

File No. 111050

Committee Item No. 5

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Date 11/3/11

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Completed by: Linda Wong

Date 10/31/11

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [San Francisco Sentencing Commission and Recidivism Reduction Ordinance of 2011]

2
3 **Ordinance amending the San Francisco Administrative Code by adding Article XXV,**
4 **Sections 5.250 through 5.250--4 to: (1) establish the San Francisco Sentencing**
5 **Commission; (2) set forth the Commission's purpose, powers and duties; and**
6 **(3) establish membership criteria.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are *strike-through italics Times New Roman*.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough-normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. Findings.

12 1. After AB 109 and AB 117 take effect on October 1, 2011, and criminal justice
13 "Realignment" begins, San Francisco will face increasing responsibility for custody and
14 supervision of criminal offenders, and will experience additional pressure on the criminal
15 justice system at a time of significant budgetary constraints.

16 2. Although San Francisco has a demonstrated commitment to reformed criminal
17 justice strategies that prioritize evidence-based practices, without a comprehensive review of
18 local custody and sentencing approaches, San Francisco is at-risk of an ever increasing local
19 custody population without experiencing reduced crime or recidivism rates, thereby risking the
20 waste of both financial resources and human potential.

21 3. San Francisco already suffers from high recidivism rates, and unless strategies
22 shift, recidivism rates will likely remain high after Realignment begins. Recidivism rates for
23 San Francisco offenders released from state prison for the first time is 77% and for re-paroles
24 from San Francisco, the recidivism rate is 78%.

1 4. Programs such as electronic monitoring, in home supervision, out of custody
2 cognitive behavioral therapy, and other community corrections alternatives can reduce
3 recidivism of nonviolent, non-serious offenders and may be better options than local custody
4 for nonviolent non-serious offenders in San Francisco.

5 5. Rates of incarceration and recidivism in San Francisco also significantly impact
6 communities of color, particularly African Americans. According to recent data, African
7 Americans make up 6.8% of San Francisco's population and 61% of the people paroled to
8 San Francisco.

9 6. With limited statewide analysis on sentencing practices, local jurisdictions need
10 to review sentencing practices and public safety strategies in order to reduce recidivism, hold
11 offenders accountable, assess and address the impact on communities of color, and
12 efficiently and effectively use public resources.

13 7. Providing alternatives to incarceration for some offenders, both pre-trial and
14 post-conviction, can effectively protect public safety, reduce offender recidivism, stabilize
15 families and communities, and cost less than incarceration, which saves limited City
16 resources.

17 8. To address these issues, the City needs to create an advisory body to analyze
18 sentencing patterns and outcomes, advise the Mayor, Board of Supervisors and other City
19 departments on the best approaches to reduce recidivism, and make recommendations for
20 sentencing reforms that advance public safety and utilize best practices in criminal justice.

21 Section 2. The San Francisco Administrative Code is hereby amended by adding
22 Article XXV, Sections 5.250 through 5.250-4, to read as follows:

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1 Article XXV. SAN FRANCISCO SENTENCING COMMISSION

2 SEC. 5. 250. – ESTABLISHMENT AND PURPOSE: SAN FRANCISCO SENTENCING
3 COMMISSION.

4 (a) The City hereby establishes the San Francisco Sentencing Commission.

5 (b) The purpose of San Francisco Sentencing Commission is to encourage the development
6 of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim protection,
7 emphasize fairness, and employ evidence-based best practices.

8 SEC. 5.250-1. - MEMBERSHIP AND ORGANIZATION.

9 (a) Members. The Commission shall consist of 13 members, or 14 members if the Superior
10 Court agrees to provide one member. The head or chair of each of the following agencies and bodies
11 shall serve on or will assign one staff member to serve on the Commission as a voting member: District
12 Attorney; Public Defender; Adult Probation; Juvenile Probation; Sheriff; Police; the Department of
13 Public Health; Human Services Agency; the Reentry Council, and the Superior Court, assuming it
14 agrees to participate on the Commission. In addition, the following additional voting members will be
15 appointed: a member of a nonprofit organization that works with victims, chosen by the Family
16 Violence Council; a member of a nonprofit organization that works with ex-offenders, chosen by the
17 Reentry Council; a criminologist chosen by the Board of Supervisors; and an academic researcher with
18 expertise in data analysis appointed by the Mayor.

19 (b) Quorum. 10 members of the Commission shall constitute a quorum, and the Commission
20 shall have the authority to act on the vote of a majority of the quorum.

21 (c) Officers. The District Attorney or his or her designee shall chair the Commission.

22 (d) Staff Support. The District Attorney's Office shall provide staff support and administrative
23 assistance to the Commission.

24 (e) Meeting Frequency. The Commission shall meet at least three times a year.

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1 SEC. 5.250-2. - POWERS AND DUTIES.

2 The Commission shall have the following powers and duties:

3 (a) Review and assess sentencing approaches locally and compare to other jurisdictions.

4 (b) Develop a recommended system of uniform definitions of recidivism for City
5 departments to track and report on the outcomes of various criminal sentences and City programs
6 meant to aid in reducing recidivism.

7 (c) Develop data collection standards and recidivism reporting standards.

8 (d) Develop and recommend department specific goals to reduce recidivism for the City
9 departments represented on the Sentencing Commission, and other relevant City departments.

10 (e) Make recommendations regarding changes that should be made to the Penal Code and
11 any other state laws to remove barriers to effective implementation of best practices in criminal justice.

12 (f) To the extent budgetary savings in custody costs are identified by the Controller
13 pursuant to the analysis described in Administrative Code section 5.506-4, no later than December 30,
14 2012, and on an annual basis thereafter, provide recommendations to the Mayor and Board of
15 Supervisors on how to reinvest any savings into effective alternatives to incarceration and alternative
16 sanctions programs.

17 (g) Facilitate trainings on best practices in sentencing for various criminal justice agencies.

18 (h) Share information and work in collaboration with the Reentry Council, established
19 pursuant to the San Francisco Administrative Code, and the Community Corrections Partnership, as
20 established by the California Penal Code.

21 (i) Nothing in this legislation shall infringe on any agency's legally mandated responsibilities in
22 the criminal justice system, and, as such, recommendations are not statutorily binding on any City
23 department.

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1 SEC. 5.250-3. – Duties of the Controller.

2 (a) No later than December 15, 2012 and annually thereafter, the Controller's City Services
3 Auditor shall provide the Sentencing Commission with an analysis of:

4 (1) Any budgetary savings in funding allocations associated with custody that could be
5 reinvested into alternatives to incarceration or alternative sanctions programs

6 (2) Recidivism rates in the sentencing categories identified by the Sentencing Commission

7 SEC. 5.250-4. SUNSET CLAUSE.

8 This legislation shall expire on June 1, 2015, unless the Board of Supervisors adopts an
9 ordinance continuing its existence. The Commission shall submit a report to the Board of Supervisors
10 no fewer than six months prior to the expiration date recommending whether the Commission should
11 continue to operate, and if so, whether the Board of Supervisors shall consider legislative changes that
12 would enhance the capacity of the Commission to achieve the goals underlying this ordinance. The
13 Commission's recommendations shall include drafts of ordinances that would implement its
14 recommendations.

15 Section 3. Effective Date. This ordinance shall become effective 30 days from the
16 date of passage.

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18 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

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20 By:

20 
21 SALLIE P. GIBSON
21 Deputy City Attorney

LEGISLATIVE DIGEST

[Sentencing Commission and Recidivism Reduction Ordinance of 2011]

Ordinance amending the San Francisco Administrative Code by adding Article XXV, Sections 5.250 through 5.250--4 to: (1) establish the San Francisco Sentencing Commission; (2) set forth the Commission's purpose, powers and duties; and (3) establish membership criteria.

Existing Law

There is no applicable existing law on this subject.

Amendments to Current Law

This ordinance creates the San Francisco Sentencing Commission. The purpose of the Sentencing Commission is to encourage the development of sentencing strategies that reduce recidivism, prioritize public safety, emphasize fairness, and employ evidence-based best practices. The Commission will meet for three years. The ordinance designates 14 members to be drawn from the City's law enforcement, criminal justice, public health, and public welfare agencies, the Superior Court, as well as members chosen by other criminal justice stakeholders. The District Attorney will chair the Commission and provide staff support and administrative assistance. In addition, the Controller will provide an annual analysis of recidivism rates and budgetary investments in custody costs and custody alternatives to aid the Commission in making its recommendations.

Background Information

After "Realignment" takes effect on October 1, 2011 (the new state law that shifts fiscal and operational responsibilities for many criminal offenders from the state to the counties), San Francisco will have increased responsibility for housing criminal offenders sentenced to serve time in custody and will assume the new responsibility of supervising certain offenders as they are released from prison. Although the state is currently providing some funding for taking on these responsibilities, the future of continued funding is uncertain.

The added responsibilities of Realignment may cause San Francisco to see an increase in the local custody population while crime and recidivism rates remain unchanged or increase. In anticipation of these issues, the Commission's mandate is to review current sentencing practices and make recommendations regarding future practices with the goal of effectively using available public resources, increasing public safety, and reducing recidivism.

FILE NO.

in an effort to ensure that the City is able to reduce recidivism and effectively use public resources to address its new responsibilities for offenders.