

File No. 150332

Committee Item No. 3

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date May 14, 2015

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | Memorandum of Understanding (MOU)            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 - Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 700                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | Vacancy Notice                               |
| <input type="checkbox"/>            | <input type="checkbox"/> | Information Sheet                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

### OTHER

(Use back side if additional space is needed)

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>2014 Annual Report: San Francisco Sentencing Commission</u> |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |

Completed by: Alisa Somera Date May 8, 2015

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Administrative Code - Reauthorizing the San Francisco Sentencing Commission]

2  
3 **Ordinance amending the Administrative Code to reauthorize the San Francisco**  
4 **Sentencing Commission and revise its sunset date.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
7 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.  
8 **Board amendment additions** are in double-underlined Arial font.  
9 **Board amendment deletions** are in ~~Arial font~~.  
10 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
11 subsections or parts of tables.

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

13 Section 1. Background.

14 (a) Ordinance No. 10-12 established the San Francisco Sentencing Commission  
15 ("Sentencing Commission") to encourage the development of criminal sentencing strategies  
16 that reduce recidivism, prioritize public safety and victim protection, emphasize fairness,  
17 employ evidence-based best practices, and efficiently utilize San Francisco's criminal justice  
18 resources. Codified as Chapter 5, Article XXV of the Administrative Code, the Sentencing  
19 Commission is scheduled to sunset on June 1, 2015 pursuant to Administrative Code Section  
20 5.250-3.

21 (b) Administrative Code Section 5.250-3 provides that Chapter 5, Article XXV will not  
22 sunset if the Board of Supervisors adopts an ordinance continuing its existence. Section  
23 5.250-3 also states that the Sentencing Commission shall submit a report to the Board of  
24 Supervisors recommending whether the Sentencing Commission should continue to operate  
25 and, if so, whether the Board of Supervisors should consider amendments that would  
enhance the capacity of the Sentencing Commission to further its goals, along with draft  
amendments to implement its recommendations.

1 (c) At the Sentencing Commission meeting of December 18, 2014, the Sentencing  
2 Commission recommended that it continue to operate. This recommendation is contained in a  
3 report dated December 18, 2014, in the form of a letter to all members of the Board of  
4 Supervisors. The letter, including all attachments, is on file with the Clerk of the Board of  
5 Supervisors in File No. 150332.

6 Section 2. Reauthorization of Sentencing Commission

7 Chapter 5, Article XXV of the Administrative Code is hereby continued in its entirety  
8 with the amendments as shown in Section 3 of this ordinance. The text of Article XXV is  
9 reprinted in its entirety in Section 3.

10 Section 3. The Administrative Code is hereby amended by continuing the text of  
11 Sections 5.250 and 5.250-1, and revising Sections 5.250-2 and 5.250-3, to read as follows:

12 **SEC. 5.250. ESTABLISHMENT AND PURPOSE: SAN FRANCISCO SENTENCING**  
13 **COMMISSION.**

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

15 (b) The purpose of the San Francisco Sentencing Commission is to encourage the  
16 development of criminal sentencing strategies that reduce recidivism, prioritize public safety  
17 and victim protection, emphasize fairness, employ evidence-based best practices, and  
18 efficiently utilize San Francisco's criminal justice resources.

19 **SEC. 5.250-1. MEMBERSHIP AND ORGANIZATION.**

20 (a) Members. The Commission shall consist of 12 members, or 13 members if the  
21 Superior Court agrees to provide one member. The head or chair of each of the following  
22 agencies and bodies shall serve on or will assign one staff member to serve on the  
23 Commission as a voting member: District Attorney; Public Defender; Adult Probation;  
24 Juvenile Probation; Sheriff; Police; the Department of Public Health; the Reentry Council, and  
25 the Superior Court, assuming it agrees to participate on the Commission. In addition, the

1 following additional voting members will be appointed: a member of a nonprofit organization  
2 that works with victims, chosen by the Family Violence Council; a member of a nonprofit  
3 organization that works with ex-offenders, chosen by the Reentry Council; a sentencing expert  
4 chosen by the Board of Supervisors; and an academic researcher with expertise in data  
5 analysis appointed by the Mayor.

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

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

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

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

12 **SEC. 5.250-2. POWERS AND DUTIES.**

13 The Commission shall have the following powers and duties:

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

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

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

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

24 (e) Develop data collection standards and recidivism reporting standards.  
25

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

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

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

9 (i) Share information and work in collaboration with the Reentry Council, established  
10 pursuant to *San Francisco* Administrative Code Section 5.1-1et seq., and the Community  
11 Corrections Partnership, as established by the California Penal Code.

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

15 (k) Nothing in *Article XXV this legislation* shall infringe on any agency's legally  
16 mandated responsibilities in the criminal justice system, and, as such, recommendations are  
17 not statutorily binding on any City department.

18 **SEC. 5.250-3. SUNSET CLAUSE.**

19 This *legislation Article XXV* shall expire on *June 1, 2015, December 31, 2017* unless the  
20 Board of Supervisors adopts an ordinance continuing its existence. The Commission shall  
21 submit a report to the Board of Supervisors *no fewer than six months prior to the expiration date*  
22 *by June 30, 2017* recommending whether the Commission should continue to operate, and if  
23 so, whether the Board of Supervisors shall consider legislative changes that would enhance  
24 the capacity of the Commission to achieve the goals underlying this *ordinance Article*. The  
25

1 Commission's recommendations shall include drafts of ordinances that would implement its  
2 recommendations.

3 Section 4. Effective Date. This ordinance shall become effective 30 days after  
4 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
5 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
6 of Supervisors overrides the Mayor's veto of the ordinance.

7 Section 5. Retroactivity. The provisions of this ordinance shall be retroactive to June  
8 1, 2015 if the effective date of the ordinance occurs after that date. Notwithstanding the  
9 effective date of this ordinance, it is the intent of the Board of Supervisors that the authority  
10 conferred on the Sentencing Commission shall be without interruption, and that the incumbent  
11 members of the Sentencing Commission shall continue to hold their seats without  
12 reappointment until the expiration of their respective terms.

13 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the "Note" that appears under  
18 the official title of the ordinance.

19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22 By: 

23 Jana Clark  
24 Deputy City Attorney

25 n:\pubpro\as2015\0900201\01003549.docx

**LEGISLATIVE DIGEST**

[Administrative Code - Reauthorizing Sentencing Commission]

**Ordinance amending the Administrative Code to reauthorize the San Francisco Sentencing Commission and revise its sunset date.**

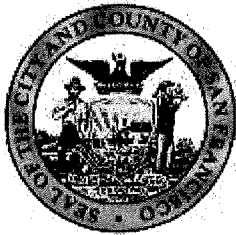
Existing Law

Ordinance No. 10-12 established the San Francisco Sentencing Commission (“Sentencing Commission”) to encourage the development of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim protection, emphasize fairness, employ evidence-based best practices, and efficiently utilize San Francisco’s criminal justice resources. The Sentencing Commission is scheduled to sunset on June 1, 2015.

Amendments to Current Law

As provided in Administrative Code Section 5.250-3, on December 18, 2014, the Sentencing Commission recommended to the Board of Supervisors that the Sentencing Commission continue to operate. This ordinance reauthorizes the Sentencing Commission and revises its sunset date to December 31, 2017.

n:\pubpro\as2015\0900201\01003504.doc



The City and County of San Francisco  
The San Francisco Sentencing Commission

---

# 2014 Annual Report San Francisco Sentencing Commission

*The first of it's kind local Sentencing Commission*

**December 18, 2014**





San Francisco Sentencing Commission  
2014 Annual Report

TABLE OF CONTENTS

---

I. EXECUTIVE SUMMARY.....3

II. BACKGROUND.....4

III. 2013 RECOMMENDATIONS IN REVIEW.....5

IV. 2014 MEETING TOPICS & PRESENTERS.....7

V. RECOMMENDATIONS.....9

VI. MEMBERSHIP UPDATES.....11

VII. FUTURE ACTIVITIES.....12

VIII. CONCLUSION.....12

**The activities of the 2014 calendar year of the San Francisco Sentencing Commission are summarized in this annual report as required by County Ordinance 10-12. This is the third of four reports that will be released from the San Francisco Sentencing Commission.**

## I. EXECUTIVE SUMMARY

The City and County of San Francisco strives to administer criminal justice strategies that lead to a reduction in incarceration, lower recidivism rates, safer communities and ensure that victims are made whole. In 2014 the San Francisco Sentencing Commission held four hearings covering Data Collection and Analysis, Diversion Programing, Penal Code Reform, Federal National Sentencing Commission, Appropriate Sentencing for Violent Offenders, State Sentencing Legislation, and Recidivism Reduction. The Sentencing Commission utilized the expert testimony and research presented at the 2014 meetings to develop the following five recommendations.

### **CALL FOR STATE LEVEL SENTENCING REFORM**

#### ***Create a state level Sentencing Commission.***

A comprehensive state level review of sentencing practices and outcomes is essential to addressing the California prison crisis, reducing recidivism, honoring victims and ensuring our communities are safe.

#### ***Reauthorize San Francisco Sentencing Commission.***

As set forth in County Ordinance 10-12 which amended the San Francisco Administrative Code by adding Article 25, Sections 5.250 through 5.250-3, the San Francisco Sentencing Commission is currently set to sunset on June 1, 2015. In the absence of a state level sentencing Commission, the San Francisco Sentencing Commission recommends to the Mayor and Board of Supervisors extending the Commission's purpose and authority until December 31, 2017.

### **EFFECTIVE SENTENCING FOR YOUNG ADULT OFFENDERS**

#### ***Create a specialty youth court for young adults 18-25 years old.***

The San Francisco Sentencing Commission recognizes the need to address the specific criminal justice needs of the 18-25 year old population. To this end, the Sentencing Commission recommends the creation of a young adult court that will solely handle young adult defendant cases, with the goal of providing sentences and services in line with the specific needs of this population.

### **BOLSTER SAN FRANCISCO CRIMINAL JUSTICE DATA SHARING AND RESEARCH**

***Continue to invest in the improvements of criminal justice data collection, data sharing, and data analysis.*** Accurate data collection, data sharing, and subsequent analysis is vital to ensure equitable and efficient administration of justice. The San Francisco Sentencing Commission recommends continued investment in improvements to criminal justice department data collection tools, and database systems. This includes but is not limited to increased staffing and resources for criminal justice departments and the Justice Tracking Information System (JUS.T.I.S.) program. The sentencing Commission further recommends prioritizing the continuation of the program beyond replacement of the existing mainframe. Responsible data sharing is easily facilitated through JUS.T.I.S. These increased resources will provide tremendous potential to evaluate common criminal justice benchmarks including jail detention trends, sentencing outcomes, and recidivism.

#### ***Invest in research to determine whether criminal sentences hold defendants accountable while effectively reducing recidivism and predicting public safety risk.***

The San Francisco Sentencing Commission recommends taking an in-depth look at sentencing, particularly surrounding whether sentencing guidelines hold persons with convictions accountable while effectively reducing recidivism. Researchers focused on length of stay for adults in jail and prison have not made any significant findings as to whether the length of a sentence operates as a deterrent mechanism to prevent future crime. However, researches do know that those involved with criminal activity tend to "age-out" of crime. To better understand these differences as it relates to recidivism, the Sentencing Commission recommends additional data collection and analysis to determine appropriate sentence structure.

## II. BACKGROUND

The San Francisco Sentencing Commission, an initiative of the District Attorney's Office, was created through local legislation to analyze sentencing patterns and outcomes, to advise the Mayor, Board of Supervisors, and other City departments on the best approaches to improve public safety, reduce recidivism, and to make recommendations for sentencing reforms that utilize best practices in criminal justice. Ultimately through this work the commission will make recommendations that establish a sentencing system that retains meaningful judicial discretion, avoids unwarranted disparity, recognizes the most efficient and effective use of correctional resources, and provides a meaningful array of sentencing options. Over the course of the two year mandate the Sentencing Commission will:

- Evaluate effective and appropriate sentences for the most violent offenders.
- Explore opportunities for drug law reform.
- Examine inconsistencies in the penal code related to realignment sentencing.
- Identify and define the most important factors that reduce recidivism.

The Sentencing Commission was created by County Ordinance 10-12 which amended the San Francisco Administrative Code by adding Article 25, Sections 5.250 through 5.250-3. The purpose of the Sentencing Commission is to encourage the development of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim protection, emphasize fairness, employ evidence-based best practices and efficiently utilize San Francisco's criminal justice resources. The Sentencing Commission is an advisory body to the Mayor and the Board of Supervisors.

### **Commission Membership**

The membership of the Sentencing Commission was developed to ensure representation from City and County partners directly involved in the criminal justice system, and those who come in contact with it. Each seat represents a valuable perspective on criminal justice proceedings; from time of arrest to post release and the critical access points for support services provided to victims and survivors of crime. In addition to this practical and service experience, the commission includes experts in sentencing and statistical analysis. These are essential components to the commission membership and will contribute to the development of data-informed, sustainable improvements to our sentencing practices. While this membership will serve as a core of the Sentencing Commission's work, they will invite broader participation from practitioners, researchers, and community to inform the proceedings of the Commission.

List of member seats:

District Attorney's Office (Chair), Public Defender's Office, Adult Probation Department, Juvenile Probation Department, Sheriff's Department, Police Department, Department of Public Health, Reentry Council, Superior Court, Member of a nonprofit organization serving victims chosen by the Family Violence Council, Member of non-profit organization working with ex-offenders chosen by the Reentry Council, Sentencing Expert chosen by the Board of Supervisors, and an Academic Researcher with expertise in data analysis appointed by the Mayor.

The San Francisco Sentencing Commission membership was fully formed in July 2012. A current list of commission members and qualifications is found in Appendix A.

### III. 2013 RECOMMENDATIONS IN REVIEW

#### ***Change the penalty for drug possession for personal use to a misdemeanor.***

In 2013 The San Francisco Sentencing Commission recommended penal code reform legislation to change the penalty for drug possession for personal use from a felony to a misdemeanor. This reform would help reduce spending on prisons and jails and invest additional resources in drug treatment, mental health, and other community-based services. It would also facilitate reentry and reduce recidivism by removing consequences that result from a felony conviction, including barriers to employment, housing, financial aid and public benefits. During the 2014 California general elections, the California citizenry voted to require misdemeanor sentences instead of felony sentences for certain types of drug and property offenses.

This reform, the Safe Neighborhoods and Schools Act, provided for a reduction in jail time is slated to save the state and county criminal justice systems millions of dollars annually; the state budget savings will be used to support school truancy and dropout prevention, victims services, mental health and drug treatment and other programs designed to reduce recidivism and reduce crime. It will be up to each county to reallocate the anticipated cost savings from reductions in the pre and post-trial jail populations. California has now joined the 13 states, the District of Columbia, and the federal government that have reduced certain drug possessions from a felony to a misdemeanor.

#### ***Invest in pre-booking and pre-charging diversion programs for drug offenses.***

In 2013, the Sentencing Commission recommended investment in pre-booking and pre-charging diversion programs for drug offenses. San Francisco currently operates several innovative practices directed to address substance dependent individuals who come into contact with the criminal justice system. Drug diversion has been a collective priority of the Department of Public Health, Police Department, District Attorney's Office, Public Defender, Courts and the community. This value investment has led to criminal justice options for the substance dependent community. San Francisco operates a Drug Court, the district attorney offers Back On Track a job development program for first time drug offenders and lastly individuals may be referred to Behavioral Health Court if they have both substance use dependency and/or serious mental health diagnosis. Even with these exemplary programs the San Francisco Sentencing Commission continues to be educated about promising and evidence informed practices that best meet public safety needs and contribute toward making communities whole.

In 2013 Seattle's Law Enforcement Assisted Diversion Program (LEAD) representatives presented their program to the Sentencing Commission as an example of a jurisdiction taking a mindful approach to ensure that communities are safe and that those struggling with addiction and poverty are directed toward alternatives to the traditional criminal justice system. The LEAD Program is a pre-booking diversion program that identifies low-level drug offenders for whom probable cause exists for an arrest, and redirects them from jail and prosecution by providing linkages to community-based treatment and support services. Pre-booking diversion programs consist of both a law enforcement and social services component.

The San Francisco Sentencing Commission has since heard testimony and reviewed the evaluation conducted by Goldman School of Public Policy graduate research team. The purpose of the evaluation was to look at the feasibility, benefits, and cost of replicating the LEAD program in San Francisco. The researchers concluded that if implemented appropriately, a pre-booking diversion program would be more efficient and more effective than its pre-charging counterpart. Further stating, "San Francisco has the necessary tools and systems to meet the challenge of successfully implementing such a program."

Ultimately the research team recommended that the San Francisco Sentencing Commission pursue the adoption of a pre-booking diversion program.

In addition to the evaluation, on June 3, 2014 San Francisco Sentencing Commission sent a six-member delegation to conduct a site visit of the LEAD program. The intent of the site visit was to learn and report on the challenges and lessons learned that could be taken into account if the program was implemented locally. The report from the site visit was favorable, however, due to uncertainties in implementation the Sentencing Commission agreed to convene a subgroup, consisting of representatives from law enforcement, the District Attorney's office, and public health to continue looking into the feasibility of a successful local implementation of this programming.

The LEAD working group is tasked to understand the potential cost and challenges of implementing this programming as either pre-booking or pre-charging, and include the voices of the previously incarcerated in the decision making process. Local county resources will be needed to explore feasibility and implementation. The San Francisco Sentencing Commission urges the Mayor and San Francisco Board of Supervisors to strongly consider budget and resource requests that support continued evaluation of the feasibility and benefit of implementing a pre-booking and pre-charging diversion program in San Francisco.

***Develop an evidence-based Probation Supervision Terms pilot project.***

Recognizing that a generic probation sentence length is not evidence based and uses valuable limited public resources. One of the justice reinvestment (JRI) strategies is to create a spectrum of probation lengths based on individual risk level and needs. The Sentencing Commission fully supports the development of a probation system where determining probation sentence lengths are based on evidence-based practice.

The San Francisco Sentencing Commission works collaboratively with the Reentry Council and the Community Corrections Partnership in the City and County of San Francisco. Each of these public safety advisory bodies serves a distinct role within the criminal justice system, however there are some issues that overlap and require coordinated analysis and review. During the 2013 proceedings of the San Francisco Sentencing Commission members received presentations on Earned Compliance Credit programs for community supervision terms initiated in several states. The Reentry Council, the collaborative group facilitating the Justice Reinvestment Initiative, received expert review of San Francisco probation sentencing and completion rates. The analysis found that while 63.5 percent of probationers successfully complete their probation terms, those that fail on probation do so in an average of 1.4 years, with 75 percent of those failing doing so within two years.

In 2014, separate from the Sentencing Commission and Reentry Council advisory bodies, but informed by the aforementioned research and analysis, the San Francisco District Attorney and the San Francisco Adult Probation Department developed a Probation Supervision Terms pilot project. These departments agreed to embark on this pilot project to reduce the standard length of felony probation sentences in San Francisco based on risk and needs assessments. In response to the passage of Prop 47, the Safe Neighborhoods and Schools Act, the District Attorney's Office is working with the Adult Probation Department, Superior Court and Defense Counsel to conduct a review of the nearly 600 individuals currently on probation and to determine appropriate outcomes on those matters. Once this review is completed, the pilot project workgroup will review risk and needs for those who remain on probation to determine appropriate probation sentence length. The San Francisco Sentencing Commission will continue to work with complementary public safety advisory bodies on this project in 2015.

#### **IV. 2014 MEETING TOPICS & PRESENTERS**

The Sentencing Commission held four meetings in 2014. Full agendas, meeting minutes and materials are available on <http://www.sfdistrictattorney.org/>. Meeting dates and selected subject matter presenters are provided below.

##### **March 26, 2014**

Mental Health Services Act Annual Report

*Presenter: Marlo Simmons, Director of the Department of Public Health's MHSA*

San Francisco Superior Courts Data on Felony Sentencing Outcomes and Juvenile Probation Departments Data on Juvenile Sentencing Outcomes

*Presenter: Michael A. Corriere Principal Management Analyst, Superior Court of California, County of San Francisco*

Realignment Sentencing Trends

*Presenter: Leah Rothstein, Adult Probation Department*

San Francisco Criminal Justice Demographics

*Presenters: Antoinette Davis, National Council on Crime and Delinquency*

Presentation on "Public Safety Realignment and Crime Rates in California"

*Presenter: Steven Raphael, Goldman School of Public Policy, University of California Berkeley*

Presentation on "California's Urban Violence Crime Rates Fall in First Half of 2013"

*Presenter: Brian Goldstein, Center on Juvenile and Criminal Justice*

##### **June 11, 2014**

Penal Code Reform

*Presenter: Bob Weisburg, Stanford Criminal Justice Center*

Feasibility Analysis of Pre-Booking and Pre-Charging Alternatives

*Presenter: Ann Hollingshead and Mario Lievano, graduate students, Goldman School of Public Policy, University of California Berkeley*

Collateral Consequences of Incarceration

*Presenter: Meredith Desautels, Lawyers Committee for Civil Rights of the San Francisco Bay Area*

Project WHAT! Youth Participant on the Experience of Having an Incarcerated Parent

*Presenters: Ameerah Tubby and Mailee Wang, Project WHAT!*

Project WHAT! Formally Incarcerated Person on the Collateral Consequences of Felony Conviction

*Presenters: April Tubby, Project WHAT*

##### **August 6, 2014**

Federal Sentencing Commission

*Presenter: Judge Charles R. Breyer, Senior United States District Judge, Federal Sentencing Commission Vice Chair*

Reset Foundation Model

*Presenter: Jane Mitchell and Khalid Elabi, Reset Foundation*

Youth Diversion and Support Programming

*Presenters: Denise Colman and Stacey Sciortino, Huckleberry Community Assessment & Resource Center*

Better Sentencing for Violent Youthful Offenders

*Presenters: David Muhammad, National Council on Crime and Delinquency*

**December 18, 2014**

Anti- Recidivism Coalition's efforts to improve outcomes for formally incarcerated young adults  
*Presenters: Scott Budnick, Founder, Anti-Recidivism Coalition*

Improving Recidivism as a Performance Measure  
*Presenters: Ryan King, Urban Institute*

Reducing Recidivism through Employment Services  
*Presenters: Monique Perkins, Alameda County Director, Center for Employment Opportunities*

## V. RECOMMENDATIONS

The Sentencing Commission utilized the expert testimony and research presented at the 2014 meetings to make five recommendations. One of these recommendations requires state level legislative change and four are directed toward local strategies within the latitude of the current law. Summaries of these recommendations are provided below. The detailed meeting minutes and publications presented to the San Francisco Sentencing Commission are available at <http://www.sfdistrictattorney.org/>.

### CALL FOR STATE LEVEL SENTENCING REFORM

#### **Recommendation 1. Create a State Level Sentencing Commission.**

A comprehensive state level review of sentencing practices and outcomes is essential to addressing the California prison crisis, reducing recidivism, honoring victims and ensuring our communities are safe. The San Francisco Sentencing Commission was created in the absence of a state level public safety body mandated to provide expert research and analysis to inform and reform sentencing practices. While previous attempts to establish a state public safety body addressing sentencing practices have been unsuccessful, the San Francisco Sentencing Commission in its first full year of implementation has benefited from a localized review of sentencing practices, expert presentations on best practices from other states, and data analysis providing a baseline understanding of current justice system conditions. The local success of the San Francisco Sentencing Commission demonstrates the value of thoughtful expert dialogue that supports well-informed decisions that preserve public safety, hold offenders accountable, support victims and ultimately create safe and livable communities. California's growing public safety, prosecutorial and correctional needs require that the state again explore the development of a California Sentencing Commission.

This recommendation is supported by over twenty years of research and findings from various commissions, panels, elected officials and advocacy groups. The Blue Ribbon Commission on Population Management, the Corrections Independent Review Panel, and the Little Hoover Commission have all recognized the need for independent review of sentencing law and practice. Approximately 20 states have sentencing commissions or public safety bodies addressing penal code reform. These bodies vary in membership, functions and authority; however one key variable that has led to successful legislative outcomes is the investment in independent review of sentencing practices and structure of the penal code. The San Francisco Sentencing Commission urges the governor and the legislature to create a California Sentencing Commission to support and inform structured decision-making in sentencing.

#### **Recommendation 2. Reauthorize the San Francisco Sentencing Commission.**

As set forth in County Ordinance 10-12 which amended the San Francisco Administrative Code by adding Article 25, Sections 5.250 through 5.250-3, the San Francisco Sentencing Commission is currently set to sunset on June 1, 2015. In the absence of a state level sentencing Commission, the San Francisco Sentencing Commission recommends to the Mayor and Board of Supervisors extending the Commission's purpose and authority until December 31, 2017.

In accordance with Section. 5.250-4. Sunset Clause, The Commission submits this report to the Mayor and Board of Supervisors recommending that the Commission should continue to operate. At the time of this report there are no local legislative changes that would enhance the capacity of the Commission to achieve the goals underlying this ordinance.



## **EFFECTIVE SENTENCING FOR YOUNG ADULT OFFENDERS**

### **Recommendation 3. Create a specialty court for young adult offenders ages 18 -25 years old.**

The San Francisco Sentencing Commission recommends the creation of a specialty court for young adults 18 -25 years of age. Expert testimony on sentencing for violent young adult offenders detailed findings from a report released by the United States Department of Justice, which discussed adolescent brain development. The research indicates that adolescence, which is loosely defined as the period of time between puberty and maturity may last from age 10 to age 25. The decision-making skills of young offenders are greatly affected during this period of adolescent growth. Some jurisdictions, within the United States and Europe, have utilized this brain science, to create justice systems that are tailored toward offending behavior of youth; therefore holding young adult offenders accountable in completely different proceedings than adults. Specialty courts allow judges to create tailored sentences and consequences to meet the needs of youth and young adults. As noted during testimony, Germany has a juvenile justice system that processes all youth and young adults up until age 24, Sweden does not issue mandatory minimums for youthful offenders under the age of 25. Lastly, states like Florida have a youthful offender law, where the court may impose a combination of confinement and supervision penalties with greater flexibility than those imposed in the criminal adult code.

The Commission thus believes that a specialty court would help provide appropriate sentencing for this population. The Sentencing Commission further recommends the creation of alternatives to incarceration that consider address the practical and developmental needs of the young person. To this end, the Commission has formed the Young Adult Court Work Group which is tasked to determine program eligibility and review research on alternatives to incarceration.

## **BOLSTER SAN FRANCISCO CRIMINAL JUSTICE DATA SHARING AND RESEARCH**

### **Recommendation 4. Invest in the improvement of criminal justice data collection, data sharing, and data analysis.**

It is important as San Francisco continues to move toward a more equitable justice system, where accurate data is available to assess and determine the needs and trends of the system. Regular and coordinated review of local crime and sentencing trends including the analysis of crime, arrest, sentencing, jail population, jail and prison demographics and supervision trends is an essential tool for the deployment of public safety resources. To this end the San Francisco Sentencing Commission urges the formation of a collective budget to provide additional funding to expand improvements to the overall justice computer data base system.

The Court Case Management (CMS) system has become increasingly difficult to modify to best meet case tracking needs related to sentencing and probation. The antiquated nature of the data collection system has also prohibited the collection of accurate data on race and ethnicity. This is particularly concerning, as research has indicated the disproportionality of African Americans and Latinos in the justice system. Although some agencies do have efficient data collection instruments, currently, a well-integrated and centralized system does not exist, thus the inability to collect and analyze important information across agencies.

The Justice Tracking Information System (JUS.T.I.S.) program is primarily tasked with replacement of the existing criminal justice mainframe, however as described above the needs of criminal justice departments extend beyond the original scope of the project. Continuation of JUS.T.I.S beyond the replacement project should be prioritized by the Mayor and Board of Supervisors including but not limited to increased staffing and resources. These increased resources will provide tremendous potential

to evaluate common criminal justice benchmarks including jail detention trends, sentencing outcomes, and recidivism.

**Recommendation 5. Invest in research to determine whether criminal sentences hold defendants accountable, while effectively reducing recidivism.**

The San Francisco Sentencing Commission recommends taking a more in-depth look into understanding sentencing, particularly surrounding whether sentencing guidelines hold persons with convictions accountable while effectively reducing recidivism and protecting public safety. During the 2014 Sentencing Commission schedule members heard expert testimony on the question of the length of sentence as a deterrent for future criminal activity. Research focused on sentencing, specifically addressing the death penalty and mandatory minimums has shown that people are not deterred by the differences in a 10-year versus 15-year sentence. Additionally, data indicates that the criminally active age out of crime, thus making it difficult to determine whether the length of a sentence was a catalyst for behavior change, or was it a function of getting older. To further understand the relationship between criminal sentences, behavior change, and protecting the public the Sentencing Commission recommends research on sentence composition, and potential links to recidivism reduction. This includes an in-depth look into the length of sentences, and a cross agency analysis of rehabilitative programming. At a minimum the analysis should focus on individual post-conviction outcomes at one, two, and three years.

As a part of 2015 San Francisco Sentencing Commission objectives, members will recommend a comprehensive definition for recidivism. The definition will account for both the various roles and responsibilities of criminal justice departments and pre-existing mandating reporting requirements. Once established this definition will be used to examine which approaches most effectively hold individuals accountable while reducing recidivism.

## **VI. MEMBERSHIP UPDATES**

### Membership Transitions

In the 2014 calendar year the San Francisco Sentencing Commission experienced one- member seat transitions. Commission member Catherine McCracken, appointee from the Re-entry Council, accepted a position with the City of San Francisco's Mayors office in the Summer of 2014. The Re-entry Council will appoint another individual to the Sentencing Commission before the start of the 2015 calendar year.

### Position of Superior Court

The San Francisco Superior Court is an invited member of the San Francisco Sentencing Commission. After repeated invitations to join the proceedings of the Sentencing Commission the San Francisco Superior Court Presiding Judge the Honorable Cynthia Ming-mei Lee released the following statement: *The Court will not participate in the Commission because it will present several serious breaches of judicial ethics. In addition there are concerns about the issue of separation of power.*

During the August 2014 meeting of the Sentencing Commission, Senior United States District Judge Charles R. Breyer provided testimony on the Federal Sentencing Commission, where the courts have an active seat. Judge Breyer further recommended that the San Francisco Sentencing Commission solicit representation from the courts stating that judges need to be involved to make meaningful practice changes. The Sentencing Commission will continue to work to inform the Superior Court of the Commission's research and recommendations and explore the potential for revisiting the San Francisco Superior Court's role on the Commission.

## VII. FUTURE ACTIVITIES

The San Francisco Sentencing Commission is currently scheduled to conduct two sessions in 2015. The tentative 2015 Session topics are identified below.

- Annual Review of San Francisco Sentencing Trends
- Recidivism Reduction
- San Francisco Criminal Justice Data Sharing and Analysis
- Community Driven and Problem Solving Courts
- Proposition 47, “The Safe Neighborhoods and Schools Act,” Implementation
- Essential Components for a State Level Sentencing Commission

## VIII. CONCLUSION

In 2014, the San Francisco Sentencing Commission successfully completed the second full year of hearings covering Data Collection and Analysis, Diversion Programing, Penal Code Reform, Federal/National Sentencing Commissions, Appropriate Sentencing for Violent Offenders, State Sentencing Legislation, and Recidivism Reduction.

The Sentencing Commission utilized the expert testimony and research presented at the 2014 meetings to develop the following five recommendations;

1. Create a state level Sentencing Commission.
2. Reauthorize the San Francisco Sentencing Commission
3. Create a specialty youth court for young adults 18-25 years old.
4. Continue to invest in the improvements of criminal justice data collection, data sharing, and data analysis.
5. Invest in research to determine whether criminal sentences hold defendants accountable while effectively reducing recidivism.

While this policy body is locally mandated, members are confident that the findings and recommendations that will come from the remaining proceedings, will support not only San Franciscans, but all Californians.

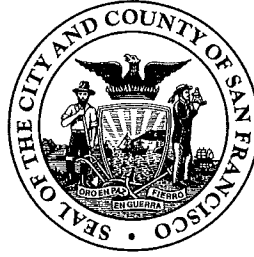
## Appendix A: San Francisco Sentencing Commission Members

As of December 9, 2014

Agencies & Bodies	Member
District Attorneys' Office	George Gascón, District Attorney
Public Defender	Jeff Adachi, Public Defender
Adult Probation	Wendy Still, Adult Probation Chief
Juvenile Probation	Allen Nance, Juvenile Probation Chief
Sheriff	Ross Mirkarimi, Sheriff
Police	Greg Suhr, Police Chief
Department of Public Health	Barbara Garcia, Director
Reentry Council	Karen Roye, Director Child Support Services
Superior Court*	Honorable Cynthia Ming-mei Lee, Presiding Judge
<i>Member of a nonprofit org serving victims chosen by the</i> <b>Family Violence Council</b>	Jerel McCrary Attorney
<i>Member of non-profit org working with ex-offenders chosen by the</i> <b>Reentry Council</b>	Joanna Hernandez Re-Entry Pod Program Monitor Five Keys Charter Schools
<b>Sentencing Expert</b> chosen by the Board of Supervisors	Theshia Naidoo Senior Staff Attorney Drug Policy Alliance
<b>Academic Researcher</b> with expertise in data analysis appointed by the Mayor	Steven Raphael PhD Professor Goldman School of Public Policy University of California Berkeley

\*Invited

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: George Gascon, District Attorney  
Tara Anderson, Office of the District Attorney

FROM: Alisa Somera, Clerk, Rules Committee  
Board of Supervisors

DATE: April 6, 2015

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Cohen on March 31, 2015.

**File No. 150332**

Ordinance amending the Administrative Code to reauthorize the San Francisco Sentencing Commission and revise its sunset date.

The legislation references (on Page 2, Lines 2-5) a report that the Sentencing Commission recommended to the Board of Supervisors, dated December 18, 2014. Please submit this report to me for inclusion with the legislative file.

If you wish to submit additional reports or documentation to be considered with the legislation, please send those to me at the Board of Supervisors, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102.

c: Cristine Soto DeBerry, Office of the District Attorney

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Jeff Adachi, Public Defender  
Wendy Still, Chief Adult Probation Officer  
Allen Nance, Chief Probation Officer  
Sheriff Ross Mirkarimi  
Chief Greg Suhr, Police Department  
Barbara Garcia, Department of Public Health  
Karen Shain, Reentry Council  
Emily Murase, Executive Director, Department on the Status of Women

FROM: Alisa Somera, Clerk, Rules Committee  
Board of Supervisors

DATE: April 6, 2015

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Cohen on March 31, 2015. This matter is being referred to you for informational purposes since it affects your department.

**File No. 150332**

Ordinance amending the Administrative Code to reauthorize the San Francisco Sentencing Commission and revise its sunset date.

If you wish to submit any reports or documentation to be considered with the legislation, please send those to me at the Board of Supervisors, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102.

c: Sheryl Cowan, Juvenile Probation Department  
Pauline Silva-Re, Juvenile Probation Department  
Katherine Gorwood, Sheriff's Department  
Christine Fountain, Police Department  
Greg Wagner, Department of Public Health  
Colleen Chawla, Department of Public Health

Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date \_\_\_\_\_

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

Cohen

**Subject:**

Administrative Code - Reauthorizing Sentencing Commission

**The text is listed below or attached:**

Attached

Signature of Sponsoring Supervisor: *Malia Cohen*

For Clerk's Use Only:

150332