

EXECUTIVE SUMMARY

Throughout 2018, the District of Columbia Sentencing Commission (the Commission) monitored the implementation and use of the District of Columbia Voluntary Sentencing Guidelines (the Guidelines) and focused on improving data quality and data sharing capabilities. The Commission's emphasis on data access and management has provided the agency with the ability to analyze sentencing practices and trends within the District of Columbia (the District), respond to numerous data requests, and share data with other agencies and the public. In addition, this data enables the Commission to make evidence-based policy recommendations.

Over the past year, the Commission made changes to the Guidelines, and released several publications, including the 2017 Annual Report, the 2018 Guidelines Manual, and *Focus Groups of Primary Users of the D.C. Voluntary Sentencing Guidelines: Report and Recommendations*. Additionally, the Commission concentrated its efforts on three major projects. The first was undertaking a survey of primary Guidelines users to obtain input on the use of the Guidelines. The second was a series of focus groups that were based on survey findings and further explored the effectiveness of the Guidelines by examining the perspectives of Guidelines primary users. The third was a newly launched Guidelines training strategy. The Commission also began a project to develop an electronic interface to transfer arrest data from the Metropolitan Police Department (MPD).

In 2018, the number of felony counts, cases, and offenders slightly decreased for the first time since 2015. Compliance with the Guidelines remains very high, with 97.6% of all felony sentences imposed complying with the Guidelines. This continuing high compliance rate indicates that the Guidelines are being consistently applied by the Superior Court of the District of Columbia (Superior Court).

2018 Trends in Sentencing

The Superior Court sentenced 1,546 individuals for felony offenses in 2018. These felony offenders were sentenced in 1,635 cases, consisting of 2,208 individual felony counts. This represents a two percent decrease in the number of counts sentenced from 2017. This decline was primarily due to decreases in Violent and Drug sentences, which were offset by an increase in the number of Weapon offenses sentenced.

Felony counts sentenced on the Master Grid represented 75% of the total number of counts sentenced in 2018. Weapon was the most common offense category, accounting for 29% of all offenses sentenced, and representing an increase of 31% from 2017. This increase is attributable primarily to increases in the number of Carrying a Pistol Without a License (CPWL) and Unauthorized Possession of a Firearm with a Prior Felony (UPF-PF) counts sentenced.

Homicide counts sentenced in 2018 also increased by 94%. Murder I and Murder II sentences increased from 9 to 31 (244%) and from 15 to 28 (87%) respectively, from 2017. These sharp percentage increases reflect the relatively low number of total Homicide sentences that occurred in 2018.

Among Violent offenses, Robbery counts sentenced decreased by 23% (from 321 to 247) between 2017 and 2018. The number of other Violent offenses sentenced, however, remained relatively constant. Drug offenses steadily declined from 2010 through 2015, began to increase from 2015 to 2017, and declined again in 2018 by 20%.

Prison was the most common sentence type imposed (44% of all felony cases). Combining prison and short split sentences, 67% of all District felony offenders were sentenced to at least some period of incarceration in 2018.¹ The vast majority (92%) of felony offenders sentenced in 2018 were male, consistent with previous years. Black males between the ages of 18 and 30 constituted more than half of the offenders sentenced.

Criminal history scores have changed slightly over time, but the fluctuations do not appear to be significant. The median criminal history score in 2010 was 2.0. For the past three years (2016 to 2018), the median criminal history score remained at 1.0.

To summarize, between 2017 and 2018: (1) the overall number of felony counts sentenced decreased by two percent; (2) Weapon offenses sentenced increased by 31%; (3) Homicide offenses sentenced increased sharply, but that increase represents the relatively low number of counts sentenced; (4) Robbery offenses sentenced decreased significantly; (5) other Violent offenses sentenced remained constant; and (6) sentences for Drug offenses declined for the first time since 2015.

Guidelines Compliance

Overall, judicial compliance with the Sentencing Guidelines remains very high. The 97.6% Guidelines compliance rate in 2018 represents the highest compliance rate ever observed by the Commission. The vast majority of compliant and non-compliant departures from the Guidelines were downward, where the Superior Court imposed sentences below the recommended sentencing range and/or options. Among compliant departures, the most common departure factors were (1) because the recommended Guidelines sentence would have been too excessive in relation to the seriousness of the offense, (2) because there was another substantial and compelling basis to mitigate the sentence, and (3) for substantial assistance to law enforcement.

The lowest rates of Guidelines compliance (96%) were in Weapon and Drug offenses; all non-compliant sentences in these categories were the result of downward departures. A compliant in the box sentence indicates that the sentence type and length imposed are within the recommended Guidelines sentencing range and options. The percentage of compliant in the box sentences (as opposed to sentences that were compliant for other reasons) has steadily increased from 86.9% in 2014 to 92.7% in 2017 and slightly decreased to 91% in 2018.

¹ A compliant short split sentence is defined as follows: The court sentences the offender to a prison term within the recommended Grid box range. The court suspends part of the sentence, such that the time actually served (not suspended) is at least one day and *not more than six months*. The remainder of the sentence is suspended, with a period of probation to follow release from prison (and supervised release suspended).

Modifications to the Guidelines

Since 2012, the Commission has not modified the structure of the Guidelines Master or Drug Grids. In 2018, the Commission re-ranked the offense of UPF-PF from M7 to M8 for any pleas or verdicts entered on or after July 16, 2018. This change has no impact on the mandatory minimum sentence associated with this offense: *the Commission cannot legally reduce or increase mandatory minimum sentences*. The re-ranking of the offense moved recommended Guidelines sentences closer to the mandatory minimum as set by the Council of the District of Columbia (the Council). The Commission also made several technical changes clarifying the rules set forth in the Guidelines Manual and updated the information contained in the Guidelines' appendices.