

# The San Francisco Sentencing Commission

## City & County of San Francisco

(Administrative Code 5.250 through 5.250-3)

---

### AGENDA

March 13, 2019

10:00 a.m. – 12:00 p.m.

Hall of Justice

District Attorney Law Library

850 Bryant Street Room 322

San Francisco, CA 94103

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

1. Call to Order; Roll call.
2. Public Comment on Any Item Listed Below (discussion only).
3. Review and Adoption of Meeting Minutes from December 12, 2018 (discussion & possible action).
4. Staff Report on Sentencing Commission Activities (discussion & possible action).
5. Update from the Criminal Justice Racial Equity Workgroup (discussion & possible action).
6. Update on Use of Humanizing Language by Sentencing Commission Member Eric Henderson (discussion & possible action).
7. Annual Review of San Francisco Sentencing Trends by Maria McKee, Principal Analyst, San Francisco District Attorney's Office (discussion & possible action).
8. Presentation on 2018 Sentencing Legislation by Sentencing Commission Director, Tara Anderson (discussion & possible action).
9. Update on Safety and Justice Challenge Activities by Truls Neal, Justice System Partners (discussion & possible action).
10. Presentation on Case Processing Resources by Tim Dibble, Vice President, Justice Management Institute (discussion & possible action).
11. Members' Comments, Questions, Requests for Future Agenda Items (discussion & possible action).
12. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.
13. Adjournment.

# **The San Francisco Sentencing Commission**

## **City & County of San Francisco**

(Administrative Code 5.250 through 5.250-3)

---

### **SUBMITTING WRITTEN PUBLIC COMMENT TO THE SAN FRANCISCO SENTENCING COMMISSION**

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

### **MEETING MATERIALS**

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

### **ACCOMMODATIONS**

To obtain a disability-related modification or accommodation, including auxiliary aids or services, to participate in the meeting, please contact Tara Anderson at [tara.anderson@sfgov.org](mailto:tara.anderson@sfgov.org) or (415) 553-1203 at least two business days before the meeting.

### **TRANSLATION**

Interpreters for languages other than English are available on request. Sign language interpreters are also available on request. For either accommodation, please contact Tara Anderson at [tara.anderson@sfgov.org](mailto:tara.anderson@sfgov.org) or (415) 553-1203 at least two business days before the meeting.

### **CHEMICAL SENSITIVITIES**

To assist the City in its efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

### **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE (Chapter 67 of the San Francisco Administrative Code)**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's web site at: [www.sfgov.org/sunshine](http://www.sfgov.org/sunshine).

### **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE:**

Administrator  
Sunshine Ordinance Task Force  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place,  
San Francisco, CA 94102-4683.  
Telephone: (415) 554-7724  
E-Mail: [soft@sfgov.org](mailto:soft@sfgov.org)

### **CELL PHONES**

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Co-Chairs may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

### **LOBBYIST ORDINANCE**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by San Francisco Lobbyist Ordinance (SF Campaign and Governmental Conduct Code sections 2.100-2.160) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco CA 94102, telephone (415) 581-2300, FAX (415) 581-2317, and web site <http://www.sfgov.org/ethics/>

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

**MINUTES**

December 12, 2018  
10:00 a.m. – 12:00 p.m. Hall of Justice  
District Attorney Law Library 850 Bryant Street Room 322  
San Francisco, CA 94103

Members in Attendance: George Gascón, District Attorney; Commander Teresa Ewins, SFPD; Karen Fletcher, Chief Adult Probation Officer; Diana Oliva-Aroche, Department of Public Health; Theshia Naidoo, Board of Supervisors Appointee; Assistant Sheriff Kathy Johnson, San Francisco Sheriff; Assistant Chief Paula Hernandez, Juvenile Probation; Simin Shamji, Public Defender's Office; Lt Nate Weissich, BART Police Department; Carol Beckett on behalf of Karen Roye, Director Child Support Services; Eric Henderson, Reentry Council Appointee; Jerel McCrary, Family Violence Council Appointee; Mark Culkins, Superior Court.

**1. Call to Order; Roll call.**

10:10AM. District Attorney George Gascón calls to order of the 26<sup>th</sup> Sentencing Commission Meeting.

**2. Public Comment on Any Item Listed Below (discussion only).**

No public Comments.

**3. Review and Adoption of Meeting Minutes from September 12, 2018 (discussion & possible action).**

District Attorney Gascón asked commission members to review minutes from the previous commission meeting. Motioned to approve the minutes made by Theshia Naidoo, Diana Oliva-Aroche seconded the motion. All members approved. Minutes from September 12, 2018 meeting approved.

**4. Staff Report on Sentencing Commission Activities (discussion & possible action).**

Tara Anderson provided a staff report. Updates were provided on the unanimous endorsement of the Criminal Justice Racial Equity Statement by all San Francisco criminal justice policy bodies; the Safety and Justice Challenge Implementation grant award notification, data requirements and the local accept and expend process; the Safety and Justice Challenge (SJC) National Network Meeting held in October 2018; and the need to hire a full-time coordinator for successful completion of the SJC goals. In addition, Mrs. Anderson informed the Commission that in 2019 meetings will begin to be held in the community to further ensure the public feels welcome to attend the meeting.

Members did not have questions. DA Gascón requested the reports from the Reentry Council and Family Violence Council.

The Reentry Council had its final meeting of 2018 on October 25, 2018. During this meeting the Council unanimously passed the Criminal Justice Racial Equity Statement. Updates were provided about the release of the Getting Out and Staying Out guide which is going to print and the Council was informed that a digital copy will become available in early 2019. On Monday December 3, 2018 the two subcommittees held their strategic planning retreats with the purpose of map out 2019 priorities.

The Family violence council held its final meeting of 2018 on November 14, 2018. Two principle items on the agenda were the Adoption of Annual Family Violence Council Report and a presentation on Bay View High Risk Domestic Violence Team. Jerel McCrary provided a report out to the Sentencing Commission on the key findings of the report which is available on the Department on the Status of Women website. The next meeting is of the Family Violence Council is on February 20, 2018.

**5. Update on the Criminal Justice Racial Equity Workgroup by Ariana Flores  
Discrimination Investigator & Policy Analyst San Francisco Human Rights Commission  
(discussion).**

Tara Anderson provided an update on the activities of the Criminal Justice Racial Equity Workgroup which held its first meeting on November 28, 2018. The meeting focused on creating an inventory for existing racial equity efforts for partner agencies, reviewing the draft agenda for action, and discussion about coordinating budget requests to meet the identified racial equity goals. Lastly, meeting participants emphasized having measurable racial equity goals, Ms. Anderson informed members that the next meeting is scheduled for January 23<sup>rd</sup> at 10am in room 436 at the District Attorney's Office.

**6. Presentation on Safety and Justice Challenge Implementation Launch and Technical Assistance by Lore Joplin, Justice System Partners (discussion & possible action).**

Lore Joplin provided an overview of what San Francisco could expect in beginning strategies of the challenge work. Ms. Joplin covered the history of the MacArthur Foundation initiative which was started in 2015 with goal of reducing over incarceration in jails. She emphasized that the Initiative is focused on both Jail population reduction and reducing racial ethnic disparities. She informed the commission that there are 52 sites in 32 states with 3 cohorts. She provided an overview on the network of SJC partners supported by the MacArthur Foundation. She introduced her Justice System Partners team and the San Francisco site support Truls Neal and Christina Sansone. Lastly, she indicated that Justice System Partners is working with 8 sites and their job is to support agencies with their efforts more specifically San Francisco's commitment to a 16% jail reduction.

Simin Shamji asked at what point does the SJC work that is a part of San Francisco's Strategies start. Ms. Joplin and Mrs. Anderson responded indicating that the staff proposal to the Sentencing Commission is to rename the Recidivism Workgroup to be the Safety and Justice Challenge (SJC) Workgroup. They indicated that the SJC workgroup would begin work as soon as possible.

Diana Oliva-Aroche asked about agency participation in the workgroup. Mrs. Anderson responded indicating that all funded partners would be key members of the workgroup but that the workgroup would be open to the public and all agencies for participation.

DA Gascón asked if there was a motion to rename the Recidivism Workgroup to the Safety and Justice Challenge Workgroup. Simin Shamji made the motion. The motion was seconded by Assistant Sheriff Johnson. DA Gascon asked if there were any members of the public who had comments. There was no public comment. Members voted unanimously to pass the motion.

## **7. Presentation on the JUSTIS Roadmap process and future vision by Gartner (discussion & possible action).**

Gartner Technologies presented on the approach for developing the JUSTIS 5-Year Roadmap including the establishment of the baseline Current State Assessment. Key points included;

The future state vision (current task) is then built in collaboration with key agency and program stakeholders considering consensus needs, technology trends and Integrated Justice Information Systems (IJIS) leading practices.

Working with CCSF and JUSTIS leadership, the Gartner team will facilitate analysis of alternatives to define and prioritize the initiatives that are integrated into the JUSTIS Roadmap.

CCSF leadership, the JUSTIS stakeholder agencies and the constituents served share multiple policy and operational imperatives.

Each of these imperatives influence current and future capabilities that JUSTIS must provide. The JUSTIS Vision and supporting initiatives included in the Strategy and Roadmap will be developed in alignment with these drivers for change to ensure consistency with CCSF conditions and priorities.

## **8. Presentation on Trauma and Sentencing Planning by Dr. Gena Castro-Rodriguez, Chief of Victim Services and Parallel Justice Programs (discussion & possible action).**

Dr. Gena Castro-Rodriguez provided a comprehensive presentation on the trauma and relevant risk reduction and trauma informed strategies’.

Paula Hernandez of Juvenile Probation asked about local resources for addressing young dating violence.

Dr. Castro-Rodriguez responded indicating that there is a lack of local resources and that’s is one of the reasons that the upcoming Victim Services RFP that will be released by the District Attorney’s Office.

Eric Henderson asked what other additional resources you are using to get mental health providers on the streets to assist with the interactions with police and mental health folks.

Dr. Castro-Rodriguez responded providing an overview of training provided to her own staff and the availability of victim services to all survivors of crime including formerly incarcerated persons.

Members discussed role of Trauma around sentencing and incarceration.

DA Gascon emphasized the importance of sentencing planners in supporting prosecutors to understand how understanding complex trauma can be effectively incorporated into positive

sentencing outcomes. He further indicated that it is an important tool but unfortunately the work far exceeds the demand.

**9. Presentation on San Francisco Sentencing Commission Annual Report (discussion & possible action).**

Tara Anderson provided an overview of the draft annual report.

Diana Oliva-Aroche asked how to the reimagining the jail efforts will be incorporated into the 2019 work of the Sentencing Commission.

Mrs. Anderson responded indicating that the Sentencing Commission will regularly communicate progress toward the SJC jail reduction goals with the Re-envision the Jail Replacement Project Workgroup and acknowledged that a majority of the members of the Sentencing Commission are also participants in that workgroup.

Simin Shamji asked if we could continue to include the conversation of Trauma in the future meetings of the Sentencing Commission.

Assistant Chief Paula Hernandez corrected a statement made by Tara Anderson about the Local Action plan which was renamed the Comprehensive Multi-agency Local Action Plan: Strategies for San Francisco Juvenile Justice.

Eric Henderson requested that the Commission change language used by the commission to be humanizing and person centered. Simin Shamji agreed with this request.

Tara Agnese made a comment from the public. Requesting that the data related recommendation of the commission include and emphasis on increasing department capacity to hire analysts or researchers in the department and that those experts are included in policy conversations about JUSTIS.

Diana Oliva-Aroche made a motion to adopt the Annual Sentencing Commission report with the suggested amendments. The motion was seconded by Theshia Nadoo.

No members of the public had comment. The motion unanimously passed.

**10. Members' Comments, Questions, Requests for Future Agenda Items (discussion & possible action).**

Eric Henderson stated he would like to continue the policy subcommittee again as the new legislative cycle begins. Mrs. Anderson indicated she would work with Member Henderson and the Reentry Council staff to identify the best way to focus legislative efforts for 2019.

**11. Public Comment on Any Item Listed Above, as well as Items not Listed on the Agenda.**

No Comment.

**12. Adjournment.**

Eric Henderson moved to adjourn the meeting. Simin Shamji seconded this motion. The meeting was adjourned at 12:01 pm.

## SAMPLE RESOLUTION FOR HUMANIZING LANGUAGE

Urging the City and County of San Francisco to adopt and utilize person-first language with respect to people with criminal records.

WHEREAS, approximately X in every XX residents of San Francisco has a criminal record, and

WHEREAS, These people, approximately XXXX individuals, comprise every geographic, socioeconomic, racial, ethnic, age, gender and religious group; but are disproportionately black, brown, and low-income, and

WHEREAS, These people, approximately XXXX adults, are a part of our communities, schools and workplaces; and

WHEREAS, People with criminal records encounter negative attitudes, barriers, segregation, discrimination and

WHEREAS, Using language that puts a criminal record before the individual or that describes the individual by a previous action devalues and disrespects the humanity of that individual; and

WHEREAS, Inaccurate descriptions, outdated words, generalizations and another negative language about people with criminal records contribute to stigma, misinformation, negative stereotypes and attitudinal barriers; and

WHEREAS, Person-first language, places the individual before the criminal record and uses neutral, objective, accurate and nonpejorative language; and

WHEREAS, People-first language results in positive, realistic and balanced communication about people with criminal records and treats each person as an individual not defined solely by a criminal record; and

WHEREAS, Language shapes the ideas, attitudes and beliefs of individuals and society; and

WHEREAS, Language thus influences government decisions, policies and laws; therefore be it

RESOLVED, That the City and County of San Francisco recognize that the use of language that is not people-first language with respect to people with criminal records

hinders their integration, inclusion, participation and respect in society and negatively influences government decisions, policies and laws; and be it further

RESOLVED, That the Board of Supervisors urge adoption and utilization by the City and County of San Francisco of people-first language with respect to people with criminal records; and be it further

RESOLVED, That the Board of Supervisors urge adoption and utilization of people-first language in legislation, cosponsorship memos, reports, policies and other documents in print or electronic format; and be it further

RESOLVED, That the Board of Supervisors urge adoption and utilization of people-first language by executive branch agencies and the judiciary in regulations, policies, reports and other documents in print or electronic format; and be it further

RESOLVED, That, for purposes of this resolution, people-first language means language that places the individual before his or her criminal records, does not reduce the individual to a series of labels, and does not use outdated, inaccurate or pejorative descriptors or terms; and be it further

RESOLVED, That the following examples serve as models of appropriate use of person-first language:

- (1) "formerly incarcerated person," not "felon or offender";
- (2) "person on parole," not "parolee";
- (3) "currently incarcerated person," not "convict or inmate";





## Underground Scholars Initiative

*Building the Prison  
to University  
Pipeline*

UC Berkeley  
UC Irvine  
UC Los Angeles  
UC Riverside

## Language Guide for Communicating About Those Involved In The Carceral System

Increasing attention is being given to the language people use when discussing individual or group identities and experiences. In large part, marginalized people must demand the respect to create and amplify language that they consider more humanizing than the negative narratives imposed on us by dominant society. The late Eddie Ellis, a wrongfully convicted member of the Black Panther Party for Self Defense, established the first academic think tank run by formerly incarcerated people: Center for NuLeadership in NY. Paroling in 1994 with multiple degrees, Ellis worked to advance the dialogue around those who have been system impacted. Twenty five years later and our collective struggle to be recognized for the fullness of who we are as people remains.

Language is not merely descriptive, it is creative. For too long we have borne the burden of having to recreate our humanity in the eyes of those who would have us permanently defined by a system that grew directly out of the the institution of American slavery, an institution that depended on the dehumanization of the people it enslaved. It is in this spirit that we, the formerly incarcerated and system-impacted academics who identify as the Underground Scholars Initiative (USI) at the University of California, Berkeley, call on the media, students, and public to utilize the following terminology when discussing our population individually or collectively. This is not about euphemisms or glossing over people's actions, rather it is about reclaiming our identity as people first. It is important to note that this style guide is equally applicable when talking about similarly situated populations outside of the United States.

Thank you in advance for respecting us enough to treat us as humans.

In solidarity,

Underground Scholars Initiative (USI)

## Terminology Guide

**Incarcerated Person** refers to anyone currently incarcerated. It makes no claim about guilt or innocence (contrary to words like “convict”), nor does it attach a permanent identity to an often temporary status (like “prisoner” etc.)

**Formerly Incarcerated Person** refers to anyone who has been in a carceral setting and is now released. Prison, immigration detention centers, local jails, juvenile detention centers, etc. are included under this umbrella term. Attaching the prefix ex- to anything (ex-convict, ex-felon, etc.) is a clear indication that it, and the root word itself, are unacceptable.

**System Impacted** includes those who have been incarcerated, those with arrests/convictions but no incarceration and those who have been directly impacted by a loved one being incarcerated. While those close to us, as well as the broader society are negatively impacted by our incarceration, it is often our partners, parents, children and/or siblings who face the most significant disadvantages behind our absence and thus, categorically merit this designation.

**Carceral System** is far more accurate than the ubiquitous term “Criminal Justice System.” Not all who violate the law (commit a crime) are exposed to this system and justice is a relative term that most people in this country do not positively associate with our current model. In this context, Carceral System is best understood as a comprehensive network of systems that rely, at least in part, on the exercise of state sanctioned physical, emotional, spatial, economic and political violence to preserve the interests of the state. This includes formal institutions such as, law enforcement and the courts, surveillance and data mining technology, NGO / non-profit consultants, conservative criminologists, those who manifest and/or financially benefit from modern slave labor, corporate predation on incarcerated people and our communities, the counterinsurgency in communities of color through ‘soft-policing’, etc.

**People Convicted of (Drug Violations / Violent Offenses / etc.)** Calling people “violent offenders”, “drug offenders” etc. continues to reduce one’s identity to a particular type of conviction. It is rarely necessary to specify the type of crime an incarcerated or formerly incarcerated person was convicted of, however, and when doing so, it should be phrased in line with this guidance.

**Gang Member** is the one term on this list for which there is not a replacement. It is a subjective term that has zero probative value in discourse around communities that experience high rates of violence and/or marginalized people. If people choose to self-identify as such then that is their right. The label should never be placed on another.

**Person on Parole / Probation** instead of “parolee” or “probationer.” Again, it is about articulating the person first, not whatever temporary or circumstantial qualifiers may be perceived. Be mindful to preserve the privacy of those who may be on probation or parole.

**People with No Lawful Status** are those with no legal status and who are not engaged with the immigration system at this time for whatever reason.

**Undocumented People** refers to people who are engaged in the asylum, DACA, etc. process but it is not complete to the point of providing guaranteed citizenship.

**Resident** should replace “citizen”, including in the phrase “returning citizen” that has been adopted by some to describe formerly incarcerated people. Citizens carry rights and responsibilities that many incarcerated people, formerly incarcerated people, undocumented people, and people without status do not have. Millions of people are legally denied the right to vote, the right to serve on a jury, the right to run for an elected office, the right to travel freely, etc. Citizenship is exclusive and the word should only be used when intended to refer to people who carry all the rights of citizenship.

**Sexual Assault Survivor** refers to anyone who has experienced molestation, rape, sexual assault, etc. While far too many people have experienced abuse; that does not make the sexual assault survivor a victim.

**Sex Trafficking Survivors** are also sexual assault survivors, yet with the added trauma of being kidnapped and exploited for the economic gain of others. The survivors are often incarcerated for the very acts they were forced to do, exacerbating a cycle of abuse. Not all Sex Workers, most often female and LGBTQ people, have been, or are being trafficked. Caution must be taken to not conflate the two.

**Sex Workers** are people voluntarily engaged in any work, whether legal or illegal, that centers around sex. This includes street prostitution, webcam workers, escorts, etc. of any gender identity. It does not include exotic dancers who choose not to engage in off-stage business as described, nor is it the proper designation for sex trafficking survivors.

**Communities that Experience High Rates of Violence** is preferable to “violent communities” and its evil twin “bad/disadvantaged neighborhoods.” Labeling a community as “violent” demonizes all people within it. It places the burden of such a disparaging label on the community itself without highlighting the systemic factors that are necessary for a community to repeatedly experience such trauma.

**Drug / Substance Use** is more accurate than “abuse”. One does not abuse heroin, meth, alcohol etc., they use it to feel the anticipated effects of the substance. The classification and prohibition of substances is political, not medical, and has always been a tool to police communities of color. To misidentify users as abusers is a continuation of the strategic propaganda employed to dehumanize and vilify particular populations who use drugs. Drug and substance use among marginalized people is often a means of self-medicating for us who are denied meaningful access to local, culturally competent, and affordable mental health services by the same systems that perpetuate the abuse from which we seek relief. People who are abused cannot then be called abusers for a private, personal attempt at self-preservation.

## **Topical Guide**

**Public Safety** All of us are in favor of public safety even as many are rightfully critical of law enforcement. The two concepts are not synonymous, and in fact are typically in conflict, as evident when one views videos of police killing residents, destroying property and harassing people traveling by foot, car, bus or plane. We encourage those writing about police/community relations to challenge both sides on what public safety looks like, particularly in communities where many residents find the police to be a destabilizing force operating contrary to safety.

**War on Crime / Drugs / Gangs** are failed policies of the US government executed here and abroad and should be exposed as such in any discourse that chooses to use this verbiage lest the public continue to believe these are efforts that deserve support.

**Violent vs. Non-Violent Crimes** is a pseudo-dichotomy. Burglary can be a “violent crime” while rape may be “non-violent”. Furthermore, the vast majority of people incarcerated in non-immigration detention centers are classified as violent thus, any substantive reform must include them / us. Lastly, we know the threat of incarceration is not a meaningful deterrent, and with programs like higher education for the incarcerated, people can leave prison and be successful regardless of their commitment offense.

**Good vs. Bad** in any context of human beings is flawed at best and violent at worst. Juxtaposing “good immigrants” who do things the right way with “bad immigrants” who don’t, or “good people” who change their life with “bad people” who don’t, or “good girls” who appear to accept patriarchy with “bad girls” who clearly don’t, are all value judgments dependent on the perspective of the person framing the narrative. These narratives are overwhelmingly white, heterosexual, cis-gendered, middle-or upper-class, male, Protestant perspectives. Those of us who do not fit in that mold have and will find ourselves misrepresented, devalued, and differentiated.

\*Direct inquiries to [UndergroundScholars@berkeley.edu](mailto:UndergroundScholars@berkeley.edu)

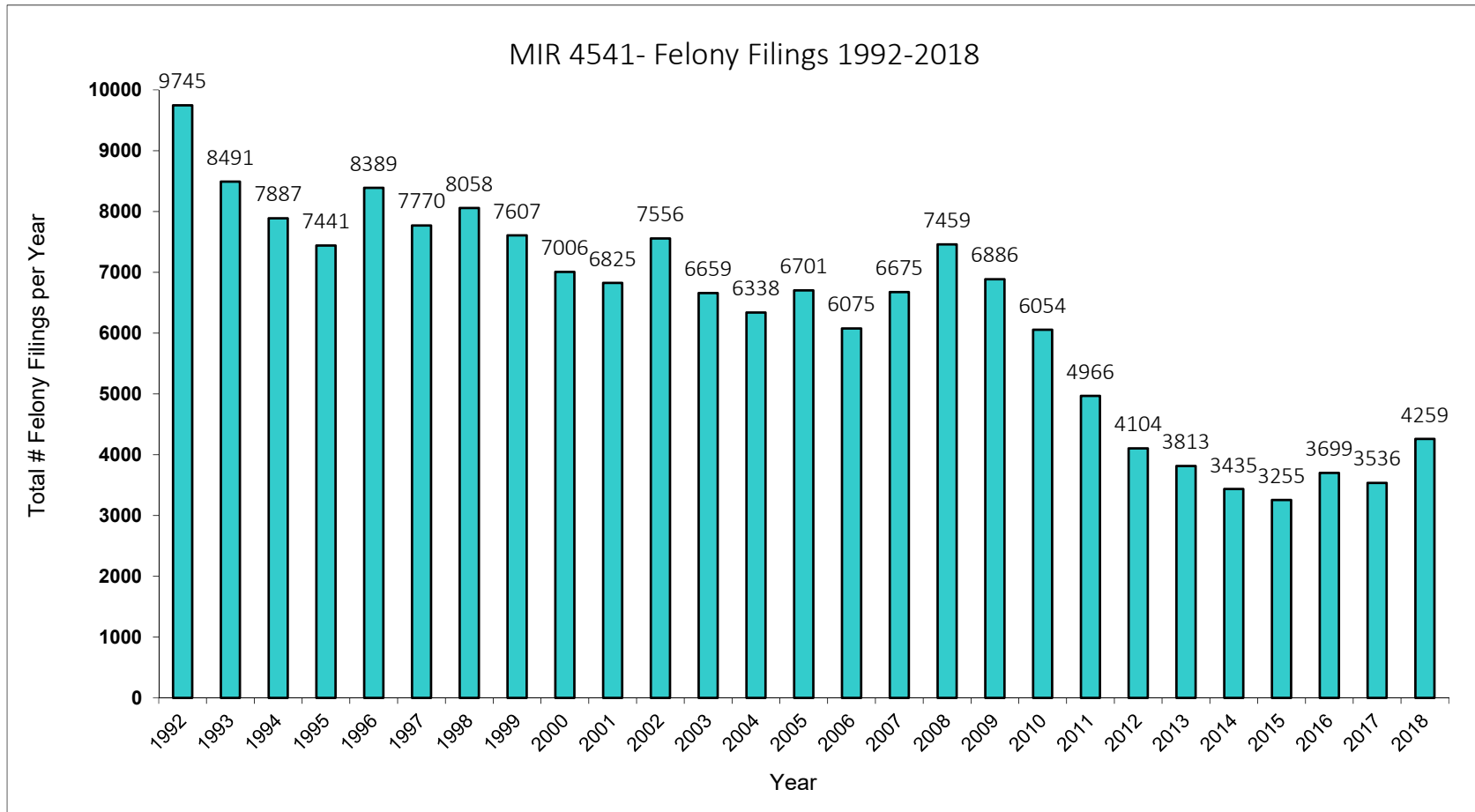
# San Francisco Criminal Case Statistics 2018

*Superior Court of California, County of San Francisco*

*San Francisco District Attorney's Office*

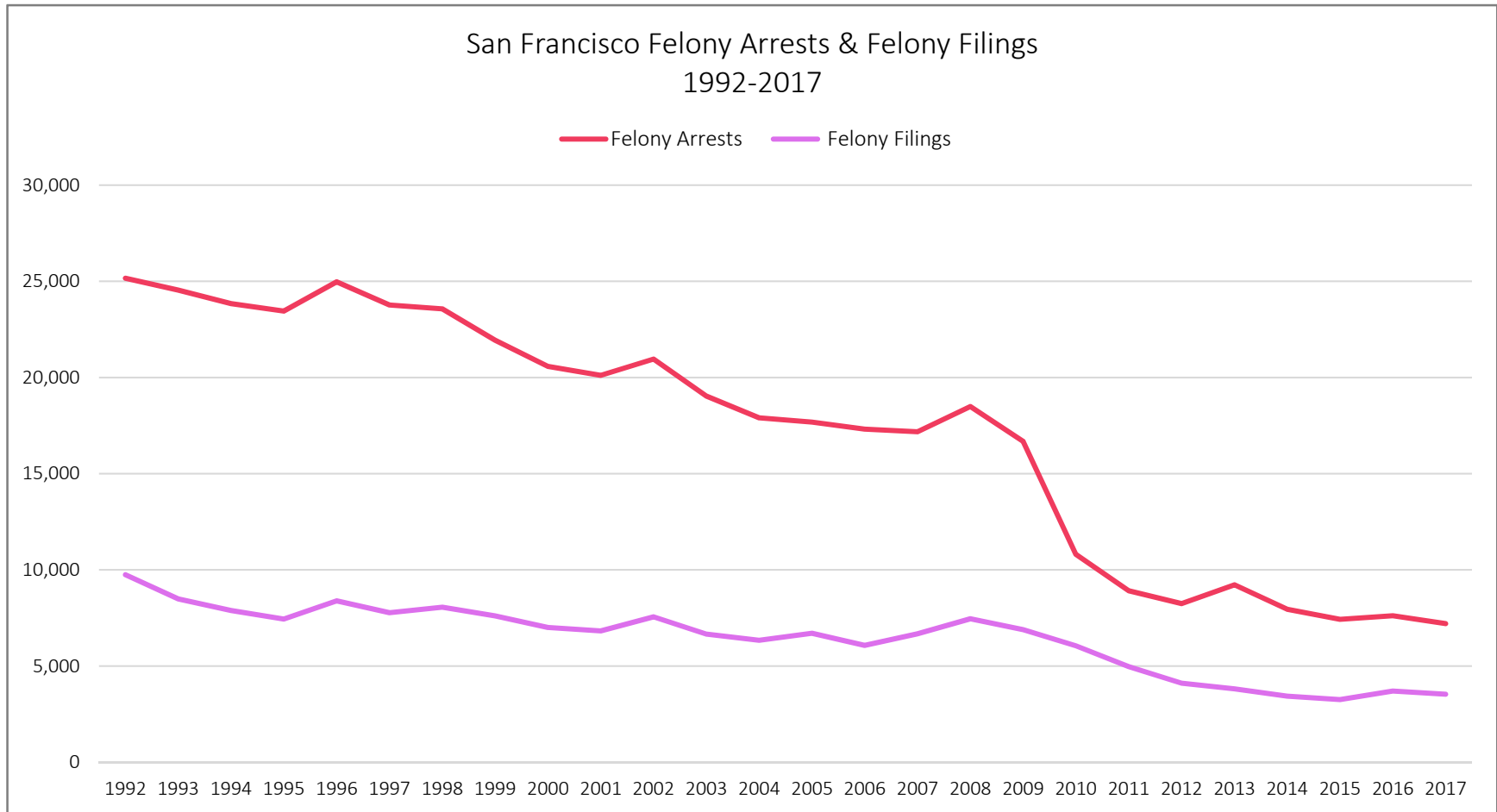
March 13, 2019

## I. San Francisco Superior Court: Felony Filings, 1992-2018



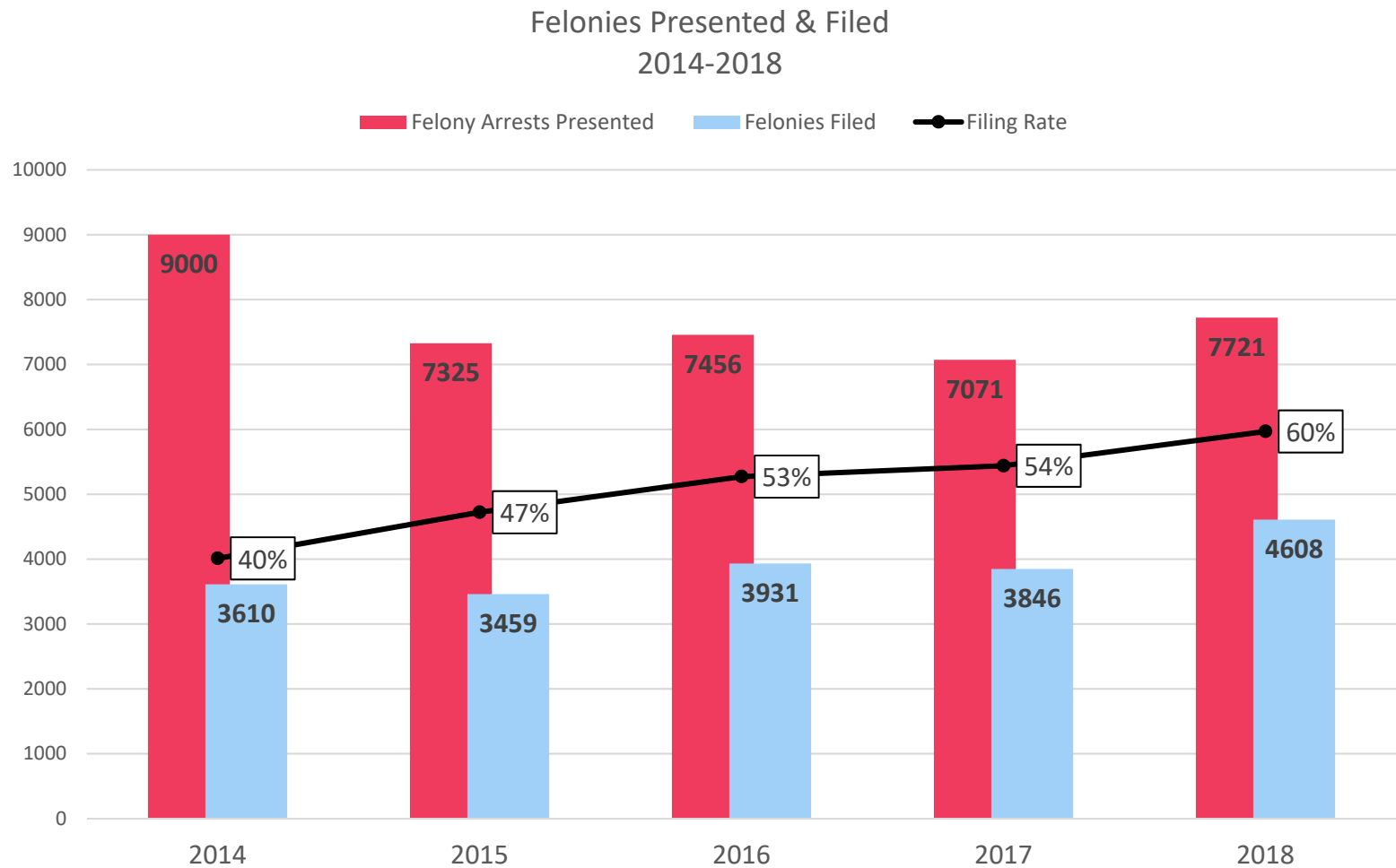
Source: San Francisco Superior Court/CMS; Unit: Court Numbers

## II. San Francisco Felony Arrests & Felony Filings 1992-2017



Sources: San Francisco Superior Court/CMS, Unit: Court Numbers; CADOJ Open Justice, Unit: Arrests

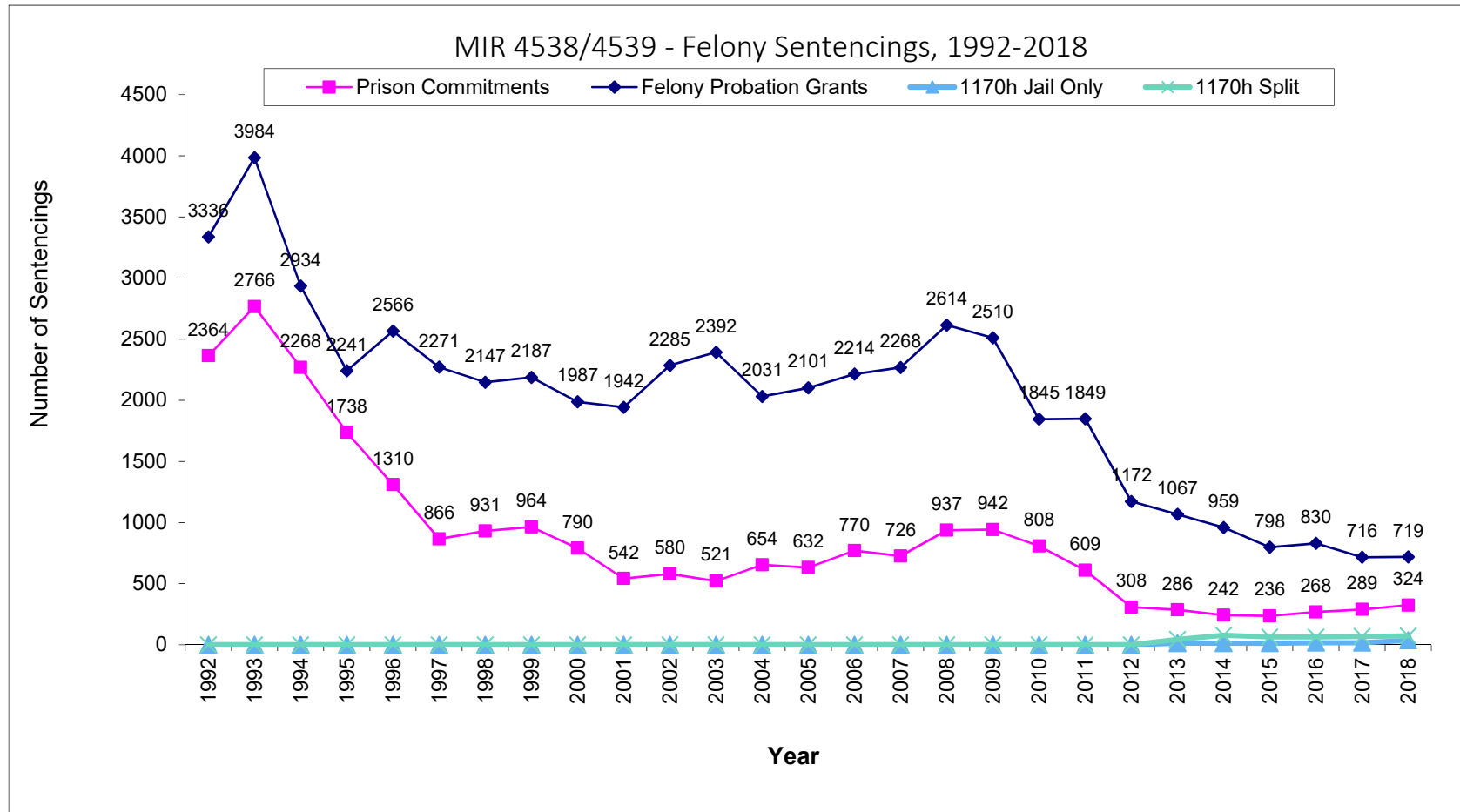
### III. San Francisco District Attorney's Office: Felony Filing Rate, 2014-2018



Source: DAMION; Unit: Court Numbers

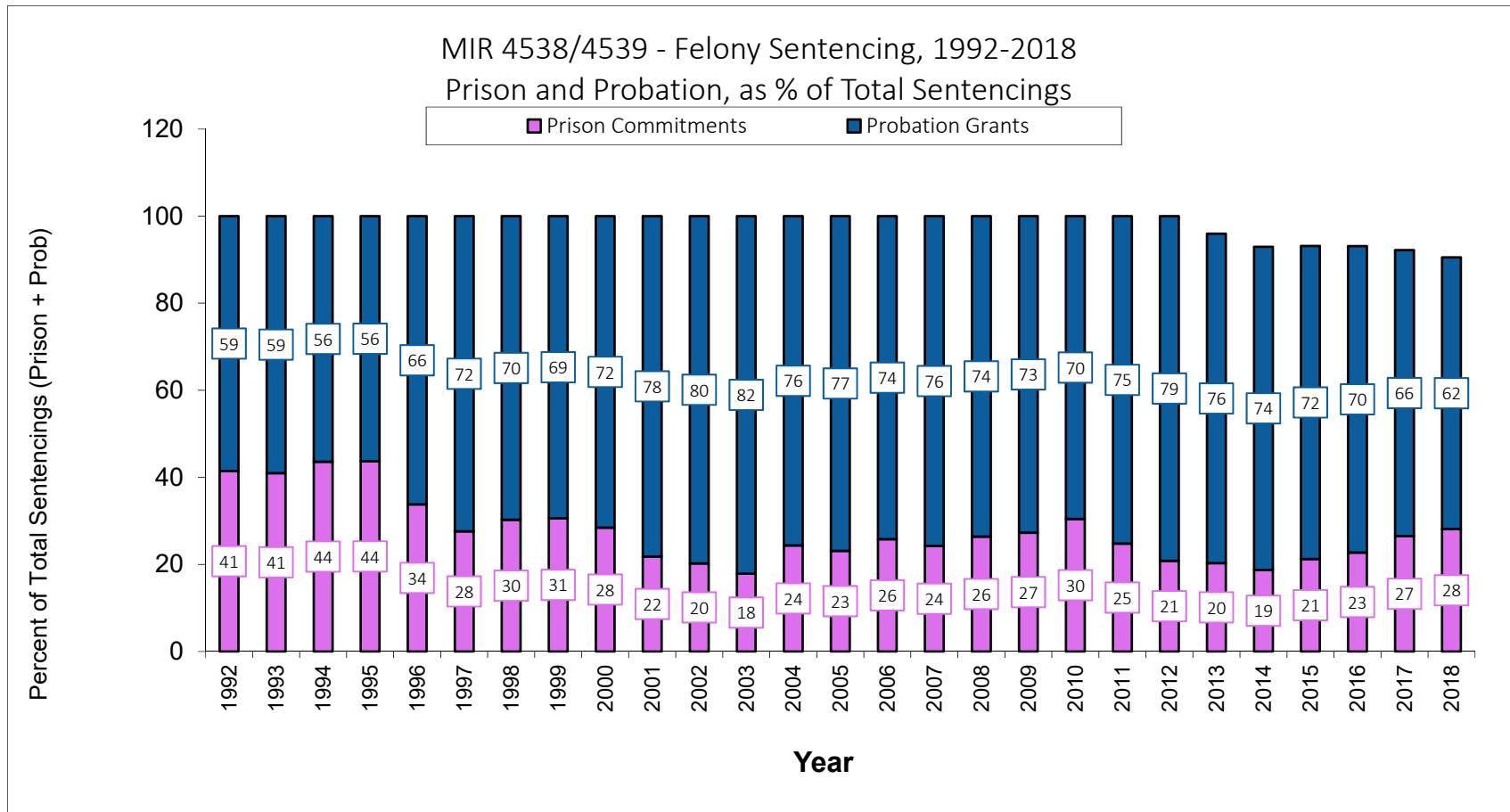


## IV. Superior Court: Felony Sentencings, 1992-2018



Source: CMS; Unit: Court Numbers

## V. Superior Court: Felony Sentencing, Probation vs. Prison %, 1992-2018



Source: CMS; Unit: Court Numbers

2018 Legislative Update: San Francisco Sentencing Commission			
Bill Number	Chapter	Title	Summary
AB 1810	34	Committee on Budget. Health	Mental Health Diversion (took effect June 27, 2018--changes made by SB 215 took effect January 1, 2019).
AB 1812	36	Public safety omnibus.	Public Safety Trailer Bill took effect 6/28/18. Extends DJJ jurisdiction to age 25 from age 23. Creates pilot program for transitional age youth. Expands 1170(d) resentencing. Court may reduce a term of imprisonment and modify the judgement, including those pursuant to plea agreements.
SB 1437	1015	Accomplice liability for felony murder.	Restricts murder liability. Fully retroactive, including pleas. Does not apply if victim was a peace officer.
SB 1391	1012	Juveniles: fitness for juvenile court.	Restricts fitness hearings. No fitness hearings for 14/15 year old defendants--must be tried as juveniles.
SB 1393	1013	Sentencing	Deletes the restriction prohibiting a judge from striking a prior serious felony conviction in connection with imposition of the 5-year enhancement described above and would make conforming changes.
SB 1187	1008	Competence to stand trial.	The maximum period for restoration of competency reduced from 3 years to 2 years. Allows defendants to earn day for day credits during any period of treatment. Report must be filed with court 90 days before expiration of restoration period.
AB 1793	933	Cannabis convictions: resentencing.	Requires the Department of Justice, before July 1, 2019, to review the records in the state summary criminal history information database and to identify past convictions that are potentially eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to AUMA. Requires the department to notify the prosecution of all cases in their jurisdiction that are eligible for recall or dismissal of a sentence, dismissal and sealing, or redesignation. Requires the prosecution to, on or before July 1, 2020, review all cases and determine whether to challenge the resentencing, dismissal and sealing, or redesignation.
AB 372	290	Domestic violence: probation.	Authorizes from July 1, 2019, and until July 1, 2022, the Counties of Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo to offer an alternative program, for individuals convicted of domestic violence. Requires that alternative program to meet specified conditions, including that the county performs a risk and needs assessment and includes components which are evidence-based or promising practices, as defined.
AB 1987	482	Discovery: postconviction.	Expands the right of access to discovery materials to any case in which a defendant is convicted of a serious or violent felony resulting in a sentence of 15 years or more.
AB 2845	824	Criminal procedure: pardons.	Allows BPH to make recommendations regarding pardons and commutations at any time.
AB 2942	1001	Criminal procedure: recall of sentencing.	Allows the court to also recall and resentence a defendant upon the recommendation of the district attorney of the county in which the defendant was sentenced.
SB 785	12	Evidence: immigration status.	Prohibits the disclosure of a person's immigration status in open court by a party unless that party requests an in camera hearing and the presiding judge determines that the evidence is admissible.



## City and County of San Francisco Stress Test Summary - DRAFT

March 7, 2019

### Roster

Betsy Wolkin	Bar Association of San Francisco
Simin Shamji	SF Public Defender's Office
Tanya Mera	Department of Public Health (Jail Health Services)
Dr. Lisa Pratt	Department of Public Health (Jail Health Services)
Ali Riker	SF Sheriff's Department
Lt. James Quanico	SF Sheriff's Department
Tara Anderson	SF District Attorney's Office
Sharon Woo	SF District Attorney's Office
Emily Fox	SF District Attorney's Office
Katy Miller	SF District Attorney's Office
Giles Feinberg	SF District Attorney's Office - Victim Services
Hanna Cho	SF District Attorney's Office - Victim Services
Mark Culkins	SF Superior Court
Michael Yuen	SF Superior Court
Garrett Wong, Presiding Judge	SF Superior Court
Alisha Alcantar	SFDPD
Armando Miranda	SF Public Defender's Office
James Austin	JFA
Truls Neal	Justice System Partners
Christina Sansone	Justice System Partners
Lore Joplin	Justice System Partners
Armando Miranda	SF Public Defender's Office
Tara Agnese	SF Adult Probation Department

### Overview

San Francisco recently received funding through the MacArthur Foundation's Safety and Justice Challenge (SJC) to enhance data driven decision making, create transparency, and increase information sharing; establish new standards for criminal court case processing; increase linkages to community-based treatment; and increase jail health clinical capacity. On February 26, 2019, as part of San Francisco's participation in the SJC, criminal justice system partners convened for a "stress test". The purpose of the stress test is to review a sample set of cases that are utilizing a high percentage of jail beds. The exercise built upon analysis previously completed by Jim Austin of JFA. According to Jim Austin's analysis, the key drivers of the San Francisco jail population fall into 3 categories: (1) those booked and released within a few hours or under 3 days; (2) those booked and released more than once in a year with short LOS; and, (3) those who spend many weeks and months in custody before their cases are resolved, or their jail sentences completed.





The stress test required each agency to select no more than two people to participate in a case review exercise to further explore these categories of people in jail custody. The exercise included the following steps:

1. 35 sample cases were drawn from the case release reasons associated with our greatest population drivers
2. SFDA's Office reviewed cases to confirm sample is representative and flagged cases for potential issues including active supervision or other pending matters
3. Packets including case information were assembled and distributed to participants
4. Participants reviewed the cases and gathered additional information relevant to processing time
5. Participants gathered together for a 4 hour work session to explore:
  - a. What aspects of the case, policies and or practices led to the extended length of stay?
  - b. Could anything have been done differently that would have decreased the length of stay?

The work session was facilitated by Jim Austin, JFA, Inc., and Lore Joplin, Justice System Partners and was designed to help San Francisco better understand what is driving the length of stay for those case categories that represent the highest users, inform implementation of San Francisco's SJC strategies, and potentially identify other opportunities for reducing unnecessary jail utilization.

### Work Session Summary

The work session began with partners collectively set ground rules for the conversation, including:

- Don't jump to solutions before fully understanding the problem
- The courts can't comment on rulings or pending cases
- Don't be defensive
- Be open to the conversation

### Discussion Areas

- As part of its SJC proposal, San Francisco committed to reducing its jail population by 16%, which is the percent required to close Jail 4 in the Hall of Justice.
- Reducing the average length of stay from 26 to 22 days would achieve the population reduction goal.
- According to the JFA analysis, from April 2017 to April 2018;
  - There were 17,566 releases for 10,000 people, indicating a high number of people who were booked and released more than once.
  - The largest group of release reason categories included Transfer, Criminal Matters Adjudicated and Time Served.
- This information was used to select a sample of 35 cases for review.
- Due to time limitations and prioritization of case types, 15 of the 35 possible cases were discussed during the session.





The primary Stress Test themes and areas for exploration identified during the discussion are summarized below. The possible actions related to each of the identified themes will be explored further under the auspice of the Safety and Justice Challenge Work Group.

Theme	Possible action and/or questions to be answered
High number of unsuccessful outcomes for collaborative court participants	<ul style="list-style-type: none"> <li>When cases are identified as unsuccessful in collaborative courts, move to resolution more quickly</li> </ul>
Client not engaging in court ordered treatment resulting in revocations and bench warrants	<ul style="list-style-type: none"> <li>Identify the prevalence of revocations related to treatment failures and set reduction goals.</li> <li>Increase linkages to treatment (for collaborative courts and general court orders)</li> </ul>
Wait time from court order to treatment to release for treatment	<ul style="list-style-type: none"> <li>Identify common metric across criminal justice and public health for the wait time and report on the measure as a part of the jail population review team.</li> <li>Identify common standard for amount of time between court order and release to treatment</li> </ul>
Wait time from referral to treatment to release (mostly related to homelessness)	<ul style="list-style-type: none"> <li>Explore the development of a housing first program for forensic populations.</li> <li>Identify supportive housing stock which when combined with intensive outpatient could mitigate the need for inpatient treatment placement.</li> </ul>
Time required for completion of pre-sentence investigations	<ul style="list-style-type: none"> <li>Develop system to decrease time for completion.</li> <li>Consider refining a tiered system, (e.g., in custody CTS, in custody, out of custody)</li> </ul>
Need for a shift in culture/patterns	<ul style="list-style-type: none"> <li>Decrease patterns for standard sentences. (e.g. 60-90-120 to 55-85-115)</li> <li>Develop process to stipulate to Credit for Time served when all parties agree.</li> </ul>
MTR duplication by District Attorney and Adult Probation	<ul style="list-style-type: none"> <li>Quantify the potential person and case level impact of duplicated MTR filing.</li> <li>Identify opportunities to reduce or illuminate duplication.</li> </ul>
Milestone credits (sentenced population)	<ul style="list-style-type: none"> <li>Develop system for accounting for/incorporate milestone credits.</li> </ul>
Non-revocable supervision	<ul style="list-style-type: none"> <li>Identify number of detainees held on MTRs</li> <li>Further analyze MTR trends by type (technical violations versus those for new charges)</li> </ul>
Explore transfer release category	<ul style="list-style-type: none"> <li>Explore which release categories are included and parse out (e.g., delivered to a program, released to another jurisdictions, state hospital, CDCR)</li> </ul>
Competency restoration process	<ul style="list-style-type: none"> <li>Explore the process and time for evaluations and placement</li> </ul>



City and County of San Francisco  
Sentencing Commission

# Case Processing Technical Assistance

March 13, 2019



Justice System Partners

The Justice Management Institute

# Agenda

- Introductions
- Goals and objectives
- The Justice Management Institute TA team
- Criminal justice system stakeholders
- Major tasks and timeline
- Deliverables



## Case processing study goal

The criminal justice stakeholders in San Francisco are working with the Justice Management Institute (JMI) to document, assess, improve, and streamline case processing.

## Case processing study objectives

- 1. The JMI team with JSP and local project management will conduct site visits and interviews**
  - Participants are judges, court administrators, and prosecutor and defense leadership and representatives
  - Seek feedback about case processing strengths and challenges
  - Document the local legal culture, judge and attorney expectations, and diversity of techniques and styles across the bench.

# Case processing study objectives

## Site visits and interviews

### Case Processing | Interview Guide

#### 1. Case assignment and initiation

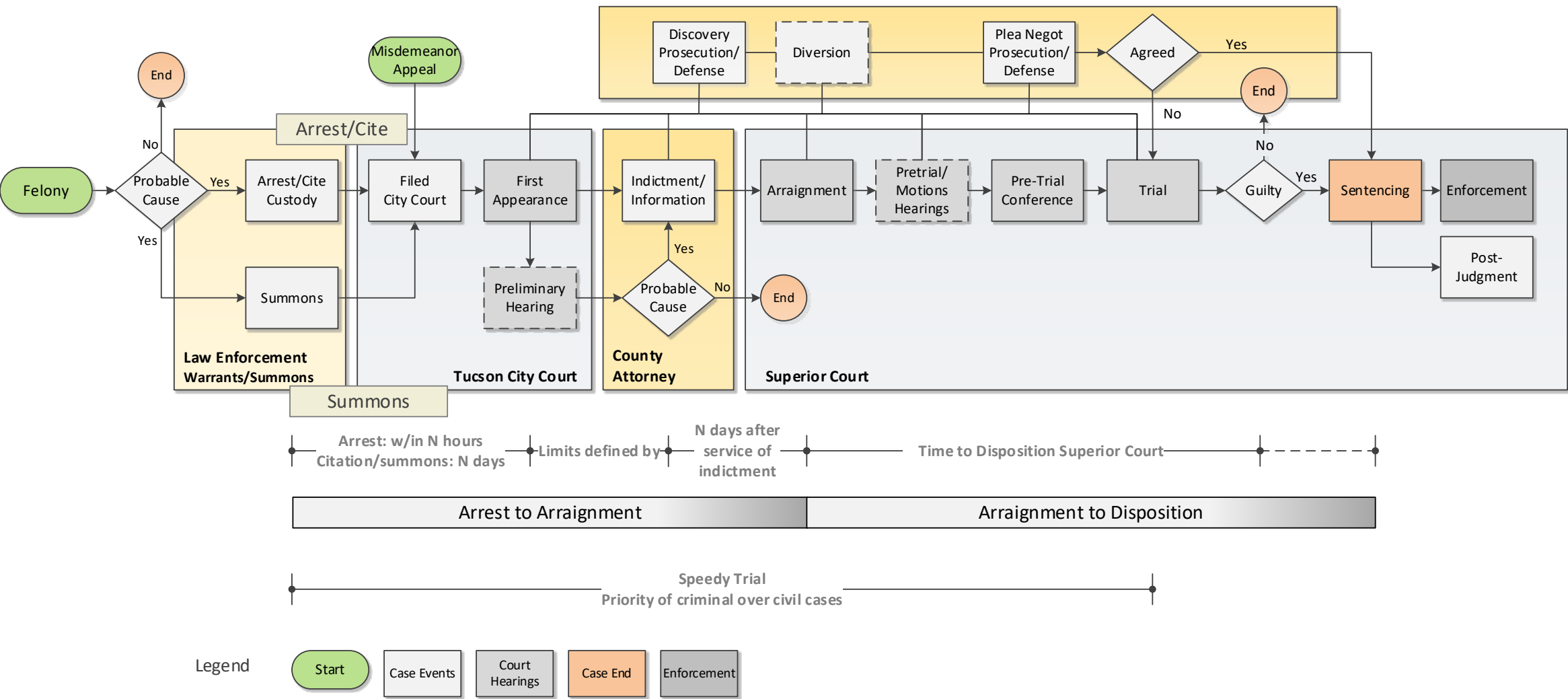
#### 2. Case management

- a. Scheduling Orders.* Do you use scheduling orders? For which case subtypes, or do you distinguish?
- b. Status Conferences.* Do you use status conferences? If so, for which case subtypes and for what purpose(s)?
- c. Pretrial Readiness.* Do you use pretrial conferences? If so, for which case subtypes and for what purpose(s)? Do you use pre/trial readiness checklists?

## Case processing study objectives

- 2. The JMI team with JSP and local project management will assess criminal case processing and performance**
  - Use data and information provided by the county, courts, prosecutor, and defense.
  - Integrate judge and stakeholder feedback from the site visits.
  - Present the data analysis as a mirror that describes and illustrates local legal culture and the expectations of judges and attorneys at the case level.

# Felony case processing example



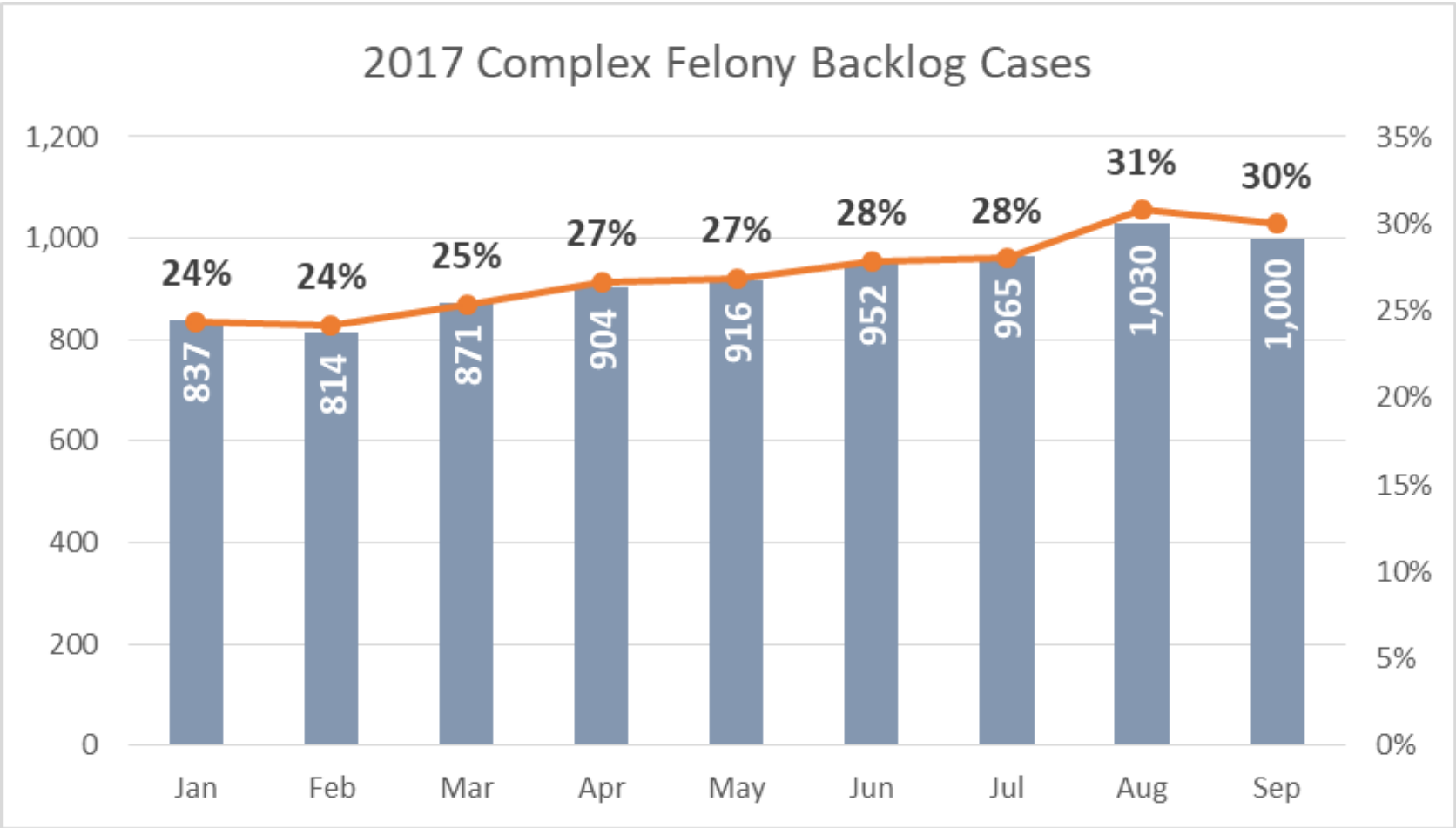
## Case processing study objectives

### **3. The JMI team will facilitate workshops with justice system stakeholders**

- Analyze case processing and the local legal culture.
- Review principles and best practices applied to San Francisco's unique legal culture.
- Recommend, discuss, and refine strategies for court and system-wide case management plans.

# Case processing study objectives

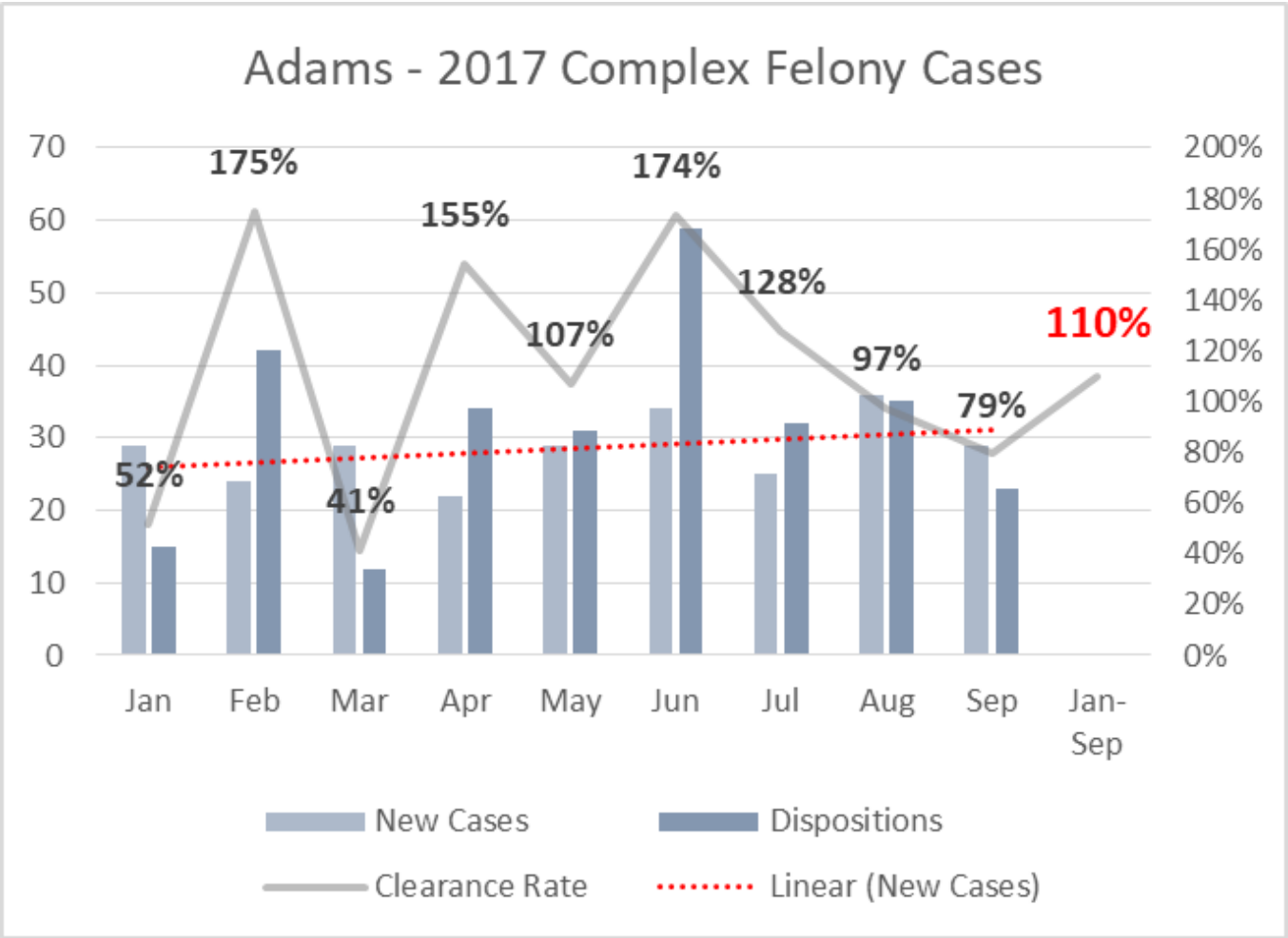
Assess criminal case processing and performance



*Sample*

# Case processing study objectives

Assess criminal case processing and performance



Sample



## Justice Management Institute team

**Tim Dibble, Vice President**

The Justice Management Institute

**Hon. Lori Walkley, District Court Judge**

21<sup>st</sup> Judicial District, Oklahoma

Case management curriculum and training, National Judicial College, Nevada

Case management technical assistance projects include:

- Mecklenburg County (Charlotte) District Court, North Carolina
- Fulton County (Atlanta) Superior Court, Georgia
- Harris County (Houston) District Court, Texas
- Pima County (Tucson) Superior, Justice, and City Courts, Arizona
- Clark County (Las Vegas) District, Justice, and Municipal Court, Nevada

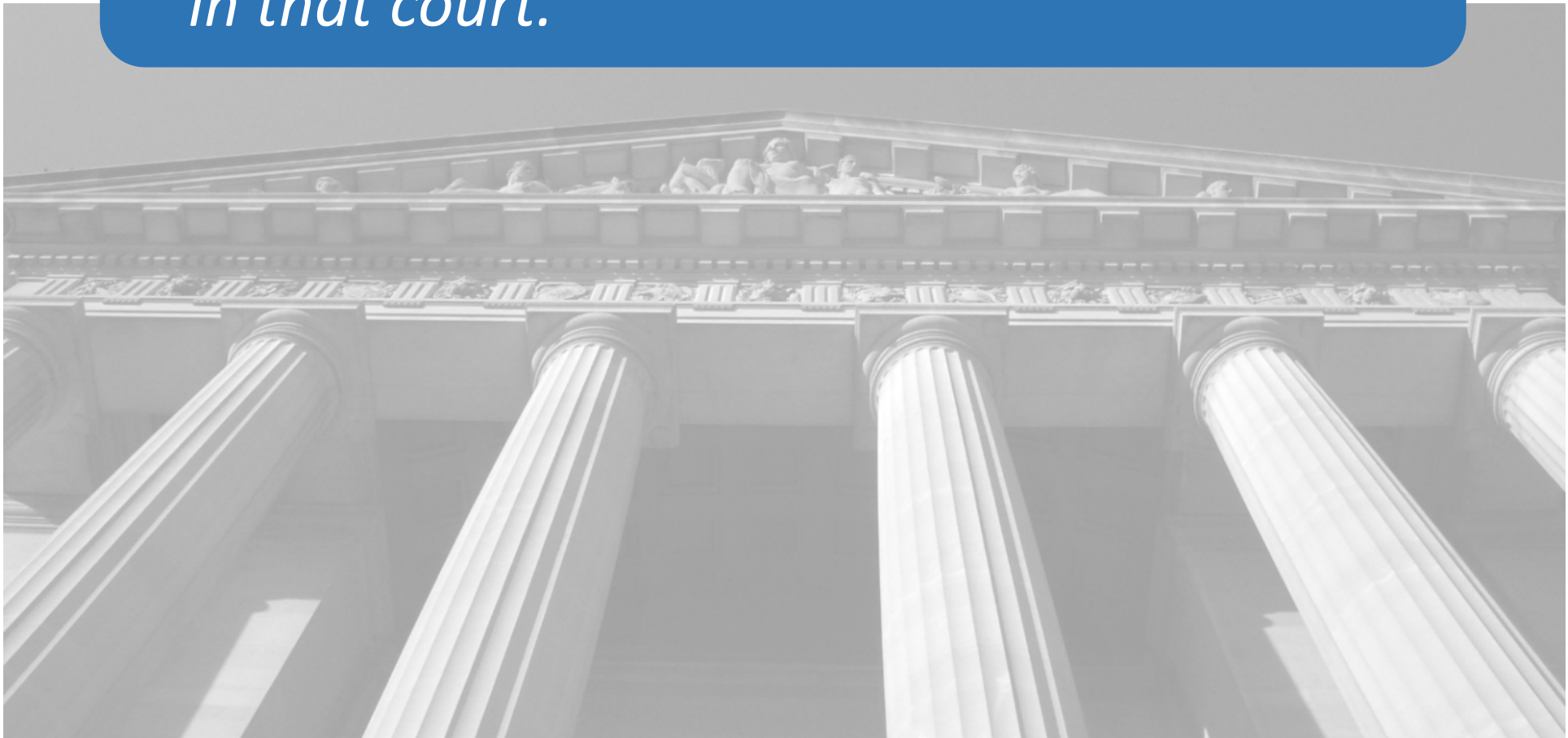
## Major tasks and timeline

[illegible]

## Deliverables

- Data requests and analysis
- Analysis of rules of procedure and local rules
- Case processing mapping
- Judge interviews
- Synthesis and summaries of techniques and approaches
- Felony and misdemeanor workshops
- *Bi-weekly project management reviews*

***Caseflow management** is the court supervision of the progress of all cases filed in that court.*



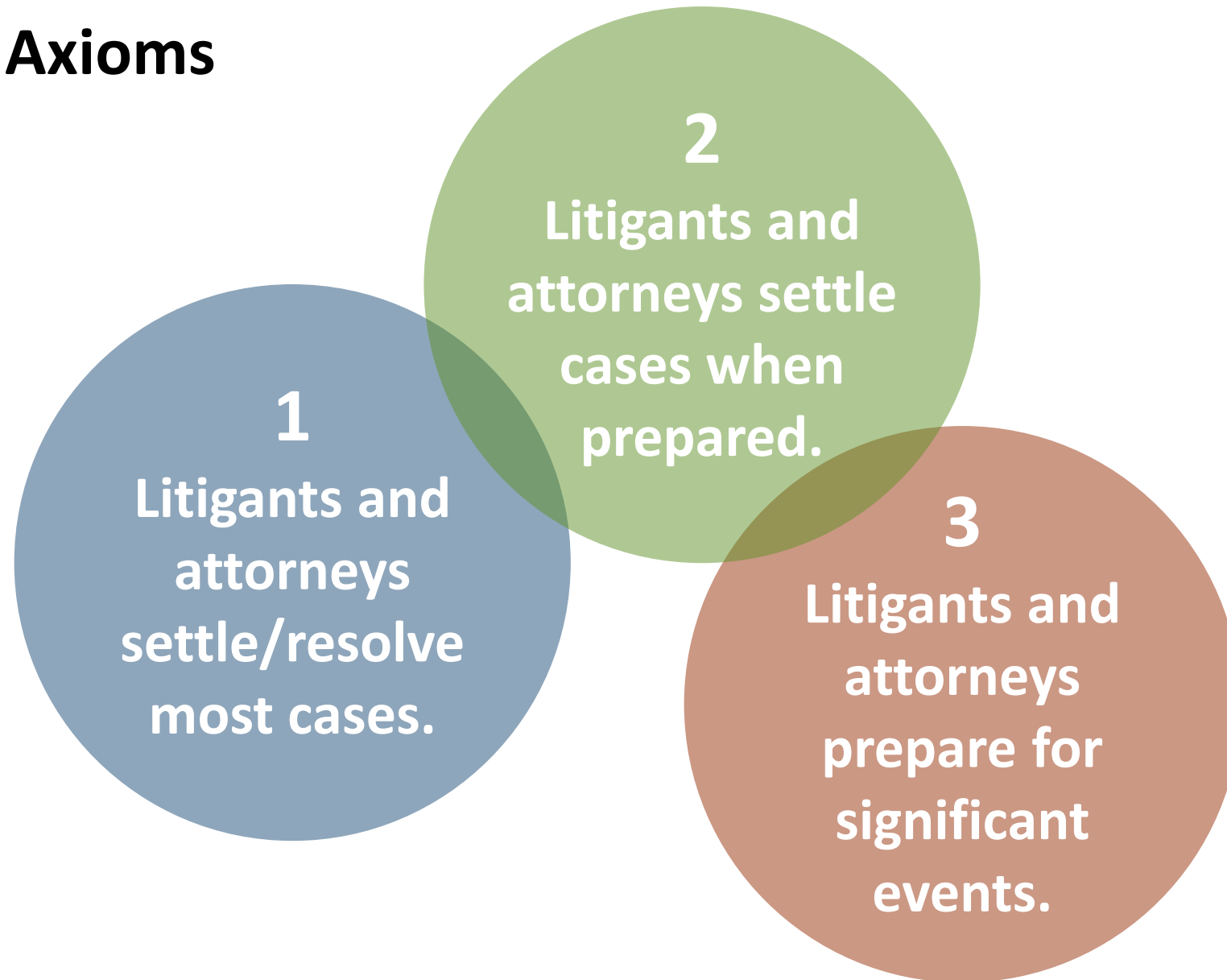
## **Systems approach**

- Accountability for performance
- Regularity and predictability
- Consistent case management
- Reduction of backlog

# Terminology and usage

1. Case, charge, bond, disposition
2. Events
  - Initial appearance
  - Preliminary hearing
  - Arraignment
  - Pretrial motions and hearings
  - Pretrial hearing
  - Trial
  - Sentencing
3. Outcomes and measures

## Three Axioms



# Principles

- ❖ Early and continuous monitoring of a case
- ❖ Resets on a short schedule
- ❖ The court should set expectations for meaningful events
- ❖ Events should be milestones on the case – expected progress



# Case Management Principles and Techniques

## Leadership

- Roles and responsibilities
- Managing court expectations of attorneys and litigants

## Standards

- Reasonable time frames, on short schedules
- Meaningful events
- Policies and procedures

## Reporting related to standards

- Simple
- Primarily for judicial decision-making
- Accountability to each other and the community/justice partners

## Case Management Plan

1. Responsibility for case management
2. Assignment and docketing
3. Case differentiation – tracks
4. Reporting
5. Case events
6. Policies and procedures
7. Forms and tools



- *Written document*
- *Adopted by the whole bench*
- *Collaboration with stakeholders*
- *Published*

## Reporting by Track

- **Case information** – pending inventory, age, clearance rate
- **Pretrial decision-making** – bail, detention, pretrial diversion
- **Events** – number of events, trials, and continuances by reason
- **Sanctions** – fines and fees, restitution, jail, probation, and revocation
- **Outcomes and causes** – recidivism, accountability, poverty, homelessness, mental health, and substance use disorder



# Reasonableness Time Expectations – 80% of Cases

Track	Description	Expected Duration
Original Cases		
Track 1 1a 1b 1c	Non-Complex Felonies and Misdemeanors Felonies State Jail Felonies Misdemeanors	120 days (proposed) 80% of cases
Track 2 2a 2b	Serious Felonies 3 <sup>rd</sup> Degree Felonies 2 <sup>nd</sup> Degree Felonies	180 days (proposed) 80% of cases
Track 3 3a 3b	Complex Felonies 1 <sup>st</sup> Degree Felonies FC – Capital Murders	365 days (proposed) 98% of cases

# Reasonableness Time Expectations – 80% of Cases

Non-Original Cases		
Track 4	<b>Post-Adjudication Cases</b> Including probation revocations, violations of probation, post-judgment modifications, and remands on appeal	2 months without new cases Aligned with original case for probation revocations and violations
Track 5	<b>Specialty Courts</b> Drug, behavioral health, and veterans court	Custom-managed

## Policies & Procedures

- Notice
  - Discovery
  - Motions
  - Continuances
  - Trials
  - Interpreters
  - Transcripts
- 
- By event
  - Timeliness
  - No automatic continuances
  - Good cause reasons in advance with documentation
  - Good cause reasons within one week of the event
  - Judicial discretion
- Standing orders on six-month tracks
  - Scheduling orders on selected and complex tracks

**Questions?**

**Thank you!**