

File No. 111050

Committee Item No. 1

Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS

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Date 11/17/11

Board of Supervisors Meeting

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Completed by: Linda Wong

Date 11/14/11

Completed by: L.W.

Date 11/28/11

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

[San Francisco 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.

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

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

Section 1. Findings.

1. After AB 109 and AB 117 take effect on October 1, 2011, and criminal justice "Realignment" begins, San Francisco will face increasing responsibility for custody and supervision of criminal offenders, and will experience additional pressure on the criminal justice system at a time of significant budgetary constraints.
2. Although San Francisco has a demonstrated commitment to reformed criminal justice strategies that prioritize evidence-based practices, without a comprehensive review of local custody and sentencing approaches, San Francisco is at-risk of an ever increasing local custody population without experiencing reduced crime or recidivism rates, thereby risking the waste of both financial resources and human potential.
3. San Francisco already suffers from high recidivism rates, and unless strategies shift, recidivism rates will likely remain high after Realignment begins. Recidivism rates for San Francisco offenders released from state prison for the first time is 77% and for re-paroles 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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Supervisors Wiener, Farrell, Cohen
BOARD OF SUPERVISORS

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

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

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

23 (d) Term(s) of Appointed Members: Each appointed member will serve a one-year
24 term and retains the right to serve consecutive re-appointments contingent on the direction of
25 the respective appointing authority.

1 (de) Staff Support. The District Attorney's Office shall provide staff support and administrative
2 assistance to the Commission.

3 (ef) Meeting Frequency. The Commission shall meet at least three times a year.

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

5 The Commission shall have the following powers and duties:

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

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

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

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

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

15 (f) To the extent budgetary savings in custody costs are identified by the Controller
16 pursuant to the analysis described in Administrative Code section 5.506-4, no later than December 30,
17 2012, and on an annual basis thereafter, provide recommendations to the Mayor and Board of
18 Supervisors on how to reinvest any savings into effective alternatives to incarceration and alternative
19 sanctions programs.

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

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

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

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

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

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

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

10 SEC. 5.250-4. SUNSET CLAUSE.

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

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

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

22 By: 

23 SALLIE R. GIBSON
24 Deputy City Attorney

25 Supervisors Wiener, Farrell, Cohen
BOARD OF SUPERVISORS

LEGISLATIVE DIGEST
[Amendment of the Whole on 11/17/11]

[Administrative Code - 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 15 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.

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.

Amendment of the Whole

The proposed Amendment of the Whole makes the following changes to the original proposed legislation: (1) adds a 15th member, a criminal defense attorney practicing in San Francisco, chosen by the District Attorney's Office; (2) changes the member chosen by the Board of Supervisors from a criminologist to a sentencing expert; and (3) sets the term of appointed members at one year, with the right to serve consecutive re-appointments contingent on the direction of the respective appointing authority.