

The San Francisco Sentencing Commission

City & County of San Francisco

(Administrative Code 5.250 through 5.250-3)

AGENDA

Wednesday March 30, 2015

10:00 a.m. – 12:00 p.m.

Hall of Justice

District Attorney Law Library

850 Bryant Street Room 322

San Francisco, CA 94103

Note: Each member of the public will be allotted no more than 3 minutes to speak on each item.

1. Call to Order; Roll call.
2. Public Comment on Any Item Listed Below (discussion only).
3. Review and Adoption of Meeting Minutes from December 9, 2015 (discussion & possible action).
4. Staff Report on Sentencing Commission Activities (discussion & possible action).
5. Recidivism Work Group updates (discussion only).
6. LEAD Work Group updates (discussion only).
7. Annual Review of San Francisco Sentencing Trends by Maria McKee, Office of the District Attorney (discussion & possible action).
8. Presentation on the Realignment Sentencing Trends by Leah Rothstein, Adult Probation Department (discussion & possible action).
9. Annual Review of California Sentencing Legislation and Policy Update by Selena Teji, Californians for Safety and Justice (discussion only).
10. Members' comments, questions, and requests for future agenda items.
11. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.
12. Adjournment.

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Persons who are unable to attend the public meeting may submit to the San Francisco Sentencing Commission, by the time the proceedings begin, written comments regarding the subject of the meeting. These comments will be made a part of the official public record, and brought to the attention of the Sentencing Commission. Written comments should be submitted to: Tara Anderson Grants & Policy Manager, San Francisco District Attorney's Office, 850 Bryant Street, Room 322, San Francisco, CA 941023, or via email: tara.anderson@sfgov.org

MEETING MATERIALS

Copies of agendas, minutes, and explanatory documents are available through the Sentencing Commission website at <http://www.sfdistrictattorney.org> or by calling Tara Anderson at (415) 553-1203 during normal business hours. The material can be FAXed or mailed to you upon request.

ACCOMMODATIONS

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TRANSLATION

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City Hall, Room 244
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Meeting Minutes

Wednesday, December 9, 2015

10:00 a.m. – 12:00 p.m.

Hall of Justice, Room 322, DA Law Library

850 Bryant Street

San Francisco, CA 94103

Members in Attendance: Family Violence Council appointee Jerel McCrary; Simin Shamji (San Francisco Public Defender's Office); Reentry Council appointee Joanna Hernandez; Karen Roye (Reentry Council); Cristine DeBerry on behalf of George Gascón, San Francisco District Attorney (running late); Katy Miller (Young Adult Court); Board of Supervisors appointee Theshia Naidoo (Drug Policy Alliance); Ali Riker, San Francisco Sheriff's Department, on behalf of Ross Mirkarimi, San Francisco Sheriff; Chief Deputy of Adult Probation Martin Krizay; Craig Murdock (Department of Public Health); Captain Robert Moser (San Francisco Police Department); Sara Schumann (Juvenile Probation); Chief Kenton Rainey (Chief of BART Police Department); Steven Raphael, PhD; Tara Anderson (Policy and Grants Manager); Guest presenter James Austin, PhD (JFA Institute).

1. Call to Order; Roll Call

At 10:12 a.m., Cristine DeBerry (filling in for District Attorney George Gascón) called the meeting to order and welcomed community members and members of the public to the San Francisco Sentencing Commission meeting.

2. Public Comment on Any Item Listed Below (Discussion Only)

No public comments were received.

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3. Review and Adoption of Meeting Minutes from September 23, 2015 (Discussion and Possible Action)

DeBerry asked commission members to review minutes from the previous commission meeting and asked whether anyone had comments or edits.

Jerel McCrary noted that the minutes state that the next meeting of the Family Violence Council is February 18, 2016; the correct date was November 18, 2015. DeBerry thanked McCrary and noted the correction. DeBerry asked commission members whether anyone had more comments or edits. Seeing no comments, DeBerry opened the floor for public comments on the meeting minutes.

There were no more comments. Craig Murdock made a motion to accept the minutes from the September 23 meeting with said amendment, which was seconded by Steven Raphael.

4. Staff Report on Sentencing Commission Activities (Discussion and Possible Action)

Tara Anderson provided an update on the Sentencing Commission's work since the September meeting. Anderson thanked her colleagues for their work behind the scenes to ensure that the Sentencing Commission meeting takes place in an appropriate and comfortable setting.

Anderson's first update was related to staffing. The Sentencing Commission and NCCD have begun to develop a fellowship position that is scheduled to be filled in January 2016. This position would be a 12-month position open to graduate students with training in law, policy, and statistical analysis, who would aim to provide consistent and ongoing regular support to carry forward not only the larger Sentencing Commission but also its workgroups.

Next, Anderson provided an update on the 2015 San Francisco Sentencing Commission Annual Report. Anderson thanked NCCD for all its work on the Annual Report this year. She noted that the commission will go over the report in depth later in the agenda. The Annual Report reflects the hearings throughout the year and the various recommendations that have come out of the commission meetings and workgroups.

Anderson stated that she will be working with members' staff to make sure next year's meetings are a good fit for everyone's calendar. They are working to ensure the committee meetings do not conflict with or fall during the same weeks as meetings of other large bodies. Anderson noted that in the past calendar year, this has only happened twice; they are working on being respectful of all of the various bodies.

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Next, Anderson updated the committee regarding the Board of State and Community Corrections (BSCC). The BSCC is charged under Proposition 47 with awarding grants intended to reduce recidivism. As a part of Proposition 47, there will be a cost-savings projection that will come out of the governor's budget in January 2016 and will be amended toward the end of the fiscal year. Of this dollar estimate, 65% will go back out to community programs. The county agencies are the primary applicants, and those departments can and should collaborate with community organizations to formulate their applications. Anderson commented that it is important to note that the BSCC will be determining the directions these funds will go towards at the end of the day—what strategies are funded and how, as well as what criteria will be used to decide who will be funded. To help move that work forward, the BSCC has created an executive steering committee, with two current members as committee chairs. One of the two chairs is Scott Butnick, founder of the Anti-Recidivism Coalition (ARC). The second chair is a newer member of the BSCC, Leticia Perez, who is currently on the County Board of Supervisors. The BSCC is currently in the process of figuring out who will be in charge of filling out the rest of the executive steering committee and creating an online application that county agencies can submit. Anderson emphasized that this body is important to the work of cost savings that comes out of Proposition 47.

Another piece of legislation that recently passed is Assembly Bill 1056, which provides additional programmatic priorities by specifying types of recidivism projects that will be funded, such as reentry housing for offenders, substance abuse treatment programs, and employment-related services.

DeBerry opened the floor to questions.

Jerel McCrary asked whether the fellowship position would be funded and if so, where the funds would be coming from. Anderson commented that the Sentencing Commission secured funding for NCCD as the technical assistance provider. That original funding will be relocated for the fellowship on a stipend basis. No new funding will be needed.

DeBerry commented that the Sentencing Commission has been discussing the goal of reducing racial disparity, and suggested discussing whether to appoint a research analyst to think about where the specific concerns of the Sentencing Commission lie and how to better utilize its resources. Steven Raphael stated that the National Institute of Justice (NIJ) has a program that will fund visiting scholars to spend a year and a half in an organization. DeBerry commented that the members of the Sentencing Commission collectively need to make sure that there is a logical place for this work in coordination with other bodies. DeBerry emphasized her passion for this issue and completing tangible work towards this goal.

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DeBerry invited Katy Miller, the Chief of Programs and Initiatives at the District Attorney's Office, to provide an update on Young Adult Court.

5. Young Adult Court, Law Enforcement Assisted Diversion Program (LEAD), Recidivism Workgroup Updates (Discussion)

Katy Miller gave an update on Young Adult Court. Young Adult Court became a reality in August 2015, when it began hearing cases every Tuesday afternoon. Today there are over 40 young people participating in the court, with a significant number on the sidelines as well.

The majority of cases are new cases, specifically referrals from the Probation Department of youth who are already on probation, are not doing well, and need additional support and supervision. It is believed that 50 to 60 cases of this type will come in during the new year. About one-third to one-half of the current caseload is made up of robbery cases. Other types of cases range from burglary to assault to drug cases. The program currently has one misdemeanor, and they are trying to keep it that way and to prioritize cases that are typically underserved. They are continuing to talk about the eligibility criteria for the pilot phase and how these criteria can be improved.

Young Adult Court is working with Family Service Agency of San Francisco (FSA) and Goodwill. FSA has developed the formal intake assessment process for young people when they first come into the court. Goodwill primarily addresses workforce development. Young Adult Court is continuing to work with other community agencies to further supplement the services provided for young people. Program staff are also working to finalize what the phases of the court will look like as a standard collaborative court model to ensure it is aligned with the development of young people.

Beginning in January, the District Attorney's office will be combining funding into one grant for FSA and Goodwill to collaboratively support Young Adult Court. Right now both agencies are applying to the court with different goals and agendas; they would like to simplify the current process to make it as cohesive as possible.

The San Francisco Department of Children, Youth, and Their Families (DCYF) is taking the lead in working with Social Policy Research Associates (SPR), an outside evaluator, to finalize data collection and evaluation for the Young Adult Court program. This work will continue in the coming months.

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Beginning in January, Young Adult Court sessions will move to Friday mornings. Judge Chan will be coming off of his rotation as supervising judge of the Criminal Court, which means he will potentially have more time for Young Adult Court, as well as the capacity to add to the current caseload.

In November, Vinny Schiraldi came to observe Young Adult Court and became committed to continuing discussions around this model. Representatives from the city of Brooklyn recently reached out to Young Adult Court to gather preliminary information and advice for their developing program. Young Adult Court is in the process of reaching out to Los Angeles, where the prospect of a Young Adult Court is being discussed.

In related news, Miller noted that Governor Dan Malloy of Connecticut announced two weeks ago that he is interested in introducing state legislation to raise the age of adulthood in the Connecticut criminal system to 21.

Ali Riker added that a trauma therapist from Behavioral Health recently began working with the District Attorney's population in custody. The trauma therapist receives a regular report of everyone under the age of 25 who is in custody. The therapist assesses the needs of youth using the ACES assessment, and if they score 2 or 3, works to ensure they receive therapy in custody.

District Attorney George Gascón, having arrived at 10:28, opened the floor for comments concerning Young Adult Court. Seeing none, District Attorney Gascón introduced BART Chief Kenton Rainey.

District Attorney Gascón stated that Chief Rainey came into BART at a difficult time and spent time working to develop community-based services. This work brought Chief Rainey and District Attorney Gascón together. Several months ago District Attorney Gascón and Chief Rainey began a conversation about individuals who suffer from mental illness, substance abuse, or a combination of both, and their impact on public transportation. District Attorney Gascón spoke to Chief Rainey about the Law Enforcement Assisted Diversion (LEAD) program, which has been very successful in Seattle, and which this commission has been working on for nearly four years.

Upon hearing about LEAD, Chief Rainey indicated a desire to explore whether it was the right approach for the BART police department. Chief Rainey traveled to Seattle with some of the Sentencing Commission members to learn more. The commission provided Chief Rainey with all the resources they had available on LEAD, including Washington University's assessment of the program, which indicates very clearly under scientific scrutiny that this is a good way for law enforcement to work on substance abuse and mental health programs. After talking to partners at the Drug Policy Alliance (DPA), the Sentencing Commission began working on a model that would allow BART police to take part in developing their own LEAD program.

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Chief Rainey commented that as BART continues to grow, it experiences all the other issues that go along with crime and social disorder. BART leadership is acutely aware of the issues surrounding homelessness and mental health, issues that often go hand in hand. Unfortunately because of the lack of an adequate social safety net, police become the first responders. Community policing requires reaching out to all the various stakeholders who have impact, because these issues often become law enforcement problems when they are neglected.

Chief Rainey went on to say that five years ago, following a tragic shooting, BART made a commitment to provide a 40-hour Crisis Intervention Team (CIT) training for all officers, including sworn and unsworn personnel. BART does not have its own training center. Chief Rainey commented that he was happy to report five years later that 98% of BART staff have attended CIT training.

Chief Rainey emphasized his excitement regarding the LEAD program. BART receives numerous complaints about people who are living in the transportation system, and they have a duty and a responsibility to keep the passageways clear.

Chief Rainey stated in conclusion that he was thankful to be included in the commission meeting and appreciative of District Attorney Gascón's leadership on these issues, especially in bringing the LEAD program to the attention of BART. Chief Rainey encouraged Sentencing Commission members to continue sharing information, with the aim of breaking the cycle of people living in the BART system. Although BART has put in place a very liberal system where they warn people three or four times before making an arrest, it can still become a revolving door.

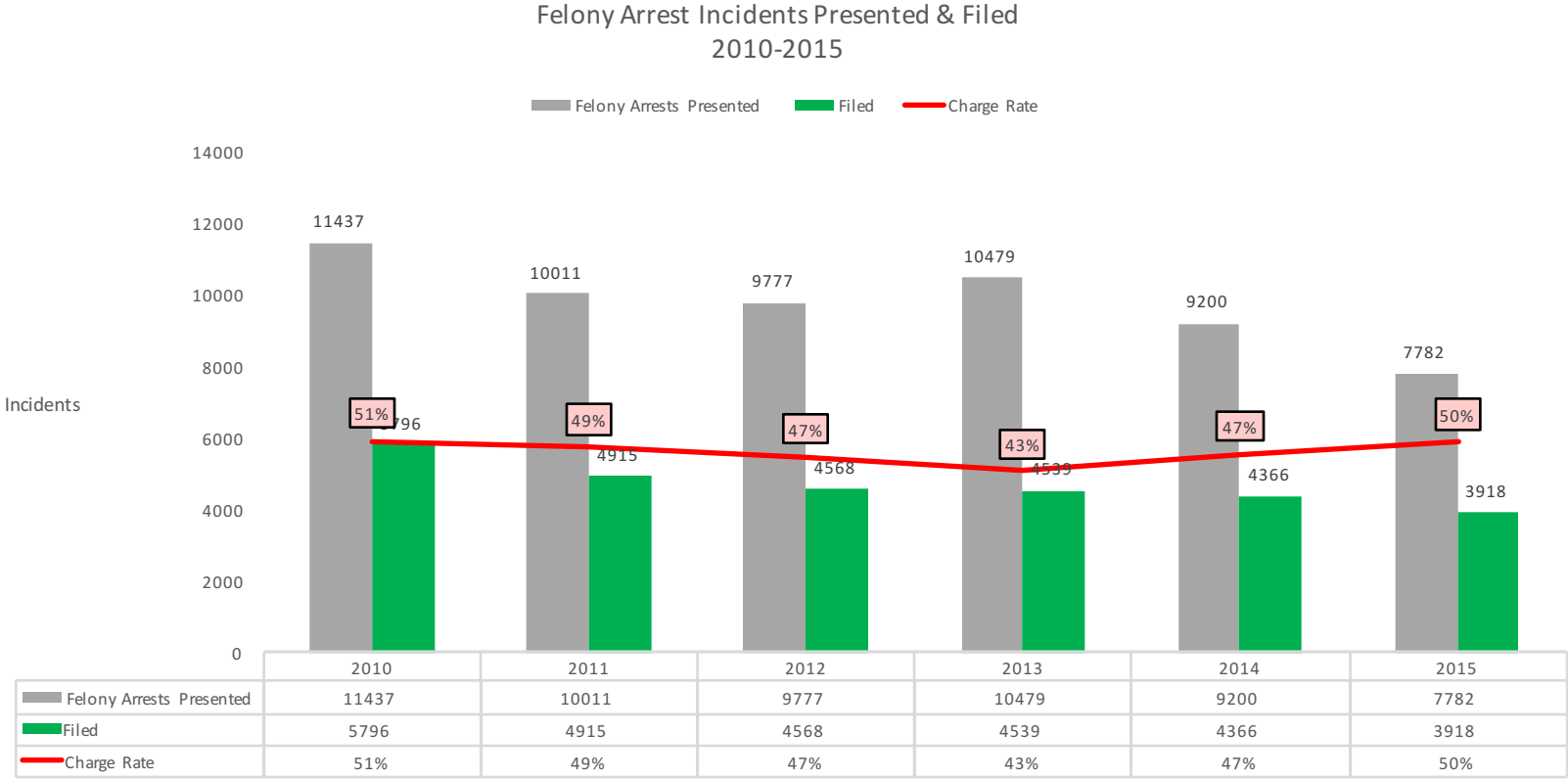
Chief Rainey also noted that he has worked in six different agencies and has never seen anything like the restorative justice program District Attorney Gascón has in place. Chief Rainey commented that it is very progressive and should be emulated around the country.

District Attorney Gascón thanked Chief Rainey and opened the floor for comments.

Theshia Naidoo stated that she is very excited for the launch of LEAD. She spoke briefly on the role of the Drug Policy Alliance (DPA). The DPA would mainly be ensuring fidelity and providing project management in the areas of training, identifying funding sources, and general technical advocacy around the program. In general, DPA will be playing the advisory watchdog role with the program.

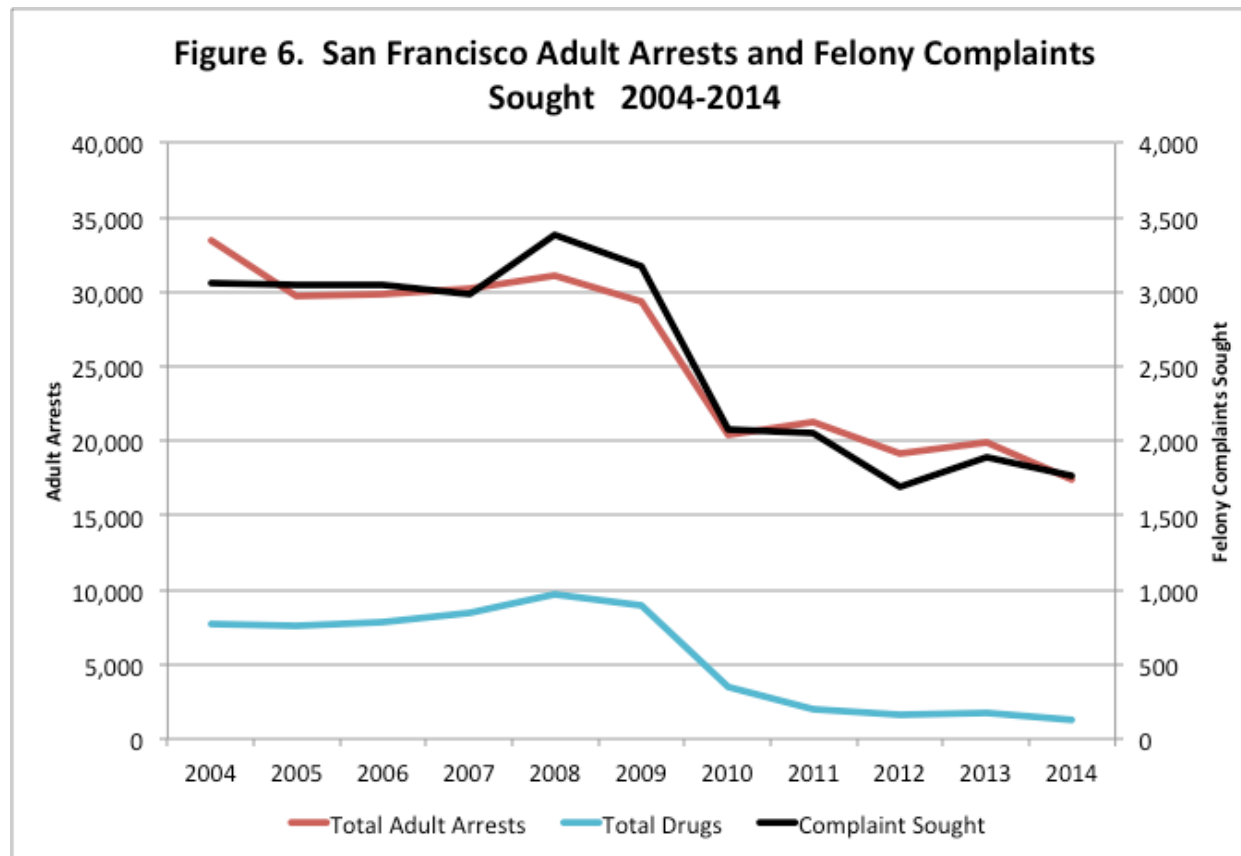
Craig Murdock commented that he, along with the Public Health Department of San Francisco, has several centers where officers do in fact send individuals to pre-services venues. This includes the Sobering Center and the Navigation Center in the Mission District, which is a portal

II. San Francisco District Attorney's Office: Felony Incident Filing, 2010-2015 (Incident Numbers)

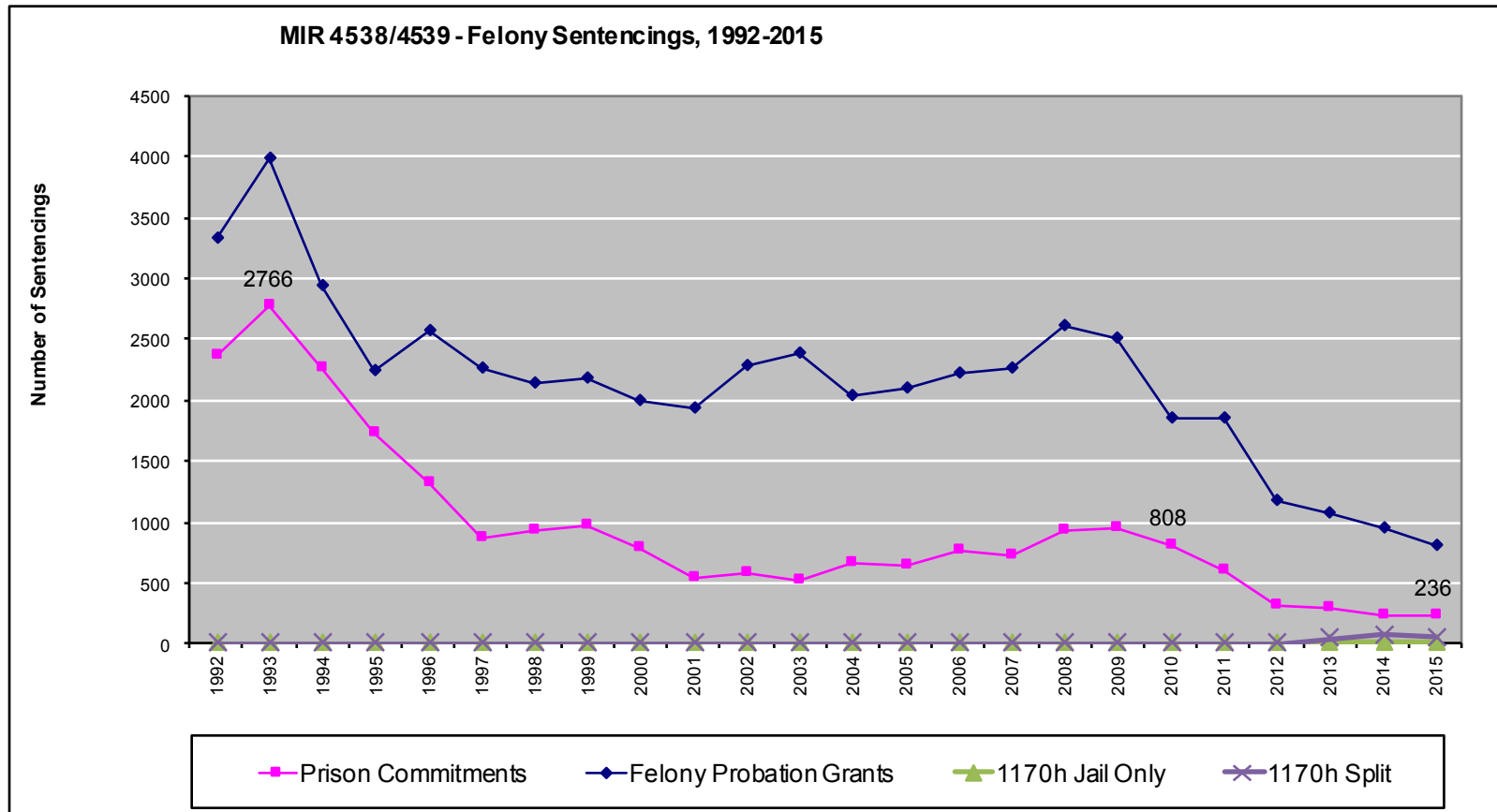


Source: DAMION; Unit: Incident Numbers

III. San Francisco District Attorney's Office: Adult Arrests, Drug Arrests & Felony Complaints, 2004-2014 (James Austin, JFA)

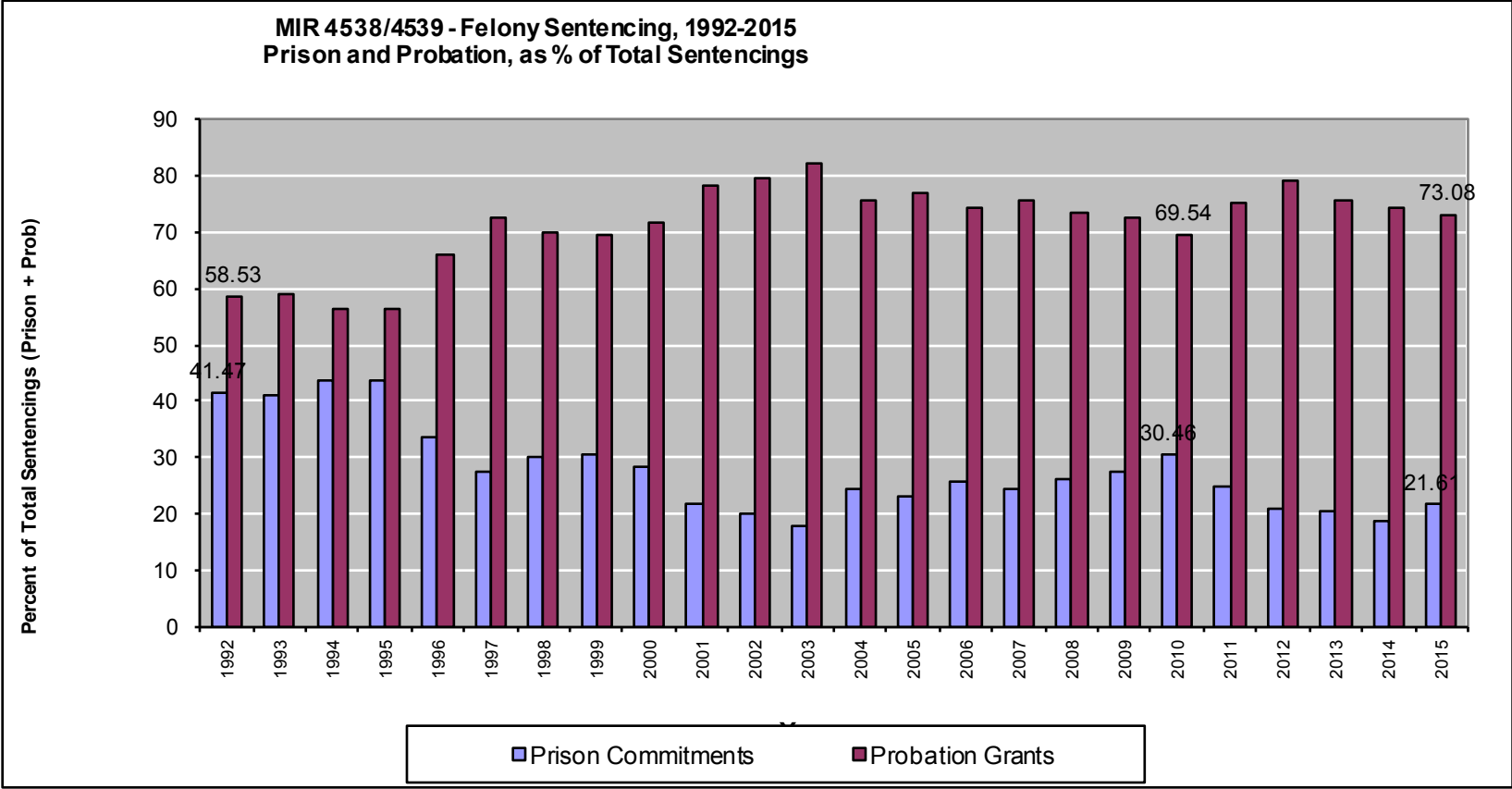


IV. Superior Court: Felony Sentencings, 1992-2015



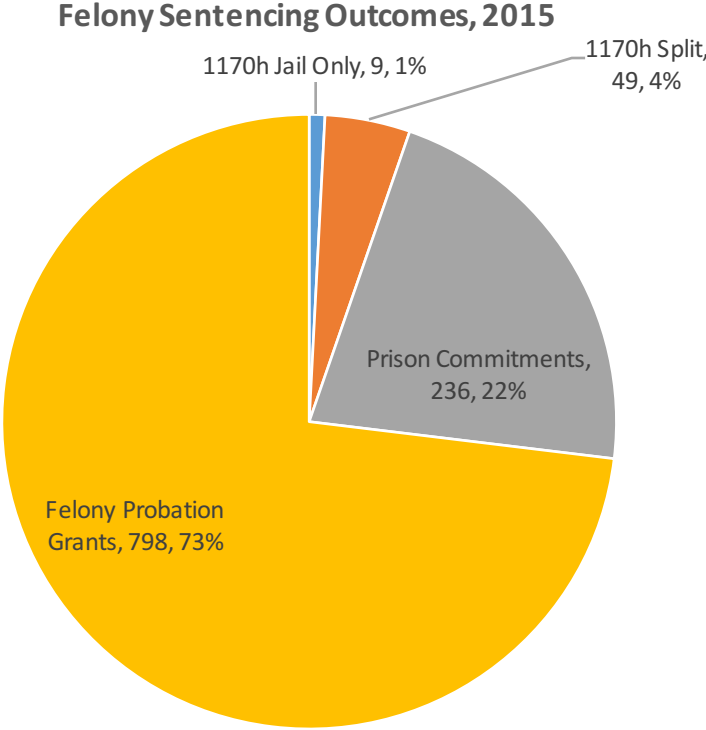
Source: CMS; Unit: Court Numbers

V. Superior Court: Felony Sentencing, Probation vs. Prison %, 1992-2015



Source: CMS; Unit: Court Numbers

VI. Superior Court: Felony Sentencing Outcomes, 2015



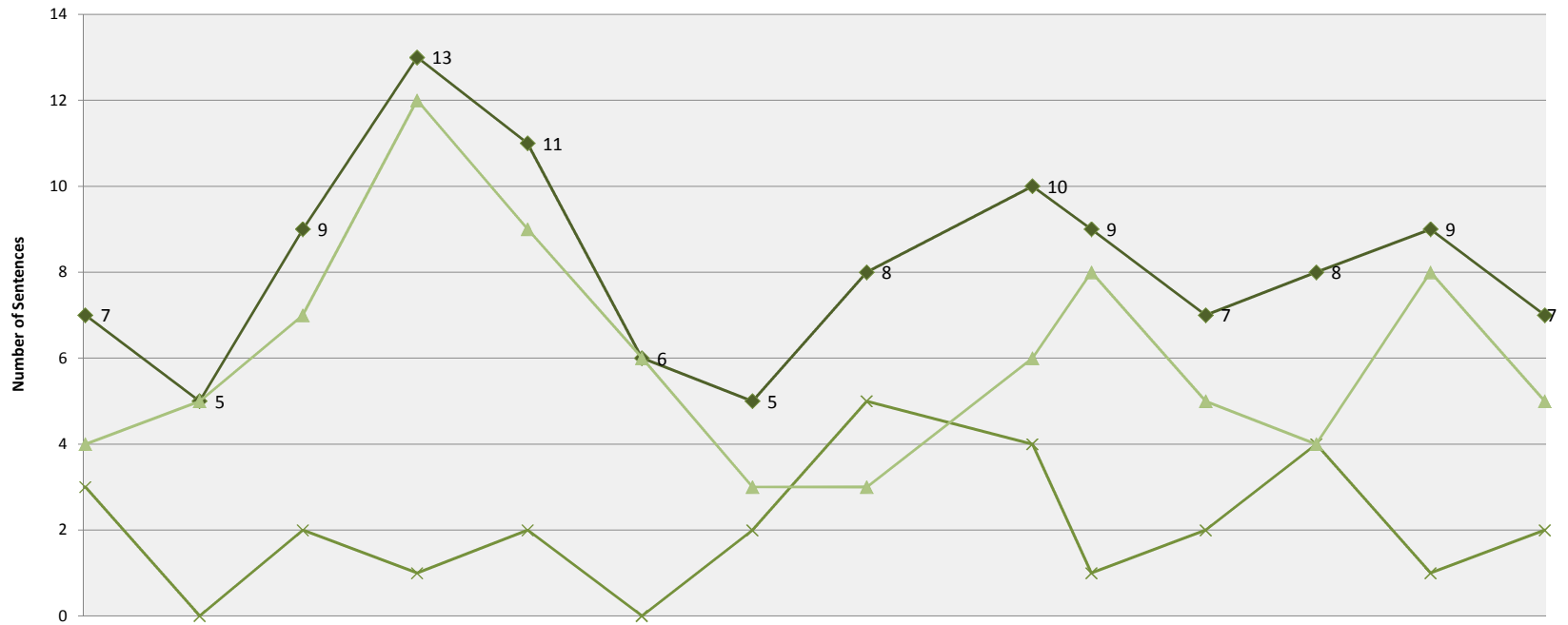
Source: CMS (Adapted); Unit: Court Numbers



1170(h) Sentencing Trends January 2015 through February 2016

1170h Sentences since October 1, 2011: **773**
% Straight Sentences per 1170(h)(5)(a) **41%**
% Split Sentences per 1170(h)(5)(b) **59%**

◆ Total Number of 1170h sentences
✕ Number Sentenced to Jail Only
▲ Number Sentenced to Split Sentence



	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16
Total Number of 1170h sentences	7	5	9	13	11	6	5	8	10	9	7	8	9	7
Number Sentenced to Jail Only	3	0	2	1	2	0	2	5	4	1	2	4	1	2
Number Sentenced to Split Sentence	4	5	7	12	9	6	3	3	6	8	5	4	8	5
% Split Sentences	57%	100%	78%	92%	82%	100%	60%	38%	60%	89%	71%	50%	89%	71%

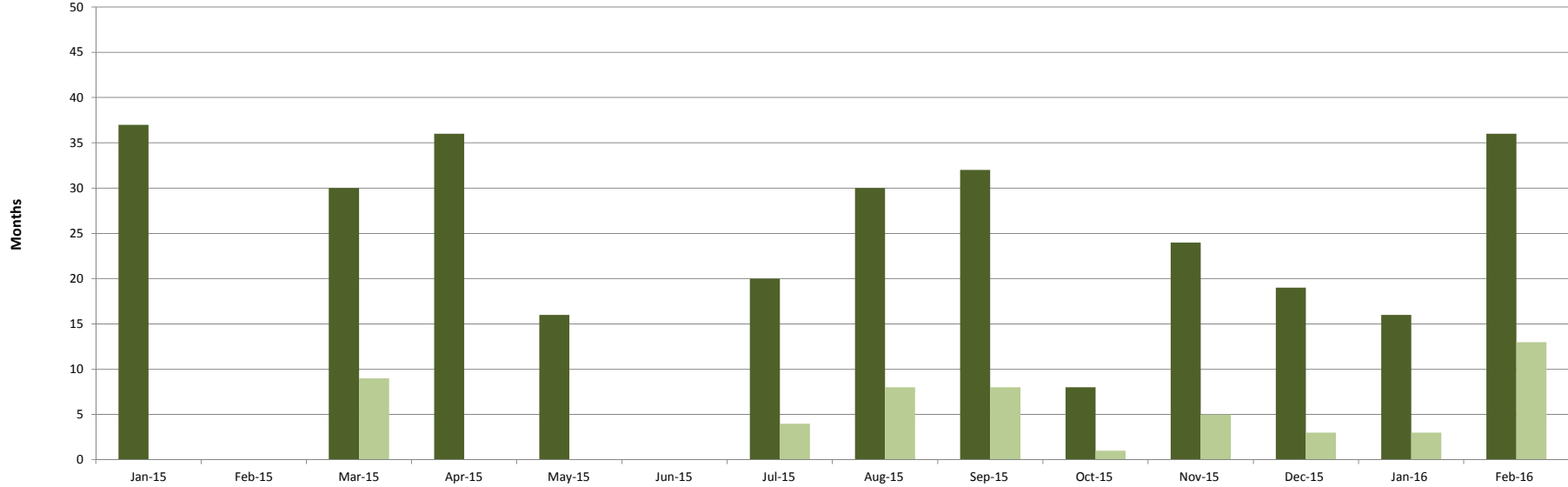


1170(h) Sentencing Trends January 2015 through February 2016

1170(h)(5)(a) Jail Sentence Lengths and Average Time Served

Number of 1170(h)(5)(a) Sentences since Oct 2011: 318
Shortest Sentence Length: 3 months
Longest Sentence Length: 144 months
Average Sentence Length: 27 months

■ Average Jail Sentence
■ Average Jail Time Served



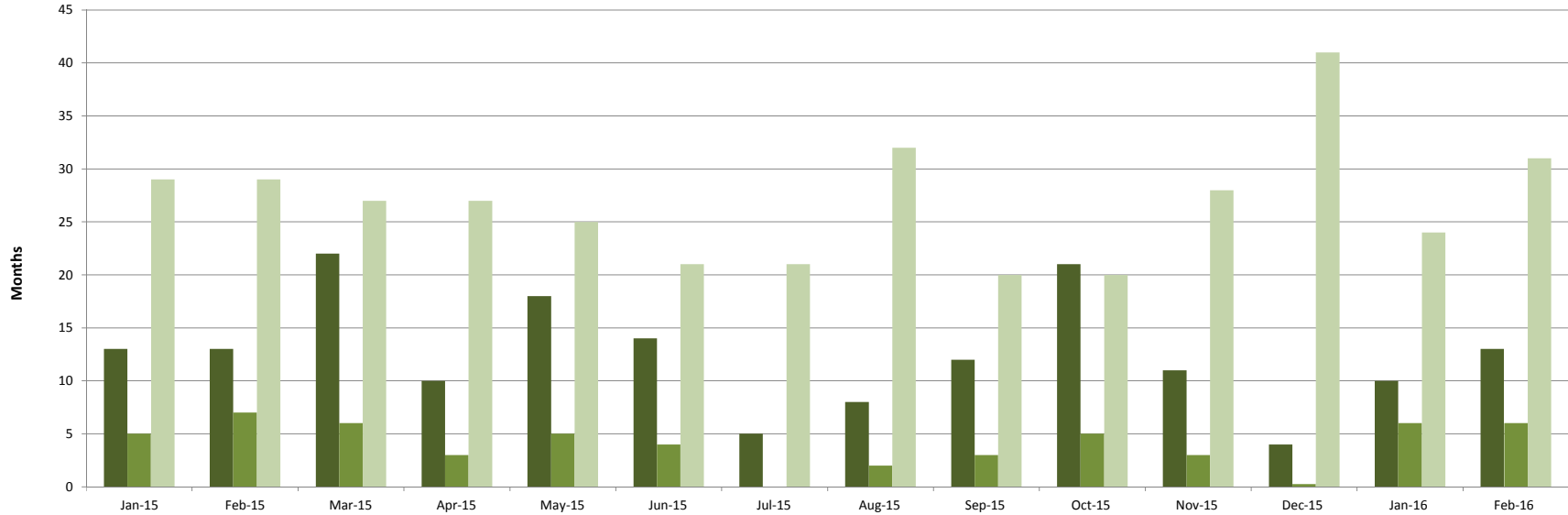


1170(h) Sentencing Trends January 2015 through February 2016

1170(h)(5)(b) Split Sentence Lengths and Average Time Served

Number of 1170(h)(5)(b) Sentences since Oct 2011:		455
Jail Sentences:	Shortest	.0 months
	Longest	55 months
	Average	12 months
Mandatory Supervision Sentences:	Shortest	1 months
	Longest	78 months
	Average	26 months

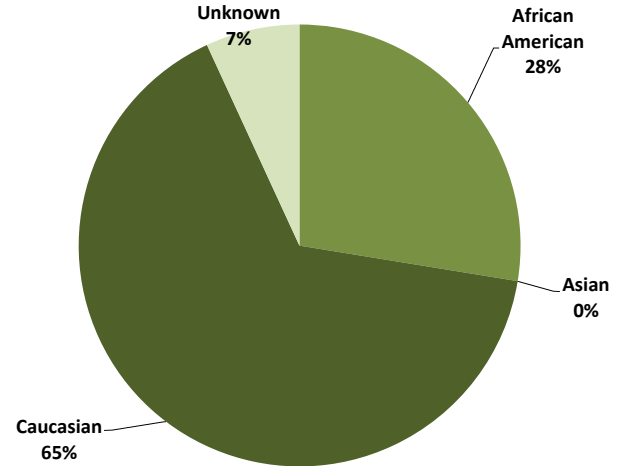
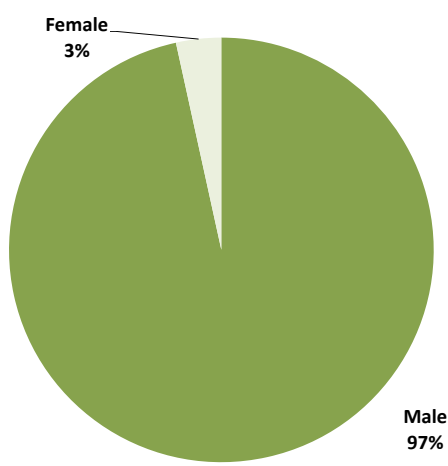
■ Average Jail Sentence
■ Average Jail Time Served
■ Average Mandatory Supervision Term



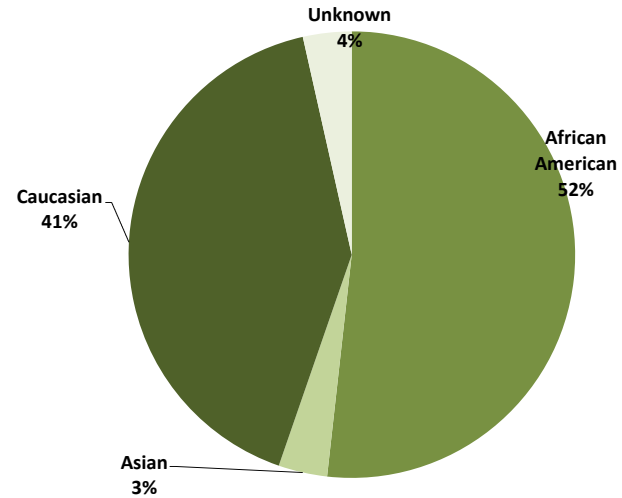
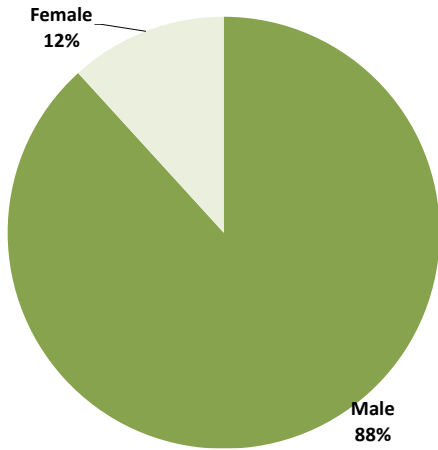


1170(h) Sentencing Trends January 2015 through February 2016

Total Sentenced Under 1170(h)(5)(a) - Straight Jail



Total Sentenced Under 1170(h)(5)(b) - Split Sentence





1170(h) Sentencing Trends January 2015 through February 2016

Data source: Superior Court, Court Management System

	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Total
Total Number of 1170h sentences	7	5	9	13	11	6	5	8	10	9	7	8	9	7	114
Number Sentenced to Jail Only	3	0	2	1	2	0	2	5	4	1	2	4	1	2	29
Number Sentenced to Split Sentence	4	5	7	12	9	6	3	3	6	8	5	4	8	5	85
% of 1170h Sentences that were Split Sentences	57%	100%	78%	92%	82%	100%	60%	38%	60%	89%	71%	50%	89%	71%	75%

1170(h)(5)(a) - Jail Only Sentences	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Total
Low Sentence Length (in months)	24	NA	24	36	15	NA	16	16	16	8	24	12	16	36	8
High Sentence Length (in months)	60	NA	36	36	16	NA	24	36	60	8	24	24	16	36	60
Average Sentence Length (in months)	37	NA	30	36	16	NA	20	30	32	8	24	19	16	36	25
Number Whose Jail Sentence is Served with CTS*	3	NA	0	1	2	NA	0	2	1	0	0	1	0	1	11
Ave Time Served in Jail after CTS (if >0) (months)	NA	NA	9	0	NA	NA	4	8	8	1	5	3	3	13	5

Sex of those sentenced under 1170(h)(5)(a)

Male	2	NA	2	1	2	NA	2	5	4	1	2	4	1	2	28
Female	1	NA	0	0	0	NA	0	0	0	0	0	0	0	0	1

Race of those sentenced under 1170(h)(5)(a)

African American	2	NA	0	0	1	NA	1	1	1	0	0	1	0	1	8
Asian	0	NA	0	0	0	NA	0	0	0	0	0	0	0	0	0
Caucasian	1	NA	2	1	1	NA	1	3	3	1	2	3	1	0	19
Unknown	0	NA	0	0	0	NA	0	1	0	0	0	0	0	1	2



1170(h) Sentencing Trends January 2015 through February 2016

1170(h)(5)(b) - Split Sentences	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Total
Jail Portion															
Low Sentence Length (in months)	6	5	5	1	1	3	0	6	3	5	6	1	1	1	0
High Sentence Length (in months)	24	24	48	18	36	24	13	12	10	48	12	10	15	32	48
Average Sentence Length (in months)	13	13	22	10	18	14	5	8	12	21	11	4	10	13	12
Number Whose Jail Sentence is Served with CTS*															
Number Whose Jail Sentence is Served with CTS*	1	3	2	5	3	2	3	2	2	2	2	2	6	2	37
Ave Time Served in Jail after CTS (if >0) (months)	5	7	6	3	5	4	NA	2	3	5	3	0.25	6	6	4
Mandatory Supervision Portion															
Low Sentence Length (in months)	18	11	2	12	6	12	16	24	6	2	12	24	7	18	2
High Sentence Length (in months)	48	49	36	42	36	36	24	43	36	48	48	57	35	40	57
Average Sentence Length (in months)	29	29	27	27	25	21	21	32	20	20	28	41	24	31	27
Total Sentence Length (Jail + MS)															
Low Sentence Length (in months)	24	16	36	23	21	21	17	36	13	14	24	34	21	25	13
High Sentence Length (in months)	72	72	72	60	72	52	36	48	48	60	60	59	48	68	72
Average Sentence Length (in months)	42	42	50	37	44	34	26	40	30	41	38	45	34	44	39
Gender of those sentenced under 1170(h)(5)(b)															
Male	4	5	6	10	9	6	3	1	4	7	4	3	8	5	75
Female	0	0	1	2	0	0	0	2	2	1	1	1	0	0	10
Race of those sentenced under 1170(h)(5)(b)															
African American	2	3	6	8	5	1	1	2	2	3	2	1	4	4	44
Asian	0	1	0	0	0	0	0	0	0	1	0	0	1	0	3
Caucasian	2	1	1	4	4	5	2	1	4	3	3	3	2	0	35
Unknown	0	0	0	0	0	0	0	0	0	1	0	0	1	1	3

* Represents the number of people who were released after sentencing, as their jail sentence is deemed served with credits for time served pre-trial.