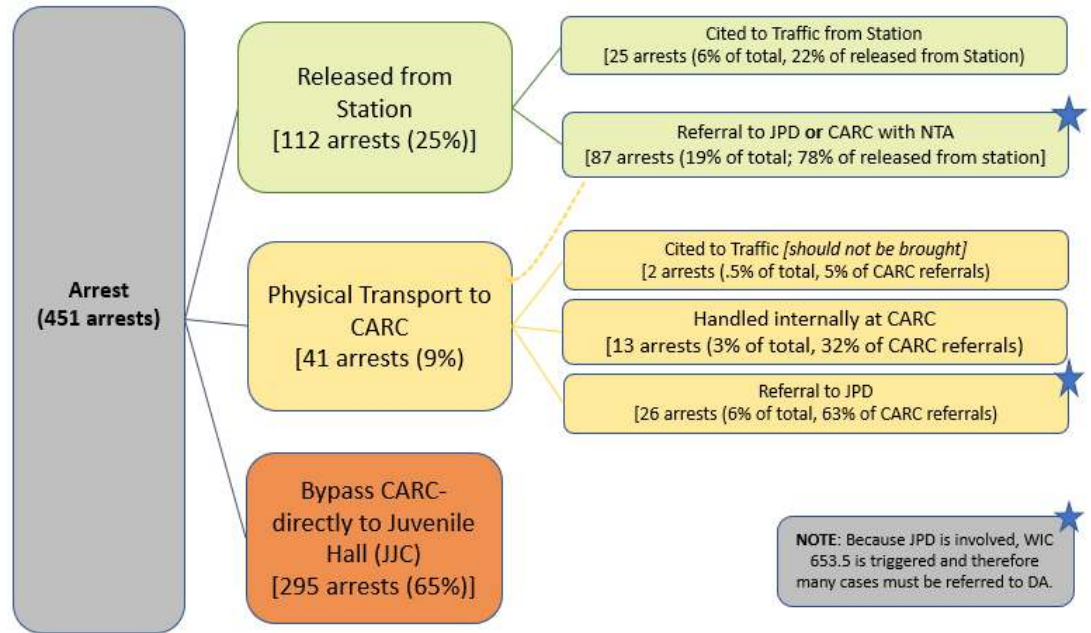


³⁷ CARC data do not flag offenses as WIC 707(b) offenses, offenses that require transport to Probation. A review of most serious offense includes the following felony offenses in the estimate: Armed Robbery(5); Assault w/ Intent to commit GBI(4); Assault with a Deadly Weapon (ADW)(4); Assault with a Stun Gun/Taser(1); Attempted Murder(4); Attempted Robbery(5); Carjacking(1); Force or ADW Not Firearm GBI Likely(3); Murder(5); Robbery (75); Robbery 2nd(10).

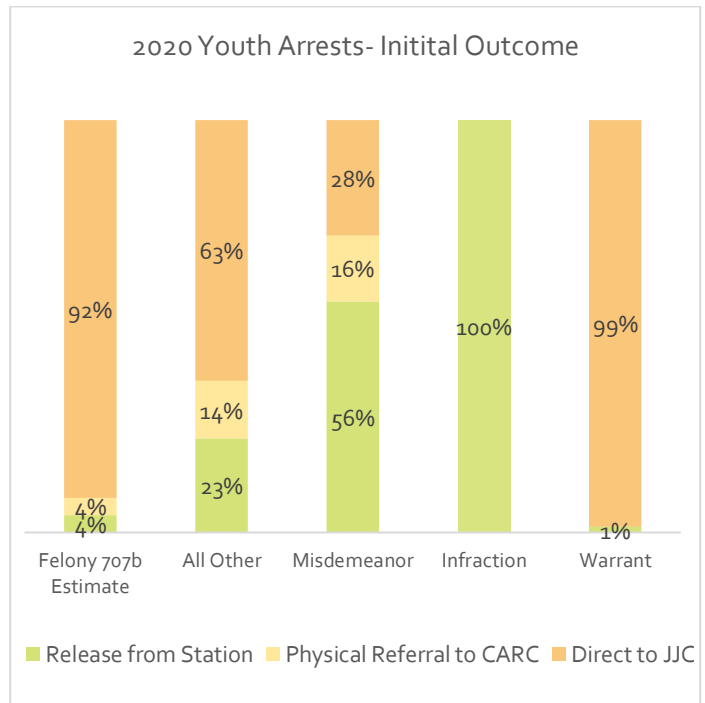
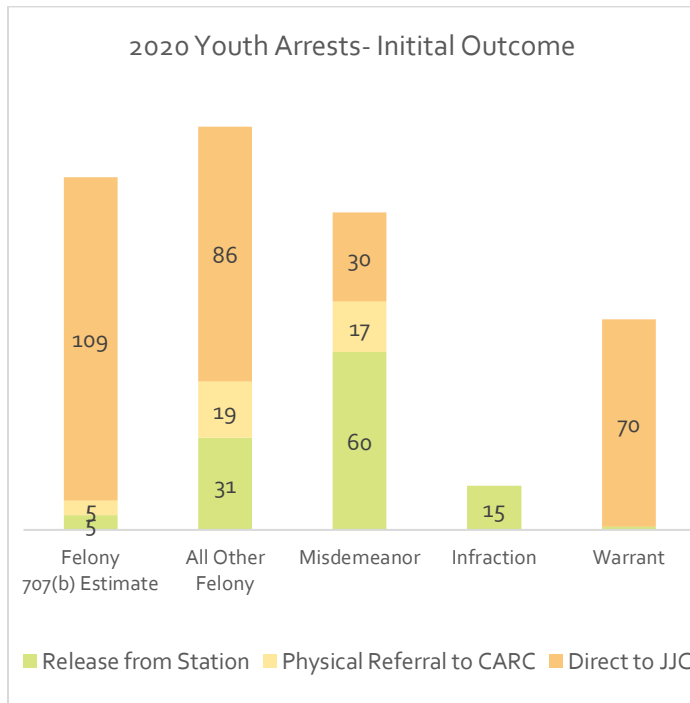
³⁸ Please see Data and Needs Assessment Policy Brief on Warrants for more information on strategies to reduce the issuance of warrants and detention resulting from warrant arrests.

3) Diversion is currently underutilized.

While not all youth who are arrested are brought to CARC, the CARC database captures initial arrest outcome types on all youth arrests in San Francisco. Broadly, these arrest outcome types include release from station (25% of arrests); physical transport to CARC (9% of arrests); and bypass of CARC to Juvenile Hall (65% of arrests).

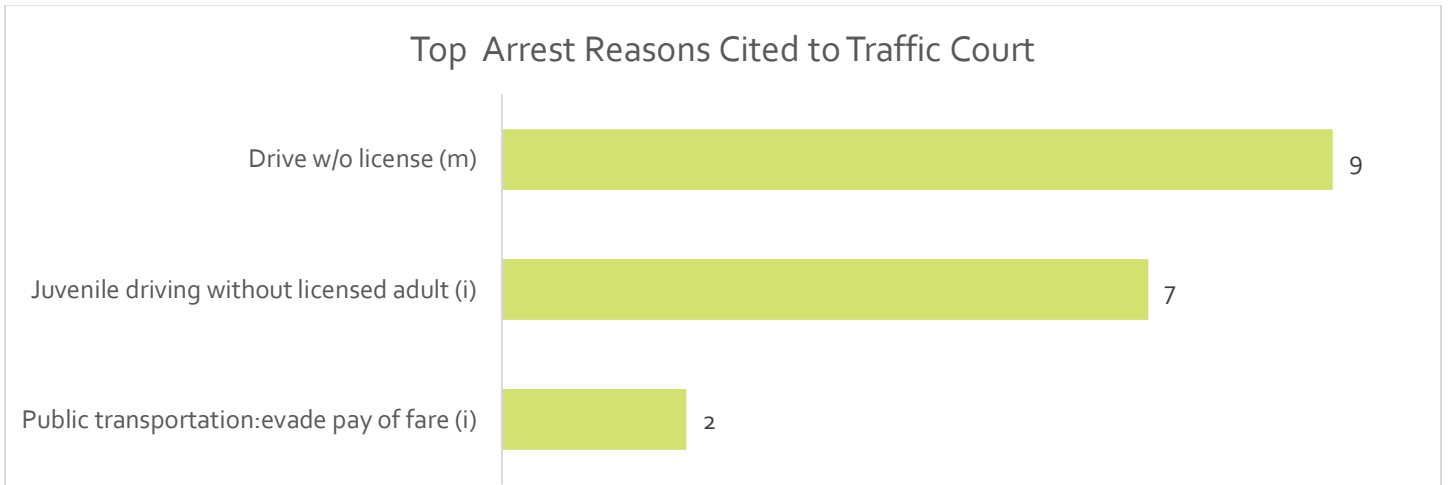


A deeper review of arrests that bypassed CARC reveals that the vast majority 92% of arrests for offenses listed in W.I.C. 707(b) bypass CARC and were brought directly to Juvenile Hall. More surprising, 63% of arrests for other felony offenses and 28% of arrests for misdemeanor offenses bypassed CARC and were brought to juvenile hall.



4) Arrests for low-level cases are going to juvenile traffic court

While relatively small in number (27 arrests, 6% of all youth arrests), youth arrests for low level offenses are going to juvenile traffic court and offer an additional opportunity for reform. The vast majority of these cases were misdemeanor youth driving without a license and youth driving without a licensed adult, an infraction. Other offenses include fare evasion and failure to stop a red light.



IV. RESEARCH & POLICY ANALYSIS

The Annie E. Casey Foundation (AECF) has recently published several comprehensive reports and issue briefs supporting the expansion of diversion for youth. The bullets below incorporate a summary of AECF’s findings, as well a review of law, literature, and current best practices for youth diversion.

- ❖ **Diversion is an effective youth justice intervention that promotes positive outcomes for youth and community safety.**

There is a strong research foundation for youth diversion, with studies showing that diversion is more effective at reducing recidivism than conventional justice-system interventions. For example, as reported by AECF, a meta-analysis of diversion programs found that when youth assessed as low risk were diverted, they were “45% less likely to reoffend than comparable youth facing formal court processing.”³⁹

A study of Alameda County’s Restorative Community Conferencing (RCC) program also showed significant reductions in recidivism: “within 12 months of completing the RCC

³⁹ See Annie E. Casey Foundation Blog, *supra* note 2, [“What is Diversion in Juvenile Justice?”](#), Oct. 22, 2020.

program, youth were 44% less likely to get a new sustained charge than youth who were processed through the juvenile legal system."⁴⁰ The recidivism reductions achieved by the RCC program are particularly important because it specifically focuses on youth charged with serious crimes who would have otherwise faced significant involvement with the justice system.⁴¹ This study provides compelling evidence that diversion is an optimal intervention in responding to youth misconduct.

❖ **Diversion is a cost-effective intervention.**

As a community-based intervention, diversion is cost effective, particularly as compared to incarceration. According to the Justice Policy Institute, incarcerating a child for one day in California costs an average of \$833.59.⁴² In comparison, research has shown that successful community programs working with youth who remain in their homes can cost as little as \$75 per day.⁴³

Diversion is also more cost effective than probation supervision. For example, in Alameda County, the average annual cost of placing a youth on probation is \$23,000.⁴⁴ In contrast, the cost of handing a case through the Restorative Case Conferencing program is just \$4,500.⁴⁵

❖ **Diversion is most effective when it avoids or minimizes any system involvement. Arrest and court processing lead to significant negative outcomes for youth.**

Diversion programs should strive to minimize a youth's contact with a system, and ideally avoid it altogether. Specifically, whenever possible, diversion should be implemented prior to arrest. As found by AECF, research shows that an arrest significantly increases a young person's likelihood of subsequent arrests and justice system involvement, as compared to pre-arrest diversion responses.⁴⁶

⁴⁰ sujatha baliga, Sia Henry, and George Valentine, "Restorative Community Conferencing: A study of Community Works West's restorative justice youth diversion program in Alameda County," (2017) p. 7, available at: https://impactjustice.org/wp-content/uploads/CWW_RJreport.pdf.

⁴¹ *Id.* at p. 5.

⁴² Justice Policy Institute, Sticker Shock 2020: The Cost of Youth Incarceration (2020) p. 3, available at: http://www.justicepolicy.org/uploads/justicepolicy/documents/Sticker_Shock_2020.pdf.

⁴³ *Id.* at p. 5-6.

⁴⁴ "Restorative Community Conferencing: A study of Community Works West's restorative justice youth diversion program in Alameda County," *supra* note 40, p. 16.

⁴⁵ *Id.*

⁴⁶ The Annie E. Casey Foundation, "Research in Brief to Transform Justice Probation: Expand the Use of Diversion from the Juvenile Justice System," (2020) p. 3, available at: <https://assets.aecf.org/m/resourcedoc/aecf-expandtheuseofdiversion-2020.pdf>.

Diversion should also avoid formal court processing. As found by AECF, research also shows that formal court processing increases the likelihood of subsequent arrest.⁴⁷

In addition, both arrests and formal court processing negatively impact a young person's school and employment outcomes.⁴⁸

❖ **Increasing diversion will decrease racial and ethnic disparities.**

While adolescence is a time of risk-taking behavior for all youth, white youth are less likely to be criminalized for the same behavior and more likely to be given access to supportive alternatives to justice system involvement than youth of color.⁴⁹ Expanding diversion shifts the entire system away from punitive responses and is especially important for addressing the disparate racial impact of the juvenile justice system.

❖ **New model programs in California are implementing diversion at the point of police contact, avoiding any referral to Probation or the District Attorney's Office altogether.**

Model programs are currently being implemented in Los Angeles and Oakland, where they are utilizing the initial police contact as the diversion intervention point.

In Los Angeles, their new diversion program is overseen by the Youth Diversion and Development (YDD) division, part of the Office of Diversion and Reentry in the Health Services agency of LA County. Their diversion program is "an evidence-informed model of pre-booking youth diversion that empowers community-based organizations as the providers of individualized care coordination in lieu of arrest with the goal of equitably reducing young people's involvement with the justice system."⁵⁰ Under their diversion model, law enforcement agencies divert youth in lieu of citation or arrest directly to community-based programs.⁵¹ Los Angeles has set a goal of 80% of youth interactions with law enforcement being diverted by the time the program is fully implemented in 2024.⁵²

Los Angeles County's new diversion program is just one piece of a larger reform effort happening in the county. For example, the Youth Justice Reimagined Advisory Group has

⁴⁷ *Id.* at p. 4.

⁴⁸ *Id.* at p. 8-9.

⁴⁹ *Id.* at p. 5.

⁵⁰ Youth Diversion and Development, Office of Diversion and Reentry: <https://dhs.lacounty.gov/office-of-diversion-and-reentry/our-services/office-of-diversion-and-reentry/youth-diversion-and-development/>

⁵¹ Schooley, T. 2017. Youth Diversion in Los Angeles County: Advancing Evidence-Informed Policy to Improve Youth Outcomes, available at: http://file.lacounty.gov/SDSInter/dhs/1034534_YDDpolicybrief1_19_18.pdf.

⁵² Annie E. Casey Foundation Blog, "LA County Leader on Diverting Thousands of Young People From Court," Feb. 12, 2021, available at: <https://www.aecf.org/blog/la-county-leader-on-diverting-thousands-of-young-people-from-court>.

developed recommendations for transitioning the County's juvenile justice system out of the Probation Department, with the goal of creating a rehabilitative, health-focused and care-first system.⁵³ District Attorney George Gascon has announced a policy against prosecuting youth accused of misdemeanors and of referring all low-level felonies for diversion. The Los Angeles approach is a powerful example of coupling the expansion of diversion with other policy and practice changes that can help increase the utilization and impact of the model diversion programming.

In Oakland, the Oakland Police Department is partnering with the National Institute for Criminal Justice Reform to implement a pre-arrest diversion program called the Neighborhood Opportunity and Accountability Board (NOAB). Referrals are made to the NOAB directly by the Oakland Police Department, and the focus of the program is on more serious offenses that otherwise would have been referred for juvenile hall detention or processing in juvenile court.⁵⁴

V. REFORM EFFORTS UNDERWAY IN SAN FRANCISCO

Currently, CARC is in the process of developing a pre-arrest diversion program in partnership with the San Francisco Police Department that incorporates much of the research and best practices described above. Most importantly, the program allows the police to refer youth for CARC diversion services without referral or delivery to the Juvenile Probation Department. Under this model, referral is made by police directly to the CARC program, and the police do not file the arrest while the youth is participating in CARC's diversion. Upon completion of the program, all records are sealed, and the arrest is deemed not to have occurred.

San Francisco should support the implementation and expansion of CARC's pre-arrest diversion model. This model can also serve as a strong foundation for implementing the further recommendations below.

VI. RECOMMENDATIONS

Successfully closing San Francisco's juvenile hall will require reform of San Francisco's diversion programming and practices. We offer seven recommendations:

⁵³ Los Angeles County Youth Justice Reimagined Transition Advisory Group, "Youth Justice Reimagined," (2021), available at: <https://lacyouthjustice.org/report/>.

⁵⁴ National Institute for Criminal Justice Reform, "Oakland's Neighborhood Opportunity and Accountability Board: Keeping Youth Out of the System and Connected to Support," (2020) p. 4-5, available at: https://nicjr.org/wp-content/uploads/2016/01/NOAB_Report.pdf.

- 1) **San Francisco needs a diversion pathway that does not rely on arrest. San Francisco should establish a community-based intake and connection “Hub” that is available citywide, including to schools, parents, and service providers. The “Hub” should apply a holistic approach that focuses on health and well-being and centers the youth and their family.**

San Francisco must start with the idea that young people and families should not have to rely on law enforcement involvement to access the supports and services they need. A diversion model that depends on arrest first is too late, as any police contact causes harm for young people, particularly youth of color.⁵⁵ For this reason, the Close Juvenile Hall Working Group has received feedback from community members that they need better access to supportive resources to prevent system-involvement.

Based on this need, San Francisco should develop a community-based intake and connection hub (referred to here as the “Hub”) that is not connected to any law enforcement entity, such as the police or probation. When a young person’s behavior requires intervention and support, the Hub can serve as a streamlined point of entry that is directly available to the young person and their supportive network—their family and extended kin, their schools, and their community. This Hub can connect young people and their families both with supportive public services and with community-based service organizations.

It is crucial that law enforcement have no role at the Hub in order to prevent any stigma from utilizing its services, and to prevent the risk of a youth becoming system-involved as a result of a referral.

Note, however, that the Hub need not be a physical location, but rather a coordinated point of entry that could utilize a dedicated hotline as well as a mobile response.

As a proactive, supportive resource, the Hub should apply a holistic approach that focuses on health and well-being and centers the youth and their family. The goal of the Hub will be to identify service needs and make connections to housing, health care, food, childcare, behavioral health, transportation, employment, youth development and enrichment, education, and other resources. The Hub can also connect youth to diversion programming as appropriate.

⁵⁵ See e.g., Anne McGlynn-Wright, Robert D. Crutchfield, Martie L. Skinner, and Kevin P. Haggerty, “The Usual, Racialized, Suspects: The Consequence of Police Contacts with Black and White Youth on Adult Arrest,” *Social Problems* 2020, available at: <https://www.researchgate.net/publication/346731319> (research finding that “police encounters in childhood increase the risk of arrest in young adulthood for Black but not White respondents”).

- 2) **San Francisco's community-based intake Hub should serve as the direct referral pathway for any youth who comes into contact with the police. This Hub should be utilized for every arrested youth prior to contact with Probation, including youth who are unaccompanied minors and youth who reside outside of San Francisco County.**

San Francisco can utilize its Hub as the first response to *any and all youth who come into contact with police*. The Hub would serve as a centralized point of contact for the San Francisco Police Department to initiate the City's response to the incident.⁵⁶ In all cases where youth are not required by law to be transported to the Juvenile Probation Department, police can either refer or deliver the youth to the Hub for intake (if there is a physical location).⁵⁷

Upon intake, the Hub will utilize guidelines developed to determine whether a youth may be eligible for a referral to diversion services.⁵⁸ All youth should be considered for diversion programming, including youth who are unaccompanied minors or who reside out of county. When unaccompanied minors are arrested, many of them are admitted into juvenile hall not because detention is required based on the nature of their offense, but rather on a discretionary basis because they are unaccompanied.⁵⁹ By ensuring that unaccompanied minors are eligible for diversion intervention, San Francisco can reduce its reliance on juvenile hall to address unaccompanied minor's safety.

Youth who live outside of San Francisco should also be eligible for diversion programming. Many out-of-county youth arrested in San Francisco have strong ties to the City, including through their families or schools, but have been pushed out due to gentrification, the high cost of living, and other factors.⁶⁰ Serving these youth through the Hub's diversion program is important not only because of these social factors, but also because it will help reduce youth detention. Out-of-county youth are frequently detained in juvenile hall, accounting for 34.6% of juvenile hall admissions in 2020.⁶¹ By ensuring that diversion options are available to youth who reside outside of the county, San Francisco can reduce its reliance on the juvenile hall.

⁵⁶ See Welf. & Inst. Code §§ 234, 234.

⁵⁷ See Welf. & Inst. Code § 626(b).

⁵⁸ The guidelines for diversion eligibility should be developed by a working group that includes the participation of community members and directly-impacted youth and their families.

⁵⁹ See Roger Jarjoura, "Review of San Francisco Juvenile Probation Department Case Files," American Institutes for Research, Presentation Prepared for the Close Juvenile Hall Working Group, slide 28, available at: <https://drive.google.com/file/d/1XFc-1ZC8MkV866V8QbDieOOApmBAA1qW/view>.

⁶⁰ See Report of the San Francisco Mayor's Task Force on African-American Out-Migration (2009) p. 19, available at: <http://bayviewmagic.org/wp-content/uploads/sites/4/2010/02/AA-OutMigration-TF-1.pdf>.

⁶¹ See San Francisco Juvenile Probation Department, Annual Report (2020) p. 19, available at: https://sfgov.org/juvprobation/sites/default/files/2020AnnualReport_Statistics.pdf.

3) San Francisco must eliminate the juvenile traffic court program; instead, citation cases should be processed through the Hub.

San Francisco's juvenile traffic court program must be eliminated. This program directly conflicts with the goals of diversion by putting citations (the lowest level offenses) through formal court processing. As the data above show, the juvenile traffic court program is regularly utilized by the police, and it bypasses the CARC program, where these youth would be better served. Another Bay Area County—Santa Clara—eliminated its juvenile traffic court program through an order of the court after concluding that the juvenile traffic court was no longer supportive of youth and families in Santa Clara County.

Instead of referring youth with citations to juvenile traffic court, the San Francisco Police Department should refer these cases to the Hub for consideration for diversion programming. *No youth should be formally processed in court for a citation.*

4) San Francisco should work with the San Francisco Police Department to reform booking practices to incorporate adolescent development. Current booking practices, particularly related to robbery offenses, trigger juvenile law consequences that cut off diversion options for young people and may contribute to long standing racial and ethnic disparities in delinquency system processing.

Reforming the booking practices of the San Francisco Police Department (SFPD) has the potential to greatly expand the pool of youth who are eligible for diversion. As described above, the police can divert most youth from the point of initial law enforcement contact. The exception is any youth 14 years and older charged with more serious offenses, such as robbery. These youth are excluded from early diversion, yet the data show that in many of these cases the prosecutor files reduced charges in court or *files no petition at all*.⁶²

The severity of the charges assigned at booking by SFPD is causing youth to be unnecessarily excluded from diversion at the first point of police contact. It also contributes to racial disparity in the system, as research has shown that SFPD assigns more severe charges to people of color at the booking stage, leading to disparate outcomes at subsequent stages of the system.⁶³ Reforming SFPD practices in assigning charges at arrest is necessary to divert more youth away from detention and juvenile court, particularly youth of color.

Reform of the booking practices of SFPD should begin with the incorporation of adolescent development principles into police policies and practices when they make contact with a young

⁶² See "[Review of San Francisco Juvenile Probation Department Case Files](#)," *supra* note 59, slide 32..

⁶³ Emily Owens, Erin M. Kerrison, Bernardo Santos Da Silveira, "Examining Racial Disparities in Criminal Case Outcomes among Indigent Defendants in San Francisco," Quattrone Center for the Fair Administration of Justice, 2017, 44-45, available at: <https://www.law.upenn.edu/live/files/6793-examining-racial-disparities-may-2017-full>.

person. These reforms should also include training and youth-specific policies that take into account the developmental stage of adolescence and the intersection with racial bias.⁶⁴

- 5) **San Francisco should aim to divert at least 80% of youth at the point of law enforcement contact (i.e. “pre-arrest”). Diversion-eligible-youth should be provided with individualized programming that includes: a) addressing the basic needs of the entire family, b) offering strengths-based, trauma-informed, and culturally responsive programming, and c) incorporating healing, mental health services, and restorative justice, only as appropriate to the individual youth.**

San Francisco should set a target for expanding its use of diversion, and we suggest a goal of 80% of cases. AECF suggests that at least 60% of cases, and likely a larger percentage, could be diverted. They also note that Pierce County, Washington diverts over 80% of its cases,⁶⁵ and that numerous countries divert at least 75% of cases.⁶⁶ As described above, Los Angeles County has set a goal of 80% diversion by the time it fully implements its new program in 2024.⁶⁷ With its vast array of community-based services to support youth, San Francisco should strive to surpass these rates and become a leader in youth diversion nationally and worldwide.

When youth are diverted, the programming should be tailored to the specific needs of the individual youth, as determined by the diversion program provider or providers. It should integrate services from San Francisco’s existing successful diversion programs, including CARC and Make it Right, as needed. However, the model should also incorporate an option for very limited response for youth at low risk of reoffending, as studies have shown that for this group a caution is more effective than any other intervention.⁶⁸

For the youth receiving more robust diversion interventions, the focus should be on nurturing healthy maturity through positive supports.⁶⁹ Based on the work of the Close Juvenile Hall Working Group over the past two years, successful diversion programming should: a) address the basic needs of the entire family, b) offer strengths-based, trauma-informed, and culturally responsive programming to the youth, and c) incorporate healing, mental health services and restorative justice, as appropriate to the individual youth.

⁶⁴ See Kristin Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 67 Am. U. L. Rev. 1513, 1571-72 (2018), available at: <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=2062&context=aulr>.

⁶⁵ See Annie E. Casey Foundation Blog, “[What is Diversion in Juvenile Justice?](#)”, *supra* note 2.

⁶⁶ The Annie E. Casey Foundation, “[Research in Brief to Transform Justice Probation: Expand the Use of Diversion from the Juvenile Justice System](#),” *supra* note 46, p. 7.

⁶⁷ Annie E. Casey Foundation Blog, “[LA County Leader on Diverting Thousands of Young People From Court](#),” *supra* note 52.

⁶⁸ The Annie E. Casey Foundation, “[Transforming Juvenile Probation: A Vision for Getting It Right](#),” *supra* note 34, p. 9.

⁶⁹ *Id.* at p. 10.

6) When a youth is ineligible for pre-arrest diversion because the law requires the youth be transported to Probation, their detention hearing should be expedited to avoid booking into juvenile hall whenever possible.

San Francisco must set up an expedited detention hearing system so that youth who must be delivered to Probation's custody by law can still be released without admission to juvenile hall. As described above, when youth fall into this legal category, they cannot be diverted at the point of police contact. However, early review of these cases by Juvenile Probation and the DA's Office could result in release and referral to diversion. Currently, diversion initiated by the DA's Office is treated as a referral under Welfare & Institutions Code 654, which is the code section for "informal supervision" by Probation. For the reasons described above, a referral to diversion should not be treated as the same as informal probation, and departmental tracking systems must be updated to enable both Juvenile Probation and the DA's Office to make a diversion referral that is not treated as informal probation.

If the case is not referred to diversion by either Juvenile Probation or the DA's office, then the youth must have a detention hearing. If the detention hearing is expedited and the youth is ordered released by the court, the case can potentially be paused or deferred for diversion programming (subject to court approval). In this way, expediting detention hearings can increase diversion opportunities.

A system of expedited detention hearings would start with a community-based location where youth could be delivered by the police to the custody of the Juvenile Probation Department. At the site, both Juvenile Probation staff and prosecutors would conduct an initial investigation of the case to consider whether there was sufficient evidence to support continued detention, or if the charges could be reduced to enable release and diversion.

Simultaneously, an urgent-response team that includes community-based service providers would develop a release plan for the youth that could be presented to the court for a same-day detention hearing. This release planning should incorporate San Francisco's existing services available through the Detention Diversion Advocacy Program (DDAP) and other providers. If the court approves the plan, the youth could be released and considered for referral to diversion programming at that point. If the court does not approve the plan, the youth would be transported to juvenile hall for conventional case processing.

7) For youth who are detained in juvenile hall, San Francisco must set up systems and programming that maximize post-detention diversion options.

Diversion options do not end with admission to juvenile hall or the filing of charges in juvenile court. San Francisco can support a continuum of diversion "off-ramps" available to both the Juvenile Probation Department and the DA's Office instead of proceeding in juvenile court. These options can include holding a case in abeyance pending diversion referral, restorative

justice programming through the Make It Right program, and informal probation with community-based supports. Many of these practices already exist and should be supported financially along with expanded community-based diversion so that system-involvement is minimized to the greatest extent possible for the greatest number of youth possible.

VII. ABOUT THIS REPORT

The report was prepared in October 2021 by the Data & Needs Assessment Subcommittee of the Close Juvenile Hall Working Group in San Francisco:

- Dan Macallair, Subcommittee Chair, dmacallair@cjcb.org
- Meredith Desautels, Subcommittee Co-Chair, mdesautels@ylc.org
- Laura Ridolfi, Subcommittee Consultant, lrldolfi@burnsinstitute.org
- Anna Wong, Subcommittee Consultant, awong@burnsinstitute.org
- Clarence Ford, Subcommittee Consultant, cford@burnsinstitute.org