

EXECUTIVE SUMMARY

Throughout 2021, the Commission continued to operate amongst the ongoing challenges presented by the COVID-19 pandemic. The Commission focused on addressing the impact of COVID-19 on sentencing, reviewing the Guidelines' prior conviction lapse and revival provisions, expanding the agency's research capabilities, and enhancing the Commission's presence within the community.

In response to the impact the COVID-19 pandemic has had on sentencing in the District, last year the Commission implemented a new Mitigating Departure Factor (M11) to account for delays faced by D.C. Superior Court in connection with the invocation of D.C. Code §11-947. Since its implementation on June 25, 2021, the new Mitigating Factor has been used by judges in three felony cases, representing 20% of all compliant departures.

In 2021, the Commission also began re-examining the Guidelines' prior offense lapse and revival rules. This was done to ensure that the current ten-year lapse and revival window is achieving its intended goals. Discussions focused on the role of older prior convictions in predicting an individual's likelihood of recidivism or threat to public safety. The Commission will continue to evaluate potential Guidelines rule changes in 2022.

For the first time, in 2021 the Commission successfully used its GRID system to respond to data requests with combined arrest and sentencing data. This was possible due to GRID system enhancements completed in 2020 and 2021 that brought in and allowed the system to consume MPD arrest data. The system is now able to complete more robust and comprehensive analysis of offender data from arrest through either sentencing or case resolution. Approximately one-quarter of all data requests completed in 2021 used a combination of arrest and sentencing data.

2021 TRENDS IN SENTENCING

The number of felony cases sentenced in 2021 increased by approximately 50% from 2020 but has not returned to pre-pandemic levels as the Superior Court continues to operate in a limited capacity. In 2021, there were 736 individuals sentenced for felony offenses in 774 cases, consisting of 960 individual felony counts. This represents a 44.6% increase in the total number of felony counts sentenced from 2020, which can be attributed to the gradual re-opening of D.C. Superior Court operations that occurred throughout 2021. However, as a result of reductions in the number of jury trials conducted, 99% of all cases were disposed of via a plea bargain, which is the highest percentage observed since the Commission began tracking this data. Historically, between 91% and 94% of all felony sentences were the result of a plea bargain.

Although there were more counts sentenced in 2021 compared to 2020, the composition of counts in each offense category has remained stable. Violent and Other offenses were the only offense categories that varied by more than 3%. The majority of cases (92.5%) sentenced in 2021 were for non-drug offenses, with the Weapon and Violent offense categories accounting for 81% of all non-drug cases sentenced. Overall, the Weapon offense category represented 40% of all counts sentenced in 2021.

The impact of COVID-19 should be taken into consideration when making any comparisons between 2020-2021 data and earlier years because Commission data is reflective of counts/cases sentenced rather than arrests and pending matters.

GUIDELINES COMPLIANCE

Judicial compliance with the Sentencing Guidelines continues to remain very high. The 98.5% Guidelines compliance rate in 2021 has declined slightly from 2020 (99%); however, it is the second highest compliance rate observed by the Commission since the implementation of the Voluntary Sentencing Guidelines. Of sentences imposed in 2021, 91.4% were classified as compliant in the box sentences, indicating that the sentence imposed reflected both the type and length of the Guidelines recommended sentence. The remaining 8.6% were the result of either compliant departures from the Guidelines, sentences stemming from a Rule 11(c)(1)(C) plea agreement, sentences that were classified as compliant outside the box due to other sentencing provisions, or non-compliant sentences.

The majority (87%) of compliant departures were downward or mitigating departures, in which the sentencing judge imposed a sentence below the recommended sentencing range and/or options. Among compliant departures, the most common departure factor cited was the catch-all (M10), which indicates there was a substantial and compelling basis to mitigate the sentence that was not captured by any other departure factor.

Overall, compliance with the Guidelines continues to remain very high, indicating consistent application and use of the Guidelines by Superior Court judges.