

The San Francisco Sentencing Commission

City & County of San Francisco

(Administrative Code 5.250 through 5.250-3)

AGENDA

Wednesday December 9, 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 September 23, 2015 (discussion & possible action).
4. Staff Report on Sentencing Commission Activities (discussion & possible action).
5. Young Adult Court, Law Enforcement Assisted Diversion (LEAD), Recidivism Work Group updates (discussion).
6. Presentation on 'Eliminating Mass Incarceration: How San Francisco Did It' by James Austin, JFA Institute (discussion & possible action).
7. San Francisco Sentencing Commission 2015 Annual Report (discussion & possible action).
8. Members' comments, questions, and requests for future agenda items.
9. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.
10. Adjournment.

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The San Francisco Sentencing Commission
City and County of San Francisco
(Administrative Code 5.250 through 5.250-3)

Meeting Minutes
Wednesday, September 23, 2015
10:00 a.m. – 12:00 p.m.
Hall of Justice, Room 322, DA Law Library
1 Dr Carlton B Goodlett Place
San Francisco, CA 94102

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); George Gascón, San Francisco District Attorney; Honorable Bruce Chan, Presiding Judge (Superior Court); Board of Supervisors appointee Theshia Naidoo (Drug Policy Alliance); Karen Fletcher (Adult Probation); Chief Deputy of Adult Probation Martin Krizay; Craig Murdock (Department of Public Health); Commander Robert Moser (San Francisco Police Department); Chief Juvenile Probation Officer Allen Nance; Michael Jacobson, Executive Director, CUNY Institute for State and Local Governance; and Katy Miller, San Francisco District Attorney's Office.

1. Call to Order; Roll Call

At 10:08 a.m., District Attorney George Gascón called the meeting to order and welcomed commission 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 received.

3. Review and Adoption of Meeting Minutes from June 10, 2015 (Discussion and Possible Action)

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

Commander Robert Moser asked if the statement attributed to Michael Redmond on page 10 was a mistake since he was not in attendance. District Attorney Gascón thanked Commander Moser and said he was correct; the statement should have been attributed to Commander O'Sullivan. District Attorney Gascón asked commission members whether anyone had more comments or edits.

There were no more comments. Commander Moser made a motion to accept the minutes from the June 10, 2015, meeting, seconded by Simin Shamji.

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

Honorable Judge Bruce Chan provided an update from the Superior Court on the Young Adult Court, noting several significant changes since the Sentencing Commission's last meeting.

Through a lawyer's meet-and-confer process, eligibility guidelines for the Young Adult Court were signed off. These guidelines will be available publicly. Judge Chan noted that the guidelines balance public safety with the appropriate legal incentives, primarily through a differentiation in type of offenders in which eligibility is linked to risk factors and the type of activity engaged in by offenders. Throughout the guidelines document this sort of discretion has been a vested interest of the Public Defender's and District Attorney's offices. Judge Chan also noted that the document emphasizes resolution and finality for crime victims. For example, in the event of a deferred entry of judgment, the case will be resolved in a legal sense through certain terms set forth in the guidelines even though a final judgment has not been made. Lastly, Judge Chan noted that a group of people are serving as probationers, including people in the range of 18 to 25 years of age.

Throughout the document the guidelines allow for a certain element of deviation so that it is possible to look closely at case needs on an individual basis, beginning with case management in the District Attorney's office. The document includes a number of legal incentives, including the ability to avoid getting a judgment on one's record that follows an individual for the rest of his/her life. The consequences of having judgments on one's record can be disastrous for reentry planning. Judge Chan reported high interest from all realms of the court on the development of this program—so much so that Judge Chan is deliberately working slowly to develop this program in order to thoroughly discuss issues and come up with the best processes for clients.

Thus far, Family Services in conjunction with Young Adult Court has assessed 20 to 25 cases. Now they are moving on to begin the process of releasing the young people back into the community and tracking how they do. Meanwhile, assessments are continuing in order to build up court records. This work is done through partnerships with other departments in the court, keeping in mind both available services and missing services that need to be developed in the future.

In particular, substance abuse services need further development. Currently, these services are geared toward either juveniles or adults. While consensus is that mixing age groups has certain disadvantages, the systems in place are not making use of current research. This especially can be seen in looking at breaking cycles and interrelated with family violence and breaking cycles of intergenerational violence. What may be appropriate for someone who is 45 years of age may not be useful for someone who is 18, and often it is necessary to look at the needs of certain age groups. Keeping this in mind, Youth Adult Court aims to reflect what is happening in the community, while working with the domestic violence prevention community to ensure increased effectiveness in the future.

Judge Chan also touched on San Francisco's continuing housing challenges related to Young Adult Court clients. By assessing a wide range of people, he said Young Adult Court works to ensure they are taking on the types of cases that are the most difficult: young people who are self-medicating for a variety of trauma, clients who are dealing with the death of a parent, and transgender youth, for example. They seek out these challenging clients who are going to put Young Adult Court to the test. This shows where systems are lacking, what the program does well, and issues the program may not be addressing due to lack of awareness regarding those issues.

In closing, Judge Chan reflected on his father's experience of expanding his consciousness despite threats of racial violence in Oakland's Chinatown. He expressed that in developing this program, the team is also thinking long term about how to get the current population to think beyond their immediate circles and expand their consciousness. On a personal note, Judge Chan stated that being in this position is "a journey of self-discovery for me and a great opportunity to make a change in the current population."

District Attorney Gascón opened the floor for questions.

District Attorney Gascón asked Judge Chan if he had any idea when it will be possible to increase the number of court sessions beyond one day a week. Judge Chan responded that right now, he believes one day a week is enough. Anticipating an increasing number of cases, they expect to have more flexibility in calendar year 2016. Judge Chan will personally have more time to devote to the program then.

Joanna Hernandez introduced the Roadmap to Peace program, a collaborative partnership serving young Latinos ages 18 to 24 in the areas Judge Chan mentioned (employment, health, and social services). Hernandez asked if Judge Chan would be able to participate in the upcoming meeting scheduled for September 28 at 262 Cap Street in the Auditorium to work on collaboration with the Youth Court.

Katy Miller noted that the District Attorney's office has talked about collaborating with Roadmap to Peace. Miller stated that she believes it will be a great opportunity for collaboration, especially for undocumented youth. The District Attorney's office has written three letters in support of Roadmap to Peace so far.

Judge Chan stated that he would do his best to attend the meeting on the September 28.

Miller noted that they are working on creating a training schedule for the team, and she is interested in including further education from Roadmap to Peace in the schedule.

Judge Chan emphasized Miller's mention of the team's commitment to continual training for themselves, saying, "The research is there, and it's continuous and emerging, and it's important for us to continue our education."

Hernandez mentioned that Roadmap to Peace created support groups for parents who are helping their youth to successfully complete probation, which is another opportunity for collaboration. Judge Chan noted that this piece has been on his mind because of the challenges youth often face at home despite programs at school. He emphasized the additional challenges for children of immigrants, children of monolingual parents, and the lack of acknowledgement of these challenges by systems that could be providing resources.

District Attorney Gascón opened the floor for questions. Seeing no questions, Gascón turned the time over to Tara Anderson.

Anderson provided an update on the Sentencing Commission's activities since the last meeting. First, she noted that the link to the commission is now active. Second, she noted that the Sentencing Commission submitted a letter recommending San Francisco begin a pre-booking piloting program for

individuals engaging in illegal drug activity. Third, she updated the members on the work of the LEAD (law enforcement assisted diversion) workgroup: The workgroup conducted a comparison with jurisdictions currently implementing LEAD and further revealed assessment tools being used in Seattle. Additionally, the LEAD workgroup continues to meet to discuss the feasibility of replication of a LEAD model in San Francisco. The White House met to discuss LEAD on July 2, and three members of the commission attended the meeting: District Attorney Gascón, Theshia Naidoo, and Jeff Adachi.

Naidoo provided notes on the White House meeting. Naidoo stated that more than 20 jurisdictions from all over the country were represented, including five California cities; Senator Loni Hancock and Assemblymember Reggie Jones-Sawyer (budget committee chairs in their respective California state houses) also attended. Many members of the federal government, including representatives from the White House and the Department of Justice, also were there. Naidoo said that LEAD implementation is experiencing a lot of momentum and interest around the country. Evidence clearly shows that this program reduces recidivism, generates system-level savings, and has an impact on improving police-community relations. Since the meeting, Naidoo has met with Senator Hancock, who is very interested in seeing LEAD take root in California and wants to request funding for LEAD through the state budget in next year's budget cycle. If she's successful, Naidoo noted many of the people who have worked to create the conditions to adopt such a program would probably be able to obtain this funding.

District Attorney Gascón mentioned that he also talked to Senator Hancock and similarly found that she is very driven to make LEAD a statewide program. He also noted the importance of bringing research to the program and avoiding criticism of the program as a whole before ensuring it is following the research-proven formula.

Jerel McCrary provided an update on the Family Violence Council, which last met September 2, 2015. The council heard one significant report on truancy issues. Although the evidence is anecdotal and based on a small sample, the judges have noticed that a majority of truancy issues have been due to family violence issues. As a result, the council is further committed to improving responses to family violence. This year the council focused on six recommendations for 2016 that were adopted: (1) standardizing data collection protocol; (2) language access; (3) further training for best practices on responding to family violence, working toward being on the cutting edge of best practice throughout all city agencies; (4) improving police methods for looking into elder abuse issues; (5) adding three inspectors to the special victims unit, with one particularly for elder issues; and (6) an annual review of child abuse, domestic violence, and elder abuse. The next meeting is February 18, 2016, 2:00 to 5:00 p.m.

District Attorney Gascón opened the floor for questions.

Karen Royce provided an update on the Reentry Council, stating that the new *Getting Out and Staying Out* resource handbook is available. At their last meeting, the Reentry Council heard updates on all three justice strategies: (1) improving risk-based probation sentencing, (2) expanding pre-trial release, and (3) reducing racial and ethnic disparities in the city's criminal justice system. The data bridge between Sheriff's Department and Pre-Trial Release has been established and will help to increase flow between the two entities. The Reentry Council also heard from James Bell, executive director of the W. Haywood Burns Institute, who spoke about the necessity for San Francisco to improve research collection, while immediately implementing measures to reduce racial and ethnic disparities. The next meeting of the Reentry Council will be held December 8, 2015, 10:00 a.m. to noon at the Milton Marks Auditorium.

District Attorney Gascón opened the floor for questions and comments.

Anderson stated that the young adult criteria previously mentioned by Judge Chan will be available to the public on the Sentencing Commission website and mailed directly to Sentencing Commission members.

With no further questions or comments, District Attorney Gascón moved on to item 5.

5. Recidivism Workgroup Update and Proposed Next Steps (Discussion and Possible Action)

Anderson provided an update on the Recidivism Workgroup. The workgroup will provide a uniform definition for city departments to track and report outcomes on various criminal sentences and city programs meant to aid in reducing recidivism. The workgroup also is tasked with developing data standards, recidivism reporting standards, and developing and recommending department-specific goals that reduce recidivism for city departments.

Since the last meeting the workgroup has reviewed the state and funders' definition of recidivism and met to discuss the points of contact and feedback particularly around re-incarceration (a point discussed in the last meeting). The materials for this agenda item provide the three subsequent points of contact that the group is recommending. After giving the Sentencing Commission members a moment to review, Anderson explained that the workgroup discussed subsequent contact rather than recidivism because of each of the responsibilities departments have. There was interest and value in understanding arrest trends so that they can inform arrest and potential political strategies. However, Anderson explained that it would not necessarily be appropriate to define that point as recidivism alone. At this point the workgroup will move forward with protocols and strategy for how to go about regularly reporting out these strategies to the public.

Shamji added that arrests are one way to track racial and ethnic disparities.

District Attorney Gascón opened the floor for questions and comments. Seeing none, Gascón moved on to item 6.

6. Presentation on Data-Driven Approaches to the Challenges and Opportunities Confronting Criminal Justice Systems by Michael P. Jacobson, Executive Director, CUNY Institute for State and Local Governance (Discussion and Possible Action)

Michael Jacobson began by giving context around data-driven approaches. Jacobson stated that the criminal justice system does not make good use of research to inform practices and decisions. Even when research is used, a gap remains between what we know about the criminal justice system and what we do. For example, research has shown that college education in prison works. If the criminal justice system did what research points to, a college education would be available throughout the prison system. However, while research is necessary, Jacobson said research alone is not sufficient to drive policy change. For example, we know that the United States' incarceration rate is five times the international rate; however, historically, that knowledge has not been enough to drive real policy change to decrease the prison population.

The good news, said Jacobson, is that this is beginning to change. A huge amount of research is being conducted on mass incarceration, along with risk assessment instruments—which match risk to need. Risk assessment research informs the idea of not punishing low-level, low-risk offenders. Despite the growing amount of this research, some areas of research in criminal justice need attention. One of those is policing.

Jacobson discussed strategies that could push data-driven approaches forward. First, he noted the importance of training students to be active participants in government. Few governments have the capacity to get into data that are helpful in any way, as data is not a core issue for government. In an effort to make data an essential part of how government operates, we should alter current research processes, which would mean utilizing current resources differently.

Public universities have the capacity to serve as the foundation for this type of research. CUNY (City University of New York) is working to put together a research consortium that will bring to the table some of the best researchers in the country. When this is complete, government can bring their research needs to the consortium.

Jacobson stated that having a consortium may provide a sort of power and authority. As a result, the consortium may have the opportunity to raise different types of issues: issues that often are not discussed in government. The consortium will be able to raise questions like: What are the real outcomes? How do the outcomes differ in race and ethnicity? For example, Jacobson said, CUNY investigated the impact of race at the Prosecutor's Office in Milwaukee. Going into it, Jacobson told the office that the results would not be "all good" because results are never "all good." This is not necessarily because people in the Milwaukee office are racist, he said, but because implicit bias comes into play. In response, a prosecutor said, "I've spent time training my team not to be swayed by bias, but if you come in and say everything's okay, you're incompetent." As it turned out, a large number of arrests in Milwaukee are for drug paraphernalia; upon controlling for race, there was a major impact. When the prosecutor received the results, he made full-scale changes immediately.

Jacobson said that even in the best cases, tension exists in this research process—a good tension that needs to be continuously challenged in order to be transparent. This tension takes a certain kind of commitment and the staff willing to make that commitment.

Jacobson went on to explain the data processes CUNY uses. The institute builds indicator systems that track over time. Currently, there is one such system—on inequality in New York City—for which CUNY is receiving data from a whole host of agencies. This data will be live on the CUNY website. This type of project provides the capacity to do things government does not, but universities can. It is complicated and requires capacity on both ends, as well as a willingness for agencies and elected officials to give up some control.

Jacobson concluded by acknowledging the privilege of his position in discussing the tension of relinquishing control to researchers and opened up the floor for questions.

Sheriff Frederico Rocha stated that he noticed the indicators being sought do not include information from prosecutors and the police department. He asked whether Jacobson thought the research would be more accurate if it included this information.

Jacobson agreed with Sherriff Rocha, explaining that the systems do not capture this information often because they cannot or because people do not want them to. He went on to say that this is why certain people get certain plea offers. Some people might say that this is because of an important backstory, but especially in a county context when you are talking about jail (how people flow into jail or how long people stay in jail), this type of research is “all in the muck and the weeds.”

Sherriff Rocha asked Jacobson for the website he mentioned earlier, on which the CUNY information is published. Jacobson responded that it is through the Vera Institute of Justice website.

Shamji said she thought Sheriff Rocha raised a good point. The Office of the District Attorney partnered to have the department researched as far as outcomes and bias, specifically focusing on the race of the defender. She stated that she sees it as highly important for agencies to take that internal look and then make that information, whether good or bad, public.

Jacobson agreed with Shamji in the importance of having the ability to see what is going well and what needs work, then beginning to do the work that needs to be done—as challenging as this might be.

Roye thanked Jacobson for his presentation, saying she appreciated the opportunity to understand the CUNY system as a way to utilize data analysis and give up control in order to have a product that emphasizes places in need of growth. Roye asked Jacobson to speak on timing and delivering research materials, including the process of gathering the right people to do this work.

Jacobson responded that the process being used for the Mayor’s Office, for example, will be rapid because of the funding they are receiving. It will take six to eight months to set up this research consortium and complete the internal process to choose researchers. To run cost-benefit analysis takes another six to nine months. After that the process consists of the city coming to the researchers and pinpointing what exactly they want. This process is very rapid and can have a turnover as fast as 48 hours once it is sent to the consortium. It takes a certain kind of capacity to do this, but once the groundwork is done it will be very fast.

District Attorney Gascón opened the floor for additional questions and comments. Seeing none, District Attorney Gascón moved on to item 7.

7. Presentation on the Justice Information Tracking System (JUSTIS) by Matthew Podolin (Discussion and Possible Action)

District Attorney Gascón began with a personal anecdote to emphasize the importance of the Justice Tracking Information System (JUS.T.I.S.). Gascón explained that issues with the current data have existed since he first became the Chief of the Police. The same frustrations he experienced then are still being experienced now.

Matthew Podolin began his presentation by giving the historical background to JUS.T.I.S. In the mid-1970s, San Francisco launched the Court Management System (CMS). This was the mainframe base system that, despite its name, served more than the courts—it was the case management system for all criminal justice entities, allowing agencies to share information on one common platform. This system is still in place today and is the common source of record for the city of San Francisco. Since the 1970s,

individual departments have gone out and purchased their own case management software. However, that software has been connected, for the most part, back to the CMS system.

The JUS.T.I.S. project's purpose is to build a new justice hub that will be connected to all the criminal justice agencies and replace the CMS system. The JUS.T.I.S. hub is up and connected to a number of departments. For example, when someone is booked at the Sheriff's Department, that data flows from their system to the JUS.T.I.S. hub. It has to go back to the CMS system because it is still the data system of record, and then the data goes back up and out and is shared with the District Attorney and other members of the criminal justice community. Because of this process, all of these departments have moved away from CMS with the exception of the court.

The court is the last department that is still using CMS as their primary case management system. The court is going live with a new case management system in April 2016; when this occurs the court will be integrated directly with the JUS.T.I.S. hub and will no longer feed data into CMS. At that point CMS can be decommissioned and all data can move to the more modern, flexible system of the JUS.T.I.S. hub. Right now, the JUS.T.I.S. team is working on the process to support this decommissioning effort and support the JUSTIS hub.

Podolin shared some of the successes of the JUS.T.I.S. program, highlighting the capabilities of the JUS.T.I.S. hub in sharing data and adding additional capabilities. Recently, Podolin stated, a probation hold notification tool was built: Now, when someone is booked into custody, if he or she should have a probation hold and not be allowed to bail out, the system sends an immediate response sub-second to notify the Sheriff's Department that this person should not be released. Previously, a slower manual system was used where a person might have been allowed to bail out when they had a probation hold. A booking and release notification tool also was set up: Now when someone is booked or released from custody, a District Attorney, for example, can set up the system in order to be alerted immediately. Other updates include that the JUS.T.I.S. hub is now receiving police incident data and is connected to the Public Defender's case management system.

One thing the JUS.T.I.S. team will be doing is building a web-based platform for transactions in the JUS.T.I.S. hub. The data has been constrained by CMS as to what it looks like. Upon moving to the JUS.T.I.S. hub, data will be much more robust. However, immediately upon decommissioning data will be coming from CMS, so the data will not be flexible right away.

This decommissioning effort is the primary goal of the JUS.T.I.S. team. They want to ensure the court can get away from CMS and complete this major part of the project. Updates toward this goal include newly purchased equipment, a more centralized production location, improved relationships with the Sheriff's Office to receive bail information so that it can be moved (a key transaction), and the building of a rapid bi-directional interface with the District Attorney's Office. Much reporting has been built into CMS, and JUS.T.I.S. is working to continue the replicating of data once CMS is no longer live.

Shamji asked what will happen to the historical data once CMS is decommissioned.

Podolin answered that a copy of that data will be stored in the JUS.T.I.S. hub.

McCrary asked what the role of the Civil Court will be in this process.

Podolin answered that the details of this are currently uncertain as some of that information comes through the interface through different systems, so it is not limited to CMS.

A member of the public asked if the JUS.T.I.S. hub will receive information from CMS about bench warrants.

Podolin answered that some of that data is currently being received by the JUS.T.I.S. hub, including some non-felony and misdemeanor data. However, they are just now engaging with the court about this data and their replacement of CMS.

A member of the public asked if Juvenile Probation will be part of the JUS.T.I.S. hub.

Podolin answered that Juvenile Probation is not part of this initial phase, but they are undergoing their own upgrade and JUS.T.I.S. will be talking to them in later phases.

Roye (filling in for District Attorney Gascón) asked Podolin to speak a little on training for these systems.

Podolin explained that with transactions being replaced, there will be some trainings to switch staff to run the CMS transaction to JUS.T.I.S. hub transaction. The JUS.T.I.S. team is being mindful of trying to make the trainings similar to CMS, while increasing capabilities for the data.

Roye followed up by asking Podolin to discuss these changes with departments so that they can build it out in their budgets.

Roye asked if there were any additional questions or comments, and seeing none moved on to item 8.

8. Members' Comments, Questions, and Requests for Future Agenda Items

Roye asked if any members would like to add future agenda items. Seeing none, Roye went on to item 9.

9. Public Comment on Any Item Listed Above, as Well as Items Not Listed on the Agenda

No comment was raised.

10. Adjournment

Shamji moved to adjourn the meeting at 12:00 p.m.; Commander Moser seconded. Meeting adjourned.

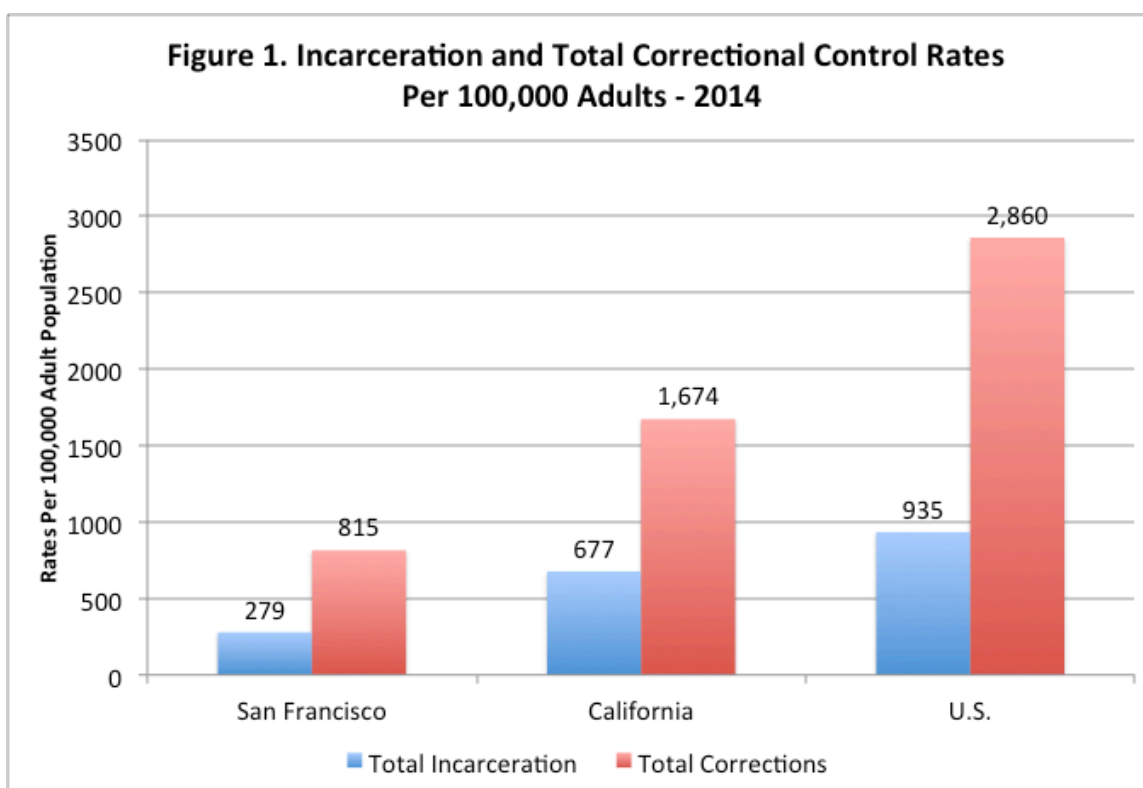
JFA Institute

Conducting Justice and Corrections Research for Effective Policy Making

Eliminating Mass Incarceration:

How San Francisco Did It

James Austin
JFA Institute



Major Findings

1. Since 2009, California has reduced the size of number of people in prison, jail, felony probation and parole by nearly 150,000. As the same time, the state's crime rate has dramatically declined and is now lower than what was in 1960.
2. San Francisco City and County has been reducing its jail and prison populations at a pace that far exceeds the state and national rates. Its current jail and prison rate of incarceration is 279 per 100,000 population – less than 1/2th the rate for California and less than 1/3rd the national rate.
3. If the rest of the country could match San Francisco's rates, the number of individuals under correctional supervision would plummet from 7 million to 2 million. The nation's 2.3 million prison and jail populations would decline to below 700,000 and "mass incarceration" would be eliminated.
4. There are a number of recent reforms that have been implemented since 2009 that have allowed these reductions in San Francisco's correctional populations. The County took full advantage of two key legislative reforms (SB 678 and Realignment) and more recently Prop 47 to launch the following initiatives:
 - San Francisco Reentry Council;
 - California Risk Assessment Project;
 - Community Corrections Partnership (CCP) and Community Corrections Partnership Executive Committee (CCPEC);
 - San Francisco Sentencing Commission;
 - Justice Re-investment Initiative;
 - Probation Standardized Risk and Needs Assessment;
 - Enhanced Services;
 - Jail Re-entry Pod;
 - Community Assessment and Services Center (CASC); and,
 - A New Approach to Drug Offenses.
5. As declines in the correctional populations have been in occurring in San Francisco, its crime rate has also been declining to historic low levels. Juvenile arrests have dropped by over 60%.

Acknowledgments

A number of people contributed to the production of this report. First and foremost I would like to thank Wendy Still, the former Chief Probation Officer of San Francisco who provided access to her staff and data needed for this report. Leah Rothstein, the Research Director for the Adult Probation Department provided a considerable amount of data and background information on the adult probation population and program initiatives implemented by the department over the past few years.

George Gascón, the former Chief of Police and current District Attorney for San Francisco also provided considerable access to his staff and their data. Maria McKee, who is the Principal Analyst in the Crime Strategies Unit, was especially helpful on providing historical San Francisco court, crime and arrest data.

Trends in Crime and Punishment

Much has been written in recent years about the need to reform our approach to how we respond to crime. In particular, the term “mass incarceration” has become part of the mandate for criminal justice reformers. After three decades of a continual increase in the use of imprisonment (both local jails and state prison), there is now a new direction toward less imprisonment. But talk is cheap and there are few if any examples where incarceration rates have been significantly reduced.

Fueling the incarceration reduction argument is the significant decline in the crime rate and the public’s fear of crime. With crime rates at their lowest rates since the 1960s, when the incarceration rate was 1/4th of what it is today, it can be argued that our “war on crime” is over and we can now lower our prison and jail populations.

Countering the argument to lower incarceration rates is the claim that the decline in crime rates is mostly explained by the massive increase in imprisonment. But such a position ignores the well-established body of science that other non-incarceration factors that have a far larger impact on crime rates – especially demographics. Most studies have concluded that while some percentage of the crime rate decline is due to increases in the use of imprisonment, other factors have a greater role in the crime rate decline.

The most recent analysis by the Brennan Justice Center found that state incarceration was responsible for as much as 10% of the drop in crime rates between 1990 and 2000. Since then it has had virtually no impact on crime rates.¹ Other factors that the Brennan Center and other studies found to have had an impact were aging population, decreased alcohol consumption, decreased unemployment, and increased hiring of police officers. And there are other demographic related factors are also likely to be suppressing crime rates.

Two of the strongest correlates of crime rates are gender and age – younger males especially those between the ages of 15 and 24 have high rates of arrests.² The

¹ Roeder, Oliver, Lauren Brook-Eisen, and Julia Bowling. February 2015. *What Caused the Crime to Decline?* New York, NY: University School of Law, Brennan Center for Justice.

² Levitt, Steven D. *The Limited Role of Changing Age Structure in Explaining Aggregate Crime Rates*, 37 *Criminology* 581, 583 (1999) (crime offending age peaks between about 15-24, then declines thereafter); Patsy Klaus & Callie Marie Rennison, Bureau of Justice Statistics, *Age Patterns in Violent Victimization, 1976–2000* 1 (2002), available at <http://www.bjs.gov/content/pub/pdf/apvv00.pdf> (showing victimization rates similarly high for age groups between 12 to 24).

proportion of males in this age group has been declining. So too have the size of households, teenage pregnancies and birth rates.³

It is not just the prison population that has increased nationally. As shown in Table 1, all forms of correctional supervision have grown since 1980, although prisons have grown the fastest. By 2014, the total number of people under some form of correctional supervision reached 7 million. This computes to a national rate of “total correctional control and supervision” of 2,860 per 100,000 adult population. This means that one in 34 adults in the United States in 2014 were either on probation or parole, or, are incarcerated in local jails, state and federal prisons.

Table 1. Adult Correctional Populations 1980 versus 2014

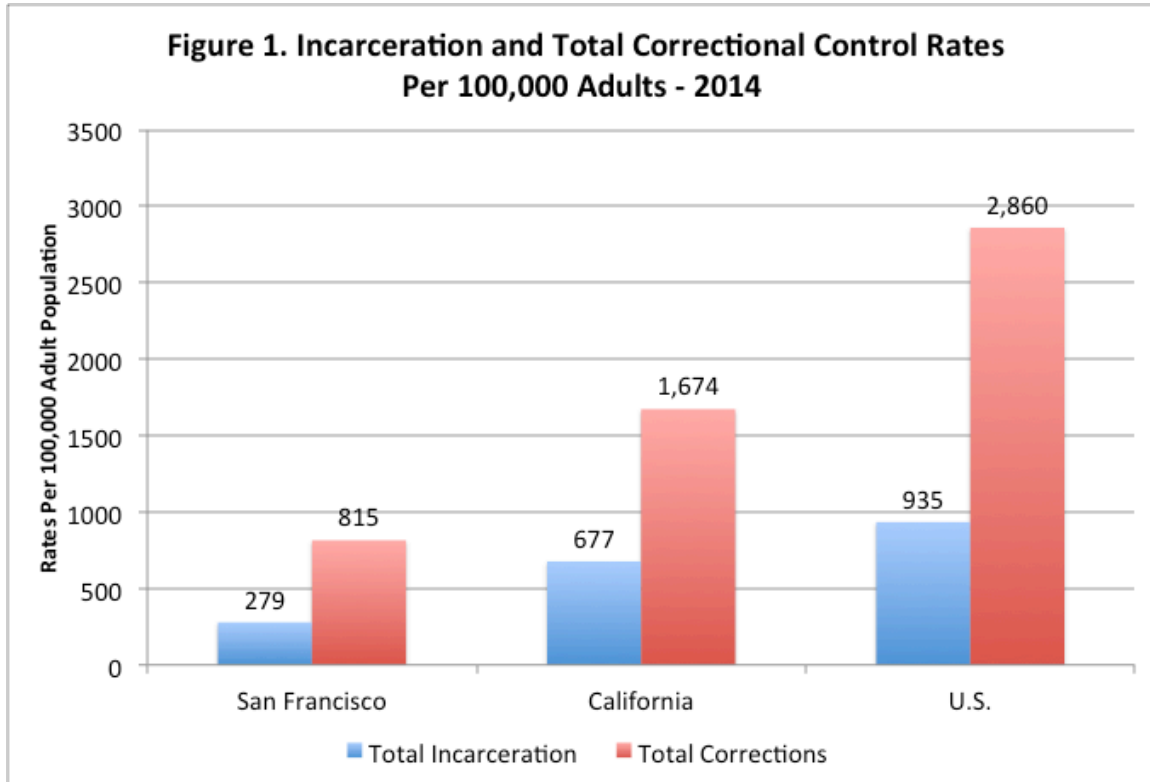
Population	1980	2014	% Change
Prisons	319,598	1,561,525	389%
Probation	1,118,097	3,864,114	246%
Parole	220,438	856,872	289%
Jails	182,288	731,200	301%
Total Corrections	1,840,421	7,013,711	281%
Rate Per 100,000 Adults	1,129	2,860	153%
US Population	227 million	319 million	40%
Adults 18 years & over	163 million	245 million	50%
Males Age 15-24	21 million	22 million	5%
% of Population	9%	7%	-22%
Median Age	30.0 years	37.6 years	25%
Reported Crimes	13.4 million	9.5 million	-29%
Crime Rate per 100,000	5,858	2,972	-49%

Sources: Bureau of Justice Statistics, September and November 2015, UCR, 2015, and U.S. Census, 1980 and 2014. Jail population is for 2013.

By contrast San Francisco City and County in the same year had a total correctional supervision rate of only 815 per 100,000 adult population – less than 1/3rd the national rate. Its jail and prison rate of incarceration was 279 per 100,000 population – less than 1/2th the rate for California and less than 1/3rd the national rate (Figure 1).

If the rest of the country could match San Francisco’s rate, the number of individuals under correctional supervision would plummet from 7 million to 2 million. The 2.3 million prison and jail populations would decline to below 700,000 and “mass incarceration” would be eliminated.

³ Hamilton, Brady E. and Stephanie J. Ventura. “Birth Rates for U.S. Teenagers Reach Historic Lows for All Age and Ethnic Groups”, NCHS Data Brief, No. 89, April 2012



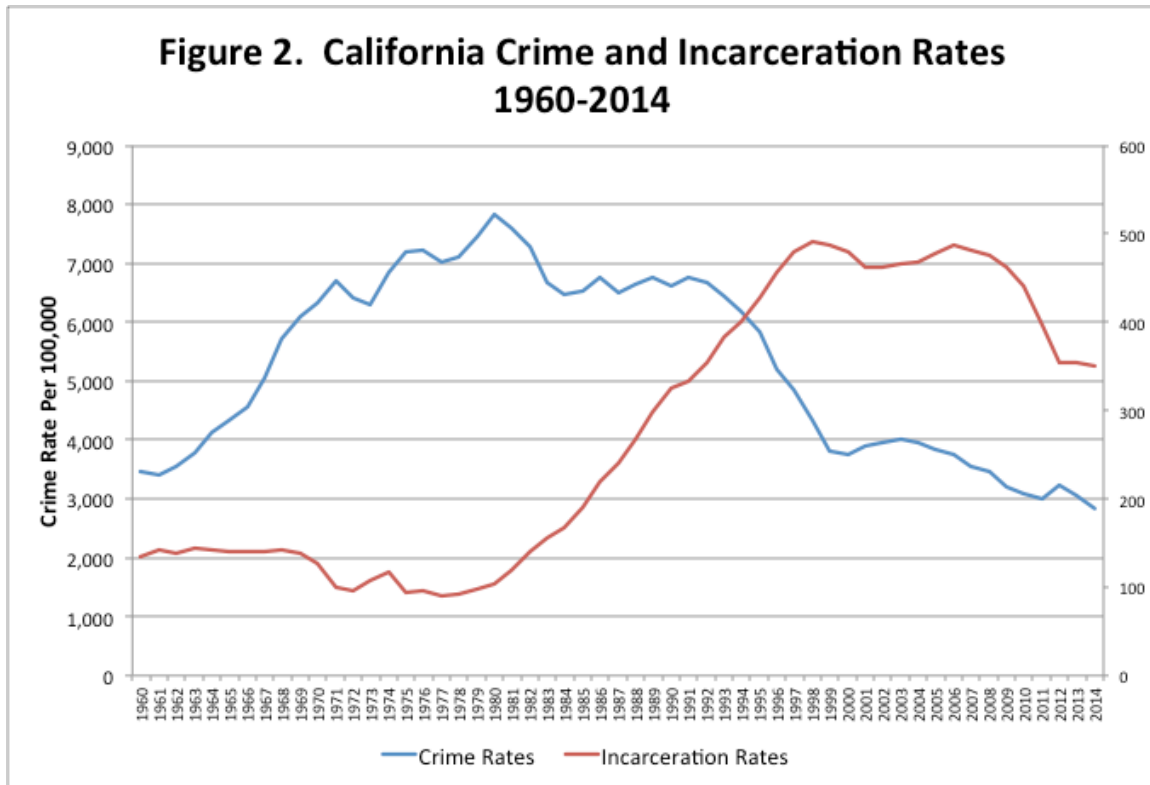
These low rates of incarceration and correctional supervision were achieved over a numbers years due to both legislative and administrative initiatives. As will be shown below, the jail and prison populations San Francisco (and elsewhere) continue to decline in the wake of Proposition 47, which reduced drug-possession and five other non-violent felonies to misdemeanors. How San Francisco was able to do what few other jurisdictions have to end mass incarceration, and to do so without evidence of increasing crime, is the subject of this report.

Crime and Punishment in California

There have been significant changes in California's crime rates and the use of imprisonment. Beginning in the early 1960s, California's crime rate began to steadily increase reaching a peak rate of approximately 8,000 per 100,000 population in 1980. The rate of state imprisonment also expressed as a rate per 100,000 was fairly stable at the 100 level, did not begin to increase until 1980 and reached a peak in 1998 at nearly 500 per 100,000 population.

Beginning in the mid 1980s, California's crime rate began a dramatic decline reaching a historic low of 2,837 per 100,000 in 2014. Conversely, the incarceration rate did not begin to decline until after 2009. This decline only occurred as a result

of the intervention of the Three Judge Federal Court, Prop 47 and two key pieces of legislation (SB 678 and AB 109).



Significantly, crime rates have continued to decline as the prison population has declined from 175,512 to a current low of 127,947 prisoners. There have similar declines in other forms of correctional supervision. Since 2007 there has been an overall reduction of nearly 150,000 people who are no longer in prisons, jail, probation or parole on any given days. A large proportion of the decline occurred in the state parole population which occurred as part of the Realignment legislation. (Table 3).

Despite this historic progress in lowering the size of California's correctional and system as well as its prison population, its incarceration rate remains three times higher than what it was in the 1960s when its crime rate was even higher than it is today. Nonetheless, there are several counties like San Francisco that have significantly lower rates of state imprisonment and other forms of correctional supervision.⁴

⁴ Another Bay Area county with very rates of imprisonment and other forms of correctional supervision is Contra Costa County. See Austin, James and Robin Allen. 2013. *Contra Costa County: A Model for Managing Local Corrections*. Washington, DC: The JFA Institute.

**Table 2. Changes in California Correctional Populations
2007-2015**

Year	CDCR	Pretrial Jail	Sent Jail	Total Jail	Total Inmates	Parole	Felony Probation	Grand Totals
2007	173,312	56,571	26,613	83,184	256,496	126,330	269,384	652,210
2008	171,085	56,232	26,165	82,397	253,482	125,097	269,023	647,602
2009	168,830	54,589	26,277	80,866	249,696	111,202	266,249	627,147
2010	162,821	52,059	21,386	73,445	236,266	105,117	255,006	596,389
2011	160,774	50,397	20,896	71,293	232,067	102,332	247,770	582,169
2012	133,768	50,309	29,827	80,136	213,904	69,453	249,173	532,530
2013	132,911	51,400	30,619	82,019	214,930	46,742	254,106	515,778
2014	134,433	51,544	31,352	82,527	216,960	44,792	244,122	505,874
2015	127,947	45,580	27,465	72,894	200,841	NA	NA	NA
Change	-45,365	-10,991	852	-10,290	-55,655	-81,538	-15,278	-146,336

Sources: CDCR, BSCC, and California Attorney General

Key Criminal Justice Reforms in San Francisco

San Francisco City and County has traditionally been a center for progressive criminal justice reform. For several decades the rate at which people were convicted and sentenced to state prison has been among the lowest among California's counties. As shown in Figure 3, the number of people sentenced to state prison has dropped dramatically since 1992 (from nearly 3,000 per year to under 250 per year)

Even prior to state level initiatives that began in 2009, San Francisco's criminal justice leadership had begun reform efforts in 2005 when it established two ad-hoc re-entry councils (Safe Communities Re-entry Council and the San Francisco Re-Entry Council). Both councils were later unified and formed the Re-entry Council of San Francisco in 2008 that focused on the risk factors and service needs of people being released from the County Jail, state prison and federal prison. This early work helped pave the way to maximize the potential effects of three major state initiatives that provided funding and judicial discretion to modify traditional criminal justice practices.



Source: San Francisco Superior Court

State Level Initiatives.

Since 2009, California has implemented three statewide reforms that collectively have had a major impact on reducing the state's correctional populations. These three initiatives provided new discretionary authority and resources to manage offenders who previously were being sent to California's badly crowded and unconstitutional prison system.

1. SB678 – Community Corrections Performance Incentive Act

The initial reform was the passage in 2009 of SB678 also known as the Adult Probation Community Corrections Performance Incentive Act. Like the other economic models, SB 678 rewarded counties that used probation in lieu of a state prison sentence. In this case the target were probation violators who were being sent to prison due to a technical violation(s).

Economic incentives were created to award counties that lowered their commitments to state prison for technical probation violations. California's Department of Finance (DOF) determined probation failure rates to see how much a county should be financially rewarded each year. A baseline rate was established for

each county by the DOF using revocations sent to state prison divided by the average probation population. Counties whose failure rates are below the 2006-2008 baseline rate are eligible for a performance incentive grant. A marginal cost savings number of approximately \$29,000 is used to calculate the state savings from reduced prison revocations. Counties with failure rates that are more than 50 percent below the statewide average are also eligible for a high-performance grant.

The most recent report from the California Administrative Office of the Courts claims that the legislation has succeeded in diverting a sufficient number of probation violators that has averted a prison population of 9,500 inmates. Using a marginal cost factor, the total statewide estimated savings to the state per year is \$278 million.⁵

2. AB109 - Realignment

The next major reform was Public Safety Realignment (AB109) that took effect on October 1, 2011. AB109, which shifted responsibility for people convicted of certain non-serious, nonviolent or non-sex felony offenses from state prisons and parole to county jail and probation, was designed, in part, to reduce the state prison population to meet the 137.5 percent of design capacity as ordered by the Three-Judge Court and affirmed by the U.S. Supreme Court by June 27, 2013. The original estimates of the likely impact of AB 109 showed the legislation would reduce the state prison population by over 40,000 inmates allowing the CDCR to reach compliance with federal court order.⁶ As such it was the key component to resolving the on-going litigation in the consolidated *Coleman, Plato v. Brown* cases.⁷

The immediate fear among counties was that 40,000 state prisoners would swamp their county jails. As an effort to temper the effect on local jails, the legislation provided local judges to “split” the sentences of the AB109 inmates so that the impact on local jail populations could be tempered. This provision of Section 1170(h) of the Penal Code, allows the Court to determine if a person will serve their full sentence in jail with no post-release supervision or to “split” the sentence between jail custody and a separate period of Mandatory Supervision (MS).

There are other aspects of the law that impact community supervision. Inmates currently imprisoned in the CDCR as of October 1, 2011 and who were convicted of “non-serious, non-violent, or non-high-risk sex offenses” (regardless of prior convictions) prior to realignment would be supervised by county probation departments upon their release from state prison. This population, known as Post-

⁵ Administrative Office of the Courts, July 2012. *SB 678 Year 2 Report: Implementation of the California Community Corrections Performance Incentives Act of 2009*. San Francisco, CA: Administrative Office of the Courts, Criminal Justice Court Services Office

⁶ California Department of Corrections and Rehabilitation. 2011. *Fall 2011 Adult Population Projections*. Sacramento, CA: CDCR.

⁷ *Brown v. Plata*, 131 S. Ct. 1910, 1947 (2011).

Release Community Supervision (PRCS), was formerly supervised by state parole officers.

3. Proposition 47 – Converting Wobblers to Misdemeanor Level Crimes

Unlike the two previous reforms, Proposition 47 was a ballot initiative that was voted in by the public in the 2014 statewide election. Its primary intent was to redefine seven offenses that had been labeled as “wobblers” as misdemeanors. There are several hundred crimes in the California penal code that are called wobblers, meaning that the prosecutor has the choice of prosecuting the defendant as either a felony or misdemeanor. By charging the defendant with a felony, the court can sentence the person to state prison or felony probation. People charged with felonies also have a reduced likelihood of being cited by police when arrested or being released on pretrial status.

The seven crimes that were redefined as misdemeanors were as follows:

- Shoplifting, where the value of property stolen does not exceed \$950;
- Grand theft, where the value of the stolen property does not exceed \$950;
- Receiving stolen property, where the value of the property does not exceed \$950;
- Forgery, where the value of forged check, bond or bill does not exceed \$950;
- Fraud, where the value of the fraudulent check, draft or order does not exceed \$950;
- Writing a bad check, where the value of the check does not exceed \$950, and
- Personal use of most illegal drugs.

Prior to its passage, it was projected that Prop 47 would reduce the state prison population by approximately 6,000 inmates and lower the state’s jail populations by as much as 10%. What was not acknowledged is that the new law would also lower felony probation caseloads.

Since its passage, there already are early indications that it is having its intended effects. The CDCR prison population has already declined by nearly 8,000 inmates which has allowed the state to meet the population cap ordered by the 3-Judge Panel. The Bureau of State and Community Corrections’ (BSCC) jail survey shows that since Prop 47 passed, the county jail population has declined by 10,000. Several counties have reported declines in their probation populations as well but the long-term effects remain unknown.

Administrative Reforms that Facilitated the Impact of State Level Reforms

It is important to note that SB678 and AB109 offered discretion to each county to take full advantage of the opportunities embedded in the laws to exploit the financial incentives that were being offered. In SB678 a county was not required to

lower its probation violation numbers. Under AB109 county judges were not required to offer split sentences to locally sentenced felons. Proposition 47 offered no such discretion, but counties could launch administrative reforms that would accommodate the number of people now being detained or sentenced for misdemeanor crimes.

Not only did San Francisco take full advantage of the tools provided by these three State Level Reforms to reduce its correctional population, in some cases, the City and County's administrative reforms preceded the State's.

Additional funding provided by the state via SB678 and AB109 could be used implement two critical components of community-base supervision system – 1) risk and needs assessment and 2) effective service delivery systems. If properly deployed both of these components would serve to diminish the effects of fewer people being sent to prison and larger numbers being supervised in the community. What follows is a summary of the San Francisco the county implemented a number of “best practices” improve local criminal justice practices.⁸

a) Leadership and Coordination

Clearly, reform of the magnitude accomplished in San Francisco required the support of the major criminal justice administrators. This was accomplished by the formation of a number of key committees and working groups that shared the overall mission of reducing the use of state and local incarceration while increasing the level of offender supervision and services. Some of the key policy groups that were formed are listed below.

San Francisco Reentry Council

As noted earlier, in 2008, San Francisco unified two ad-hoc reentry councils with the formal creation of Reentry Council for the City and County of San Francisco. The purpose of the Council is to coordinate local efforts to support adults exiting San Francisco County Jail, San Francisco juvenile justice system out-of-home placements, the California Department of Corrections and Rehabilitation facilities, and the United States Federal Bureau of Prison facilities. The Council has served as a venue to advocate for evidence-based criminal justice reform.

California Risk Assessment Project

Beginning in 2009 the Administrative Office of the Courts (AOC) and the Chief Probation Officers of California began working in San Francisco and three other counties (Napa, Santa Cruz and Yolo) to implement evidence based risk and

⁸ On January 1, 2010, Wendy Still, a former executive with the California Department of Corrections and Rehabilitation, assumed the position of Chief Probation Officer for the San Francisco Adult Probation Department (APD). She and her APD colleagues quickly launched many of the major administrative reforms described in this report.

needs assessment systems. Known as the California Risk Assessment Pilot Project (CalRAPP), it required that each county form a work group that consisted of members from the Superior Court, probation department, public defender, and the district attorney, and other justice system partners.

Community Corrections Partnership (CCP) and Community Corrections Partnership Executive Committee (CCPEC)

Both of these two committees were required as part of SB678, AB109 and AB117 for the purpose of ensuring that each county receiving state funds to divert people from state prison were developing and executing plans on how best to allocate those funds. In San Francisco, formal plans were developed and approved by the Board of Supervisors and then forwarded to the state for its review approval.

San Francisco Sentencing Commission

Unique to San Francisco was the creation of its own sentencing commission in 2013. The Commission is chaired by the District Attorney and is charged with the development criminal sentencing policies that will “reduce recidivism, prioritize public safety and victim protection, emphasize fairness, employ evidence-based best practices, and efficiently use San Francisco’s criminal justice resources”. It also analyzing sentencing trends and makes recommendations for altering current court practices.

Justice Re-investment Initiative

In 2011, San Francisco was selected to participate with two other jurisdictions (Santa Cruz, and New York City), in the U.S. Department of Justice’s Local Justice Re-investment pilot program. Consultants retained by the DOJ’s Bureau of conducted a comprehensive analysis of the County’s criminal justice process from arrest through release from the local jail and probation.

b) Standardized Risk and Needs Assessment

One of the essential components of a “best practice” system is the use of a standardized reliable and validated risk instrument. Such a system is essential for ensuring that people with the highest risk to recidivate received the highest levels of supervision and services. Conversely those with the lowest risk and needs would receive minimal supervision and services.

To meet that objective, the Adult Probation Department (APD) first adopted a risk and needs system in 2009 that was developed by the National Council on Crime and Delinquency (NCCD). Known as the Correctional Assessment and Intervention System (CAIS), this system is a well-known and established for its use with adult probationers and parolees.

In 2010, the ADP decided to adopt the COMPAS risk and needs system that is also a well established system that has been validated in a number of jurisdictions. The

CDCR uses the COMPAS so continuity with the state prison risk system would be a positive change. By 2011 the entire ADP was using the COMPAS.

As the COMPAS risk and needs assessment system was implemented, the ADP turn its attention to establishing standardized treatment plans for each person under supervision. The COMPAS system produces an automated treatment plan that is consisted with the risk and needs data. All of the COMPAS data (risk, needs and treatment plan) were then integrated results into Pre Sentence Investigation report.

c) Enhanced Services

There have been a number of innovative services that have been implemented by the City since 2010. Collectively all of them have served to enhance both the level of supervision and services by better coordination and additional funding. What follows are brief listings of some of these new and innovative services:

Jail Re-entry Pod

This is a 56 bed unit within the County Jail that houses inmates who will be released to either mandatory supervision, PRCS, or is a probation violator who has been assessed as medium to high risk. The concept is to better prepare these people for their return to the community by coordinating contacts with community service providers prior to release.

Community Assessment and Services Center (CASC)

The CASC was established in June 2013 as a one stop service center for people under the supervision of the probation department. At the CASC probationers can get information and referrals to a wide variety of service providers.

d) A New Approach to Drug Offenses

External to these administrative reforms was the abrupt emergence of a major scandal within the San Francisco Police Department that had an immediate and long-term impact on law enforcement's response to drug crimes. The scandal emerged in 2010 when a veteran lab technician (Deborah Madden) was caught stealing cocaine from the lab. Thereafter, close to one thousand pending and recent drug prosecutions and convictions were dismissed and vacated. The SFPD drug lab stopped testing narcotics for more than a year; instead, seized drugs were sent to other counties' drug labs, which slowed down any new prosecutions.

One year later, two of SFPD's plainclothes narcotics units -- by far the most prolific and productive on the force in terms of drug arrests -- were caught on video conducting illegal searches and stealing. All of SFPD's narcotics units were immediately disbanded, many officers were benched, and hundreds of pending cases were dismissed.

As will be shown in the next section, these two unanticipated events greatly reduced felony arrests and court filings for drug crimes. In another jurisdiction, business may have returned to normal, but then Police Chief George Gascón (who is now the District Attorney), and the current Police Chief Greg Suhr have refocused law enforcement resources on violent versus drug crimes.

Impact on Correctional Populations

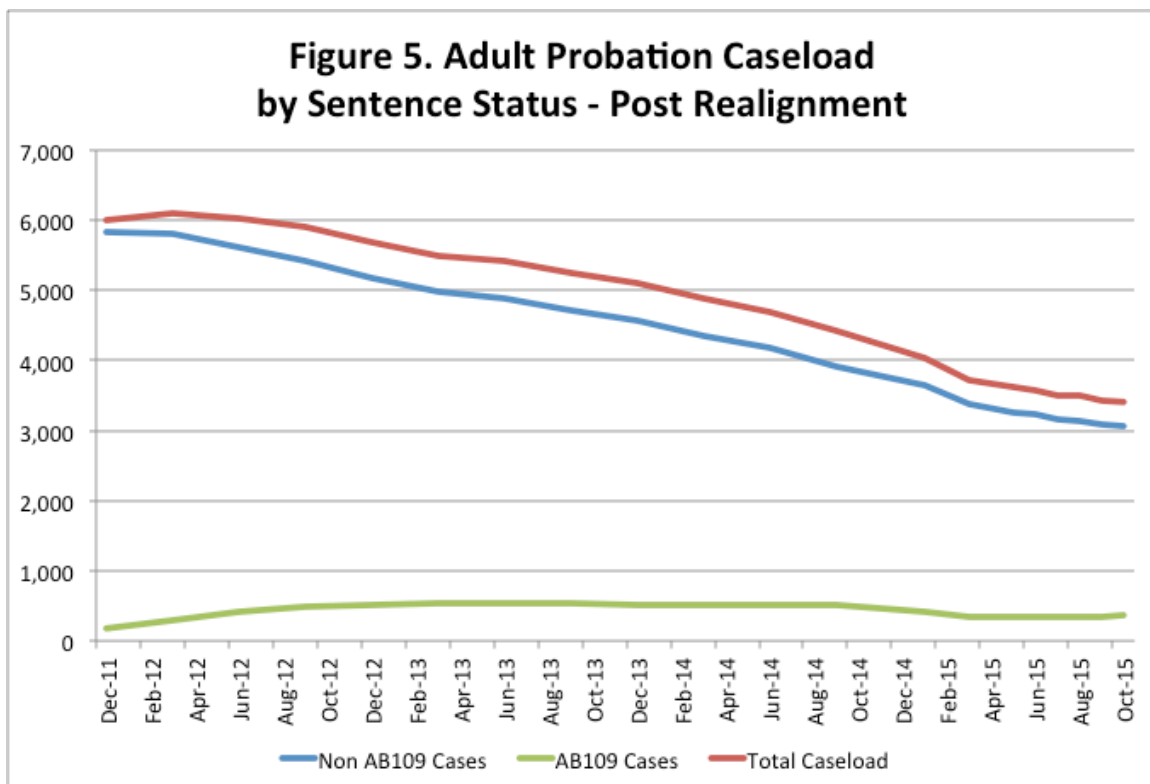
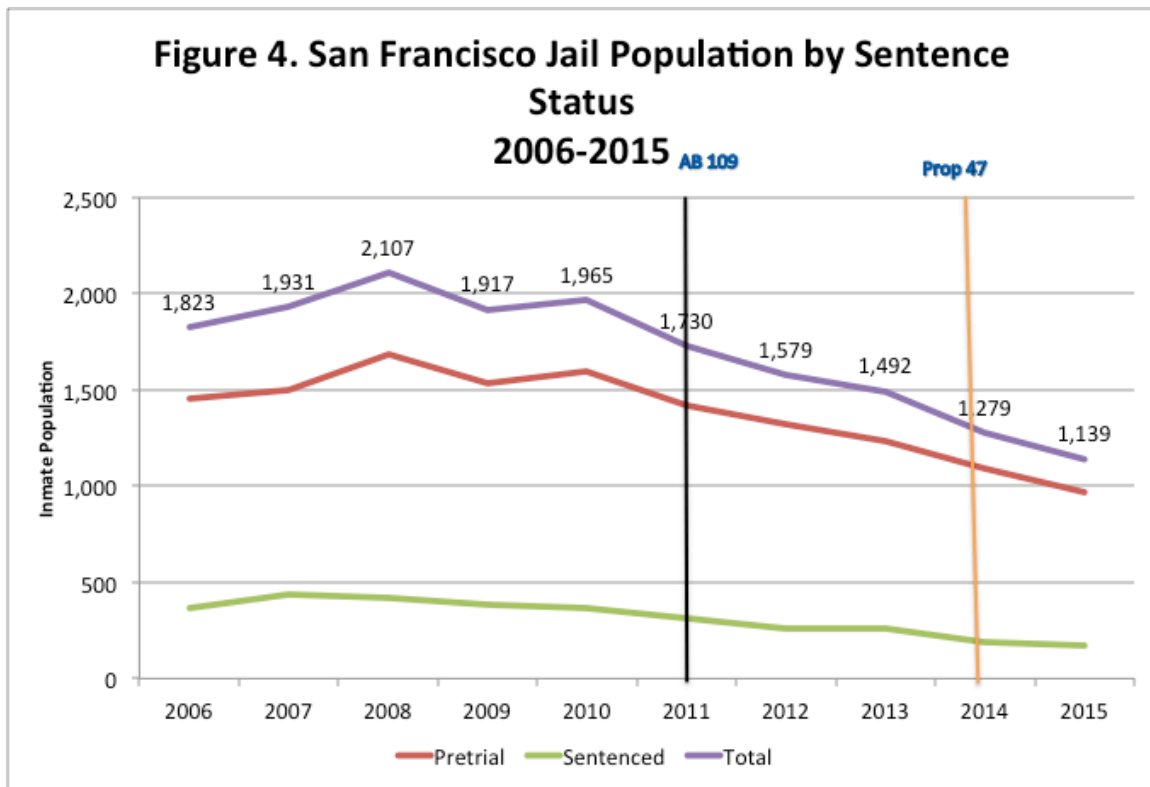
The culminative effects of these statewide and administrative reforms on the correctional populations for San Francisco have been dramatic. The year 2007 marked the highpoint for the state level correctional populations of state prison, jail and probation. Since then there has been a 24% decline in the total correctional system with most of the declines occurring in the state prison (excluding the AB109 sentenced inmates) and state parole populations (Table 3).

Table 3. Adult Correctional Populations 2007 versus 2015

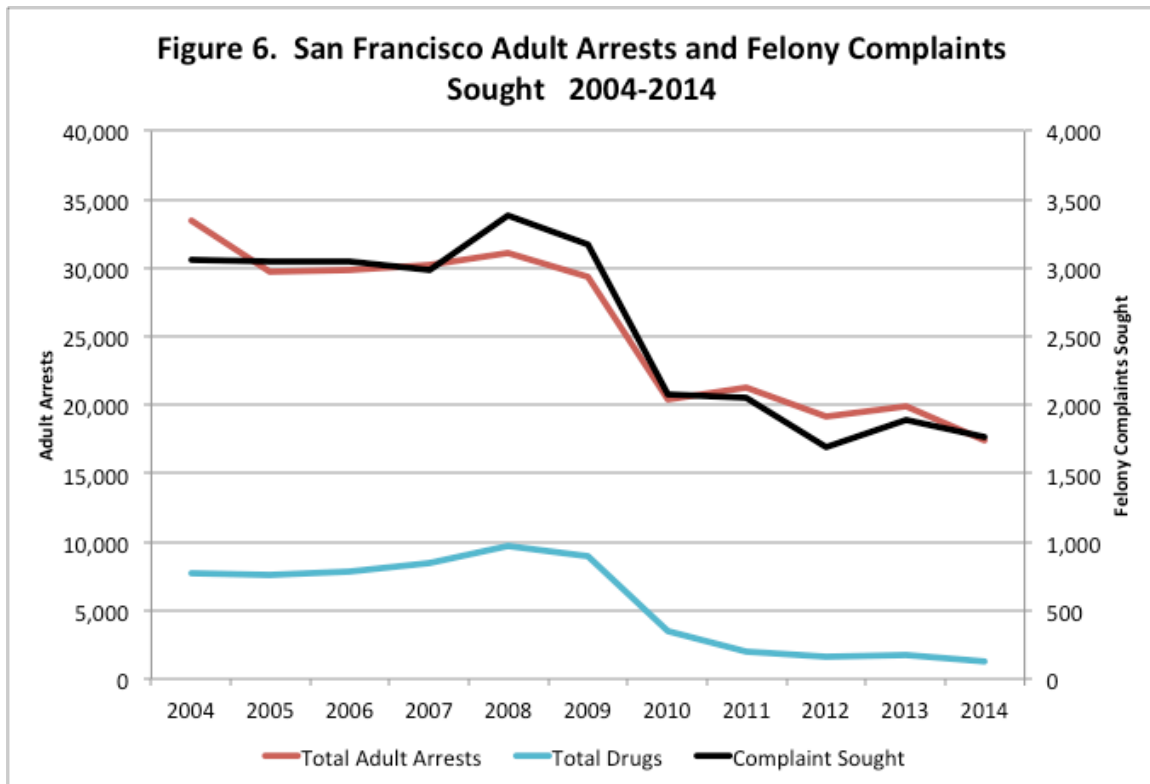
Indicator	2007	2015	% Decline
Prison			
California	171,987	127,947	-26%
San Francisco	1,667	921	-45%
Jails			
California	82,662	72,894	-12%
San Francisco	2,025	1,138	-44%
Adult Felony Probation- 2014			
California	269,023	244,122	-9%
San Francisco	7,811	3,368	-57%
Adult Parole			
California	126,330	51,271	-59%
San Francisco	2,094	593	-72%
Total Correctional Populations			
California	650,002	496,234	-24%
San Francisco	13,597	6,020	-56%

Sources: California Attorney General, CDCR, and Bureau of State and Community Corrections

San Francisco's reductions are even more dramatic because it not only lowered its prison and parole populations, but also its local jail and probation populations. Reductions in jail and probation populations are more remarkable given Realignment's mandate to locally house and/or supervise the AB109 sentenced inmates and former CDCR parolee population (Figures 4 and 5). The recent passage of Prop 47 has served to further lower the jail and prison populations.



What factors and policies contributed to these downward trends? One of the most significant factors was a dramatic decline in adult arrests, with virtually all of the declines being attributed to an equally dramatic decline in drug arrests (Figure 6). While some of these drug arrests are for misdemeanor level crimes, the vast majority were felony drug arrests which in turn lowered the overall number of felony level arrests.



This decline was directly related to the aforementioned San Francisco Police scandals on drug arrests. As felony drug arrests declined, so also did felony court filings, which in turn lowered jail bookings and people sentenced to probation (Figure 6). Furthermore, the District Attorney's Office undertook a concerted effort to reduce felony drug filings where possible, in effect, implementing Prop 47 before it was State Law. In 2009, drug prosecutions represented 63 percent of the District Attorney's felony caseload. By 2014, drug filings were reduced to 24% of the felony caseload. As felony arrests, filings and convictions were all declining the Courts were sentencing a greater proportion of convicted felons to probation rather than state prison.

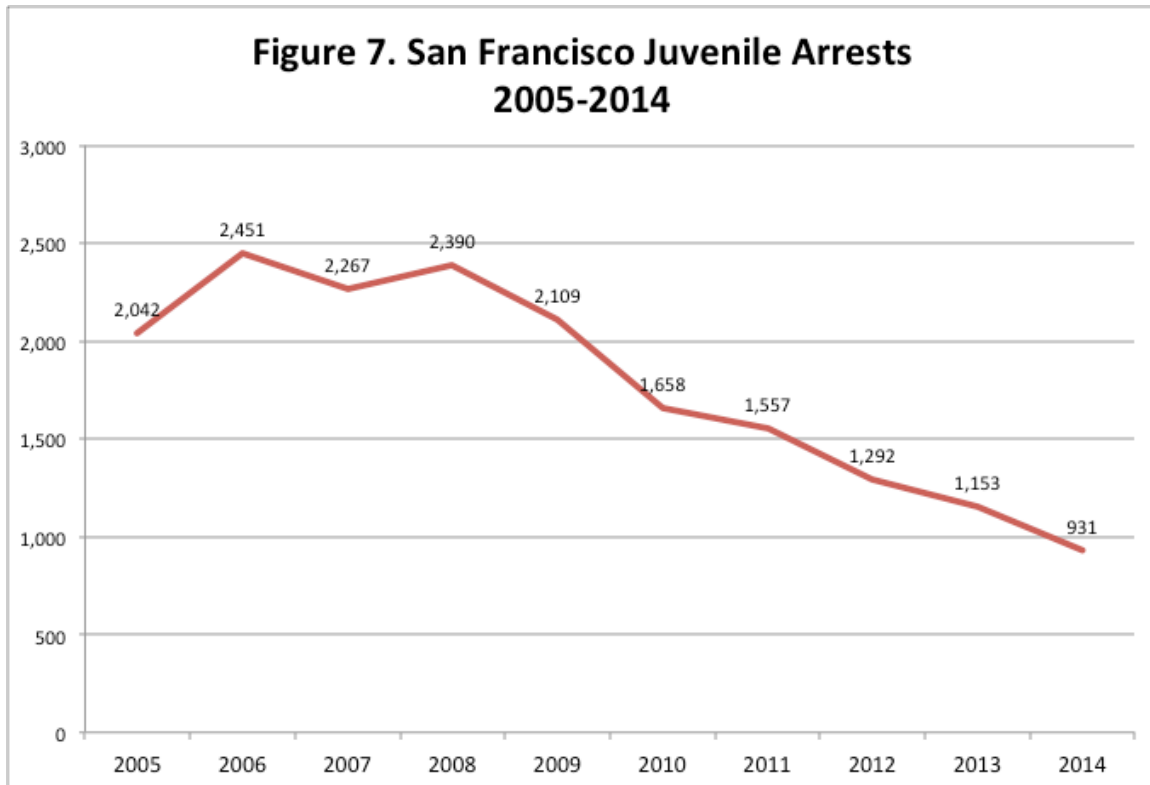
At the same time, the number of probationers successfully completing their probationer terms was quite high. In 2014 86% of felony probationers had successfully completed their probation terms.

The courts were also making use of the split sentencing option for their AB109 cases. Over time the rate of split sentences has increased from 39% in the fall of the 2011 to 72% by September 2014. In so doing, the time people spent in jail under AB109 has been reduced.

In 2012, District Attorney George Gascón launched two approaches that may also be reducing San Francisco's correctional population: Neighborhood Courts and the Sentencing Planner. Neighborhood Courts keep low-level offenders from entering the criminal justice system. Non-violent misdemeanor cases that would otherwise be prosecuted in the traditional system are diverted pre-charging by the SFDA into ten Neighborhood Courts across the City, where trained neighborhood volunteers hear the matters, speak with the participants (e.g. defendants) about the harm caused by their actions, and issue "directives" designed to repair that harm and address risk factors. Once the participant completes his/her directives, the case is discharged. Cases that do not resolve in Neighborhood Court are returned to the SFDA for prosecution. Since its inception, Neighborhood Courts has handled approximately 2,000 cases.

The Sentencing Planner is a social worker that works with prosecutors to craft dispositions that address criminogenic needs and reduce recidivism. This model fundamentally shifts the prosecutorial mandate and approach, moving from the traditional metrics of conviction rates and prison terms to recidivism reduction and public safety. A UC Berkeley evaluation of the program estimated a 6 to 19 percent decrease recidivism (defined as a new filing) for defendants that received this intervention, compared to a statistically matched control group.

Finally, it is also worth noting that juvenile arrests (and by association juvenile crime) have plummeted. This drop in juvenile arrests is a national trend that bodes well for the future. One of the strongest predictors of adult criminality is arrested as a juvenile. In San Francisco a much larger proportion of the youth population is advancing to adulthood without a juvenile record.



Impact on Crime

To what extent have the major reforms implemented by San Francisco (and within the state as well) impacted crime rates? Relative to realignment, people are serving less time incarcerated via the split sentencing option that was made available to the counties and elimination of the required parole supervision. For Proposition 47, the lowering of the felony status to misdemeanor only status reduces pretrial, local sentenced and state incarceration populations. It may also have impacted the adult probation populations.

Clearly reducing the level of incarceration increases the risk for higher crime rates. However, since it is well known that other factors have a more powerful impact on crime rates the question is whether reducing incapacitation and deterrence effects have a significant negative effect on public safety?

Trends in San Francisco Crime Rates

The amount of crime that is occurring in San Francisco and other jurisdictions is measured by what is referred to as the Uniform Crime Report (UCR), which was

established by the Federal Bureau of Investigation (FBI) in 1930. Part 1 Crimes are defined by the UCR as the following eight serious crimes:⁹

1. Murder
2. Robbery
3. Aggravated Assault
4. Rape
5. Burglary
6. Larceny Theft
7. Arson
8. Motor Vehicle Theft

The number of these crimes reported to the police either by victims, law enforcement or third parties are tabulated each year and then converted into rates per 100,000 population. On a national basis, the vast majority (88%) of the UCR crimes reported to law enforcement are property crimes, with the larceny-theft category comprising 61% of the total UCR crime rate.

It is also instructive to point out that the conversion to rates per 100,000 population is done solely to take into account yearly changes in the size of the resident population. What is often lost in the use of crime rates is that the percentage of the population that is involved in serious crimes each year is quite low. For example the 2014 national crime rate is 2,972 per 100,000 population which can also be interpreted as about 3% of the nation's population reporting a serious crime in a given year. Actually that percentage is a bit misleading since a single person can report multiple crimes in a year and the number of people who experience some time in a jurisdiction is much higher than the resident population. (e.g., workers who do not reside in the City, tourists).

Further when making year to year comparisons in crime rates analysts use what researchers would define as a relative rate increase rather than an absolute rate increase. The former statistic served to amplify the actual rate of change that is occurring as opposed to using an absolute percentage change.

In general, crime rates have been declining for some time in virtually all jurisdictions in the U.S. and California. This is also true for San Francisco. Figure 8 shows the crime rates for the City since 1986. Consistent with the rest of the country and California, the City's crime rate began to drop in the early 1990s and is about half of what it was in the 1980s.

San Francisco's crime rate has been consistently above the state's rate. One will note that in Figure 8 (and Figures 9 and 10) the year 2001 has been deleted. When first analyzed, it appeared there was a sharp decline in the City's crime rate. Based on

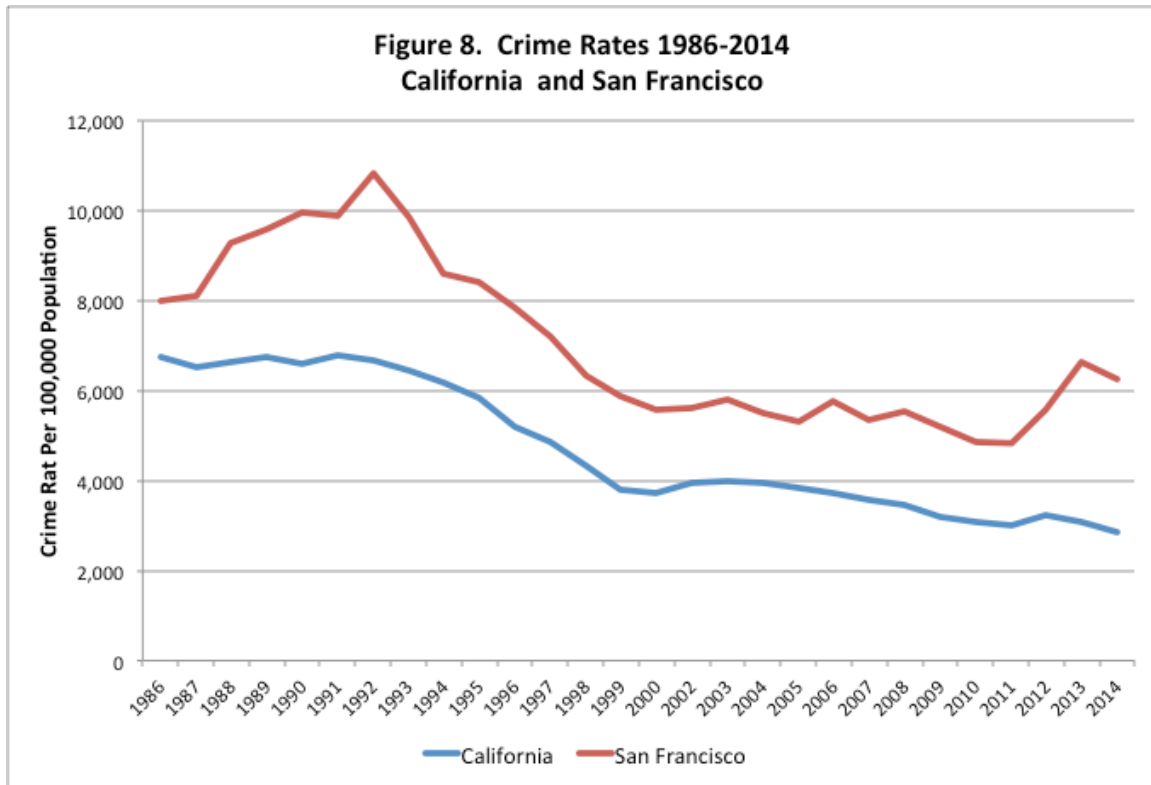
⁹ The Part 2 UCR crimes are far less serious and consist of low level felony and misdemeanor crimes. Only the number of people arrested are contained in the Part 2 crimes.

information provided by a well-respected criminologist who has been studying California crime rates for many years, the 2001 decline was simply a reporting anomaly. In that year the San Francisco Police Department only reported nine months of crime data thus skewing the annual estimates. This highlights the need to not overly interpret year-to-year fluctuations in the UCR and uncritically link them to whatever policies took place that year.

A Closer Look at the San Francisco Crime Rates

Since there was no increase in crime rates after SB678 it would appear that it has not been associated with any increase in crime. Of greater interest is the uptick in crime rates for both the state and San Francisco after 2011 the same year that Realignment was implemented. However, many across the media and law enforcement have argued that Realignment has increased crime in California. This fails to account for the fact that California's property and violent crime rates were lower in 2014 and 2013 than prior to Realignment, and have reached historic lows not seen in over 30 years. But some initially have interpreted the increase in 2012 as being directly caused by Realignment.

This is exactly what the researchers at the Public Policy Institute of California (PPIC) did. Their analysis was limited to a comparison between California's 2011 and 2012 crime rates which showed only an uptick in property crime rates. The PPIC quickly concluded that Realignment was causing the property crimes rates to go up.



Source: California Attorney General, Department of Justice

“...we find robust evidence that (Realignment) is related to increased property crime. In terms of overall property crime, we estimate an additional one to two property crimes per year on average for each offender who is not incarcerated as a result of.”¹⁰

This conclusion failed to address the fact that the California 2012 crime rate uptick was well within the normal historic fluctuations for year-to-year crime rate changes. Further, other counties had experienced either reductions or no significant change in their crime rates so one would have to explain why Realignment had not impacted all counties and not just some.

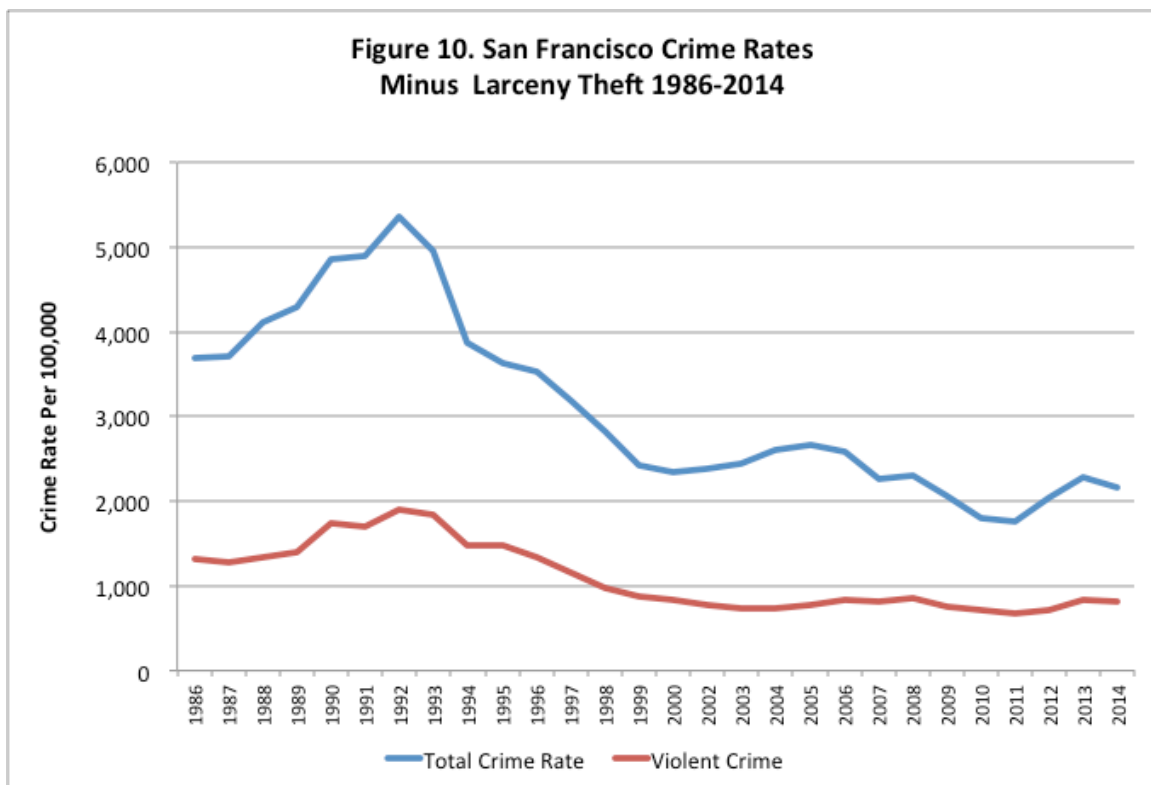
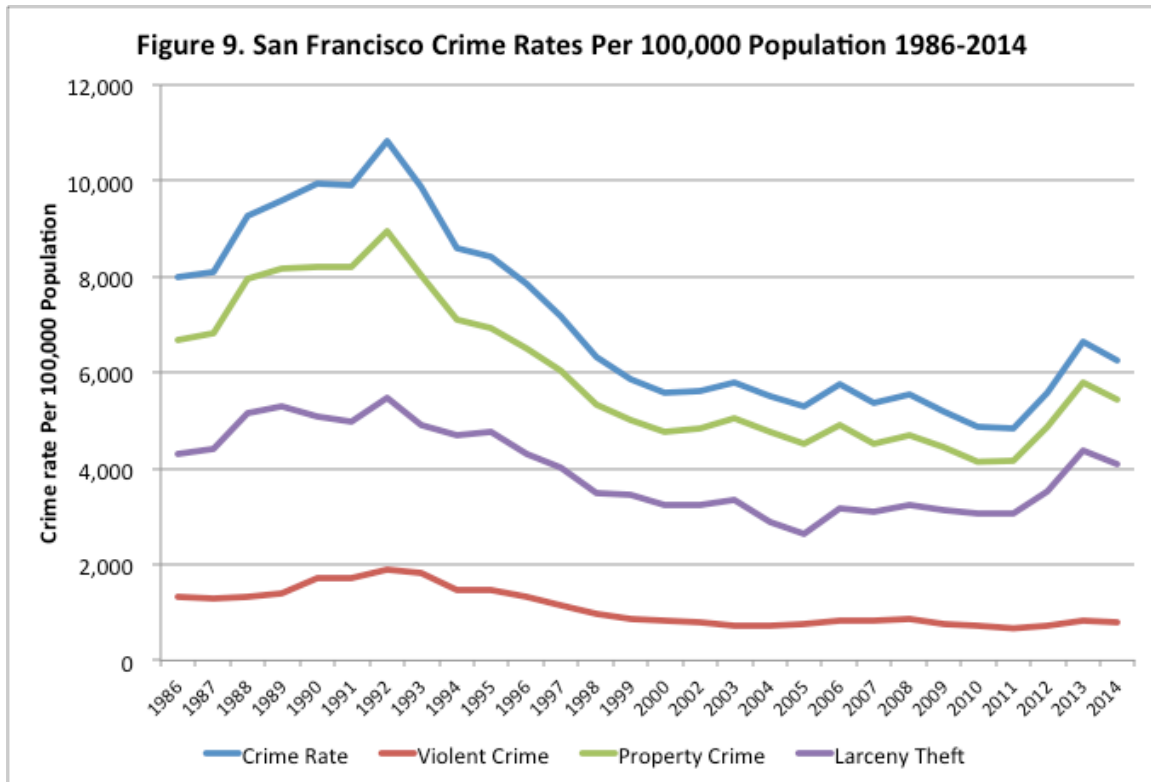
More importantly, if these researchers had been more patient, they would have had to contend with the most recent 2014 crime rate report from the California Attorney General showing *declines* in both property and violent crime rates. But for San Francisco there was the issue that unlike the state’s decline in 2013, its rate had continued to increase (until 2014 when it declined).

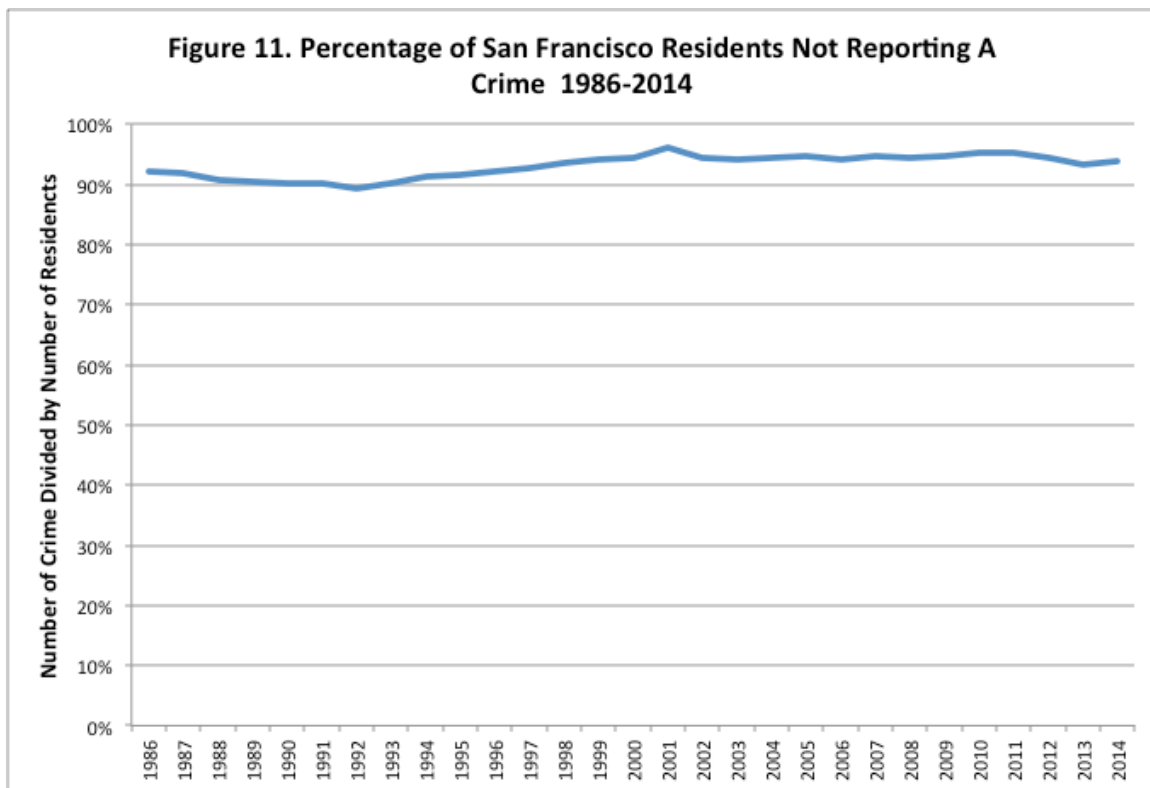
Figure 9 provides a more detailed breakdown of San Francisco’s crime rate by the three discrete categories – violent crime, property crime (including larceny- theft) and larceny –theft alone. It also adds the recently tabulated 2014 crime rate.

With respect to violent crime, the rates have declined since 1986 and have remained low even after 2011. It’s clear that Realignment has not had an impact on the violent crime rate. Relative to the far larger property crime category, it increased in 2012 and 2013 before declining in 2014. The vast majority of that increase was limited to the larceny-theft category. Figure 10 shows the City’s crime rate with the larceny-theft category removed. While the increases in 2012 and 2013 persist, they are far less apparent once larceny-theft crimes are excluded

Finally, one can also use the metric of percentage of San Francisco’s population *not* reporting, and therefore likely not experiencing or witnessing, any of these crimes (mostly larceny-theft). As noted earlier, this measurement is based on the percentage or ratio of total reported crimes to the overall population rather than the rate per 100,000 population. So while San Francisco’s crime rate per 100,000 population increased from 5,574 in 2011 to 6,258 by 2014 (a 12% increase in the rate), the percentage of San Francisco residents reporting a serious crime has increased by only one percent (from 5% to 6%). Put differently, the percentage not reporting a serious crime has always been high and has remained in the 95% range since 2011 (Figure 11).

¹⁰ Lofstrom, Magnus and Steven Raphael. December 2013. *Public Safety and Crime Rates in California*. San Francisco, CA: Public Policy Institute, p. 2.





This figure is actually conservative as it does not take into account 1) the large number of tourists who visit San Francisco, 2) the large number of workers who commute to San Francisco each day and 3) the fact that a person can report a crime to the police more than once in a given year.

A Closer Look at Larceny-Theft

By definition these types of crimes are not assaultive and often fall in to the misdemeanor category. They also constitute 2/3rds of the total crime rate. To get a better perspective from the victim's point of view, Table 4 shows some of the relevant attributes that surround these crimes.

The largest percentage (58%) stems from theft of valuables from a car or other motor vehicle with the other largest category being "Other" or unknown. In terms of the value of the loss to the victim 90% of these crimes had a value of less than \$50 meaning that virtually all of these crimes are misdemeanor offenses.

Table 4. Attributes of Larceny Theft – San Francisco County 2014

Item	Number	%
Total Crimes	53,000	100%
Larceny Theft	34,462	65%
From Motor Vehicle	19,862	58%
From Building	3,028	9%
Shoplifting	2,023	6%
Pocket-Picking	868	3%
Bicycles	849	2%
Other	8,003	23%
Victim Losses		0%
Over \$400	2,782	8%
\$200 through \$400	538	2%
\$50 through \$199	230	1%
Under \$50	30,912	90%

Note: % under larceny-theft is % of larceny theft crimes and not the total San Francisco crimes for 2014.

Source: California Attorney General, Department of Justice

Can Realignment Be Reasonably Linked to Increases in San Francisco's Crime Rate?

To answer this question one must understand the impact of Realignment on offenders. As noted earlier, the only direct incarceration effect of Realignment was in the use of split sentencing and the reductions of parole violations from 12 months to six months. For San Francisco, the number of felons who receive such a sentence is quite small, due to the City's historic low prison disposition rate which restricts the number of convicted felons receiving prison terms. Only 369 felons received a split sentence between October 2011 and September 2014 for an average of 10 per month or 120 a year. The other 279 sentenced offenders have served their full sentences less good time credits – just as they did in the state prison system prior to Realignment.

Relying on the estimated increase of crime due to Realignment previously cited by the Public Policy Institute, one can see how little impact Realignment could possibly have on San Francisco's crime rate. Table 5 summarizes the total number of reported crimes between the base year 2010 and the following four years. As noted before there have been increases in the numbers of reported crimes in San Francisco since Realignment began, with the largest increases in the larceny theft group. But even assuming the split-sentenced offenders were contributing an additional 1-2 additional property crimes, the increase in the overall crime rate would be insignificant (no more than 0.3% of the total reported number of crimes, much less than the percent increase the City has experience). Table 4 summarizes the total number of reported crimes between the base year 2010 and the four years.

If Realignment is not the cause of the increase in the crime rate in San Francisco, then what is? The FBI in its annual report on crime identifies the following factors than can explain changes in crime rates of which only one is related to incarceration rates:

- Population density and degree of urbanization.
- Variations in composition of the population, particularly youth concentration.
- Stability of the population with respect to residents' mobility, commuting patterns, and transient factors.
- Modes of transportation and highway system.
- Economic conditions, including median income, poverty level, and job availability.
- Cultural factors and educational, recreational, and religious characteristics.
- Family conditions with respect to divorce and family cohesiveness.
- Climate.
- Effective strength of law enforcement agencies.
- Administrative and investigative emphases of law enforcement.
- Policies of other components of the criminal justice system (i.e., prosecutorial, judicial, correctional, and probational).
- Citizens' attitudes toward crime.
- Crime reporting practices of the citizenry.¹¹

There are several of these factors that could explain the rise since 2011 in San Francisco. Demographically, San Francisco is one of the fastest growing cities in California, increasing its already high level of population density.

As noted earlier, there is large and growing number of commuters that serve to swell the day time population by an estimated 162,455 people during the work week.¹² This large flux of people necessarily increases the number of crimes being reported as a simple function of population size. If San Francisco's crime rate were based on the estimated day-time population of 951,627 people, its crime rate would decline by 11%.

There have also been reports of increasing income inequality within the San Francisco metropolitan area. San Francisco has the nation's highest level of income inequality.¹³

¹¹ Crime in the United States. 2009. *Variables Affecting Crime*. Washington, DC: U.S. Department of Justice, Federal Bureau of Investigation.

¹² U.S Census, American Community <http://www.census.gov/acs/www>.

¹³ Florida, Richard, Zara Matheson, Patrick Adler & Taylor Brydges. September 2014. The Divided City: And the Shape of the New Metropolis. Toronto, Canada: The University of Toronto, Martin Prosperity Institute.

**Table 5. Reported Crimes 2010-2014
and Estimated Impact of Split Sentences on Reported Crimes**

	2010	2011	2012	2013	2014
San Francisco Population	804,989	815,016	827,420	837,442	843,003
Reported Crimes					
Homicide	50	50	69	48	46
Rape	147	131	108	161	317
Robbery	3,180	3,088	3,484	4,202	3,267
Aggravated Assault	2,386	2,105	2,116	2,653	3,116
Total Violent	5,763	5,374	5,777	7,064	6,746
Burglary	4,557	4,408	5,317	5,931	5,291
Larceny/Theft	23,905	24,304	28,242	36,527	34,284
Auto Theft	3,903	4,174	5,339	5,866	6,175
Arson	156	161	207	227	241
Total Property	32,521	33,047	39,105	48,551	45,991
Total Part 1	38,284	38,421	44,883	55,615	52,737
Sentenced 1170h	0	77	250	188	156
Split Sentences	0	31	129	114	100
Estimated Crime Increase @ 1.5 property crimes per split sentence	0	47	194	171	150
% of Crimes Reported	0.0%	0.1%	0.4%	0.3%	0.3%

Note: 2014 1170h sentences are estimated based on first nine months of 2014

Sources: California Attorney General, Department of Justice and San Francisco Adult Probation Department

Inequality over a sustained period of time has been linked to crime rates by several studies although the strength of such a relationship has varied.¹⁴

There is also the possibility of simple random fluctuations in crime rates that have existed since crime rates have been computed. Just as crime rates went up for two years, they have once again declined.

In summary, crime rates are much lower in San Francisco and have been so for some time. Each year the vast majority (95%) of residents are not victimized by serious crimes, and the recent implementation of several reforms designed to reduce mass incarceration that began in 2009 has not served to increase these low crime rates.

¹⁴ For a summary of these studies see financesonline.com/how-income-inequality-affects-crime-rates.

Post Prop 47

Relative to Prop 47 what do we know about crime and the City's response to crimes? One thing is certain. Enough time has not past since Prop 47 was passed to make any credible study on its impact on crime rates. It will not be until after 2016 before such analysis can be undertaken.

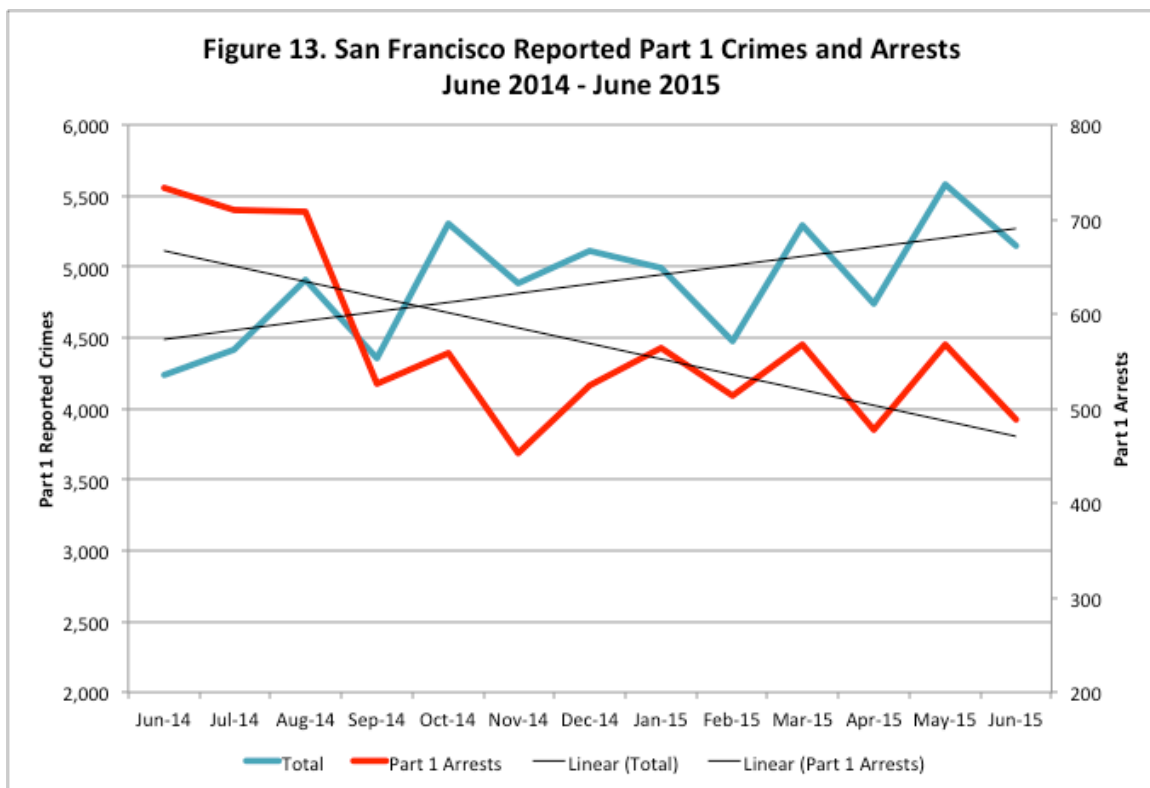
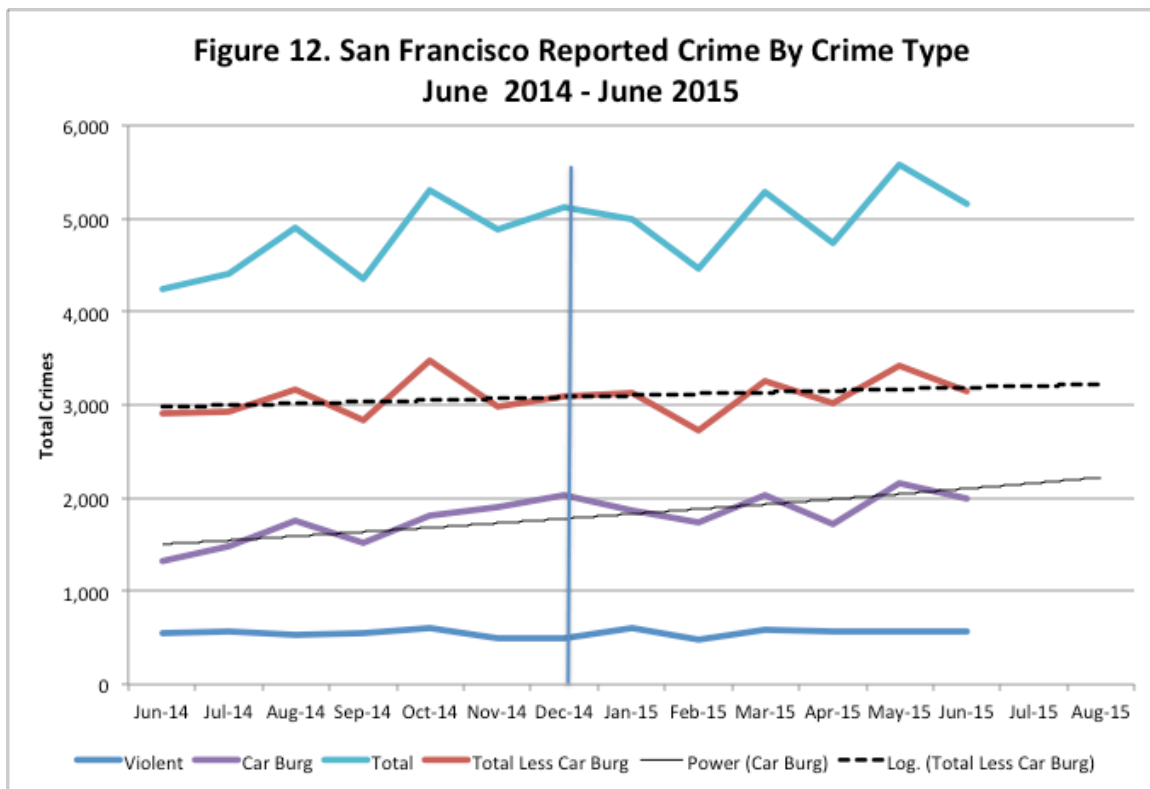
Further the number of people who were incarcerated at the time Prop 47 passed for the six crimes was miniscule. According to the San Francisco District Attorney there were only four people in state prison and 15 people in jail who have been released due to Prop 47. With such a low number of people affected by the ballot initiative, it's simply not feasible for them to have any impact on crime or crime rates.

This low number of impacted prisoners for San Francisco is due to the other reforms noted above that served to lower the use of incarceration for sentenced felons. Counties that had not implemented such reforms reported much higher numbers of prisoners released from state prison and local jails due to Prop 47.¹⁵ For example, Los Angeles County reported 1,600 state prisoners released from custody since Prop 47 has been passed.

That said, since November 2014, there has been a slight increase in the number of crimes reported to police (Figure 12). However, much of that increase began prior to Prop 47, and is largely linked to a trend of stealing items out of cars that began in the summer of 2014. If one removes the increase in this crime the overall number of crimes is virtually flat – especially for violent crimes.

It is also noteworthy that Part 1 arrests by the SFPD have declined sharply since Prop 47 was passed. Why this is occurring is somewhat of a mystery given the higher number of reported crimes. It may be linked to a perception that police can no longer arrest people suspected of a Prop 47 crime which is not correct. Or it may be the nature of the crime that has increased (stealing property out of cars) has a low arrest rate.

¹⁵ Stanford Justice Advocacy Project. October 2015. *Proposition 47 Progress Report: Year One Implementation*. Palo Alto, CA: Stanford Law School.



Policy Implications

San Francisco becomes the third major jurisdiction in the United States that JFA has recently reported on that has significantly lowered not only their use of incarceration, but all other forms of correctional supervision and control. New York City and the Bay Area suburban Contra Costa County are also places where the rates of incarceration, probation, and parole are at the levels that predate our national imprisonment binge that began in the 1970s. In all three jurisdictions different approaches were used to eliminate mass incarceration.

In New York City it was changes in police practices that reduced the number of people being arrested, especially for felony cases. Contra Costa and San Francisco counties also relied upon criminal justice policy officials to make a firm and longstanding commitment to lower the use of imprisonment, and especially state level incarceration. And it must be noted that litigation against the California prison system “encouraged” state officials to develop a series of economic incentives via SB678 and AB109 that allowed counties like Contra Costa and San Francisco to maximize efforts to reduce incarceration rates.

Proposition 47 represents another model for change. Litigation, ballot initiatives can be powerful sticks to force change on reluctant criminal justice policy officials. Unlike litigation and legislation, the ballot initiative via Prop 47 triggered one of the largest reductions in incarceration in a very short time period (8,000 reduction in just a few months). And, there is no evidence that the elimination of mass incarceration in San Francisco has jeopardized public safety.



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

2015 Annual Report San Francisco Sentencing Commission

December 9, 2015



San Francisco Sentencing Commission 2015 Annual Report

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<p>The activities of the 2015 calendar year of the San Francisco Sentencing Commission are summarized in this annual report as required by County Ordinance 10-12.</p>
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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, Board of Supervisors that lead to a reduction in incarceration, lower recidivism rates, safer communities and ensure that victims are made whole. In 2015, the San Francisco Sentencing Commission held four hearings covering data-driven approaches to criminal justice reform, Justice Information Tracking System (JUSTIS), policies and practices for working with youth and young adults, diversion programming, data collection and analysis and recidivism reduction. Based upon this expert testimony and research the Sentencing Commission develop the following six recommendations:

1. Enhance the staffing of the Sentencing Commission.

The Sentencing Commission recommends creating a graduate level fellowship position to enhance the capacity to complete the Commission's mandated responsibilities. This fellow will be housed in the District Attorney's Office and supported by technical assistance provider the National Council on Crime and Delinquency (NCCD).

2. Develop research partnerships with outside entities.

In an era with an increased commitment to open data and data-driven decision making government must establish and increase the capacity to analyze data that will lead to practice and policy change. Criminal Justice data quality and data analysis are core issues for the City and County of San Francisco. The Sentencing Commission recommends creating institutional partnerships, akin to The Washington State Institute for Public Policy, with outside research entities that will conduct rigorous research and analysis on criminal justice policy and practice.

3. Expand the Sentencing Commission Membership.

The Sentencing Commission recommends expanding the Commission membership to include a representative from the San Francisco Bay Area Rapid Transit (BART) Police Department. This member seat will serve on the Commission as a non-voting representative until the authorizing legislation can be amended to formally include BART in the powers and duties.

4. Incorporate trauma-informed approaches throughout the justice system.

The San Francisco Sentencing Commission recognizes the large population of young people and adults involved in the justice system that have had been exposed to traumatic experiences. This complex trauma and related unhealthy coping mechanisms can manifest as justice involvement. The need to address trauma-informed practices in the justice system is directly tied to addressing sentencing and criminal justice reform.

5. Establish a working definition of Recidivism

In an effort to standardize measurement of and operationalize responses to recidivism in the city, the Sentencing Commission recommends developing a multi-component definition of recidivism that allows all criminal justice agencies to monitor key points of 'subsequent criminal justice system contact.' This shift away from a singular definition of recidivism to 'subsequent criminal justice system contact' is a means to create a cohesive understanding between City and County departments, while maintaining individual department mandates and reporting requirements.

6. Create a recidivism dashboard through the Justice Information Tracking System (JUSTIS).

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 recommends the expansion of the JUSTIS to include a web based dashboard capability that highlights the various points of subsequent criminal justice contact.

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 Sentencing Commission mandate includes:

- Evaluating effective and appropriate sentences for the most violent offenders.
- Exploring opportunities for drug law reform.
- Examining inconsistencies in the penal code related to realignment sentencing.
- Identifying and defining 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. 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 a 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.

III. RECOMMENDATIONS IN REVIEW

The following summary documents the progress toward the 2013 to 2014 recommendations made by the Sentencing Commission.

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 was set to sunset on June 1, 2015. In the absence of a state-level sentencing commission, the San Francisco Sentencing Commission recommended to the Mayor and Board of Supervisors to extend the Commission's purpose and authority until December 31, 2017. The recommendation to the Mayor and Board of Supervisors was accepted, and the San Francisco Sentencing Commission was reauthorized by the San Francisco Board of Supervisors and is set to sunset on December 31, 2017.

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

The San Francisco Sentencing Commission recognized the need to address the specific criminal justice needs of the 18 to 25-year-old population. To this end, in 2014 the Sentencing Commission recommended the creation of a young adult court that solely handles young adult defendant cases, with the goal of providing sentences and services in line with the specific needs of this population. In the summer of 2015 the Young Adult Court (YAC) was established. As the first young adult court of its kind created in the nation, the court strives to align opportunities for accountability and transformation with the unique needs and developmental stage of this particular age group.

In February 2015, San Francisco was awarded funding from the California Board of State and Community Corrections to support YAC operating costs. This funding was the result of a proposal developed and submitted in Fall 2014 by a collaboration of San Francisco criminal justice agencies, including the Superior Court, District Attorney, Public Defender, Adult & Juvenile Probation Departments, Sheriff, Police and Department of Children, Youth and Their Families. Beginning in March 2015, the collaborative initiated a planning process, led by Judge Chan, that completed key steps toward launching the YAC, including: establishing a formal public-private YAC planning team; developing pilot YAC eligibility criteria, undergoing training in young adult brain development and best practices; and developing the YAC referral process. The Court, District Attorney, Public Defender and Adult Probation Department have designated individuals to staff the program, and nonprofit partners Felton Institute/Family Services Agency and Goodwill Industries complete the YAC collaborative team.

YAC began operation in August 2015, with court held on Tuesday afternoons. Participating individuals receive an in-depth assessment, develop individualized goals, and work with their clinical case managers and other services and supports to achieve those goals. Currently, over 40 young adults are formally participating in Young Adult Court. Social Policy Research Associates, an independent research and evaluation firm, has begun working with the collaborative to evaluate YAC.

Invest in the improvements of criminal justice data collection, data sharing, and data analysis.

The San Francisco Sentencing Commission supports and recommends continued investment in improvements to criminal justice agency 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 (JUSTIS) program. These resources will provide tremendous potential to evaluate common criminal justice benchmarks including jail detention trends, sentencing outcomes, and recidivism rates.

Proposition 47, the Safe Neighborhoods and Schools Act

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. 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 through Proposition 47, the Safe Neighborhoods and Schools Act. The savings from this reform will be invested in grants to support school truancy and dropout prevention, victims' services, mental health and drug treatment and other programs designed to reduce recidivism and improve public safety.

In 2015, during the first phase of implementation the District Attorney's Office worked with City partners to clarify Proposition 47 details. For example, Proposition 47 did not decriminalize but rather reclassified specific drug and property crimes. To date, fifteen individuals have been released from the county jail system and four have been released from state prison as a result of proposition 47. In the first year of Prop 47, the San Francisco District Attorney's Office reviewed a total of 2,418 cases for resentencing and reclassification.

In early 2016, the Department of Finance, as a part of the Governor's budget will release preliminary estimates for the Safe Neighborhoods and Schools Fund. The Board of State and Community Corrections (BSCC) is set to administer grant programs for mental health and substance abuse treatment funded by the annual state savings. While the amount of those savings won't be officially determined by the Department of Finance until July 31, 2016, the BSCC has begun planning for implementation. On November 12, 2015 the BSCC established a limited-term Executive Steering Committee (ESC) which will develop the grant program criteria for final BSCC approval. BSCC members Scott Budnick, founder of the Anti-Recidivism Coalition, and Leticia Perez, a Kern County Supervisor, will serve as Chairs for the Executive Steering Committee. Parties interested in serving on the ESC are encouraged to submit statements of interest. More information is available at http://www.bscc.ca.gov/s_bscsecsseekingmembership.php. Throughout 2016, the Sentencing Commission staff will continue to reach out to BSCC staff to share public testimony, relevant research and advance the recommendations of the Commission.

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

In 2013, the Sentencing Commission recommended that the community invest in pre-booking and pre-charging diversion programs for drug offenses, named Law Enforcement Assisted Diversion (LEAD). 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. Through LEAD, the Sentencing Commission has sought to build upon the foundational drug diversion work that has been a collective priority of the Department of Public Health, Police Department, District Attorney's Office, Public Defender, Courts and the community.

Over the last four years the San Francisco Sentencing Commission has heard expert testimony on the LEAD program design, implementation and the feasibility of replicating this model program in San Francisco. Formalized law enforcement assisted pre-booking diversion is an evidence based and fiscally

prudent alternative. In the Spring of 2015 the Sentencing Commission heard testimony from Dr. Susan Collins, a professor and researcher from the University of Washington, who developed the evaluation of Seattle's LEAD program. The first evaluation report released was on recidivism - defined as arrest and receiving charges in a criminal court. This study found statistically significant reductions in recidivism, mostly notably LEAD participants showed significant reductions in new felony cases. The evaluation team also found that the program resulted in reduced participant jail bookings, on average 39 fewer jail bed days per participant, a 87% decrease in subsequent state prison incarceration and overall substantial reductions in criminal justice costs. This information further substantiates the 2014 UC Berkeley analysis completed for the San Francisco Sentencing Commission explored 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.

Based on this information, in summer 2015 the Sentencing Commission submitted a letter the Board of Supervisors and the Mayor recommending San Francisco begin a three-year pilot program of LEAD in San Francisco.

The LEAD workgroup, formed in 2014, continues to work collaboratively to discuss the feasibility of replication of a LEAD model in San Francisco. On July 2, 2015 three representatives from the LEAD workgroup attended a White House meeting to discuss LEAD. In addition to this national dialogue, cities around California have also stated interest in implementing LEAD. California State Senator Loni Hancock is interested in making LEAD a statewide program and plans to request funding for LEAD through the state budget in 2016 budget cycle. Sentencing Commission continues to recommend implement a LEAD pilot program In San Francisco

IV. 2014 MEETING TOPICS & PRESENTERS

The Sentencing Commission held four meetings in 2015. Full agendas, meeting minutes and materials are available on <http://www.sfdistrictattorney.org/>. Meeting dates and selected subject matter presenters are provided below.

February 25, 2015

Innovative Polices and Practices for Working with Youth and Young Adults

Presenter: Vincent Schiraldi, Senior Advisor to the New York City Mayor's Office of Criminal Justice

Review of San Francisco Sentencing Trends

Presenter: Antoinette Davis, Senior Program Specialist, National Council on Crime & Delinquency (NCCD)

California Sentencing Legislation and Policy Update

Presenter: Tara Anderson, San Francisco District Attorney's Office and Melinda Blake, Policy Director, Californian for Safety and Justice

June 10, 2015

San Francisco Young Adult Court (YAC)

Presenter: Honorable Bruce Chan, Judge of the Superior Court of California, County of San Francisco

Law Enforcement Assisted Diversion (LEAD) Program Evaluation Recidivism Report

Presenter: Dr. Susan Collins, University of Washington

Recidivism Workgroup Update, Juvenile Justice System

Presenter: Allen Nance, Chief Probation Officer, County of San Francisco

September 23, 2015

Update: San Francisco Young Adult Court (YAC)

Presenter: Honorable Bruce Chan, Judge of the Superior Court of California, County of San Francisco

Data-Driven Approaches to the Challenges and Opportunities Confronting Criminal Justice Systems

Presenter: Michael P. Jacobson, Executive Director, CUNY Institute of State and Local Governance

Justice Information Tracking System (JUSTIS)

Presenters: Matthew Podolin

December 9, 2014

Eliminating Mass Incarceration: How San Francisco Did It

Presenter: James Austin, President, JFA Institute

V. RECOMMENDATIONS

Recommendation 1. Enhance the staffing of the Sentencing Commission.

The Sentencing Commission recommends shifting a portion of the technical assistance support from the National Council on Crime & Delinquency to support a fellowship position housed in the District Attorney's office. The fellow will serve with the commission for one year, responsibilities will include but not be limited to; developing and disseminating outreach and education materials for newsletters, web content, emails, and guides; assist in planning and executing quarterly Commission meetings; assist with the preparation of Annual Reports to the Mayor and Board of Supervisors; complete a minimum of two 'white paper' projects to inform the public and commission on criminal justice sentencing practices; query databases, extracts data, cleans data, and merges data in preparation for statistical analysis; conduct statistical analysis to generate reports for Sentencing Commission, other standard reports, and in response to ad hoc data-related requests; research performance measurement in the criminal justice field; and evaluate database functionality and develop strategy to enhance data collection efficiently and effectively across systems. Absent funding from the City and County of San Francisco, this staffing support structure will provide the required resources to meet the legislatively prescribed mandates of the Sentencing Commission.

Recommendation 2. Develop research partnerships with outside entities.

In 2015 both the City and County of San Francisco and the California State Department of Criminal Justice announced increased commitments to open data and data-driven decision making government making. As such San Francisco's criminal justice agencies must establish and further increase the city's capacity to analyze data that will lead to practice and policy change. Criminal justice data quality and data analysis are core issues for the City and County of San Francisco. The Sentencing Commission emphasizes the need for partnerships with outside research firms that can advise on data quality issues and conduct rigorous research analysis on criminal justice and crime prevention policy and practice. According to expert testimony from Michael Jacobson, Director of CUNY ISLG's Institute for State and Local Government, there remains a large chasm between what research has shown to work and what is done in the criminal justice system. Research drives policy change, in an effort to promote the best policy and practice changes in the city of San Francisco, the Sentencing Commission recommends forging organized partnerships with academic research institutions to conduct data collection and analyze on criminal justice data. Individual research projects often operate in isolation by under the direction of departments and limited dissemination of findings. Conducting coordinated research and analysis outside of the individual departments provides for a more robust analysis of information and broadens the possibilities to create innovative solutions that work to create safer communities and increase equity in decision making.

Recommendation 3. Expand Sentencing Commission Body.

The Sentencing Commission recommends expanding the Commission body to include a representative from the San Francisco Bay Area Rapid Transit (BART) Police Department. BART Police have a regional footprint ensuring the safety of approximately 500,000 passengers a day. BART is the fifth largest rapid transit system in the country and BART police prioritize innovation and community policing as an organizational philosophy. This collaboration is especially valuable not only to a transit police agency which runs through many communities and jurisdictions, but also to the collective goals of the Sentencing Commission; ensuring that we are making the best decisions for public safety at the earliest point of criminal justice intervention with all of our policing partners.

Recommendation 4. *Incorporate trauma informed approaches throughout the justice system.*

An increasing body of evidence shows that an overwhelmingly majority of juveniles and adults in the criminal justice system have experienced complex trauma. According to most estimates, trauma is an almost universal experience among people who access public mental health, substance abuse treatment and social services, as well as people who are justice-involved or homeless.¹ This trauma can be a significant contributing factor toward an individual's justice involvement. Both trauma and adverse childhood experience have a significant effect on the maturation and life trajectory of youth. Often youth that enter the justice system have undiagnosed mental health conditions that are a residual effect of traumatic experiences early in life. However, the effects of trauma are not only predisposed to youth, adults in the justice system have also been exposed to and experienced trauma in their lives. Chief Nance stated during the June Sentencing Commission hearing, "Many of the young people currently in the juvenile justice system have also been victims, the focus on trauma and violence is all part of reforming the justice system." Because of this understanding, the Sentencing Commission recommends continued research on how to incorporate trauma-informed practices into the traditional justice system, while continuing to explore alternatives that will into account the "whole" person, including exposure to trauma.

This recommendation is supported by a growing body of research that suggest that the majority of people who have behavioral health issues and are involved with the justice system have significant histories of trauma and exposure to personal and community violence. Trauma informed practices help recognize the presence of trauma symptoms and acknowledge the role that trauma can play in people's lives. Trauma-informed criminal justice responses can help to avoid re-traumatizing individuals. Ultimately, trauma-informed intervention can decrease the chance of an individual returning to criminal behavior, and supports the recovery of justice-involved individuals.

Recommendation 5. Create a working definition of Recidivism.

The Sentencing Commission recommends creating a standard definition of recidivism. Through the assistance of Ryan King, Senior fellow at the Urban Institute the Sentencing Commission Recidivism Work Group is drafting an agreed upon definition of recidivism that will encompass the needs of the City and County departments. The workgroup will provide a uniform definition for city departments to better track and report outcomes on various criminal sentences and city programs meant to aid in reducing recidivism. The workgroup is also working to develop data standards, recidivism reporting standards, and will develop and recommend department-specific goals that reduce recidivism for city departments.

In an effort to create a cohesive definition, the work group has focused on defining the phase "subsequent justice system contact," rather than recidivism to accommodate the responsibilities and mandates for each department. The group will be looking at various definitions of subsequent justice system contact focusing on specific cohort populations, at the following points of subsequent criminal justice contact; arrest, arraignment, and conviction . Of the course of the next the Recidivism Workgroup will focus on refining these performance measures to include measures of success, develop protocols to ensure data are consistent, accurate, and timely, account for the underlying composition of

¹ National Center for Trauma-Informed Care (NCTIC). Trauma-Specific Interventions. Available at <http://mentalhealth.samhsa.gov/nctic/trauma.asp#interventions>

the population and finally package the findings to maximize impact and get the results into the hands of decision makers.

Recommendation 6. Create a recidivism dashboard through the Justice Information Tracking System (JUSTIS).

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 recommends the formation of a collaborative budget to provide additional funding to expand the JUSTIS data system to include a web based dashboard capability that highlights recidivism. The JUSTIS dashboard will be a user interface that aims to present criminal justice statistics and data in a way that increases data transparency and is user friendly. The San Francisco criminal justice system is moving away from the Court Management System (CMS) that has been the dominate case management and data collection system to the JUSTIS system. As San Francisco criminal justice system continues to tackle tough issues like reducing racial and ethnic disparities it will be imperative to have an integrated data system that provides current and frequent data results.

During the Sentencing Commission hearing on September 23, 2015, Matthew Podolin discussed the transition from the CMS system to JUSTIS system. According to Podolin, as the criminal justice system moves from the CMS system to JUSTIS, it will eradicate many of the data sharing limitations and create a much more robust way of synthesizing data, and allow for more options, such as a data dashboard. This integration and improvement project provides the opportunity for JUSTIS, a neutral steward of our criminal justice data, to serve as a key partner in answering some of our greatest criminal justice research questions.

VI. MEMBERSHIP UPDATES

Membership Transitions

In the 2015 calendar year the San Francisco Sentencing Commission experienced one- member seat transition. Commission member Wendy Still, retired as the Chief Adult Probation Officer of the City & County of San Francisco. Chief Still resigned from the Sentencing Commission in March 2015. As the Chief Probation officer, the Sentencing Commission is happy to welcome Karen Fletcher.

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 released the following statement:

The Court has stated that it will not participate in the Sentencing 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. It is the hope of the San Francisco Sentencing Commission that the Administration Office of the Court will appoint a representative to the 2016 Sentencing Commission.

VII. FUTURE ACTIVITIES

The San Francisco Sentencing Commission is currently scheduled to conduct four sessions in 2016. The tentative 2016 Session topics are identified below.

- Overview of San Francisco Sentencing Trends
- 2016 Sentencing Policy and Legislative Updates
- Recidivism Dashboard
- Risk Assessment Tools: What works, what doesn't, what is used in San Francisco...
- Alternatives for Addressing Serious Mental Illness
- Re-imagining Justice: Innovations in Defense, Prosecution and the Courts.

VIII. CONCLUSION

In 2015, the San Francisco Sentencing Commission successfully completed the third full year of hearings covering data driven approaches to criminal justice reform, Justice Information Tracking System (JUSTIS), Policies and Practices for working with youth and young adults, diversion programing, data collection and analysis and recidivism reduction.

The Sentencing Commission utilized the expert testimony and research presented at the 2015 meetings to develop the following six recommendations;

1. Enhance the staffing of the Sentencing Commission.
2. Develop research partnerships with outside entities.
3. Expand Sentencing Commission Membership
4. Incorporate trauma-informed approaches throughout the justice system
5. Create a working definition of Recidivism.
6. Create a recidivism dashboard through the Justice Information Tracking System (JUSTIS.)

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 31, 2015

Agencies & Bodies	Member
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	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 John K. Stewart, Presiding Judge
<i>Member of a nonprofit org serving victims chosen by the</i> Family Violence Council	Jerel McCrary Attorney
<i>Member of non-profit org working with ex-offenders chosen by the</i> Reentry Council	Joanna Hernandez Re-Entry Pod Program Monitor Five Keys Charter Schools
Sentencing Expert chosen by the Board of Supervisors	Theshia Naidoo Senior Staff Attorney Drug Policy Alliance
Academic Researcher with expertise in data analysis appointed by the Mayor	Steven Raphael PhD Professor Goldman School of Public Policy University of California Berkeley

*Invited