

File No. 111050

Committee Item No. 1
Board Item No. 10

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Rules

Date 11/17/11

Board of Supervisors Meeting

Date 1/24/2012

Cmte Board

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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OTHER

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Completed by: Linda Wong
Completed by: L.W.

Date 11/14/11
Date 11/24/11

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

1 [Administrative Code - The San Francisco Sentencing Commission and Recidivism Reduction
2 Ordinance of 2011]

3 **Ordinance amending the San Francisco Administrative Code by adding Article XXV,**
4 **Sections 5.250 through 5.250-3 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~~ practices, San Francisco is at risk of an ever
19 increasing local custody population without experiencing reduced crime or recidivism rates,
20 thereby risking the 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 have been
3 effectively implemented through the Sheriff's Department and other agencies and could be
4 expanded. These programs can reduce recidivism of nonviolent, non-serious offenders and
5 may be better options than local custody for nonviolent non-serious offenders in San
6 Francisco.

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

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

15 7. Providing As the City has already observed through existing alternative
16 programs, providing alternatives to incarceration for some offenders, both pre-trial and post-
17 conviction, can effectively protect public safety, reduce offender recidivism, stabilize families
18 and communities, and cost less than incarceration, which saves limited City resources.

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

23 Section 2. The San Francisco Administrative Code is hereby amended by adding
24 Article XXV, Sections 5.250 through 5.250--4, to read as follows:
25

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 the San Francisco Sentencing Commission is to encourage the
6 development of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim
7 protection, emphasize fairness, employ evidence-based best practices, and efficiently utilize San
8 Francisco's criminal justice resources.

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

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

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

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

3 The Commission shall have the following powers and duties:

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

5 (b) Review and assess the City's capacity and utilization of services and
6 alternatives to incarceration throughout the criminal justice continuum, including pre-
7 adjudication and post-release.

8 (c) Review and assess the Justice Reinvestment Initiative recommendations to
9 invest in best practices to reduce recidivism.

10 (d) Develop a recommended system of uniform definitions of recidivism for City
11 departments to track and report on the outcomes of various criminal sentences and City programs
12 meant to aid in reducing recidivism.

13 (e) Develop data collection standards and recidivism reporting standards.

14 (f) Develop and recommend department specific goals to reduce recidivism for the City
15 departments represented on the Sentencing Commission, and other relevant City departments.

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

18 (h) Facilitate trainings on best practices in sentencing for various criminal justice agencies.

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

22 (j) In December 2012, and on an annual basis thereafter, submit a report to the
23 Mayor and the Board of Supervisors summarizing the findings of the Commission and making
24 recommendations on the aforementioned categories.

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

4 SEC. 5.250-3. SUNSET CLAUSE.

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

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

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

16 By:

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18 SALLIE R. GIBSON
19 Deputy City Attorney
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LEGISLATIVE DIGEST
[Amendment of the Whole on 1/10/12]

[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--3 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, employ evidence-based best practices, and efficiently utilize San Francisco's criminal justice resources. The Commission will meet for three years. The ordinance designates 13 members to be drawn from the City's law enforcement, criminal justice, and public health agencies, the Superior Court, as well as members from the outside community with certain criminal justice expertise chosen and appointed by the Family Violence Council, the Reentry Council, the Board of Supervisors and the Mayor. The District Attorney will chair the Commission and provide staff support and administrative assistance.

Background Information

On October 1, 2011, "Realignment", the state legislation that shifts much of the fiscal and operational responsibility from the state to the counties for incarceration and post-release supervision of convicted criminal offenders, took effect. As a result, San Francisco is now responsible for housing an increased number offenders sentenced to serve time in custody, and for the community supervision of a significant number of offenders post-release. Although the state is providing some funding to the counties 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.

Amendment of the Whole

The proposed Amendment of the Whole makes the following changes from the prior version of this proposed legislation: (1) reduces the membership of the Commission from 15 to 13 by deleting members from the Human Services Agency and the outside criminal defense bar (the addition of the latter member was proposed and approved at Committee); (2) eliminates the specification of a one year term for members from the outside community; (3) adds responsibilities to the Commission to review and assess the City's use of alternatives to incarceration, and to review and assess recommendations from the "Justice Reinvestment Initiative", a project sponsored by the United States Department of Justice; (4) deletes the provision that would give the Controller responsibility for annual identification of budgetary savings resulting from reduced incarceration costs (section 5.250-3 in the prior version); and (5) deletes the Commission's responsibility to make recommendations on how to reinvest budgetary savings identified by the Controller.

