



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

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# 2018 Annual Report San Francisco Sentencing Commission

December 12, 2018

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## San Francisco Sentencing Commission 2018 Annual Report

### TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	3
II.	BACKGROUND	3
III.	ACCOMPLISHMENTS	5
IV.	2018 MEETING TOPICS & PRESENTERS	8
V.	RECOMMENDATIONS	9
VI.	MEMBERSHIP UPDATES	10
VII.	FUTURE ACTIVITIES	11
VIII.	CONCLUSION	12

The activities of the 2018 calendar year of the San Francisco Sentencing Commission are summarized in this annual report as required by County Ordinance 10-12.

## **I. EXECUTIVE SUMMARY**

The San Francisco Sentencing Commission, an initiative of the District Attorney's Office, was created to analyze sentencing patterns, innovative solutions and outcomes; and to provide recommendations to the Mayor and Board of Supervisors that lead to a reduction in incarceration, lower recidivism rates, safer communities, and ensure that victims are made whole.

In 2018, the San Francisco Sentencing Commission held four hearings covering Local Sentencing Trends, Recidivism Reduction, Procedural Justice, Elimination of Racial Disparities, Trauma, JUSTIS and the Safety and Justice Challenge. The San Francisco Sentencing Commission not only facilitates conversations between criminal justice stakeholders about innovative approaches to sentencing and criminal justice reform, but generates action oriented recommendations resulting in successful program and policy implementation. Based upon this expert testimony and research, the Sentencing Commission developed five recommendations:

Recommendation 1. Invest in Justice Information Tracking System (JUSTIS) to become a neutral steward of countywide criminal justice data.

Recommendation 2. Create a Justice-Involved Young Adult Local Action Plan.

Recommendation 3. Endorse the Criminal Justice Racial Equity Statement and Invest Resources in the Agenda for Action.

Recommendation 4. Support the Successful Completion of the Safety and Justice Challenge Strategies.

Recommendation 5. Invest in policies and programs that address the specific needs of children of incarcerated parents

## **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, 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. The mandate of the Sentencing Commission includes the following:

- 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; and
- 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 San Francisco Sentencing Commission membership was fully formed in July 2012 and subsequently renewed in 2015. At the time of this report additional authorization for a 5 year term to the year 2023 is pending before the Board of Supervisors. A current list of commission members and qualifications is found in Appendix A.

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 contribute to the development of data-informed, sustainable improvements to our sentencing practices. While this membership serves as the core of the Sentencing Commission's work, the Commission invites broader participation from practitioners, researchers, and community to inform the proceedings.

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. Representatives from BART Police began attending meetings in December 2015, and serve as non-voting members.

### **III. ACCOMPLISHMENTS**

The first meeting of the San Francisco Sentencing Commission convened in summer 2012. During the six years of expert testimony the Commission has developed a proven track record of action-oriented recommendations resulting in successful program and policy implementation. Key outcomes of the Sentencing Commission's quarterly hearings and ongoing analysis include:

**Young Adult Court:** In Summer and Fall of 2014, the San Francisco Sentencing Commission organized hearings focused on educating criminal justice partners and the public about the developmental needs of young adult defendants and the opportunities to adapt the criminal justice system to meet their needs; while maintaining public safety. This period of incubation was essential for generating cross system buy-in and to inform successful program implementation of the Young Adult Court (YAC). In the summer of 2015, the City and County of San Francisco formally established the YAC as the first young adult court in the nation to handle serious and violent cases. The YAC strives to align opportunities for accountability and transformation with the unique needs and developmental stage of 18 to 25 year olds. Participating individuals receive an in-depth assessment, develop individualized goals, and work with their clinical case managers to achieve those goals. In August 2017, YAC celebrated two years of operation. YAC has garnered notable attention in the area of young adult justice reform and many jurisdictions are looking at the program as a model for replication.

**Law Enforcement Assisted Diversion:** The Sentencing Commission was instrumental in state and local efforts to establish LEAD programming. The Sentencing Commission has heard multiple testimonies from experts affiliated with the Law Enforcement Assisted Diversion program (LEAD), a pre-booking and pre-charging diversion programs for drug offenses. The purpose of these testimonies was to explore the possibility of replicating LEAD in San Francisco and to solicit technical assistance in the development of local plans. In 2014 the Sentencing Commission requested UC Berkeley to analyze the feasibility, benefits, and cost of replicating the LEAD program in San Francisco. The researchers concluded that, "San Francisco has the necessary tools and systems to meet the challenge of successfully implementing such a program." Ultimately the research team recommended that San Francisco pursue the adoption of a pre-booking diversion program. Subsequently in 2015, in summer 2015 the Commission submitted a letter to the Board of Supervisors and the Mayor recommending San Francisco begin a three-year pilot program of LEAD in San Francisco. In 2016, Governor Brown approved \$15 million to support three pilot localities across the state. The Sentencing Commission facilitated much of the necessary groundwork for San Francisco's eligibility and subsequent award of LEAD funds totaling \$5.9 million. LEAD San Francisco was fully operational as of fall 2017.

**Statewide Policy Reform:** The San Francisco Sentencing Commission recommended California pursue Penal Code reform legislation to change the penalty for drug possession for personal use from a felony to a misdemeanor. Ultimately, this recommendation helped inform the drafting of Proposition 47, The Safe Neighborhoods and Schools Act. The goal of this reform was to 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 election, the California citizenry voted to require misdemeanor sentences instead of felony sentences for six types of drug and property offenses though Prop. 47. At the June 2017 meeting of the Sentencing commission, expert testimony was provided indicating that the passage and implementation of California Proposition 47 has narrowed several criminal case disparities, especially for African American suspects.

**Data-Driven Policy Decisions:** From its inaugural meeting, Sentencing Commission members committed to utilize accessible and credible data to drive the body's decision making and determine its priorities. This commitment not only provides common information for all members to guide prioritization and decision making, but it also provides the opportunity to communicate progress and success; the ability to highlight exceptions; and lastly, the opportunity to educate the public. In January 2017, the San Francisco Sentencing Commission was awarded an Innovation Grant from the MacArthur Foundation Safety and Justice Fund to develop and Implement a web-based justice system recidivism analysis dashboard, integrating data from multiple justice agencies. The dashboard will support the development of data-driven sentencing and supervision policies and further enable San Francisco to assess progress in reducing racial and ethnic disparities in the criminal justice system. Launch of the dashboard is expected in spring 2018.

**Criminal Justice Racial Equity Statement and Workgroup:** In June 2018 staff from the Adult Probation Department and District Attorneys' Office secured approval to challenge all of San Francisco's criminal justice policy bodies to create and pass a justice system race and equity statement.

The Criminal Justice Racial Equity Statement was unanimously approved by the following;

Sentencing Commission	September 12, 2018
Reentry Council	September 25, 2018
Community Corrections Partnership Executive Committee	November 15, 2018
Juvenile Justice Coordinating Council	December 5, 2018

#### Criminal Justice Racial Equity Statement

The San Francisco Community Corrections Partnership, Juvenile Justice Coordinating Council, Reentry Council and Sentencing Commission prioritize racial equity so that all people may thrive. San Francisco's criminal justice policy bodies collectively acknowledge that communities of color have borne the burdens of inequitable social, environmental, economic and criminal justice policies, practices and investments. The legacy of these government actions has caused deep racial disparities throughout San Francisco's juvenile justice and criminal justice system. We further recognize that racial equity is realized when race can no longer be used to predict life outcomes. We commit to the elimination of racial disparities in the criminal justice system.

On September 12th the San Francisco Sentencing Commission voted to create a Criminal Justice Racial Equity Workgroup. This group meets bi-monthly to discuss practical steps that criminal justice departments and support agencies can take to ensure progress is made toward the identified racial equity goal; to eliminate racial disparities in the criminal justice system.

**Safety and Justice Challenge:** Due to the successful creation of the Justice Dashboard the MacArthur Foundation invited San Francisco to apply to serve as a Safety and Justice Challenge (SJC) Implementation Site. In fall 2018 San Francisco was ultimately selected to participate in the SJC and has received \$2 million dollars to invest in strategies focused on safely reducing the jail population.

In partnership with the Sheriff's Department, Superior Court, Department of Public Health, Public Defender's Office and Adult Probation Department, and under the auspice of the Sentencing Commission, the District Attorney's Office has developed a comprehensive plan for local justice system reforms with the goal of reducing the average daily jail population by 16 percent over two years. These reforms will enhance system efficiency and public safety by reducing recidivism and will therefore negate the need for a replacement facility. Key strategies and initiatives to achieve this goal and create a safer, more effective system include:

1. Pre-arrest and pre-trial diversion strategies;
2. Criminal sentencing and correctional strategies that emphasize rehabilitation and reduce recidivism;
3. Improvements to case processing efficiency;
4. Enhanced services for people with mental illness or substance abuse issues involved with the justice system; and
5. Root out disparity and racial bias.

#### **IV. 2018 MEETING TOPICS & PRESENTERS**

The Sentencing Commission held four meetings in 2018. Full details are available on <http://www.sfdistrictattorney.org/>. Meeting dates and selected subject matter presenters are provided below.

##### **March 7, 2018**

Review of San Francisco Sentencing Trends

*Presenter: Maria McKee, Principal Analyst, San Francisco District Attorney's Office*

Recidivism: Defining the Problem

*Presenter: Sentencing Commission Director Tara Anderson*

The Justice Dashboard

*Presenter: Policy Fellow Alissa Skog*

##### **June 6, 2018**

MacArthur Foundation's Safety and Justice Challenge and Opportunities to Further Reduce the Jail Population

*Presenter: MacArthur Foundation consultant and President of JFA, James Austin.*

Presentation on Government Alliance on Race and Equity

*Presenter: Ariana Flores Discrimination Investigator & Policy Analyst San Francisco Human Rights Commission*

##### **September 12, 2018**

Procedural Justice

*Presenter: San Francisco District Attorney's Office Chief of Programs and Initiatives, Katy Miller*

Taking Action to Eliminate Racial Disparities

*Presenter: W. Haywood Burns Institute Site Manager Christopher James*

##### **December 12, 2018**

Safety and Justice Challenge Implementation Launch and Technical Assistance

*Presenter: Justice System Partners Lore Joplin*

JUSTIS Roadmap Process and Future Vision

*Presenter: Gartner*

<sup>3</sup>Trauma and Sentencing Planning

*Presenter: Dr. Gena Castro Rodriguez, Chief of Victim Services and Parallel Justice Programs, San Francisco District Attorney's Office*

## V. RECOMMENDATIONS

### ***Recommendation 1. Invest in Justice Information Tracking System (JUSTIS) to become a neutral steward of countywide criminal justice data.***

The Sentencing Commission recognizes that JUSTIS is uniquely positioned to play a central role in enhancing the transparency and accountability of San Francisco's criminal justice system. To that end, the Sentencing Commission recommends additional investment in JUSTIS to enable the body to serve as a neutral steward of criminal justice data in the future, and review data collected by individual agencies to identify gaps that may inhibit system-wide analysis. In addition, the Sentencing Commission recommends expanding the membership of JUSTIS to include representatives from key service agencies, such as the Department of Homelessness and Supportive Housing.

### ***Recommendation 2. Create a Justice-Involved Young Adult Local Action Plan.***

The City and County of San Francisco currently engages in a multidisciplinary strategic planning process for juvenile justice system involved youth every five to six years, referred to as the Local Action Plan (LAP). In 2017 the Juvenile Justice Coordinating Council approved the *2017 City and County of San Francisco's Comprehensive Multi-agency Local Action Plan: Strategies for San Francisco Juvenile Justice*. This document represents the collective vision amongst San Francisco leadership and community partners for system-involved youth. The LAP endeavors to facilitate system coordination that is rehabilitative and ultimately serves fully support youth to transition into adulthood successfully. The San Francisco Sentencing Commission recommends that City and County of San Francisco develop a Young Adult Local Action Plan and proposes using the LAP model for collaborative planning to develop a plan in 2018. From 2014 to 2017 the San Francisco Sentencing Commission has heard expert testimony on the developmental needs of young adult defendants and the opportunities to adapt the criminal justice system to meet their needs; while maintaining public safety. As the criminal justice system continues to adapt to a new understanding of brain science and procedural justice it has become clear that a multidisciplinary response targeting those 18-25 must be centered on a common set of goals and expected outcomes. A young adult local action plan is essential to adequately address criminal conduct and ultimately serve system-involved young adults.

### ***Recommendation 3. Endorse the Criminal Justice Racial Equity Statement and Invest Resources in the Agenda for Action.***

The City and County of San Francisco must expressly commit to the elimination of racial disparities in the criminal justice system. San Francisco's Criminal Justice agencies and social service providers participating in the Community Corrections Partnership, Juvenile Justice Coordinating Council, Reentry Council and Sentencing Commission created and collectively endorsed the Criminal Justice Racial Equity Statement as a step toward narrowing and ultimately eliminating the racial disparities in the criminal justice system. The Criminal Justice Racial Equity Workgroup has created a draft Agenda for Action, which will require additional resources.

***Recommendation 4. Support the Successful Completion of the Safety and Justice Challenge Strategies.*** On October 24, 2018 the San Francisco District Attorney's Office was awarded \$2 million dollars to implement strategies focused on safely reducing the jail population. San Francisco's SJC partnership includes a multi-disciplinary approach emphasizing the least restrictive form of correctional control, while preserving public safety. The identified strategies move beyond punishment to include rehabilitation, reintegration, and victim support. To negate the need for a replacement facility and support the closure of County Jail 4, the five SJC Strategies are targeted to reduce the average daily jail population by 16 percent.

***Recommendation 5. Invest in policies and programs that address the specific needs of children of incarcerated parents***

A 2015 survey conducted by the San Francisco Children of Incarcerated Parents Partnership (SFCIPP) found that the 59 percent of individuals incarcerated in San Francisco jails were parents to approximately 1,110 children in the County. In the same year, Project WHAT! surveyed children of incarcerated parents, families of incarcerated individuals, and service providers to inform 10 policy recommendations to enable San Francisco's children with incarcerated parents to live free of judgement and blame. Five policy recommendations remain open:

- Free phone calls between children and incarcerated parents at San Francisco County Jail.
- When a parent is transferred from San Francisco County Jail to state prison, the city of San Francisco should provide funding to the family to cover transportation costs for a minimum of six visits per year.
- Re-entry support services should be offered to all children and their parents who are being released from San Francisco County Jail.
- When a parent has been incarcerated for more than one year, restorative justice services should be offered to all children whose parents are released from San Francisco County Jail, both pre- and post-release.
- Free therapy and/or counseling should be offered to all children and youth with incarcerated parents.

At the June 2016 Sentencing Commission meeting, members passed a motion to support Project WHAT! achieve these remaining policy recommendations. As such, the Sentencing Commission continues to recommend that the City and County of San Francisco should engage in strategies that guarantee implementation of the remaining policy recommendations.

## **VI. MEMBERSHIP UPDATES**

### Membership Transitions

In the 2018 calendar year the San Francisco Sentencing Commission experienced a transition for one member seat. In August, Greg Wagner became the Acting Director of the Department of Public Health.

### Position of Superior Court

The San Francisco Superior Court is an invited member of the San Francisco Sentencing Commission. In 2018, representatives from the Administrative Office of the San Francisco Superior Court began participating in the Sentencing Commission as non-voting members. The court representatives are participating to advance the cross-system goals of San Francisco's Safety and Justice Challenge implementation. A detailed description of the Safety and Challenge goals is listed in section IV.

## Bay Area Rapid Transit Police Department

The Bay Area Rapid Transit Police Department (BART PD) continues to participate in the San Francisco Sentencing Commission as a non-voting member. BART PD leadership has actively participated in the planning for and launch of innovative program, such as LEAD, outlined in section III. Accomplishments.

## VII. FUTURE ACTIVITIES

### Looking Forward: 2019 Priorities

The San Francisco Sentencing Commission is currently scheduled to conduct four sessions in 2019. Priorities for 2019 include:

- Overview of San Francisco Sentencing Trends
- 2018 Sentencing Policy and Legislative Updates
- Understanding the Impact of Sentencing Enhancements
- Evidenced-Based Accountability and Support in Domestic Violence
- Effective, Efficient and Fair Criminal Case Processing
- Cross-System Analysis of Racial Disparity and Disproportionality

## **VIII. CONCLUSION**

In 2018, the San Francisco Sentencing Commission successfully completed the sixth full year of hearings covering experts discussing Local Sentencing Trends, Recidivism Reduction, Procedural Justice, Elimination of Racial Disparities, Trauma, JUSTIS and the Safety and Justice Challenge. The San Francisco Sentencing Commission has contributed toward significant policy and programmatic reforms directed at reducing recidivism and enhancing public safety. While this policy body is locally mandated, members are confident that the findings and recommendations that will come from the 2019 proceedings will continue to support not only San Franciscans, but all Californians.

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## Appendix A: San Francisco Sentencing Commission Members

As of December 12, 2018

<b>Agencies &amp; Bodies</b>	<b>Member</b>
District Attorneys' Office	George Gascón, District Attorney
Public Defender	Jeff Adachi, Public Defender
Adult Probation	Karen Fletcher, Adult Probation Chief
Juvenile Probation	Allen Nance, Juvenile Probation Chief
Sheriff	Vicki Hennessy, Sheriff
Police	William Scott, Police Chief
Department of Public Health	Greg Wagner, Acting Director
Reentry Council	Karen Roye, Director Child Support Services
Superior Court*	Presiding Judge
<i>Member of a nonprofit org serving victims chosen by the Family Violence Council</i>	Jerel McCrary Attorney
<i>Member of non-profit org working with ex-offenders chosen by the Reentry Council</i>	Eric Henderson Policy Associate Ella Baker Center for Human Rights
<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

\*\* BART PD participates as a non-voting member.