



George Gascón
District Attorney

SAN FRANCISCO DISTRICT ATTORNEY GEORGE GASCON
WRITTEN TESTIMONY FOR 11/27/12 HEARING
LITTLE HOOVER COMMISSION
SACRAMENTO, CA

Thank you for the invitation to share with you the formation, authority, procedures and goals of the San Francisco Sentencing Commission. I regret that I am unable to present this testimony to you in person. I have designated Tara Regan Anderson, Grants and Policy Manager, from my office to present my testimony for the November 27, 2012 proceedings. Mrs. Anderson staffs the San Francisco Sentencing Commission and is most qualified to respond to your questions.

Realignment challenges us to think differently at a time when the criminal justice system is failing us. We must rise to the challenge; take on the serious policy changes that are needed to do our job effectively. I believe that pursuing an effective, fair and efficient sentencing system for San Francisco enhances public safety and creates a livable, sustainable San Francisco community. Through my over 30 years of law enforcement experience, I know that to fix the criminal justice outcomes in the areas where we are failing, we must start at the beginning. In San Francisco we have the lowest state incarceration rate and experience the highest rates of recidivism. For these reasons I led the development of the San Francisco Sentencing Commission - the first of its kind local sentencing commission.

As documented in the Little Hoover Commission 2007 report "Solving California's Corrections Crisis: Time is Running Out," previous attempts to create a California Sentencing Commission have failed. We are in the position to learn from the work of the United States Sentencing Commission, 21 state level commissions and the District of Columbia Sentencing and Criminal Code Revision Commission. However the City and County of San Francisco has developed the first of its kind local sentencing commission comprised of city and county leadership and expertise. 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 reduce recidivism, and to make recommendations for sentencing reforms that advance public safety and utilize best practices in criminal justice.

Formation

I would like to express gratitude to County Supervisors Malia Cohen and Scott Weiner for sponsoring the San Francisco Sentencing Commission Ordinance that was unanimously supported by the Board of Supervisors and the Mayor in February 2012. In addition, I would like to thank my colleague Adult Probation Chief Wendy Still for her partnership in the development of the Sentencing Commission.

The San Francisco Sentencing Commission (hereafter referred to as Sentencing Commission) is a comprehensive collaborative with 13 member seats. 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. Together we are asking tough questions that will lead to well informed decisions that preserve public safety, hold offenders accountable, support victims and ultimately create safe and livable communities in San Francisco.

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 ordinance and relevant sections of the administrative code are included as attachments to this written testimony. This legislation dictates who is on the Sentencing Commission, and how we conduct ourselves.

List of member seats:

District Attorneys' Office, 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 org serving victims chosen by the Family Violence Council, Member of non-profit org 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 membership of the 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. 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, we are inviting broader participation to present to and inform the proceedings of the commission.

Authority

The Sentencing Commission is established by Article XXV Chapter 5.250 of the San Francisco Administrative Code. 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. The powers and duties of the Sentencing Commission include:

- Review and assess sentencing approaches locally and compare to other jurisdictions.
- Review and assess the City's capacity and utilization of services and alternatives to incarceration throughout the criminal justice continuum, including pre-adjudication and post-release.
- Review and assess the Justice Reinvestment Initiative recommendations to invest in best practices to reduce recidivism.
- Develop a recommended system of uniform definitions of recidivism for City departments to track and report on the outcomes of various criminal sentences and City programs meant to aid in reducing recidivism.

- Develop data collection standards and recidivism reporting standards.
- Develop and recommend department specific goals to reduce recidivism for the City departments represented on the Sentencing Commission, and other relevant City departments.
- Make recommendations regarding changes that should be made to the Penal Code and any other state laws to remove barriers to effective implementation of best practices in criminal justice.
- Facilitate trainings on best practices in sentencing for various criminal justice agencies.
- Share information and work in collaboration with the Reentry Council, established pursuant to the San Francisco Administrative Code, and the Community Corrections Partnership, as established by the California Penal Code.

Procedures

The Sentencing Commission will submit annual reports to the Mayor's Office and the Board of Supervisors, by December 31 of each year. The December 31, 2013 report will include recommendations on whether the Sentencing Commission should continue to operate and if so whether the Board of Supervisors shall consider legislative changes that would enhance the capacity of the Sentencing Commission to achieve the goals underlying Ordinance 10-12.

Data Sources

The Sentencing Commission will utilize existing data sources to meet the powers and duties outlined in Ordinance 10-12. These include but are not limited to the Case Management System (CMS) and Justice Tracking Information System (JUSTIS).

Case Management System (CMS)

Built in 1974, by Owens Information Systems, CMS is the current database for recording all arrests, charges, court events, sentences and dispositions in San Francisco. The data is input by all the public safety departments, including Police, Sheriff, Adult Probation, District Attorney, and Courts.

Justice Tracking Information System, JUSTIS

JUSTIS is a multi-year program to integrate all CCSF criminal justice agency case management systems. This includes multiple related and dependent criminal justice agency projects. The integration is based on "spoke connections" to central Hub and replaces the aging mainframe CABLE CJIS system. Ultimately this project will improve Criminal Justice data gathering/sharing capabilities. The process is lead by the JUSTIS Governance Council. Membership includes Police, Sheriff, Public Defender, Emergency Management, Mayor's Office of Criminal Justice, Juvenile Probation, Superior Court, Adult Probation, District Attorney, Department on Status of Women, and Department of Technology.

The District Attorney's Office also is in the process of hiring a Chief Information Officer and working to create DA Stat – the prosecutorial equivalent of CompStat for police – which will use benchmarks and measures for improving our effectiveness. DA Stat will be a valuable tool in the coming years.

Goals

I envision that the goal of the Sentencing Commission is to establish and maintain an effective, fair, and efficient sentencing system for San Francisco that enhances public safety and creates a

livable San Francisco. In the end we will have 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.

Locally we have demonstrated excellence in the use of criminal justice strategies that result in focusing resources on our most violent offenders, holding those offenders accountable, and restoring victims and communities.

I believe we are leaders for the state in the implementation of criminal justice realignment and have a local partnership committed to its success. This is exemplified by the fact that our jails are at the lowest population in decades, while other county jails are overflowing. While we have demonstrated success, we must continue to hold offenders accountable.

Over the course of the next two years 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.

We have a collective responsibility to ensure that individuals receive appropriate sentences and do not re-victimize our communities. Good sentencing practices prevent individuals from hurting again. I see this body proposing real change to Sacramento and implementing changes in our own local practices within the latitude of current law.

When we are thoughtful in our response to crime and set the right consequences for those responsible we preserve the safety of our communities.

Print

San Francisco Administrative Code

**ARTICLE XXV:
SAN FRANCISCO SENTENCING COMMISSION**

- Sec. 5.250. Establishment and Purpose: San Francisco Sentencing Commission.
- Sec. 5.250-1. Membership and Organization.
- Sec. 5.250-2. Powers and Duties.
- Sec. 5.250-3. Sunset Clause.

Editor's Note:

Former Article XXV ("Library Citizens Advisory Committee") expired by operation of its sunset clause on 3/1/2007.

SEC. 5.250. ESTABLISHMENT AND PURPOSE: SAN FRANCISCO SENTENCING COMMISSION.

- (a) The City hereby establishes the San Francisco Sentencing Commission.
- (b) The purpose of the San Francisco 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.

(Added by Ord. [10-12](#), File No. 111050, App. 2/2/2012, Eff. 3/3/2012)

(Former Sec. 5.250 added by Ord. 94-04, File No. 020585, App. 5/27/2004; expired 3/1/2007)

SEC. 5.250-1. MEMBERSHIP AND ORGANIZATION.

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

(b) **Quorum.** 10 members of the Commission shall constitute a quorum, and the Commission shall have

the authority to act on the vote of a majority of the quorum.

- (c) **Officers.** The District Attorney or his or her designee shall chair the Commission.
- (d) **Staff Support.** The District Attorney's Office shall provide staff support and administrative assistance to the Commission.
- (e) **Meeting Frequency.** The Commission shall meet at least three times a year.

(Added by Ord. [10-12](#), File No. 111050, App. 2/2/2012, Eff. 3/3/2012)

SEC. 5.250-2. POWERS AND DUTIES.

The Commission shall have the following powers and duties:

- (a) Review and assess sentencing approaches locally and compare to other jurisdictions.
- (b) Review and assess the City's capacity and utilization of services and alternatives to incarceration throughout the criminal justice continuum, including pre-adjudication and post-release.
- (c) Review and assess the Justice Reinvestment Initiative recommendations to invest in best practices to reduce recidivism.
- (d) Develop a recommended system of uniform definitions of recidivism for City departments to track and report on the outcomes of various criminal sentences and City programs meant to aid in reducing recidivism.
- (e) Develop data collection standards and recidivism reporting standards.
- (f) Develop and recommend department specific goals to reduce recidivism for the City departments represented on the Sentencing Commission, and other relevant City departments.
- (g) Make recommendations regarding changes that should be made to the Penal Code and any other state laws to remove barriers to effective implementation of best practices in criminal justice.
- (h) Facilitate trainings on best practices in sentencing for various criminal justice agencies.
- (i) Share information and work in collaboration with the Reentry Council, established pursuant to the San Francisco Administrative Code *, and the Community Corrections Partnership, as established by the California Penal Code.
- (j) In December 2012, and on an annual basis thereafter, submit a report to the Mayor and the Board of Supervisors summarizing the findings of the Commission and making recommendations on the aforementioned categories.
- (k) Nothing in this legislation shall infringe on any agency's legally mandated responsibilities in the criminal justice system, and, as such, recommendations are not statutorily binding on any City department.

(Added by Ord. [10-12](#), File No. 111050, App. 2/2/2012, Eff. 3/3/2012)

*** Editor's Note:**
See Ch. 5, Art. 1 (Secs. 5.1-1 et seq.).

SEC. 5.250-3. SUNSET CLAUSE.

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

(Added by Ord. [10-12](#), File No. 111050, App. 2/2/2012, Eff. 3/3/2012)

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[Administrative Code - The 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 5.250-3 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~~ practices, 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 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.

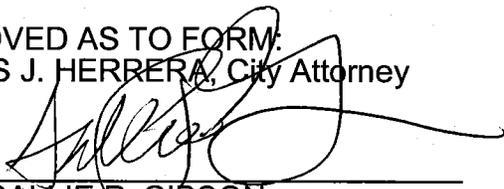
4 SEC. 5.250-3. SUNSET CLAUSE.

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:

17 
18 SALLIE P. GIBSON
19 Deputy City Attorney
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25



City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 111050

Date Passed: January 24, 2012

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.

November 03, 2011 Rules Committee - CONTINUED

November 17, 2011 Rules Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

November 17, 2011 Rules Committee - RECOMMENDED AS AMENDED

December 06, 2011 Board of Supervisors - CONTINUED ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

January 10, 2012 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

January 10, 2012 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

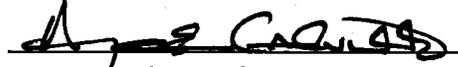
Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

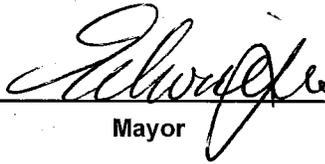
January 24, 2012 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

File No. 111050

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
1/24/2012 by the Board of Supervisors of the
City and County of San Francisco.


Angela Calvillo
Clerk of the Board


Mayor


Date Approved