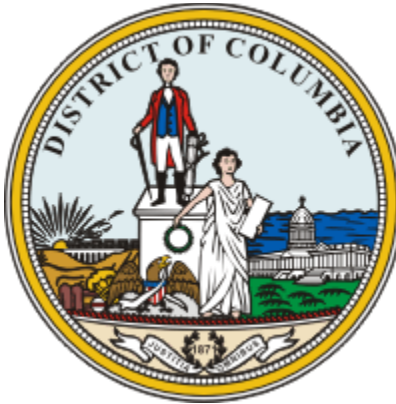




DISTRICT OF COLUMBIA
SENTENCING COMMISSION

2021 ANNUAL REPORT



April 20, 2022

DISTRICT OF COLUMBIA SENTENCING COMMISSION
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Mission Statement

The mission of the District of Columbia Sentencing Commission is to implement, monitor, and support the District's Voluntary Sentencing Guidelines, to promote fair and consistent sentencing policies, to increase public understanding of sentencing policies and practices, and to evaluate the effectiveness of the Guidelines system in order to recommend changes based on actual sentencing and corrections practice and research.



District of Columbia Sentencing Commission

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April 20, 2022

Honorable Phil Mendelson, Chairman
Council of the District of Columbia
John A. Wilson Building, Suite 504
1350 Pennsylvania Avenue NW
Washington, DC 20004

Dear Chairman Mendelson:

In compliance with its statutory obligation, the District of Columbia Sentencing Commission respectfully submits its 2021 Annual Report. Throughout 2021, much like the rest of the public safety and criminal justice community, the Criminal Division of D.C. Superior Court continued to operate in a limited capacity under the constraints of the ongoing COVID-19 pandemic. Court operations increased in 2021, resulting in approximately a 50% increase in the total number of counts, cases and individuals sentenced compared to 2020. However, it is important to acknowledge that the number of felony sentences imposed in 2021 remained below pre-pandemic levels, which is reflected in the data and analyses presented in this report.

The 2021 Annual Report provides a comprehensive overview of felony sentences imposed by the D.C. Superior Court from January 1, 2021, through December 31, 2021. The majority (92.5%) of cases sentenced in 2021 were for non-Drug offenses, with the Violent and Weapon offense categories accounting for the majority (81%) of all non-Drug cases sentenced. Prison remained the most frequent sentence type imposed (60.3%), followed by probation and short split sentences.

Judicial compliance with the Sentencing Guidelines continues to remain very high. In 2021, 98.5% of all felony counts sentenced were determined to be compliant with the Guidelines, compared to 99% in 2020. A high compliance rate strongly suggests that the D.C. Voluntary Sentencing Guidelines are widely accepted by D.C. Superior Court judges. The Commission continues its ongoing efforts to monitor and examine the Guidelines to ensure they are achieving their statutory goals of consistency, certainty, and adequacy of punishment.

Respectfully,

Honorable Milton C. Lee, Chairman

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COMMISSION MEMBERS AND STAFF

As of APRIL 20, 2022:

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The Honorable Juliet J. McKenna
Superior Court of the District of Columbia

(n) Non-Voting Member

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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.

KEY FINDINGS

1. Sentencing has not returned to pre-pandemic levels as the Superior Court continues to operate in a limited capacity due to COVID-19. For reference, there were 1,464 felony cases sentenced in 2019 compared to 774 in 2021. However, the number of counts, cases, and individuals sentenced in 2021 has increased by approximately 50% since 2020. *See* pages 18 and 20.
2. Ninety-nine percent (99%) of all cases sentenced in 2021 were resolved via a plea, the highest rate observed in the last 10 years. This increase in plea agreements is offset by a 68% decline in jury trials compared to 2020, owing primarily to the limitations posed by COVID-19 on the D.C. Superior Court's operations. Only 1% of cases were disposed of by a jury trial in 2021, an outlier from the 5% to 8% range recorded since 2012.
3. The distribution of sentences among prison, short split, and probation have remained relatively stable in the past 5 years. In 2021, 60% of all felony sentences imposed were prison sentences, followed by probation (22%), and short split (18%). *See* page 22.
4. Offenses in severity group M8 reached a peak in 2021, accounting for 58% of all counts sentenced, nearly double the observed rate of M8 offenses sentenced in 2012 (31%). This increase is primarily due to the Commission's re-ranking of Unlawful Possession of a Firearm-Prior Felony from Offense Severity Group M7 to M8 in 2018. *See* page 25.
5. Ninety-two and half percent (92.5%) of the 960 felony counts sentenced in 2021 were non-drug offenses (page 23). Weapon and Violent offenses made up 81% of all non-drug counts sentenced, and 75% of all felony counts sentenced. *See* page 28.
6. The composition of counts in each offense category has not changed significantly since 2020. Weapon offenses sentenced represented the greatest change with nearly an eight-percentage point increase. There was also a slight increase in the proportion of Violent (1.4%) and Sex offenses (0.2%) sentenced from 2020 to 2021. *See* pages 28 and 29.
7. Sentencing trends for Violent and Weapon offenses remained consistent with 2020. Carrying a Pistol without a License (CPWL) and Unlawful Possession of a Firearm, Prior Felony (UPF-PF) constituted the majority (81%) of the 387 counts sentenced in the Weapon offense category. The majority (78%) of the 333 counts sentenced in the Violent offense category were for Assault with a Dangerous Weapon (ADW) or Robbery. *See* pages 31 and 32.
8. Males were most frequently sentenced for Weapon offenses (40.5%) and Violent offenses (36.1%), whereas females were most frequently sentenced for Violent offenses (53.8%) and Property offenses (25.6%). *See* page 36.
9. In 2021, those aged 18-30 at the time of the offense accounted for 62.1% of all sentences. The 22-30 age group continues to constitute the majority of those sentenced, accounting for 38% of all felony cases sentenced in 2021. Even after accounting for the influence of

COVID-19 on 2020 and 2021 sentence patterns, age group composition has remained largely consistent over the past decade. *See* pages 37 and 38.

10. The total number of papered arrests has been gradually decreasing over the last four years. In 2018, 71% of all arrests were sent to court for prosecution, compared with 58% in 2021. About half of the papered cases in 2021 are pending; this delay is typical of the criminal justice process but has been exacerbated by the COVID-19 pandemic. *See* page 42.
11. Ninety-eight and half percent (98.5%) of all felony counts sentenced were determined to be compliant with the D.C. Voluntary Sentencing Guidelines, a slight decrease from 2020 (99%). *See* page 44.

TABLE OF ABBREVIATIONS AND ACRONYMS

Term	Definition
BRA	Bail Reform Act
CDC	Center for Disease Control and Prevention
CH	Criminal History
CJCC	District of Columbia Criminal Justice Coordinating Council
Commission	District of Columbia Sentencing Commission
Council	Council of the District of Columbia
COV(s)	Crime(s) of Violence
COVID-19	Coronavirus Disease 2019
CPWL	Carrying a Pistol Without a License
CSOSA	Court Services and Offender Supervision Agency for the District of Columbia
Dist.	Distribution of a Controlled Substance
District	District of Columbia
Evaluation Project	District of Columbia Sentencing Guidelines Evaluation Project
UPF-PF	Unlawful Possession of a Firearm, Prior Felony (i.e. by a person with a prior conviction punishable by more than a year of incarceration, this offense is often referred to as felon in possession)
UPF-PCOV	Unlawful Possession of a Firearm, Prior Crime of Violence (i.e. by a person with a prior conviction for a crime of violence)
FY	Fiscal Year
GIS	Geographic Information System
GRID system	Guidelines Reporting and Information Data system
GSS	The Commission's GRID Scoring System
Guidelines	District of Columbia Voluntary Sentencing Guidelines
IJIS 12.1	District of Columbia Integrated Justice Information System Outbound Data Feed (data from the Superior Court sent to the Commission via CJCC)
JUSTIS	District of Columbia Justice Information System
MPD	D.C. Metropolitan Police Department
OSG	Offense Severity Group
PCP	Phencyclidine
PFCOV	Possession of a Firearm During a Crime of Violence
PSR	Pre-sentence Investigation Report
PWID	Possession with Intent to Distribute a Controlled Substance
Rule 11(c)(1)(C)	Superior Court Rule of Criminal Procedure 11(c)(1)(C)
Superior Court	Superior Court of the District of Columbia

CHAPTER ONE: THE COMMISSION AND ITS WORK

I. Commission's Legislative Mandate and Duties

A. Legislative Mandate

The D.C. Sentencing Commission (the Commission) has three primary statutory responsibilities: (1) to monitor the implementation and use of the District of Columbia Voluntary Sentencing Guidelines (Guidelines); (2) to rank newly created felony offenses; and (3) to review and analyze data on sentencing practices and trends in the District of Columbia.¹ As part of its mandate, the Commission collects data from the Superior Court of the District of Columbia (Superior Court), the D.C. Metropolitan Police Department (MPD), and the Court Services and Offender Supervision Agency (CSOSA) to identify and address sentencing issues, assess compliance with the Guidelines, and monitor historical and emerging sentencing trends. The Commission is also required to incorporate into the Guidelines structure each new felony offense or sentencing provision enacted by the Council of the District of Columbia (the Council).²

B. Commission Duties

In addition to its overarching mandate, the Commission has the following duties under D.C. Code § 3-101(b) (2016):

1. Promulgate, implement, and revise a system of voluntary sentencing guidelines for use in the Superior Court designed to achieve the goals of certainty, consistency, and adequacy of punishment, with due regard for the:
 - a. Seriousness of the offense;
 - b. Dangerousness of the offender;
 - c. Need to protect the safety of the community;
 - d. Offender's potential for rehabilitation; and
 - e. Use of alternatives to prison, where appropriate.
2. Publish a manual containing the instructions for applying the voluntary guidelines, update the manual periodically, and provide ongoing technical assistance to the Superior Court and practitioners on sentencing and sentencing guideline issues;
3. Review and analyze pertinent sentencing data and, where the information has not been provided in a particular case, prompt the judge to specify the factors upon which he or she relied upon in departing from the guideline recommendations or when imposing what appears to be a non-compliant sentence;

¹ Legislation governing the Commission can be found at D.C. Code § 3-101 (2016), *et seq.*

² A complete history of the Commission and its mandate can be found on the Commission website at <https://scdc.dc.gov/node/1108916>.

4. Conduct focus groups, community outreach, training, and other activities designed to collect and disseminate information about the Guidelines;
5. Review and research sentencing policies and practices locally and nationally, and make recommendations to increase the fairness and effectiveness of sentences in the District of Columbia; and
6. Consult with other District of Columbia, federal, and state agencies that are affected by or that address sentencing issues.

II. Commission's Composition

A. Commission Membership

The Commission is composed of 17 members: 12 voting members and five non-voting members. Its membership includes representatives from a wide range of criminal justice agencies, the judiciary, academic and research institutions, practicing attorneys, and the public. This diverse membership provides a variety of perspectives in the development of sentencing policy.

The voting members of the Commission include:

- Three judges of the Superior Court, appointed by the Chief Judge of the Superior Court;
- The United States Attorney for the District of Columbia, or his or her designee;
- The Director of the Public Defender Service for the District of Columbia, or his or her designee;
- The Attorney General for the District of Columbia, or his or her designee;
- The Director of the Court Services and Offender Supervision Agency, or his or her designee;
- Two members of the District of Columbia Bar, one who specializes in the private practice of criminal defense in the District of Columbia, and one who does not specialize in the practice of criminal law, appointed by the Chief Judge of the Superior Court in consultation with the President of the District of Columbia Bar;
- A professional from an established organization devoted to research and analysis of sentencing issues and policies, appointed by the Chief Judge of the Superior Court; and
- Two citizens of the District, one nominated by the Mayor subject to confirmation by the Council, and the other appointed by the Council.

The non-voting members of the Commission are:

- The Chairperson of the Council committee that has oversight of the Commission, or their designee;
- The Director of the District of Columbia Department of Corrections, or his or her designee;
- The Chief of the Metropolitan Police Department, or his or her designee;
- The Director of the United States Bureau of Prisons, or his or her designee; and
- The Chairperson of the United States Parole Commission, or his or her designee.

B. Commission Staff

1. Commission Staff Members

As of April 20, 2022, the Commission staff consisted of:

Linden Fry, Esq.
Executive Director

Basil Evans
IT Specialist

Taylor Tarnalicki
Statistician

Mia Hebb
Administrative Assistant

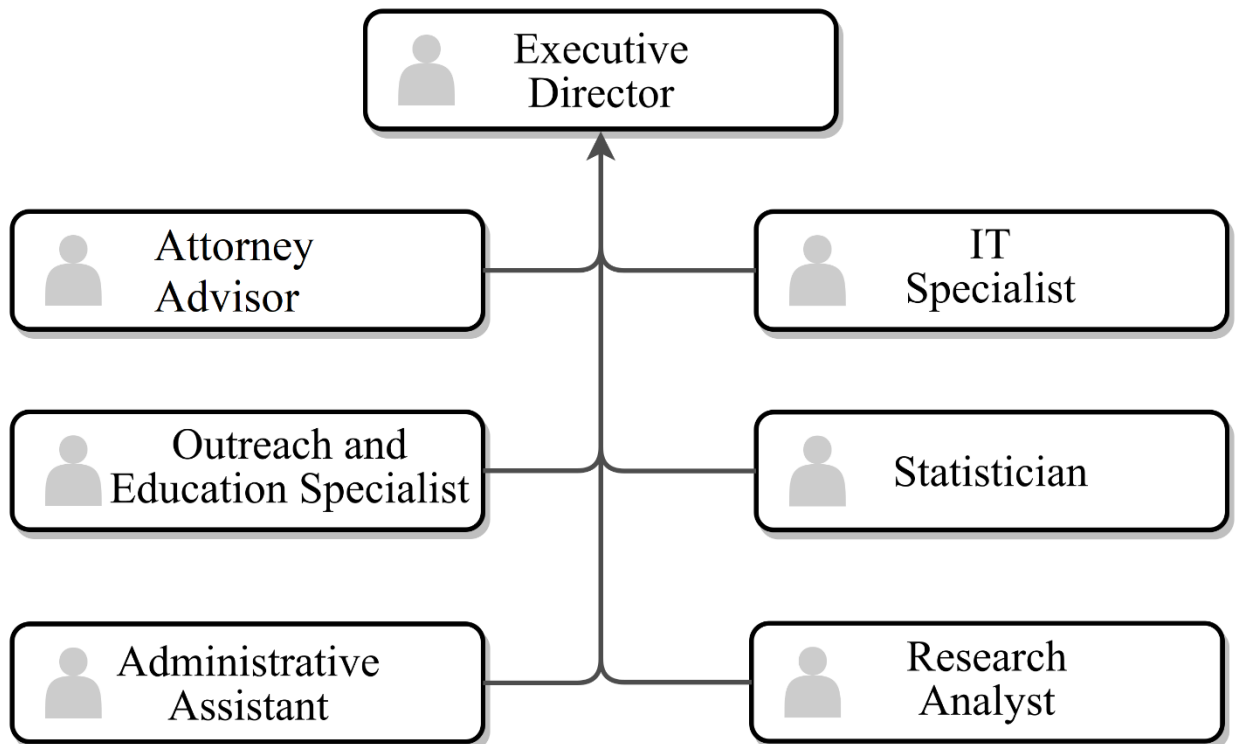
Maeghan Buckley, Esq.
Attorney Advisor

Emily Blume
Research Analyst

Brittany Bunch
Outreach Specialist

2. Organizational Structure

Figure 1: Sentencing Commission Organizational Chart



III. Commission's Budget

In Fiscal Year (FY) 2021 the Commission's operating budget consisted of District of Columbia local funds and capital funds.³ In FY22 to date, the Commission's operating budget only consists of local funds. The Commission did not receive any grant funds in FY 2021 or FY 2022.

Table 1: The Commission's Total FY 2022 Budget

Personnel Services (Salaries and Benefits)	\$ 856,893
Non-Personnel Services	\$ 770,938
Total Operating Budget	\$ 1,627,831
Capital Funds	\$ 0
Grant Funds	\$ 0
Total Agency Budget	\$ 1,627,831

Table 2: The Commission's Total FY 2021 Budget

Personnel Services (Salaries and Benefits)	\$ 829,000
Non-Personnel Services	\$ 310,210
Total Operating Budget	\$ 1,139,210
Capital Funds ⁴	\$ 97,833.55
Grant Funds	\$ 0
Total Agency Budget	\$ 1,237,043

The Commission's locally funded FY 22 operating budget increased by 42.9% from FY21. The increase in local funds was primarily the result of one-time funding for a GRID system enhancement project and an increased personnel services cost.

IV. Commission's Work

A. Commission Meetings

The full Commission met eight times in calendar year 2021 to address Guidelines, sentencing policy, criminal justice, and agency related issues. All Commission meetings were open to the public. However, due to the District Health Emergency all the Commission meetings were held virtually.

³ The District of Columbia Government's FY runs from October 1 through September 30.

⁴ The Commission's FY21 Capital Funds carried over from FY20 Capital Funds used for the MPD Arrest Data Feed project. The FY21 Capital Funds were used to bring two years of historic MPD data into the GRID system and to further enhance the MPD Arrest Data Feed within the GRID system.

The Commission met on the following dates in 2021:

March 16, 2021	July 20, 2021
April 20, 2021	September 21, 2021
May 18, 2021	October 19, 2021
June 22, 2021	November 16, 2021

The minutes of the Commission’s public meetings are available online at the Commission’s website, located at <http://scdc.dc.gov>.

B. Response to COVID-19

The Commission made two substantive changes to the Guidelines in 2021 to account for sentencing issues caused by the COVID-19 pandemic.

- The Commission added a new Mitigating Departure Factor (M11).
- The Commission modified the definition of a short split sentence.

Both changes allow for sentencing judges to consider unintended delays in the resolution of a matter. A full discussion of these changes is contained in Chapter 2 of this report.

C. Lapse and Revival Discussion

Commission members identified the Guidelines’ current lapse and revival policy as an issue to re-examine, given the direct impact it has on an individual’s criminal history (CH) score. The District’s Sentencing Guidelines are the only Guidelines in the country that contain a broad revival provision that allows for every prior felony conviction an individual has ever had to be revived and scored under certain circumstances regardless of the age of the prior conviction.

In 2021 and 2022, Commission discussions have focused on what is or should be the role of prior convictions in predicting recidivism or the threat to public safety that an individual may pose, and what, if any, role prior convictions should have in increasing punishment for a subsequent conviction. The Commission is also reviewing lapse and revival policies from other jurisdictions, along with the various lookback periods incorporated into other sentencing guidelines.

As part of evaluating the lapse and revival policies, the Commission is currently discussing making changes to the ten-year lapse and revival window. The Commission is evaluating whether the Guidelines’ current ten-year lapse and revival window, wherein a defendant’s prior offenses lapse and are not scored if ten years pass between the occurrence of the current offense and the end of the prior offenses’ sentence, including any time on supervision, is achieving its intended goals or if revision is necessary. Lapse and revival is an important Guidelines issue because it directly impacts an individual’s CH score - one of the key factors that determines the recommended Guidelines sentence.

D. MPD Data Enhancement Project

Over the past three years, one of the Commission's biggest undertakings was the development of the MPD Data Enhancement Project. The project integrated MPD arrest data into the GRID system with already existing Superior Court sentencing data and CSOSA defendant CH information.

This undertaking has expanded the Commission's current research capabilities and has aided in answering more complex research questions that cannot be answered using sentencing data alone. Furthermore, completion of the project has also allowed for the tracking of a felony case from arrest through sentencing or final case disposition, thus increasing the Commission's ability to perform more comprehensive sentencing analysis. The Commission is currently receiving over 700 data elements for arrests contained in the MPD data feed.⁵

For example, the Commission can now answer research questions such as:

- How often is a person arrested and sentenced for the same offense or for a different offense?
- What percentage of arrests for carjacking are then filed in Superior Court and how many of the arrests result in a finding of guilt?
- What is the average sentence imposed for individuals who were arrested for and convicted of armed robbery? How much does the average sentence length change for individuals who were arrested for armed robbery, but were convicted of unarmed robbery?

The Commission began utilizing live MPD arrest data in January of 2020 and has also received a retroactive "data dump" of records for arrests that were made between November 2, 2017, and January 15, 2020. The Commission continues to receive live arrest data from MPD, which is transmitted every 30 minutes.

In 2021, two major enhancements were made to the GRID system to improve the Commission's MPD data analysis capabilities. The first was the completion of the Victim Analysis Table, which contains victim related data such as demographic information, injury/death status, and any relationship to the defendant. The development of the specific Victim Analysis Table may support analysis of victimization trends. The second enhancement was adding Geographic Information System (GIS) data into the GRID System. The addition of the GIS module allows for analysis of arrest data based on Ward, Advisor Neighborhood Commissions (ANC), and other neighborhood identifiers.

Since the system's implementation and expansion, the Commission has already responded to data requests that jointly use arrest and sentencing data.

⁵ Not all data fields are populated for every arrest. Certain data fields are only relevant for certain type of arrests, for example, the type of weapon used in a while armed offense.

E. Data Projects

Data Requests

The Commission's data collection and analysis extends beyond what is presented on its website or contained in the Annual Report. The Commission regularly responds to requests for sentencing related data and analysis from individual Commission members, Council members, the Mayor's Office, other government agencies, organizations, educational institutions, researchers, legal practitioners, and the public.

Information pertaining to how to submit data requests is available on the Commission's website. Data shared by the Commission is available in two formats: aggregate data and felony data sets void of identifying information about individuals or returning citizens. The Commission does not provide individual case sentencing information or information that would allow for the identification of a defendant.

The agency received 15 data requests in FY21 and seven data requests to date in FY22. Two data requests were denied in FY21. The first denied request was for information pertaining to sentences under the Youth Rehabilitation Act (YRA) which was denied because the Commission does not currently have reliable YRA data. The second denied request was for information pertaining to offense trends. This request was denied because the Commission does not track offense data unless the offense results in an arrest. Additionally, requests that focus solely on data provided by MPD are referred by the Commission to MPD.

Responding to the 13 approved FY21 data requests took a total of 662 staff hours. The average response time to complete a data request in FY21 was 17 days. One request took approximately four months to complete because it required extensive manual analysis. When this request is removed from the analysis, the average FY21 data request response time drops to 9 days. In FY22 to date, the average request response time is 12.5 days.

While the number of data requests submitted to the Commission dropped substantially from FY20 (49 requests) to FY21 (15 requests), the data requests in FY21 were much more complex and required more staff time to complete. As a result, the total staff time spent responding to data requests slightly increased from 657 hours in FY20 to 662 hours in FY21.

Fast Facts

In 2019 the Commission piloted "Fast Facts" reports as a public education initiative focused on providing District residents with a quick and easy-to-read overview of sentencing related information for common offenses. Fast Facts are one-page documents that present sentencing trends, offender related information, and other pertinent offense related information using a combination of graphics, charts, and accompanying text. To date, the Commission has published a total of 11 Fast Facts. The first series highlighted trends for robbery offenses in the District.

In 2021, the Commission developed its second Fast Facts series, highlighting some of the more common Violent/Weapons offenses in D.C.⁶ The series included reports on the offenses of Assault

⁶ See Appendix H.

with a Deadly Weapon, Possession of a Firearm during a Crime of Violence, Carjacking, and Unlawful Possession of a Firearm-Prior Felony (UPF-PF).

Issue Papers

The Commission published two Issue Papers in 2021. Issue Papers are intended to provide criminal justice partners and the general public with an overview of a specific topic related to sentencing or the Guidelines. The first Issue Paper discussed statutory enhancements and how they are applied under the Guidelines. The second Issue Paper focused on mandatory minimum sentences, including both a discussion on their origin, and sentencing trends for offenses that have a mandatory minimum. All Issue Papers can be found on the Commission's website.

F. Community Outreach and Education

In May 2021, the agency welcomed a new Outreach Specialist. The Outreach Specialist is tasked with educating the public on the purpose and function of the Guidelines and how felony sentencing determinations are made. Due to the COVID-19 pandemic, in 2021, Commission outreach focused on attending virtual events in connection with CSOSA, the United States Attorney's Office, MPD, Advisory Neighborhood Commissions (ANCs), and Citizen Advisory Councils (CACs).

In order to increase awareness, the agency has also expanded its use of social media. Each week Commission staff shared a minimum of five social media posts on the agency's Facebook and Twitter accounts. By the end of 2021, the Commission increased its social media following from five to 117 Twitter followers and from zero to 20 followers on Facebook. In addition, the agency grew its email subscriber list by 14.2%.

Beginning in September, the agency began conducting introductory educational presentations to a variety of District community organizations. The Commission conducted six presentations to ANCs, CACs, stakeholder groups, and community public safety groups. The Commission plans to continue to host community information sessions to educate District residents regarding the felony sentencing process.

If you would like the Commission to host a community informational session, please email, brittany.bunch@dc.gov.

G. Guidelines Trainings, Inquires, and Website

Trainings

Due to the COVID-19 pandemic and staff turnover, the Commission's ability to provide training was reduced. During 2021, Commission staff provided a limited number of web-based and remote trainings as well as in-house trainings to new employees. Anyone interested in arranging an individual or group-training session should contact the Commission at scdc@dc.gov.

Responding to Guidelines Inquiries

Commission staff are available every business day to provide general and specific information about the substance and application of the Guidelines. Staff respond to a wide variety of questions and inquiries from judges, court personnel, government attorneys, defense attorneys, CSOSA, the criminal justice community, and members of the public. The Commission provides information

varying from the general purpose and basic structure of the Guidelines to assistance with the application of the Guidelines in specific cases. The majority of the inquiries are from criminal law practitioners, including CSOSA Pre-sentence Investigation Report (“PSR”) investigators, prosecutors, defense attorneys, and Superior Court personnel. Guidelines support is available via e-mail, phone, or a direct link on the Commission’s website.

Commission staff typically respond to hundreds of Guidelines and information inquiries every year (364 in FY 2018, 444 in FY 2019, 282 in FY 2020, and 212 in FY 2021). Most inquiries involve assistance determining how to score of an out-of-District conviction, calculating a defendant’s total criminal history (CH) score, identifying the applicable Guidelines range, or reviewing whether a specific sentence is compliant with the Guidelines.⁷

Commission Website

Through regular updates to the Commission’s website, the agency has been able to maintain transparency and public awareness regarding the Commission’s activities. The website provides visitors with comprehensive information concerning the Guidelines ensuring up-to-date sentencing data and Commission research can be easily accessed by the public. Website viewers can access the agency’s educational materials and Guidelines resources at <http://scdc.dc.gov>.

The Commission’s website resources include:

- Agency updates, press releases, and news;
- A data dictionary with definitions for all publicly available shared data;
- A dataset for all 2020 felony sentences (not including case specific identifying information);
- Data and charts presenting information about felony sentences and sentencing trends;
- The date, link, and agenda for the next Commission meeting;
- Guidelines revisions and alerts;
- A digital copy of the current Guidelines Manual, as well as all previous versions of the Manual;
- Fast Facts sheets;
- Issue Papers;
- “The Commission Chronicle” newsletters;
- The Guidelines Master and Drug Grids;
- Minutes for Commission meetings;
- A link to send queries to the Executive Director;
- Resources on how to contact the Commission, ask for a training session, submit queries regarding sentencing data, or receive assistance applying the Guidelines;
- Links to engage with the Commission via its social media platforms;
- A history of the Guidelines and the Commission;

⁷ It is important to note that assistance using or applying the Sentencing Guidelines received from Commission staff is not legal advice. Any information provided to or received from Commission staff when seeking assistance is not confidential. Inquiry responses are not intended or expected to form an attorney-client relationship, may be provided by non-attorneys, are not binding on the court, and do not constitute the official opinion of the Sentencing Commission.

- A list of current Commission members and staff;
- Sentencing data request forms;
- A frequently asked questions (FAQ) section that offers thorough answers to customary Guidelines questions;
- A glossary of Guidelines and sentencing language;
- Self-guided Sentencing Guidelines educational training material;
- All recent and historic Sentencing Commission publications;
- Employment opportunities with the Commission;
- Virtual training modules; and
- Open Government and Freedom of Information Act materials.

The Commission staff continues to seek out opportunities to expand the features available on the agency's website. Due to additions and improvements to the resources available on the website, website engagement has increased. The Commission's website received 25,450 visits in calendar year 2021. This was a 20.3% increase over the 21,153 visits the website garnered in 2020 and a 79.6% increase from 2017 website views.

CHAPTER TWO: VOLUNTARY SENTENCING GUIDELINES

In its Annual Report the Commission is required to discuss any substantive changes it has made to the Guidelines during the previous year.⁸ This includes any changes to offense severity rankings, the Guidelines recommended sentencing range or sentencing options, and rules for calculating a defendant's CH score. If the Council enacted legislation during the preceding year that created new offenses or changed penalties for existing offenses, the report must explain how the Commission incorporated those changes into the Guidelines.

Since 2012, the Commission has not modified the structure of the Guidelines Master or Drug Grids that set forth the recommended sentencing range and options for felony offenses. However, in 2021, the Commission made two substantive changes to the Guidelines by adding a new Mitigating Departure Factor and modifying the definition of a short split sentence. Both changes were made to account for emergency situations that modify Court operations. These changes were necessitated by the COVID-19 pandemic, however they will remain in place in case similar situations arise in the future. Additionally, the Commission made several changes to clarify and/or better organize the rules set forth in the Guidelines manual.

I. New Offense Rankings

In 2021, the Commission did not rank any new felony offenses or re-rank any prior felony offenses.

II. Substantive Changes to the Guidelines Rules and Manual

In response to COVID-19 the D.C. Council invoked D.C. Code §11-947, which resulted in the suspension of Superior Court Criminal Division time limits. This action increased the amount of time it took for many defendants to be indicted, receive a trial, plead guilty, and be sentenced.

To account for these delays, the Commission made the following substantive changes to the Guidelines in 2021:

Chapter 3:

In response to the impact of the COVID-19 pandemic on sentencing procedures, the definition of a compliant short split sentence was modified whenever the court faces delays in connection with the invocation of D.C. Code § 11-947, or the circumstances that caused the invocation of Section 11-947, the court may impose a compliant "short split" sentence by (a) imposing a prison term in the appropriate range and the supervised release term, (b) suspending execution of any time up to and including time served (which may be more than 6 months), (c) suspending all of the supervised release term, and (d) placing the defendant on probation for a period not to exceed five years.

The modification went into effect on June 25, 2021.

⁸ D.C. Code § 3-104(d)(2) states that the Commission's Annual Report shall describe "any substantive changes made to the guidelines during the preceding year, including changes in the: (A) Recommended sentencing options or prison ranges; (B) Ranking of particular offenses; or (C) Rules for scoring criminal history." Further, subsection (d)(3) provides that the Annual Report will also inform "the Council how it has ranked any new felony offense or re-ranked any existing felony offense because of a statutory change or for another reason, and the resulting guideline sentencing options and prison range for each such an offense."

The rationale for the modified short split sentence rule change:

- The definitional modification of “short split” was written with a broad interpretation in mind. The modified definition may be applied to any person who can demonstrate that they have been impacted by delays in court or criminal legal system operations connected to the use of the statutory authority that permits the chief judge to toll or suspend proceedings in the Superior Court of the District of Columbia or the circumstances that warranted the invocation of this authority. The modified definition applies equally to individuals impacted by delays related to the invocation of the statute regardless of whether the case was filed before or after the statute’s invocation.
- The Commission recognized that the definitional change expands the definition of a short split sentence when there are delays connected to the closure of the court; tolling or suspension of proceedings; or the functioning of the government and defense counsel, including the ability to convene grand juries or to investigate cases. This change is not intended to preclude the court from imposing a long split sentence in appropriate circumstances; rather, it is intended to adapt to the changing judicial environment in light of the ongoing pandemic and allows and encourages judges to make the sentencing decisions that they believe are the most appropriate for each individual matter.

Chapter 5:

The Commission approved a new Mitigating Departure Factor in response to the impact of the COVID-19 pandemic on sentencing procedures. When there is a substantial and compelling basis, as articulated by the sentencing judge, a mitigated departure may be granted to reduce the defendant’s applicable guideline sentence due to the invocation of D.C. Code § 11-947 or the circumstances that warranted the invocation of D.C. Code § 11-947.

The modification went into effect on July 23, 2021.

The rationale for the new mitigating departure factor:

- This mitigating factor should be applied equally to individuals impacted by delays or negative circumstances that occurred before, during, and after the invocation of the statute where the delay or negative circumstance is due to the invocation of Section 11-947 or the circumstances warranting its invocation, and where the court finds a substantial and compelling basis to reduce the individual’s sentence. This mitigating factor aligns with the modified short split also enacted in response to the unintended delays caused by the COVID-19 pandemic. These adaptations further encourage judges to impose the appropriate sentence despite the continued complications of the pandemic felt throughout the judicial system.

III. Technical Changes to the Guidelines Manual

The Commission made the following technical changes to the Guideline Manual in 2021:

Chapter 5:

- Section 5.2.2 Aggravating Factor was renumbered to 5.2.3⁹
- Section 5.2.3 Mitigating Factor was renumbered to 5.2.4
- New Mitigating Departure Factor #11 was listed
- Section 5.2.4 Limits on Kind and Duration of a Sentence if There is a Substantial and Compelling Reason to Depart was renumbered to 5.2.5
- Section 5.2.5 Departure Procedures was renumbered to 5.2.6

⁹ The section numbering was adjusted to account for an explanation of the new mitigating departure factor (M11) that is now contained in section 5.2.2.

CHAPTER THREE: OVERVIEW OF AGENCY DATA SOURCES AND COLLECTION PROCEDURES

The Commission's GRID system enables the agency to efficiently analyze sentencing trends and determine judicial compliance with the Guidelines. The GRID system uses data from four sources: the Superior Court, CSOSA, individual Superior Court judges, and the MPD. The Superior Court provides the Commission with all offense, conviction, and sentencing-related data. This data is transmitted from the Superior Court to the Commission electronically through the CJCC's Integrated Justice Information System Outbound Data Feed (IJIS 12.1). CSOSA officers directly input basic offender criminal history (CH) and demographic information into the GRID system via the GRID Scoring System (GSS) module, which automatically calculates an individual's CH score. Individual judges provide case-specific information in response to departure letters sent by Commission staff regarding perceived non-compliant departures from the Guidelines. Finally, MPD provides arrest data through CJCC's MPD_AFE data feed, which enables the Commission to have a more comprehensive view of the lifecycle of an individual criminal case.

I. The GRID System

The GRID system is a custom developed web-based application platform that was initially implemented in 2013. It enables the Commission to capture arrest and court information, analyze Guidelines compliance, and perform numerous types of data analyses. The GRID system's core capabilities include receiving and processing information; storing, displaying, and exporting data; calculating compliance; and performing analysis. The system has been upgraded several times since its initial deployment, most recently to bring in and analyze arrest data from MPD.

II. Sentencing Data

Improved data quality and access enables the Commission to evaluate both current and historic arrest, prosecution, and sentencing trends, as well as to measure compliance with the Guidelines. The Commission captures more than 500 data elements from Superior Court that are transmitted through the IJIS 12.1 data feed. This data is electronically transferred into the GRID system and case and defendant information is updated nightly. For example, when a defendant's charge in a case is updated by the Superior Court (e.g., following an indictment or plea), the GRID system will maintain a record of both the new and old charge. This allows for analyses of sentencing data at the count, case, and offender level. The Commission classifies this data as "live data," since it is continually updated.

In addition to capturing live data, the GRID system contains a historic data feature that preserves data captured during each calendar year. The historic data, referred to as an annual "*snapshot*," ensures consistent and accurate reporting of the sentencing decisions made during a prior year. The snapshot data is frozen in time and will not be affected by modifications or updates that may occur in subsequent years. As a result, snapshot data is static, allowing year-to-year data comparisons. For example, the snapshot data allows the Commission to report on a case from 2018 that was modified in 2020. While the GRID system records the 2020 modification, the annual snapshot data allows the Commission to report case-related activity that occurred only during 2018.

III. Criminal History Data

A defendant's CH score at the time of sentencing is one of the three primary factors used by the Commission to determine compliance with the Guidelines.¹⁰ CSOSA provides an individual's total CH score. CSOSA presentence report writers enter basic CH score information directly into the GRID system through the GSS module. Criminal history information and compliance calculations are updated daily in the GRID system.

IV. Compliance Data

When a sentence falls within the recommended Guidelines range and sentence options, the sentence is deemed compliant with the Guidelines.¹¹ The Guidelines use two Grids, the Master Grid and the Drug Grid, to determine an offender's recommended range and available sentencing options based on the offense of conviction and the individual's CH score.¹² If a felony sentence is initially determined to be non-compliant, the sentence is evaluated further using various factors to assess whether the sentence imposed is compliant with the Guidelines for other reasons. The Commission uses a seven-step process to determine if the sentence imposed is compliant with the Guidelines.¹³ The GRID system automatically performs the first five steps of the Commission's seven-step compliance process; the two remaining steps, if necessary, are performed manually by Commission staff.

For every felony count sentenced, this seven-step compliance process reviews and verifies that the sentence is within the appropriate Grid box, identifies any special Guidelines sentencing rules or circumstances that may apply, or whether a compliant departure from the Guidelines occurred. If, after this review process is completed, a sentence still appears to be non-compliant, Commission staff contacts the sentencing judge by sending a departure letter form to verify that the Court imposed a non-compliant sentence or to correct any errors in the data that made a compliant sentence appear to be non-compliant.

V. Arrest Data

One of the first phases of the lifecycle of a criminal case is arrest. To further assess the effectiveness of the Guidelines and analyze sentencing practices in the District, the Commission expanded its GRID system in 2020 to receive and analyze data from MPD's adult arrest data feed. This arrest feed enables the Commission to examine the entire lifecycle of a defendant's individual case from arrest through sentencing or alternative final disposition of the case.

The Commission captures more than 700 data elements from the MPD arrest feed. Similar to sentencing and CH score data, arrest data is electronically transferred into the GRID system, with updates performed nightly. The Commission classifies this data as part of its live data since it continually changes. Additionally, the GRID system preserves arrest data received each calendar year to ensure consistent reporting of available arrest information in a given year.

¹⁰ The other two primary factors are the offense of conviction and the sentence imposed.

¹¹ See Chapter 4 for more details on calculating Guidelines compliance.

¹² See Appendix A and B for the Master and Drug Grids.

¹³ See Appendix E for a detailed description of the Commission's seven-step compliance verification process.

The Commission began consuming live MPD Arrest data on January 16, 2020. It has also received a retroactive “data dump” of records for arrests that were made between November 2, 2017, and January 15, 2020. The Commission’s GRID data system houses arrest data going back to November of 2017. The Commission continues to receive live arrest data from MPD, which is transmitted every 30 minutes.

CHAPTER FOUR: SENTENCING AND COMPLIANCE TRENDS

This chapter provides an overview of felony sentences imposed by Superior Court judges in 2021, including judicial compliance with the Guidelines. Data used in this chapter include all initial felony convictions sentenced between January 1 and December 31, 2021, without regard to the date of the offense, plea, or verdict. The analysis focuses on the day of sentencing, therefore the analysis presented does not include felony sentences following a remand from the Court of Appeals or after probation revocations. Misdemeanor offenses are not analyzed because they are beyond the purview of the Guidelines. This chapter focuses on felony sentencing patterns by sentence type, offense category, and characteristics of the individuals sentenced.

In addition to presenting an overview of sentencing in 2021, this chapter also includes a comparison of felony sentencing trends and Guidelines compliance from 2012 through 2021. This broader comparative analysis, covering the past 10 years, highlights changes in sentencing patterns, as well as the implications of modifications to criminal statutes and the Guidelines during this period.

To analyze the multiple features of sentencing, data analysis is performed at three levels: count level, case level, and offender level. Count level analysis provides an overview of sentencing practices that occur for each individual felony offense sentenced. Case level analysis examines sentencing trends based upon the most severe count for a specific case. Lastly, offender level analysis identifies trends related specifically to the felony population sentenced in Superior Court in 2021. Each case may have one or more counts and each offender may have one or more cases in a given calendar year.

The Commission determined that, in order to compare sentencing trends from year to year effectively, it is necessary to capture or “freeze” the data for each year. This ensures a true comparison of sentencing trends over time. As previously described, this data is referred to as annual “snapshot” data, which captures felony sentences from January 1 through December 31 of a given year. The first annual “snapshot” was taken in 2013 and includes data from 2010 through 2013. Annual snapshots were taken for each subsequent calendar year. The snapshot for 2021 data was taken on January 6, 2022.

Previously, the data analysis presented in the Commission’s Annual Report was based on a combination of live and snapshot data, depending on the specific type of analysis completed. Starting in 2016, the Commission began using only snapshot data in its Annual Report. Limiting analyses to the snapshot data ensures the most accurate year to year comparisons of sentencing trends and allows the Commission to identify and analyze the impact of any modifications to the Guidelines.

The decision to use snapshot data accounts for discrepancies between the data reported in pre-2016 Annual Reports and data reported in later years. Beginning with the 2016 Annual Report, the data has been more reflective of actual sentencing trends that occurred during previous years when compared to live data, which continually changes. Moving forward, data presented for prior years will remain unchanged, allowing for a more in-depth analysis of sentencing trends.

The snapshot data used for the Commission’s annual reports is warehoused in the GRID system. The development and maintenance of the GRID system remains a significant undertaking for the

Commission since it represents the agency's first fully automated data system. As with the implementation of any large and complex data system, adjustments and modifications were necessary to address data classification and data quality issues that were identified after initial implementation. The resolution of these issues changed how data was reported at times, resulting in discrepancies with data presented in earlier reports. A description of key adjustments made over the past decade is included in Appendix C. To improve the consistency of data reporting, the 2021 data has been primarily analyzed on the count level, except where noted.

I. Sentencing Structure

Sentences imposed under the Guidelines are based on two grids: the Master Grid for felony non-drug offenses and the Drug Grid for felony drug offenses.¹⁴ These Grids are comprised of two axes: one for the individual's CH score and one for the offense severity group (OSG) of each offense for which a sentence is imposed. There are five classification groups of CH scores (A to E) on the horizontal axis of both the Master and Drug Grids in which an individual's criminal history (CH) may be classified. A CH classification of "A" represents the lowest CH classification, while a CH classification of "E" represents the highest.¹⁵ The Master Grid classifies offenses into nine OSGs represented on the vertical axis, which decrease in severity from M1 to M9. The Drug Grid has four OSGs, which decrease in severity from D1 to D4. The Commission ranks each felony offense into one of the OSGs according to the level of seriousness associated with that offense. The intersection of an offender's CH score classification on the horizontal axis and the OSG on the vertical axis determines both the recommended sentencing options and the sentencing range (in months) for prison sentences.

II. Sentencing, Offense, and Offender Data

A. The Impact of the COVID-19 Pandemic

In 2021, the COVID-19 pandemic continued to have a substantial impact on the District of Columbia and its criminal justice system. In March 2020, Court operations were reduced significantly in order to ensure the safety and well-being of Court staff, counsel, parties, and members of the public. As a result of the shutdowns, the Court experienced a huge backlog of cases and significant delays in sentencing. This is reflected in both the 2020 and 2021 sentencing trends. In 2020, there was an unprecedented 66% decrease in the total number of cases (969 fewer), a 64% decrease in the total number of counts (1,201 fewer), and a 66% decrease in the total number of individuals sentenced (914 fewer) when compared to 2019. Although the number of counts, cases, and individuals sentenced in 2021 increased by approximately 50% when compared to 2020, the number of sentences reported remains significantly lower than trends pre-pandemic. *See* Figure 2 below.

In 2021, The Superior Court began conducting criminal jury trials in a limited number of felony cases with detained defendants. Ultimately, the Superior Court conducted 12 criminal felony jury

¹⁴ *See* Appendices A and B for the Master Grid and the Drug Grid.

¹⁵ The classifications of CH scores are as follows: A (0 to 0.5), B (0.75 to 1.75), C (2 to 3.75), D (4 to 5.75), and E (6+).

trials. In comparison, 31 trials were conducted in 2020¹⁶, and 168 trials in 2019.¹⁷ The Court also continued to operate in-person, remote, and partial remote courtrooms. Court operations remained significantly reduced due to the onset of the COVID-19 Delta Variant and later the Omicron Variant.¹⁸

Figure 2: Felony Counts Sentenced by Month (2018-2021)

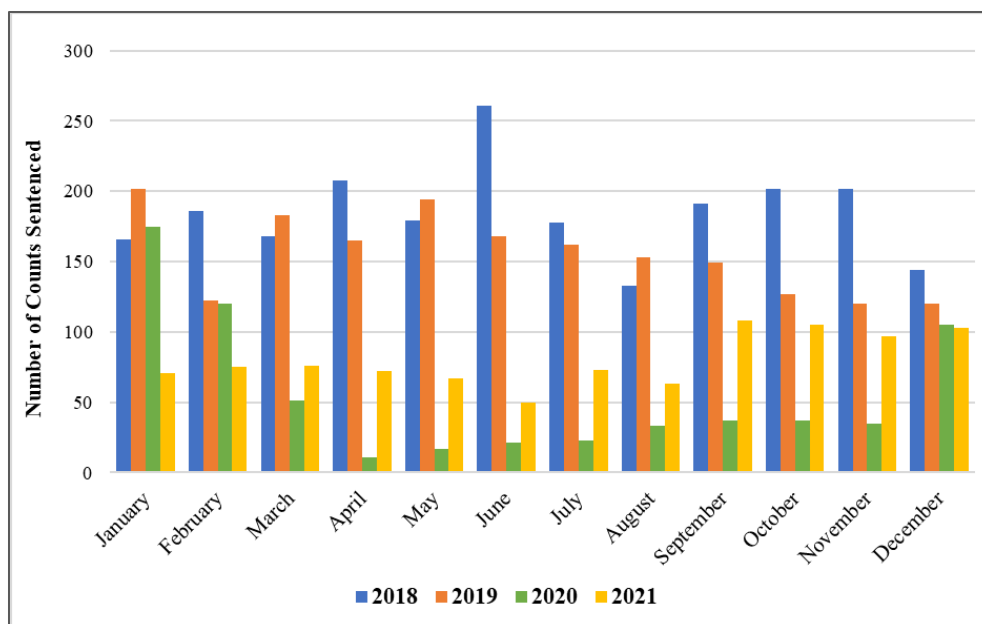


Figure 2 shows a comparison of the number of counts sentenced monthly by the Superior Court between 2018 and 2021, illustrating the significant decrease beginning in March 2020 and continuing into 2021. While 2021 overall saw an increase in counts sentenced, the courts have not returned to pre-pandemic levels.

The impact of the COVID-19 pandemic on Superior Court operations is a recurring theme throughout the analyses presented in this report because it caused major deviations in sentencing trends, primarily through the across-the-board decreases in the number of felony cases, counts, and individuals sentenced in 2020 and 2021.

The impact of COVID-19 should be taken into consideration when making any comparison between 2020-2021 data and earlier years. The Commission’s data is reflective of counts/cases sentenced rather than arrests and pending matters. As the Superior Court’s

¹⁶ The Superior Court of the District of Columbia, “2020 Statistical Summary”, <https://www.dccourts.gov/about/organizational-performance/annual-reports> (retrieved February 25, 2022).

¹⁷ The Superior Court of the District of Columbia, “2019 Statistical Summary”, <https://www.dccourts.gov/about/organizational-performance/annual-reports> (retrieved February 25, 2022).

¹⁸ The Superior Court of the District of Columbia, “Superior Court Chief Judge's Order Re. Operations Amended December 30, 2021”, (December 30, 2020), https://www.dccourts.gov/sites/default/files/Amended_Superior_Court_Chief_Judge_Order_12302021.pdf (retrieved January 20, 2022).

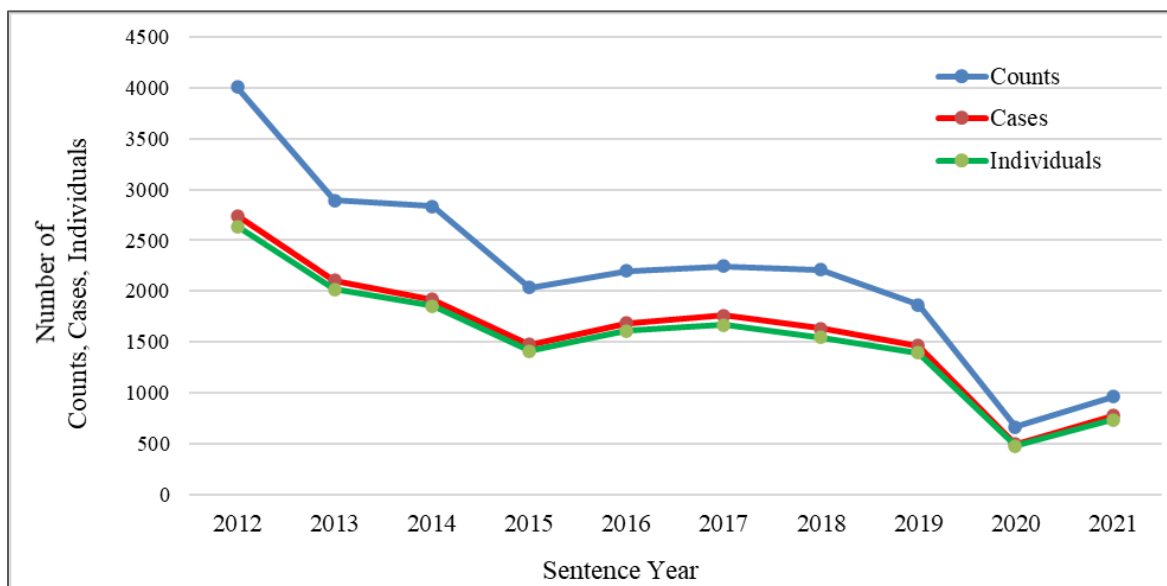
operations remain below pre-pandemic levels, a backlog of cases as well as new matters will have to be addressed.

B. Felony Sentences Imposed in 2021

In 2021, there were 736 individuals sentenced for felony offenses in Superior Court. These felony offenders were sentenced in 774 cases, consisting of 960 individual felony counts. Of the 774 felony cases, 309 involved a single felony count and 465 involved multiple felony counts.

As shown in Figure 3, the total number of counts, cases, and individuals sentenced has been gradually decreasing since 2012. The most profound declines are observed in 2013 and 2020, with the latter being greatly attributed to the impact of the COVID-19 pandemic and Superior Court's reduced operations during that year. Court proceedings resumed in a greater capacity in 2021, which is reflected in the increase in the number of counts, cases, and individuals sentenced. Compared to 2020, there was a 56.4% (279) increase in the total number of cases, a 44.6% (296) increase in the total number of counts, and a 53.7% (257) increase in the total number of offenders sentenced in 2021 (Figure 3). However, these totals remain lower than that of a typical year as Superior Court continued to operate in a limited capacity throughout 2021.

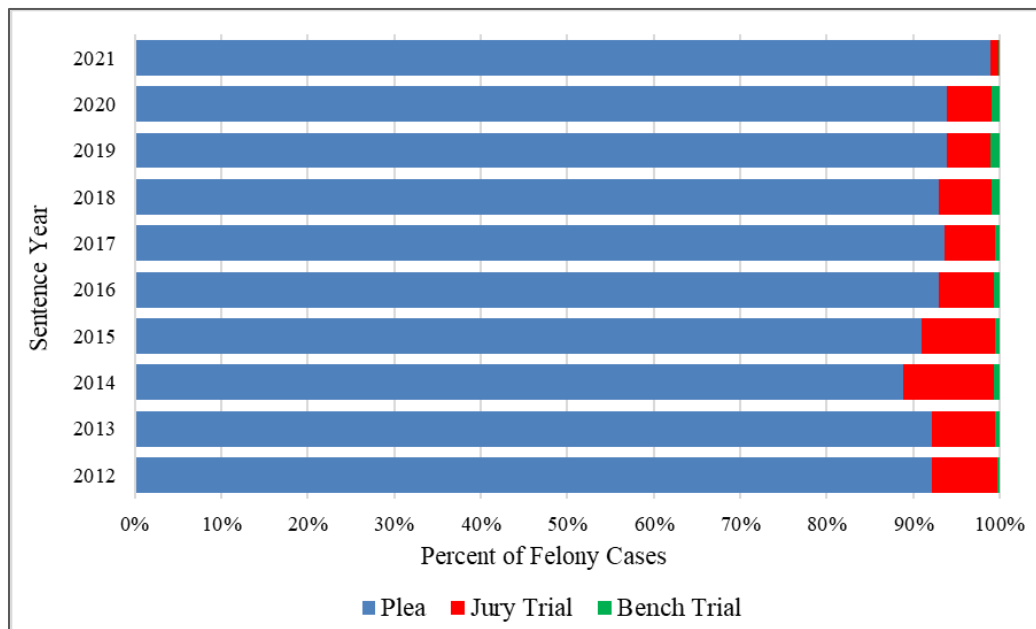
Figure 3: Felony Sentences by Year (2012-2021)



	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Counts	4007	2891	2835	2033	2201	2244	2208	1865	664	960
Cases	2739	2105	1919	1477	1683	1762	1635	1464	495	774
Individuals	2635	2016	1854	1410	1611	1666	1546	1393	479	736

Figure 4 presents the disposition of felony cases sentenced in calendar years 2012 through 2021. An overwhelming majority of counts were disposed of through a plea agreement in 2021: 99% of all cases sentenced were resolved via a plea, which is the greatest observed rate of plea agreements during this timeframe. This increase is offset by a 68% decrease in jury trials compared to 2020, largely due to the Superior Court's continued reduced operations. Historically, the proportion of cases that were disposed of via a jury trial has ranged between 5% and 8%; however, this dropped to 1% in 2021. Bench trials have consistently remained around 1% each year, reaching an all-time low of 0.1% in 2021.

Figure 4: Disposition Type, Case Level (2012-2021)



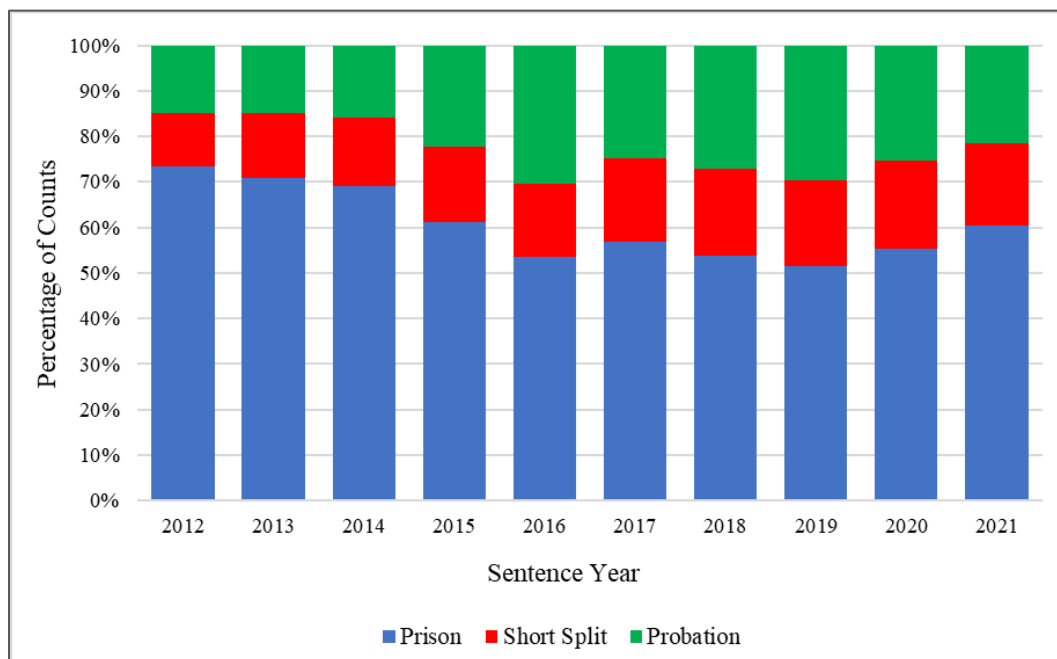
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Plea	92.1%	92.1%	88.9%	90.9%	93.0%	93.5%	93.0%	93.9%	93.9%	98.8%
Jury Trial	7.6%	7.4%	10.4%	8.5%	6.4%	5.8%	6.0%	5.0%	5.1%	1.0%
Bench Trial	0.3%	0.5%	0.7%	0.5%	0.7%	0.6%	1.0%	1.1%	1.0%	0.1%
Total Felony Cases	1779	1290	1918	1476	1683	1762	1635	1464	495	774

1. Sentence Type

The Commission classifies sentences into three categories: prison,¹⁹ short split, and probation.²⁰ The proportion of counts that receive a prison sentence has been steadily decreasing since 2012. Historically, the percentage of cases sentenced to prison ranged between 52% in 2019 and 73% in 2012. In 2021, 60% of all felony sentences imposed were prison sentences – a five-percentage point increase from 2020. This increase was offset by slight decreases in both short split and probation sentences. *See* Figure 5.

Although the total number of counts sentenced in both 2020 and 2021 was substantially lower compared to previous years, the distribution of sentences among prison, short split, and probation has remained relatively stable during this timeframe, especially within the last five years (2017-2021).

Figure 5: Sentence Type, Count Level (2012-2021)



	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Prison	72.8%	70.8%	69.0%	61.0%	53.6%	56.9%	53.8%	51.5%	55.3%	60.3%
Short Split	11.5%	14.4%	15.1%	16.5%	15.9%	18.4%	19.2%	18.9%	19.3%	18.1%
Probation	14.8%	14.9%	15.8%	22.4%	30.3%	24.7%	27.0%	29.6%	25.5%	21.6%
Total Counts	4007	2891	2835	2033	2201	2244	2208	1865	664	960

¹⁹ Prison sentence includes a long split sentence. *See* p. 45 for further discussion.

²⁰ *See* p. 45 for definitions of each type of sentence.

Under the Guidelines, a prison sentence is an available sentencing option in every Grid box. Compliant probation and short split sentences are only available in 22% of the boxes on the Master Grid (10 out of 45) and 70% of the boxes on the Drug Grid (14 out of 20).²¹ These types of sentences are typically imposed for less severe offenses and/or offenders with a limited CH score. However, some offenses are subject to mandatory minimum sentencing provisions, which requires that a judge impose a prison term, even if the defendant was otherwise eligible for a short split or probation sentence under the Guidelines.

2. Offense Severity Group

There were 960 felony counts sentenced in 2021, the vast majority (92.5%) of which were felony non-drug offenses. Only 7.5% of felony counts sentenced in 2021 were for drug offenses. Figure 6 below shows the distribution of sentences, based on the OSG of the convicted offense and the sentence type imposed for each felony count. The data is presented at the count level for both the Master and Drug Grids.

Red/orange shaded cells correspond to the more prominent OSGs and sentence types, while the yellow/green shaded cells represent OSG's that had very few or no counts sentenced.

Figure 6: Counts Sentenced by Offense Severity Group (2021)

Felony Counts Sentenced			
960			
Non-Drug		Drug	
888		72	

²¹ See Chapter 4 Section III for a detailed explanation of the Guidelines' structure and Appendices A and B for the Master and Drug Grids.

Prison was the most frequently imposed sentence type for all OSGs on the Master Grid except for convictions ranked in M9, the least severe non-drug felony offense group. Conversely, probation was the most frequently imposed sentence type for felony drug counts; just under half (47%) of all drug counts received a probation sentence, compared to only 20% of non-drug counts. It should be noted that in compliance with the Guidelines, all counts ranked in M1, M2, and M3 on the Master Grid received prison sentences.

As depicted by the red/orange shaded cells, the majority (557 counts, 63%) of non-drug sentences were imposed for offenses that are ranked in OSG M8, while the majority of drug sentences were ranked in OSG D3 (50 counts, 69%). The charts in Figure 7 add another level to this analysis, showing the average CH score for each OSG, broken down by sentence type.

Figure 7: Offense Severity Group by Sentence Type and Average CH Score, Count Level

MASTER GRID				DRUG GRID			
Proportion of Sentence Type by OSG				Proportion of Sentence Type by OSG			
Average CH Score				Average CH Score			
	Prison (556)	Short Split (159)	Probation (173)		Prison (23)	Short Split (14)	Probation (34)
M1	100% 2.4	-	-	D1	67% 5.6	33% 1.0	-
M2	100% 1.8	-	-	D2	50% 2.8	10% 0.0	40% 1.8
M3	100% 1.6	-	-	D3	30% 2.8	22% 1.8	48% 1.8
M4	93% 1.3	-	7% 0.25	D4	11% 6.2	22% 2.9	67% 3.0
M5	93% 1.9	4% 0.25	4% 0.0				
M6	82% 2.2	8% 0.9	9% 0.7				
M7	74% 2.6	18% 2.4	8% 0.25				
M8	55% 2.5	21% 0.7	24% 0.7				
M9	18% 3.8	39% 1.4	43% 0.4				

Figure 8 presents the distribution of counts sentenced in each severity group over the last 10 years; each cell represents the proportion of all felony counts sentenced for that given calendar year. The gradient colors indicate which Offense Severity Groups had the most felony counts sentenced in each given year (green/yellow = few, orange/red = many). There has been a downward shift in the proportion of drug counts sentenced each year, most notably in 2019, where drug sentences decreased from 20.4% in 2018 to 13.2%. This decline is offset by an increase in M8 offenses, as indicated by the red shaded cells in the top portion of Figure 8. M8 offenses increased by 15 percentage points between 2018 and 2019 and peaked in 2021, where they represented 58% of all counts sentenced; this is nearly double the observed rate of M8 offenses sentenced in 2012 (31%).

The increase in M8 offenses sentenced is primarily attributed to the Commission's re-ranking of Unlawful Possession of a Firearm-Prior Felony (UPF-PF, also known as felon in possession) from OSG M7 to OSG M8 in 2018. Note that this one offense represented 15.6% of all felony counts sentenced in 2021. Carrying a Pistol without a License (CPWL) and UPF-PF are the most frequently sentenced offenses in M8.

Figure 8: Felony Sentences Imposed by Offense Severity Group, Count Level (2012-2021)

OSG	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
M1	1.5%	0.8%	0.9%	0.7%	0.5%	0.4%	1.4%	0.6%	0.0%	0.3%
M2	1.3%	2.1%	1.6%	2.1%	1.5%	1.1%	1.4%	2.0%	1.8%	1.3%
M3	3.4%	0.8%	2.9%	2.7%	1.5%	1.8%	2.2%	2.1%	1.4%	1.0%
M4	1.3%	1.0%	1.7%	1.8%	1.2%	0.9%	1.2%	1.6%	2.6%	1.5%
M5	12.3%	8.4%	13.6%	10.1%	9.1%	8.3%	9.4%	6.8%	6.8%	5.8%
M6	8.3%	19.4%	10.2%	13.7%	15.1%	16.2%	12.9%	13.0%	14.6%	14.8%
M7	7.0%	10.5%	8.1%	11.4%	11.4%	12.0%	9.8%	3.4%	4.4%	5.2%
M8	30.7%	28.1%	33.6%	31.9%	32.1%	29.1%	35.6%	50.0%	50.0%	58.0%
M9	8.7%	11.1%	10.8%	10.2%	7.0%	5.1%	5.7%	7.1%	8.3%	4.6%
NON-DRUG	74.4%	82.2%	83.4%	84.6%	79.5%	75.0%	79.6%	86.8%	89.8%	92.5%
D1	0.1%	0.3%	0.3%	0.1%	0.2%	0.2%	0.2%	0.1%	0.0%	0.3%
D2	10.0%	6.2%	5.7%	5.3%	5.1%	6.1%	4.6%	3.9%	2.9%	1.0%
D3	13.0%	10.8%	8.6%	7.9%	11.7%	13.9%	13.1%	7.6%	6.9%	5.2%
D4	2.2%	0.6%	2.0%	2.0%	3.5%	4.8%	2.5%	1.6%	0.5%	0.9%
DRUG	25.3%	17.8%	16.6%	15.3%	20.5%	25.0%	20.4%	13.2%	10.2%	7.5%

3. Offense Type

Listed below are the Commission's offense categories and common offenses within each category:²²

- Drug Offenses:
 - Drug offenses while armed;
 - Distribution or possession with intent to distribute a controlled substance (PWID); and
 - Attempted distribution or attempted PWID.
- Non-Drug Offenses:
 - Homicide: First Degree Murder, Second Degree Murder, Voluntary and Involuntary Manslaughter;²³
 - Violent offenses: Armed, Unarmed, and Attempted Robbery, Assault with a Dangerous Weapon, Aggravated Assault, Carjacking, and Kidnapping;
 - Sex offenses: all degrees of Sexual Abuse, Child Sexual Abuse, and Human Trafficking offenses;
 - Property offenses: Arson, First Degree Burglary, Second Degree Burglary, First Degree Theft, Felony Receiving Stolen Property, Unauthorized Use of a Vehicle, Fraud, and Forgery;
 - Weapon offenses: Carrying a Pistol without a License (CPWL), Unlawful Possession of a Firearm with a Prior Felony (UPF-PF)²⁴, Unlawful Possession of a Firearm with a Prior Crime of Violence (UPF-PF-PCOV)²⁵, and Possession of a Firearm During a Crime of Violence (PFCOV)²⁶; and
 - Other offenses: Prison Breach, Fleeing Law Enforcement, Obstruction of Justice, and Bail Reform Act (“BRA”) violations.²⁷

Figure 9 presents historical sentencing trends for Violent (comprised of Homicide, Violent offenses, and Sex offenses), Non-Violent (comprised of Property offenses, Weapon offenses, and Other offenses), and Drug sentences.

²² See Appendix F for additional information regarding sentences by offense type.

²³ Negligent Homicide (Vehicular) is not included in this offense group because it is not a common offense and has different elements from Murder I, Murder II, and Manslaughter. See Appendix D

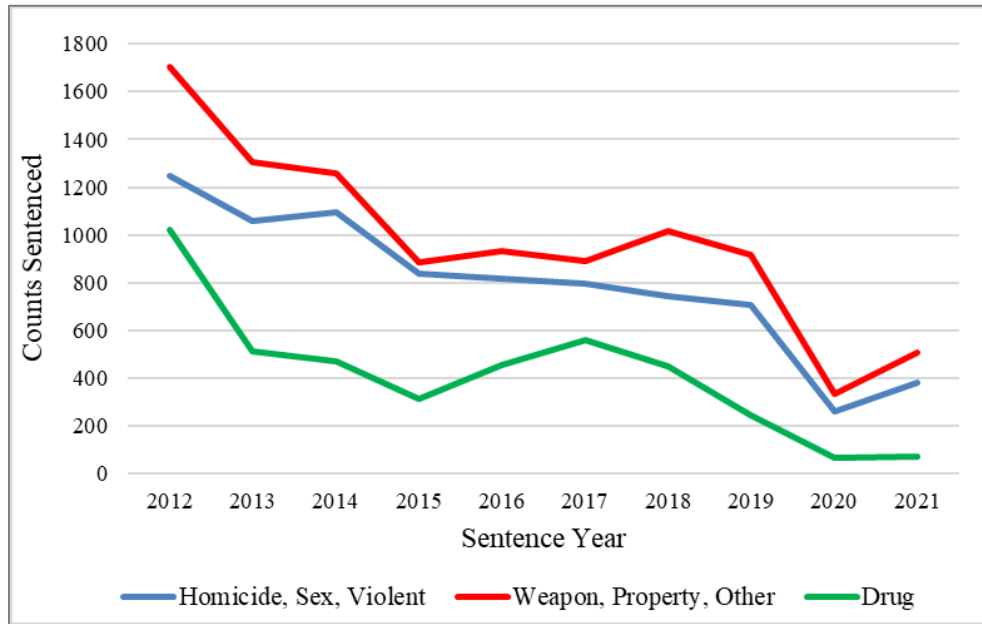
²⁴ A UPF-PF conviction has a 12-month mandatory minimum prison sentence. D.C. Code § 22-4503(a)(1).

²⁵ A UPF-PF-PCOV conviction has a 36-month mandatory minimum prison sentence. D.C. Code § 22-4503(b)(1).

²⁶ A PFCOV conviction has a 60-month mandatory minimum prison sentence. D.C. Code § 22-4501(1), § 22-4504(b).

²⁷ A BRA conviction is the result of an offender failing to return to court as required. D.C. Code § 23-1327(a).

Figure 9: Sentenced Violent and Non-Violent Counts (2012-2021)



	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
<u>Violent</u>										
Homicide	1249	1060	1095	838	819	795	743	705	260	381
Sex										
Violent										
<u>Non-Violent</u>										
Weapon	1705	1306	1257	883	930	888	1014	914	336	507
Property										
Other										
<u>Drug</u>	1022	514	468	312	452	561	451	246	68	72
<u>Total Counts</u>	4007	2891	2835	2033	2201	2244	2208	1865	664	960

Over the last 10 years, the number of sentences for Weapon, Property, and Other offenses (red) has consistently surpassed sentences for Violent offenses (blue). When combined, Homicide, Sex, and Violent offense sentences demonstrated a slight but steady decrease from 2015 to 2019, while the combined Weapon, Property, and Other offenses sentences fluctuated slightly during this same timeframe.

All three offense categories declined significantly in 2020 due to COVID-19 and its impact on Superior Court operations; [Homicide, Sex, and Violent] and [Weapon, Property, and Other] sentences, however, both increased by approximately 50% in 2021, but remain well below pre-pandemic levels.

It is important to note that the proportion of Drug counts sentenced has been steadily decreasing overtime, though most notably since 2017 (ranging from 25% of all counts in 2017 to only 8% in 2021). This is offset by gradual increases in the number of non-drug counts sentenced each year.

More information pertaining to sentencing trends among non-drug offenses, specifically Violent and Weapon offenses, can be found in Figure 13.

Figure 10 below presents the distribution of sentences in 2021 by offense category, at the count level. Overall, felony non-drug offenses represented approximately 92% of counts sentenced in 2021, with Violent and Weapon offenses accounting for 75% of all felony counts sentenced. The Weapon offense category was the largest offense category, representing 40% of all counts sentenced. Homicide, Sex, and Other offenses combined, only represented 8% of felony sentences imposed in 2021.

Figure 10: Offense Categories, Count Level

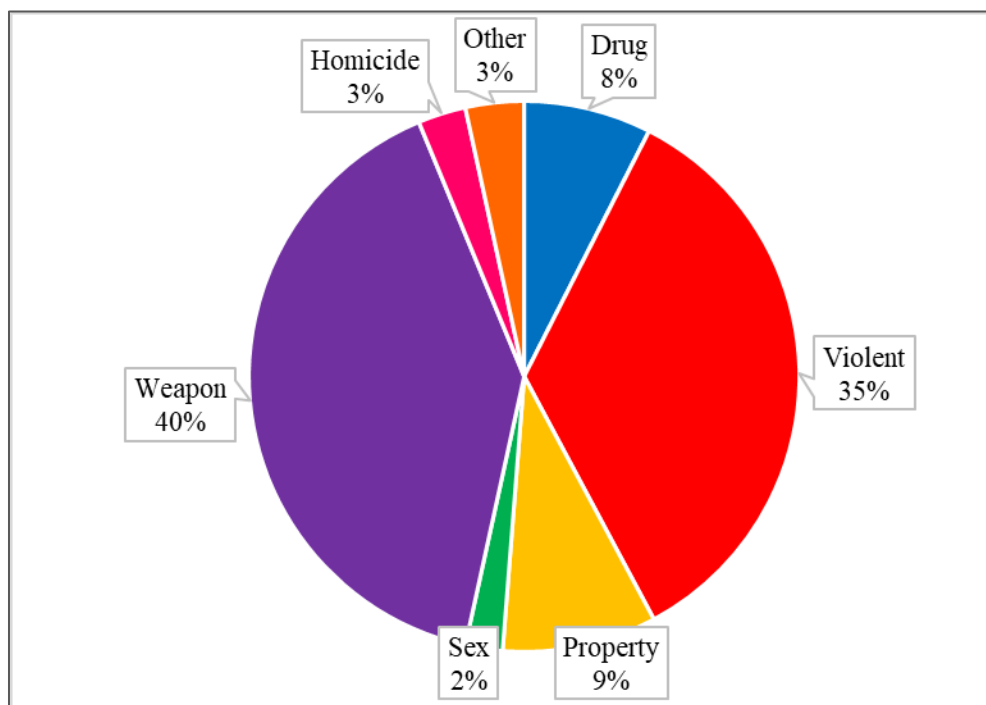
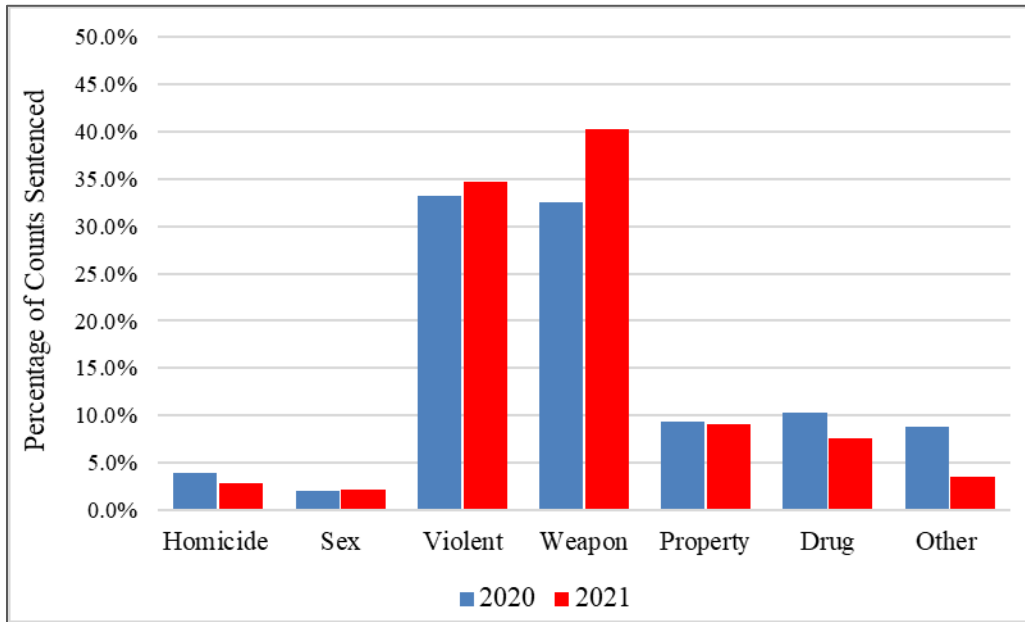


Figure 11 compares the proportion of sentences imposed in 2020 and 2021 by offense category. The most significant change is the increase of Weapons counts sentenced. This seven-percentage point increase is primarily offset by decreases in Drug and Other offenses, which declined by three percentage points and five percentage points, respectively.

Although there were 296 more counts sentenced in 2021 compared to 2020, the composition of counts in each offense category has remained fairly stable. Note that the proportion of Homicide, Sex, Violent, and Property offenses sentenced did not fluctuate from the previous year, even though all categories experienced an increase in the total number of counts sentenced. Violent and Other were the only two offense categories that varied by more than 3%.

Figure 11: Offense Categories, Count Level (2020 and 2021)



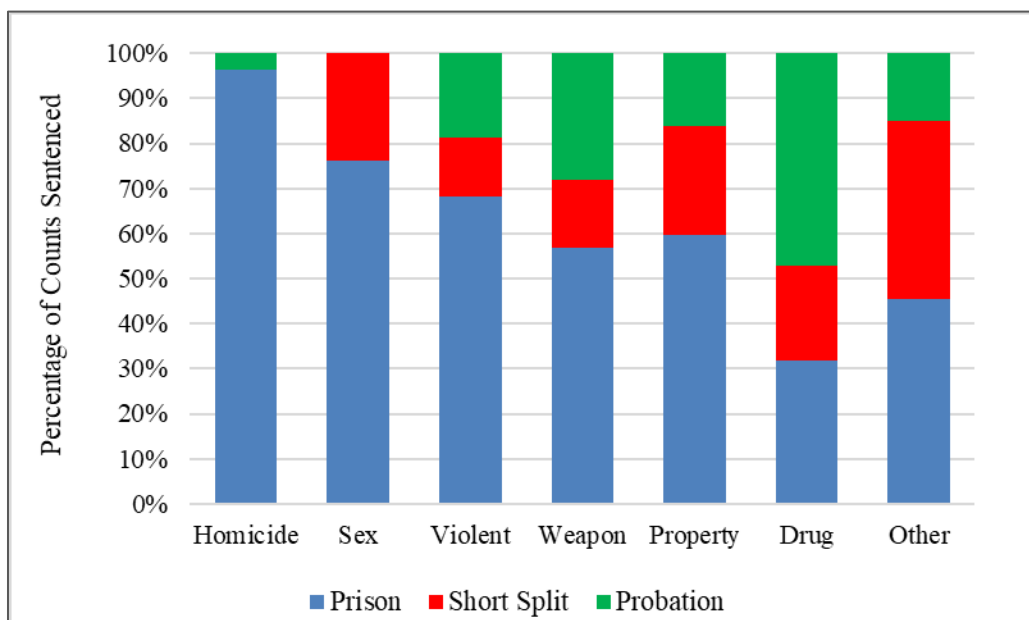
	Homicide	Sex	Violent	Weapon	Property	Drug	Other	Total
2020	26 3.9%	13 2%	221 33.3%	216 32.5%	62 9.3%	68 10.2%	58 8.7%	664
2021	27 2.8%	21 2.2%	333 34.7%	387 40.3%	87 9.1%	72 7.5%	33 3.4%	960
<i>Total Counts</i>	<i>53</i>	<i>34</i>	<i>554</i>	<i>603</i>	<i>149</i>	<i>140</i>	<i>91</i>	<i>1624</i>

Figure 12 illustrates the distribution of sentence type among each offense category. Prison was imposed for 60% of all felony counts sentenced in 2021, and similar to previous years, was the prominent sentence type for Homicide, Sex, Violent, Weapon and Property offenses. Conversely, the majority (47%) of Drug convictions resulted in a probation sentence. Approximately one in every four (23%) felony counts received a probation sentence, whereas short split was the least imposed sentence type, only representing 16% of all counts sentenced.

Please note that one Homicide count received a probation sentence; the offense of conviction was Voluntary Manslaughter – Accessory After the Fact, which is ranked in OSG 5. The sentence was compliant with the Guidelines because it was imposed following an accepted Rule 11(c)(1)(C) plea²⁸. Additionally, the five Sex offense counts that received short split sentences were all for offenses ranked in either M6, M7, or M8. The resulting short split sentences are compliant with the Guidelines, given the CH scores of the convicted individuals.

²⁸ Under Superior Court Rule of Criminal Procedure 11(c)(1)(C), the parties can agree on a guilty plea with a specific sentence, or sentence range, or cap. If the judge accepts the plea, the judge is also bound by the parties' agreement. All counts sentenced as a result of a Rule 11(c)(1)(C) plea are classified as compliant Rule 11(c)(1)(C) sentences, regardless of whether the agreed sentence imposed would have otherwise been compliant with the applicable Guidelines range and/or sentencing options.

Figure 12: Offense Category by Sentence Type: Count Level

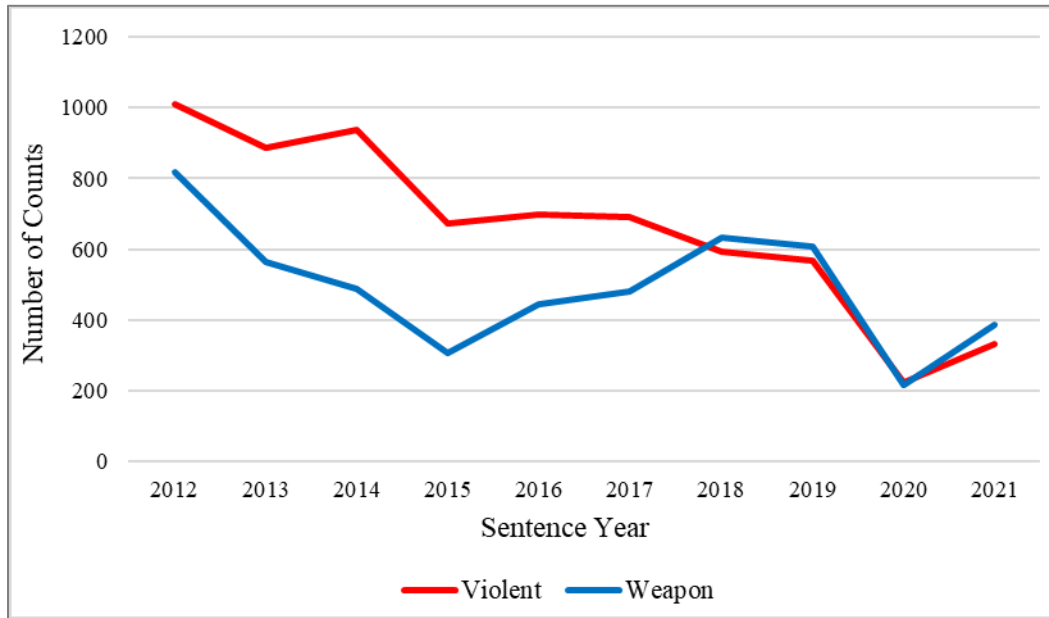


	Homicide	Sex	Violent	Weapon	Property	Drug	Other	Total
Prison	26	16	227	220	52	23	15	579
Short Split	0	5	44	58	21	15	13	156
Probation	1	0	62	109	14	34	5	225
<i>Total</i>	<i>27</i>	<i>21</i>	<i>333</i>	<i>387</i>	<i>87</i>	<i>72</i>	<i>33</i>	960

Combined, Violent and Weapon offenses represented 75% of all felony counts sentenced in 2021. The following analysis further examines sentencing trends for these two prominent offense categories.

Between 2015 and 2018, the number of Weapon counts sentenced gradually increased while Violent sentences gradually decreased. The sharp decline observed in 2020 for both offense categories is largely attributed to the impact of the COVID-19 pandemic, and the Superior Court's subsequent reduction in operations. Both the number and proportion of Violent and Weapon sentences increased in 2021, although the total number of counts sentenced is significantly less than in pre-pandemic years.

Figure 13: Sentenced Violent and Weapon Offense Counts (2012-2021)



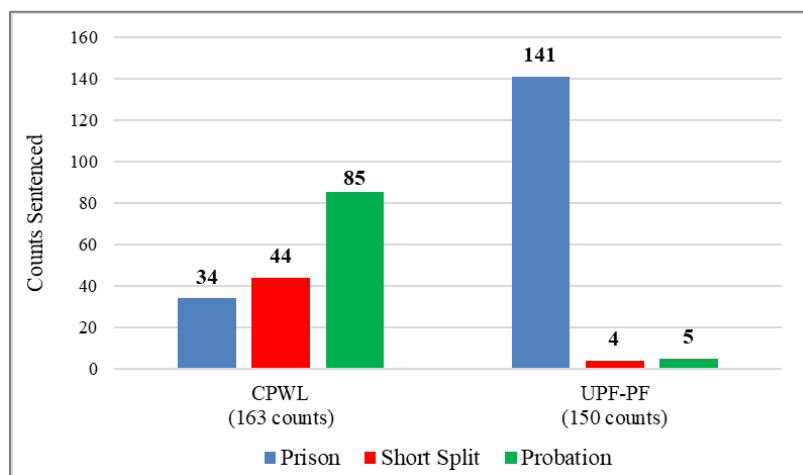
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Violent	1011	886	939	674	697	692	593	567	221	333
Weapon	817	563	488	306	444	481	632	609	216	387
<i>Combined Percentage of all Felony Counts</i>	45.6%	50.1%	50.3%	48.2%	51.8%	52.3%	55.5%	63.1%	65.8%	75.0%

Weapon:

There was a total of 387 Weapons counts sentenced in 2021, from 373 cases and 364 individuals.

- The Weapons offense was the most serious count sentenced in 80% of the cases that contained a Weapons charge (300 of 373 cases).
- Consistent with previous years, CPWL and UPF-PF were the two most frequently sentenced Weapon offenses. Combined, CPWL and UPF-PF represented 81% of all Weapons sentences (each constituting approximately 40%) and 32.6% of all felony counts sentenced in 2021.
- Just over half (52%) of the 163 CPWL convictions resulted in a probation sentence; conversely, probation was imposed for only 3% of UPF-PF sentences, as shown in Figure 14 below.

Figure 14: CPWL and UPF Sentence Type Distribution, Count Level



- An overwhelming majority (94%) of UPF-PF counts were sentenced to prison. The high incarceration rate is due to the one-year mandatory minimum prison sentence that applies to UPF-PF. It is important to note that most mandatory minimum sentences can be suspended for individuals who were under the age of 25 years old at the time of the offense, who are sentenced pursuant to the Youth Rehabilitation Act (YRA).²⁹
- The median sentences imposed for both CPWL (12 months) and UPF-PF (18 months) did not change compared to 2020.

Violent:

There was a total of 333 Violent counts sentenced in 2021, from 303 cases and 296 individuals.

- Of the 333 Violent counts sentenced in 2021, Assault with a Dangerous Weapon (ADW; completed and attempted) and Robbery (armed, unarmed, and attempted) were the two most frequently sentenced offenses.
- Combined, ADW and Robbery represented 78% of all Violent counts sentenced, and 27% of all felony counts sentenced in 2021.
 - o Both offenses experienced significant increases compared to 2020; Robbery sentences increased by 48% (from 83 to 123) and ADW increased by 70% (from 80 to 136).
- Seventy percent of all ADW convictions resulted in a prison sentence, compared to 59% of all robbery convictions; when further examined by type (i.e., armed vs. unarmed, vs. attempted), the distribution of prison sentences for both offenses is as follows:

²⁹ D.C. Code § 24-903(b)(2).

- ADW: 49% of Attempted ADW convictions received a prison sentence, compared to 91% of Completed ADW counts. Note that in 2020 only 65% of Completed ADW counts resulted in a prison sentence.
- Robbery: 80% of Armed Robbery, 71% of Unarmed Robbery, and 46% of Attempted Robbery convictions received a prison sentence. Attempted Robbery experienced a 17-percentage point increase from 2020, where only 29% of Attempted Robbery convictions received a prison sentence.

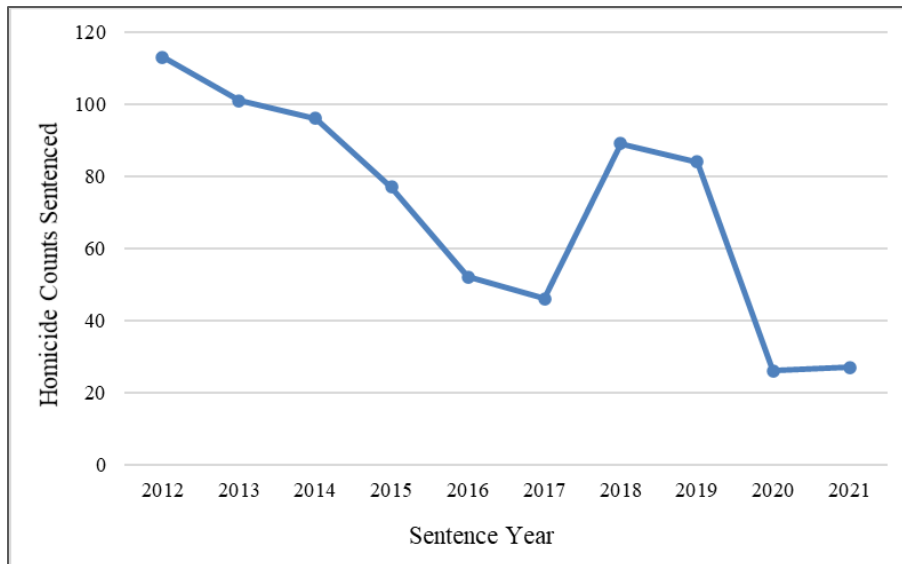
Roughly 60% of all felony sentences imposed in 2021 were for CPWL, UPF-PF, Robbery, and ADW.

Additional sentencing information for these offenses, as well as for other common Violent and Weapon offenses, can be found on the Commission's website under the Fast Facts section, as well as in Appendix H. Each Fast Facts highlights a specific offense and provides much more detail regarding historical sentencing trends.

Homicide:

Yearly Homicide sentencing trends are presented in Figures 15 and 16 below. It is important to acknowledge that the 69% decline in Homicide sentences observed in 2020 is largely attributed to the impact of COVID-19 on Superior Court operations. Although the number of Homicide sentences imposed in 2021 is similar to that of 2020, Homicide only represented 2.8% of all felony counts sentenced in 2021, compared to 4% in 2020. This is consistent with previous years, as historically, Homicide has represented between 2% and 4.5% of all counts sentenced.

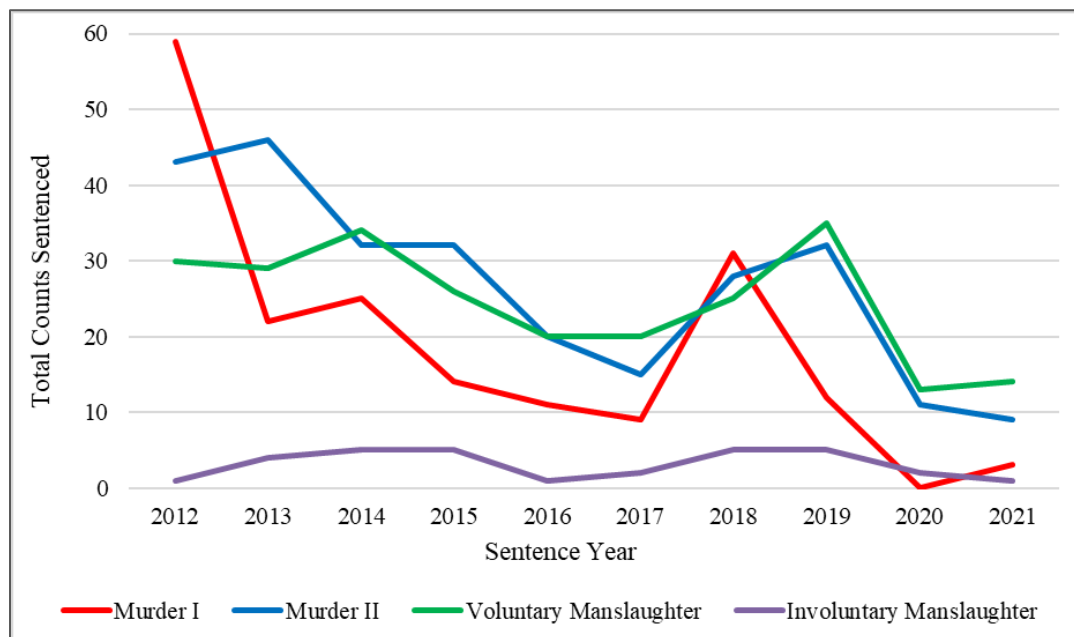
Figure 15: Sentenced Homicide Counts (2012-2021)



	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Homicide Counts Sentenced	113	101	96	77	52	46	89	84	26	27

The majority of the Homicide counts sentenced in 2021 were for Voluntary Manslaughter, accounting for just over half (52%) of all Homicide sentences, followed by Second Degree Murder, which represented one-third (33%) of all Homicide sentences. Homicide trends for 2021 are very similar to those observed in 2020, however it is important to acknowledge that the low number of Homicide sentences reported in both years are the result of reduced court operations and the life cycle of serious felony cases moving through the criminal justice system and are not representative of crime and arrest rates in the District. Note that the Commission classifies Negligent Homicide convictions in the ‘Other’ offense category; a total of three Negligent Homicide counts were sentenced in 2021.

Figure 16: Homicide Sentences by Year, Count Level (2012-2021)



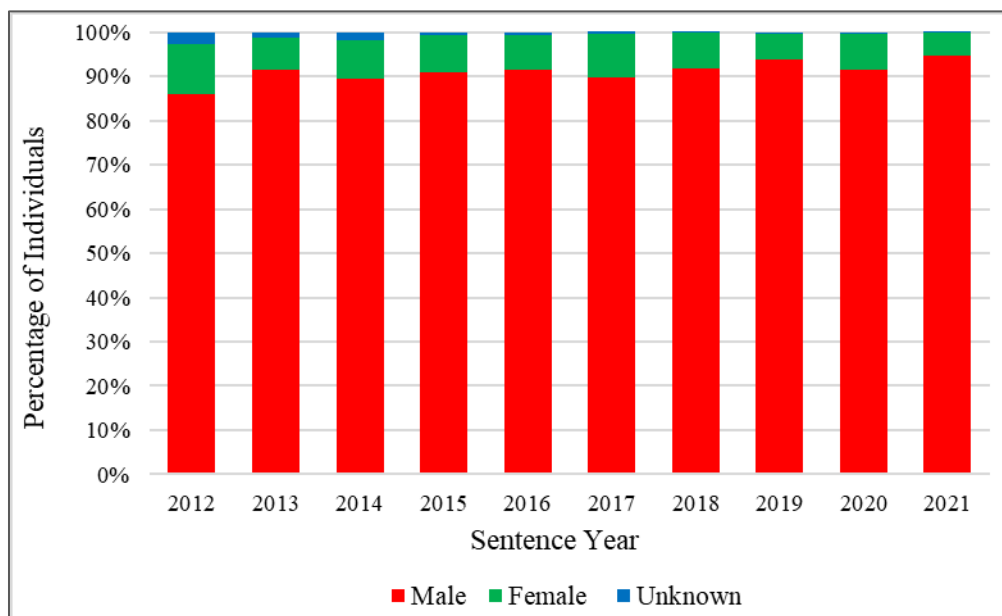
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Murder I	59	22	25	14	11	9	31	12	0	3
Murder II	43	46	32	32	20	15	28	32	11	9
Voluntary Manslaughter	30	29	34	26	20	20	25	35	13	14
Involuntary Manslaughter	1	4	5	5	1	2	5	5	2	1
<i>Total Counts</i>	<i>113</i>	<i>101</i>	<i>96</i>	<i>77</i>	<i>52</i>	<i>46</i>	<i>89</i>	<i>84</i>	<i>26</i>	<i>27</i>

C. Felony Sentencing Demographics: Gender, Race, & Age

1. Gender

Gender³⁰ was recorded for 735 of the 736 individuals sentenced in 2021 (Figure 17).³¹ Consistent with previous years, the majority of individuals sentenced in 2021 were male; 696 males were sentenced, representing 94.6% of the sentenced population. Females only represented 5.3% of individuals sentenced, which is the lowest observed rate over the last ten years.

Figure 17: Felony Offenders by Gender (2012-2021)



	2012 (N=2635)	2013 (N=2016)	2014 (N=1854)	2015 (N=1410)	2016 (N=1611)	2017 (N=1666)	2018 (N=1546)	2019 (N=1393)	2020 (N=479)	2021 (N=736)
Male	85.90%	91.5%	89.4%	90.9%	91.6%	89.9%	91.7%	93.8%	91.6%	94.6%
Female	11.50%	7.2%	8.7%	8.5%	7.8%	9.8%	8.1%	5.8%	8.1%	5.3%
Unknown	2.50%	1.2%	1.9%	0.6%	0.6%	0.4%	0.3%	0.4%	0.2%	0.1%

³⁰ The Commission's data on offender gender is a limited binary categorization (i.e. only male or female). Gender information is obtained from Superior Court records.

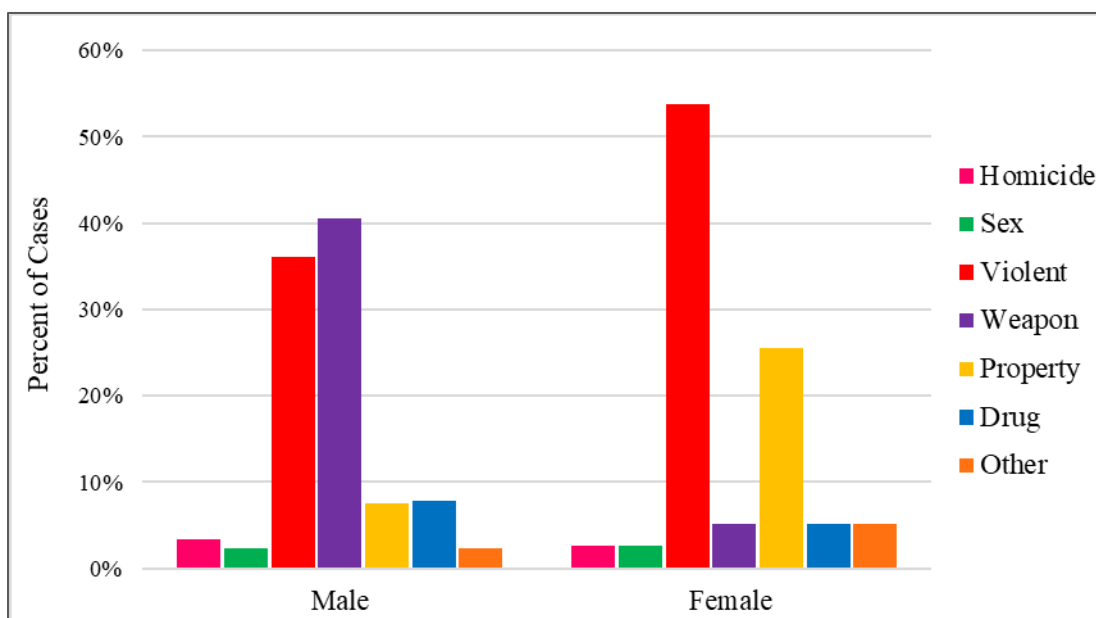
³¹ Each case may have one or more counts, and each offender may have one or more cases in a given calendar year.

Figure 18 shows the distribution of sentences imposed by offense category for each gender. This analysis is performed at the case level, where the offense categorization is determined by the most serious count sentenced on a given case.

Males were sentenced for Weapon and Violent offenses at similar rates; these offense categories represented 40.5% and 36.1% of all male sentences, respectively. Females were most frequently sentenced for Violent offenses (53.8%) followed by Property offenses (25.6%). Combined, these two offense categories constituted approximately 80% of all female sentences. Note that there was an increase in Property sentences among Females compared to 2020 (15.8% v. 25.6%), which was offset by a decrease in Other offenses.

The distribution of offense types among males is consistent with previous years. However, in 2021, Weapon offenses increased from 32.7% in 2020 to 40.5%, making Weapon the prominent offense type sentenced for males as opposed to 2020, when males were most frequently sentenced for Violent offenses.

Figure 18: Gender by Offense Category, Count Level (2021)



	Homicide	Sex	Violent	Weapon	Property	Drug	Other
Male (696)	3.4%	2.3%	36.1%	40.5%	7.5%	7.9%	2.3%
Female (39)	2.6%	2.6%	53.8%	5.1%	25.6%	5.1%	5.1%

CH scores and sentences by gender at the case level are provided below in Figure 19.³² In 2021, the average CH score of 1.8 for males (n=698) was higher than the average CH score of 1.3 for females (n=39).

Figure 19: CH Score and Sentence Length by Gender, Case Level (2012-2021)

Sentence Year	Number of Cases		Mean CH Score	
	Male	Female	Male	Female
2012	1,324	206	1.9	1.1
2013	1,111	98	1.8	0.8
2014	1,637	155	1.7	0.8
2015	1,305	115	1.9	1
2016	1,490	118	1.7	1
2017	1,550	169	1.8	1.1
2018	1,407	127	1.8	1.2
2019	1,305	78	1.6	0.8
2020	405	34	1.7	1.1
2021	698	39	1.8	1.3

2. Race

In 2021, an offender's race³³ was reported for 722 of the 736 offenders sentenced. Consistent with previous years, almost all individuals sentenced for felony offenses were Black (94%, n=693). The remaining individuals sentenced were categorized as: White (3%, n=21), Unknown (2%, n=14), Hispanic (<1%, n<5) and Asian (<1%, n<5).³⁴

3. Age

Age was calculated for offenders in 771 of the 774 cases sentenced in 2021.³⁵ The Commission examines age using the following age groups: 15-17, 18-21, 22-30, 31-40, 41-50, 51-60, 61-70, and 71+.³⁶ Individuals who were between the ages of 18 and 30 at the time of the offense accounted for 62.1% of all sentences in 2021 (Figure 20). The 22-30 age group was the most prevalent age group, representing 38% of all individuals sentenced, followed by the 18-21 age group;

³² Cases for which gender or CH score information was unavailable and cases with life or indeterminate sentences were excluded from these two tables. Percentages may not add up to 100% due to rounding.

³³ Race category data used by the Commission does not capture ethnicity, thus Black offenders of Hispanic origin or White offenders of Hispanic origin are not separately presented.

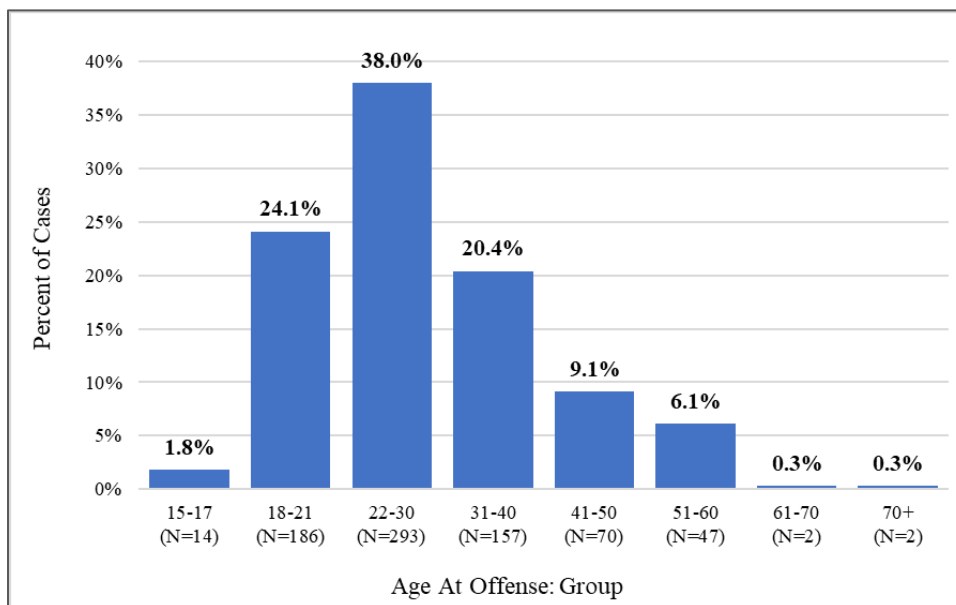
³⁴ The Other category for race, when present, includes all individuals not identified or reported as Asian, Black, Hispanic, Native American, Pacific Islander, or White.

³⁵ The age of each offender refers to his or her age at the time the offense was committed. In infrequent cases where an offense date is not provided, the arrest date is used instead.

³⁶ Although the age group includes individuals who were between the ages of 15 and 17 at the time of the offense, no 15-year-olds were charged or sentenced during 2021.

approximately one in four individuals sentenced in 2021 were between the ages of 18 and 21 at the time of the offense.

Figure 20: Sentences Imposed by Age Group, Case Level (2021)



The age group composition has remained relatively stable over the last 10 years, even when accounting for the impact of COVID-19 on 2020 and 2021 sentencing trends. Those aged between 22 and 30 years old at the time of the offense have continued to represent the plurality of individuals sentenced, constituting 38% of all felony cases sentenced in 2021. The proportion of individuals in this age category has been gradually increasing since 2012, which is primarily offset by gradual decreases in the 41-50 age group.

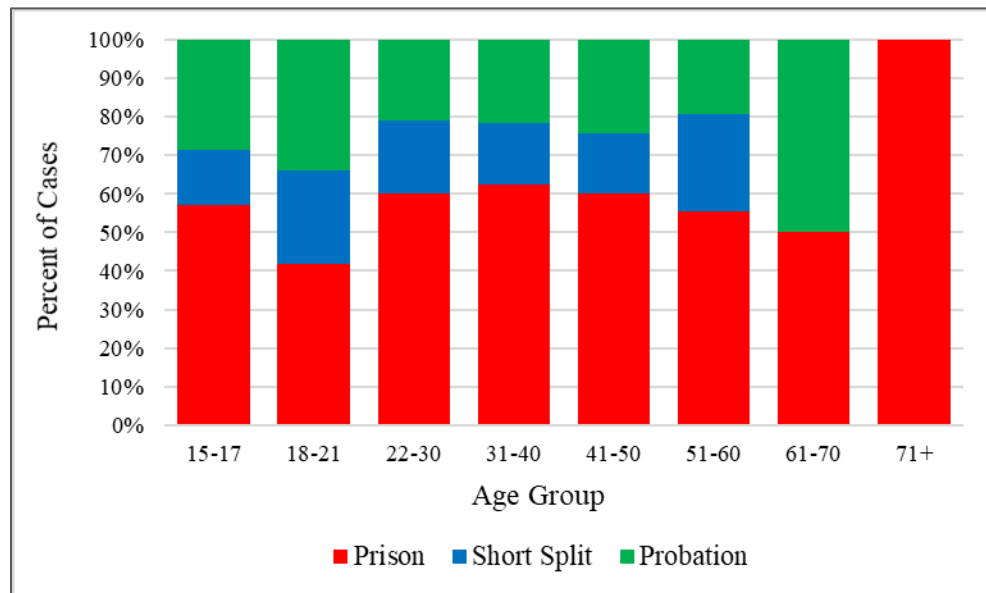
Figure 21: Sentences by Age Group, Case Level (2012-2021)

	2012 (N=1719)	2013 (N=1258)	2014 (N=1894)	2015 (N=1476)	2016 (N=1669)	2017 (N=1753)	2018 (N=1628)	2019 (N=1459)	2020 (N=492)	2021 (N=771)
15-17	1.3%	2.9%	2.6%	2.3%	3.6%	2.5%	2.1%	2.1%	2.0%	1.8%
18-21	23.3%	29.1%	31.8%	27.8%	26.0%	20.9%	19.3%	21.1%	22.0%	24.1%
22-30	28.3%	29.5%	28.8%	32.7%	32.5%	36.9%	37.8%	40.2%	37.4%	38.0%
31-40	19.7%	17.1%	17.4%	18.1%	17.7%	17.5%	19.8%	18.2%	22.4%	20.4%
41-50	17.4%	12.9%	11.0%	10.3%	10.7%	9.6%	10.7%	9.7%	8.1%	9.1%
51-60	8.6%	6.8%	7.1%	7.7%	7.7%	10.0%	7.6%	7.2%	6.3%	6.1%
61-70	1.3%	1.6%	1.2%	0.9%	1.8%	2.5%	2.3%	1.2%	1.6%	0.3%
71+	0.1%	0.2%	0.1%	0.2%	0.1%	0.1%	0.2%	0.3%	0.2%	0.3%

Without controlling for offense category, 83.5% of all offenders sentenced to prison were under the age of 41 (Figure 22). Prison was imposed for at least half of all individuals in every age

category,³⁷ except for those who were between the ages of 18 and 21 at the time of the offense; only 42% of individuals in this age group received a prison sentence.

Figure 22: Age Group by Sentence Type, Case Level (2021)



	15-17	18-21	22-30	31-40	41-50	51-60	61-70	71+
Prison	8	78	176	98	42	26	1	2
Short Split	2	45	56	25	11	12	0	0
Probation	4	63	61	34	17	9	1	0

³⁷ No (0) 15-year-old defendants were sentenced in 2021. The relatively high rate of prison sentences for 16 and 17-year-olds is explained by the fact that these individuals may be prosecuted as adults for the most serious and violent offenses (Murder, First Degree Sexual Abuse, Burglary in the First Degree, Armed Robbery, or Assault with Intent to Commit any of these offenses). D.C. Code § 16-2301(3).

III. Metropolitan Police Department (MPD) Data – Arrest Analysis

The Commission’s completion of the MPD Data Enhancement project and its related system enhancements has enabled the Commission to track the lifecycle of a felony case, beginning with the initial arrest, through final disposition and sentencing. This allows the Commission to undertake more comprehensive sentencing analysis. The following 2021 arrest trend analyses demonstrate the capabilities of the enhanced GRID system.

A. Data Limitations

One of the biggest accomplishments of the MPD Data Enhancement project was successfully merging two independent sources of data into a single comprehensive system. However, the data presents challenges for certain types of analysis. For example:

- The Commission began consuming live MPD Arrest data in January of 2020 and has received a retroactive “data dump” for arrests that occurred between November 2, 2017, and January 15, 2020. Therefore, the Commission only has access to MPD data for arrests that occurred on or after November 2, 2017; any arrest that was made prior to this date is not available in the Commission’s data system. Due to the extended lifespan of certain serious criminal cases, particularly during the COVID-19 pandemic, not all cases sentenced in 2021 can be linked back to an arrest.
- Currently, arrest information is not available for all felony counts filed in the Superior Court. Additional felony counts that were added to a given case during or after presentment cannot be linked back to the original arrest record because these charges did not exist at the time of the original arrest. Therefore, they do not have a corresponding arrest number. This prevents certain types of analysis, specifically those that retroactively look back to an arrest, based on the convicted offense. The Commission is currently working to address this issue so that all charges, no matter when they were added to a case, can be linked back to the original arrest from which they stemmed.
- Due to the inherent nature of the criminal justice system, there is a delay between arrest, when a case reaches its final disposition, and when a case is sentenced. Therefore, it is impossible to present a complete and comprehensive analysis of the sentencing trends for arrests that occurred within the past 18 months because many case outcomes are still pending.³⁸ More data will become available for these arrests over time.

³⁸ As of January 6, 2022, the date the 2021 data was frozen.

B. 2021 Felony Arrests

In 2021, there were a total of 3,082 felony arrests made in the District of Columbia, comprised of 4,653 total felony charges, belonging to 2,722 unique individuals.³⁹ The diagram below depicts the disposition of these arrests and how they progressed through the D.C. criminal justice system.

Please note the following about the felony arrest information presented below:

- The analysis only covers felony arrests, it does **not** include arrests for misdemeanor and/or miscellaneous charges.⁴⁰
- The term “no papered” means that the prosecuting authority (the United States Attorney’s Office for the District of Columbia or the Office of the Attorney General for the District of Columbia) elected not to immediately file charges in Superior Court related to the arrest.⁴¹ Arrests sent for prosecution in the United States District Court or charges that were filed later are not included in the cases sent to court for prosecution.
- The percentages in the second row of the diagram (Figure 23) represent the proportion of all felony arrests made in 2021, while the percentages in the third row represent the proportion of the 1,791 arrests that were sent to court for prosecution.

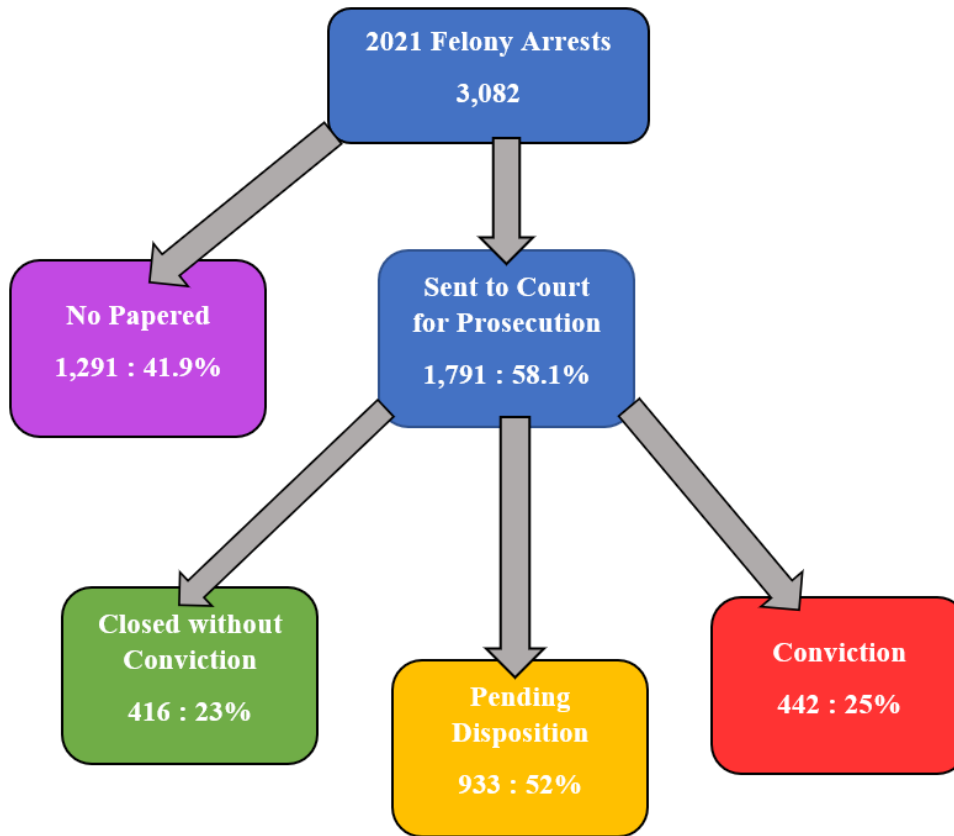
Approximately 42% of all felony arrests that occurred in 2021 were no papered. Of the remaining 1,791 arrests that were filed in Superior Court, over half (52%) are still pending a disposition. Twenty-three percent (23%) of papered arrests were already dismissed or the defendant was acquitted; when combined with the arrests that were no papered, it can be concluded that 55% of all arrests that occurred in 2021 did not result in a finding of guilt. Conversely, 25% of papered arrests (14% of all arrests) have already resulted in a conviction.

³⁹ The difference between the number of reported felony arrests, felony charges, and arrested individuals is due to the fact that multiple charges can come from a single arrest, and an individual can be arrested multiple times in a single year.

⁴⁰ Miscellaneous is a classification created by MPD. The Commission has verified that there are no felony arrests contained in this category.

⁴¹ All no papered arrests had an arrest number generated by MPD.

Figure 23: 2021 Felony Arrests - Court Disposition



C. Historic Felony Arrests – Disposition Trends

The above analysis was repeated for calendar years 2018, 2019 and 2020, the findings of which are presented in Figures 24 and 25 below. Similar to Figure 23, the values for the various sentencing disposition outcomes (closed without conviction, pending, or conviction) represent the proportion of all arrests that were sent to Superior Court for prosecution.

The total number of papered arrests has been gradually decreasing over the last four years. In 2018, 71% of all felony arrests were sent to court for prosecution, compared with 58% in 2021.

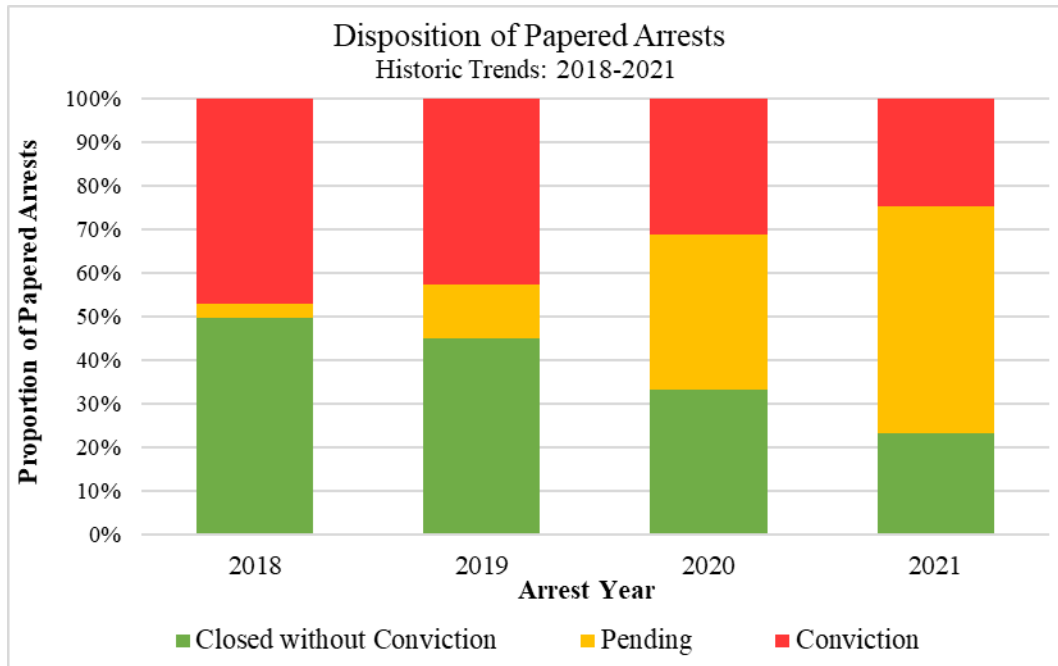
While it appears as though the proportion of papered arrests that either result in a conviction or are closed without a conviction have been decreasing since 2018, it is important to acknowledge that these decreases are offset by the increasing proportion of papered arrests that are still pending a final disposition. This gradual increase of pending arrests is directly related to the delay in time between arrest, disposition, and sentencing. This delay, which is a normal part of the criminal justice process, has been exacerbated by the COVID-19 pandemic.

Figure 24: Court Disposition of Felony Arrests, Historic Trends (2018-2021)

	2018	2019	2020	2021	Total
Total Felony Arrests	6,276	6,126	5,365	3,082	20,849
Arrest Disposition					
Cases Not Papered	29% (1,837)	31% (1,899)	35% (1,865)	42% (1,291)	33% (6,892)
Sent to Court for Prosecution	71% (4,492)	69% (4,227)	65% (3,500)	58% (1,791)	67% (14,010)
Disposition of Papered Cases					
<i>Closed without Conviction</i>	50% (2,225)	45% (1,905)	33% (1,162)	23% (416)	41% (5,708)
<i>Pending</i>	3% (146)	12% (520)	36% (1,246)	52% (933)	20% (2,845)
<i>Conviction</i>	47% (2,121)	43% (1,802)	31% (1,092)	25% (442)	39% (5,457)

Across all years, there is a relatively equal distribution of the proportion of arrests that result in a conviction and those that are closed without a conviction. This is illustrated by the similar size of the green and red bars for each year in Figure 25, which presents the sentencing disposition of all papered arrests.

Figure 25: Sentencing Disposition of 2021 Papered Arrests



IV. Compliance with the D.C. Voluntary Sentencing Guidelines

The Commission monitors judicial compliance with the Guidelines as part of its statutory mandate.⁴² This allows the Commission to assess how well the Guidelines are achieving the goals of promoting fair and consistent sentencing and highlights sentencing patterns that may suggest a need to modify the Guidelines.

Judicial compliance with the Guidelines, as used in this section, means that the sentence imposed either fell inside the type and length of sentence recommended by the Guidelines or was a sentence outside of the recommended type/length that otherwise complied with the Guidelines rules.

Judicial compliance with the Guidelines has been at or above 91.7% since the implementation of the Guidelines. The highest compliance rate was observed in 2020 (99%) and the lowest rate in 2012 (91.7%). In 2021, 98.5% of all felony counts sentenced were determined to be compliant with the Guidelines.

A. How the Commission Defines Compliance with the Sentencing Guidelines

The Commission determines compliance with the Guidelines by examining whether the sentence imposed is within the sentencing options and sentencing range recommended by the Guidelines. The options and range are determined by the OSG of the sentenced offense and the offender's CH score. The Guidelines rank every non-drug felony offense into one of nine OSGs (M1 to M9) on the Master Grid based on its predetermined severity level (M1 offenses being the most serious and M9 being the least serious). Every felony drug offense is ranked into one of four OSGs (D1 to D4) on the Drug Grid (D1 offenses being the most serious and D4 being the least serious).

The intersection of an offender's OSG on the vertical axis and CH score category on the horizontal axis on either the Master or the Drug Grid identifies the Grid box containing the offender's recommended sentence type and sentence range.⁴³ To be considered a Guidelines compliant in the box sentence, the sentence imposed for each felony count must be compliant in length (durational compliance)⁴⁴ and sentence type (dispositional compliance).⁴⁵

Dispositional compliance is based on the Guidelines sentencing options available in each Grid box. There are 45 boxes on the Master Grid and 20 boxes on the Drug Grid. Each Grid box has one, two, or three sentencing options available:

- Prison and Long Split Sentences: available in all boxes.
- Short Split Sentences: available in colored (green and yellow) or shaded (light and dark) boxes.
- Probation Sentences: available in yellow or light shaded boxes.

⁴² The Sentencing Guidelines are voluntary. Therefore, a judge can impose any legal sentence, whether or not it is compliant with the Guidelines.

⁴³ See Appendices A and B for the Master Grid and Drug Grid.

⁴⁴ Durational compliance means the total sentence falls within the specific Guidelines range for the defendant's grid box.

⁴⁵ Dispositional compliance means the type of sentence imposed is an available option in the defendant's grid box.

Sentence options are defined as:

- **Prison Sentence:** The court sentences the offender to a prison term within the Grid box range. None of the time imposed is suspended. The prison term is followed by a period of supervised release.
- **Long Split Sentence:** The court sentences the offender to a prison term within the Grid box range. The court suspends part of the sentence; however, the time initially served (not suspended) is still equal to or above the bottom of the recommended Grid box range. There is a period of probation to follow release from prison. Supervised release is suspended.
- **Short Split Sentence:** 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 initially served (not suspended) is at least one day and *not more than six months*. There is a period of probation to follow release from prison.
- **Probation Sentence:** The court sentences the offender to a prison term within the recommended Grid box range, suspends the entire sentence, and places the offender on a period of probation. Supervised release is suspended.

If the type of sentence imposed is not one of the available sentencing options, and/or if the duration of the sentence is not within the range recommended for a specific Grid box, then the sentence is deemed to be an outside the box sentence. An outside the box sentence can still be compliant with the Guidelines if it falls into one of the other compliant sentence classifications listed below.

B. Guidelines Sentence Classifications

The Commission assigns all sentences to one of the following five classifications:

- **Compliant In the Box Sentences:** Sentences that fall within the Guidelines recommended sentence type (prison, compliant long split, short split, or probation) and Grid box durational sentencing range based on the offender's offense of conviction and CH score.
- **Compliant Outside the Box Sentences:** Sentences that fall outside of the sentence type and range recommended by the Guidelines but are otherwise deemed compliant with the Guidelines due to other factors. The following are compliant outside the box sentences:
 - Sentences that run concurrently with a compliant greater or equal sentence;
 - Sentences based on a statutory enhancement;⁴⁶
 - Sentences where a statutory maximum or minimum requires a sentence outside of the in the box sentencing range/options.
- **Rule 11(c)(1)(C) Sentences:** Sentences that are based upon a Rule 11(c)(1)(C) guilty plea, where the parties agree upon a sentence or sentencing range at the time the plea is entered. The sentencing judge has the authority to accept or reject a Rule 11(c)(1)(C) sentence. Once accepted, the plea becomes binding on the Court. Sentences following a Rule 11(c)(1)(C) plea are analyzed as compliant in the box sentences if the sentence falls within the Guidelines range and sentencing options. Sentences following a Rule 11(c)(1)(C) plea are analyzed as

⁴⁶ Statutory enhancements raise the maximum sentence in the Guidelines range for the applicable box in proportion to the effect of the enhancement on the statutory maximum sentence. Statutory enhancements do not affect the bottom of the in the box range or the available sentencing options.

compliant outside the box sentences if the sentence falls outside the Guidelines range and sentencing options.

- **Compliant Departures:** Sentences that are either not of a compliant sentence type or fall above or below the Grid box recommended sentence range, but the judge utilizes one of the aggravating or mitigating departure factors.⁴⁷
- **Non-Compliant Departures:** Sentences that either are not of a compliant type or fall above or below the Grid box range based on the offender's offense of conviction and CH score, and the judge does not cite an aggravating or mitigating departure principle and no other exception applies. The District's Guidelines are voluntary. Therefore, a judge can impose any legal sentence, whether or not it is compliant with the Guidelines.⁴⁸

The classification of compliance into five distinct categories enables the Commission to examine instances when a sentence falls within the recommended range, falls outside the range but is compliant for another reason is compliant because of an applicable departure principle, or is not compliant with the Guidelines.

C. Compliance Analysis

In 2021, Superior Court judges imposed sentences for 960 individual felony counts.⁴⁹ The Commission calculated Guidelines compliance for 928 of the 960 counts sentenced. The remaining 32 counts occurred in cases where the Guidelines did not apply,⁵⁰ or sentences for which Superior Court did not request a PSR or a CH score calculation (n=32). Additionally, counts sentenced without a CH score (except for Rule 11(c)(1)(C) sentences) have also been removed from the historical data used throughout this chapter. The following analysis is based on the 928 felony counts where Guidelines compliance was calculated.

⁴⁷ In order to address atypical cases or offenders, the Guidelines allow judges to depart from the recommended sentencing range and options. Departures are classified as either aggravating or mitigating departures depending on whether they depart higher or lower than the sentence type or prison range called for by the Grid box. There are 11 aggravating departure principles that may be used when the sentence imposed by the judge is more severe than the sentence recommended by the Guidelines and 11 mitigating departure principles that may be applied when the sentence imposed by the judge is less severe than the Guidelines' recommended sentence. When one of the 22 departure principles is cited by a judge as a reason for departing from the applicable guidelines, the sentence is considered a "compliant departure."

⁴⁸ If, after three attempts to contact a judge regarding a sentence that appears to be non-compliant, the Commission does not receive a departure letter response, the Commission classifies the sentence as a non-compliant Departure.

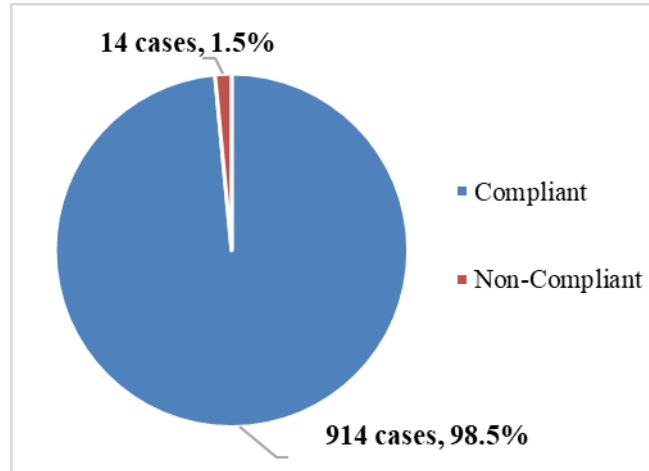
⁴⁹ As noted previously, this number represents counts sentenced; it does not include sentences following revocation of probation or remand from the Court of Appeals.

⁵⁰ The Guidelines do not apply to indeterminate sentences and sentences where a defendant's guilt was determined prior to June 14, 2004.

1. Overall Compliance

Consistent with previous years, the overwhelming majority (98.5%) of felony sentences were compliant with the Guidelines in 2021.

Figure 26: Overall Judicial Compliance (2021)



As shown in the table below, the overall rate of judicial compliance has remained at or above 91.7% since 2012, and above 97% since 2016. A high compliance rate reflects the consistent application and strong acceptance of the Guidelines by Superior Court judges. The high compliance rate is also related to the Guidelines' broad in-the-box sentencing ranges, which: 1) gives judges a high amount of discretion, and 2) because most felony plea agreements in Superior Court include a clause prohibiting a party for asking for a sentence outside of the applicable in-the-box sentencing range.

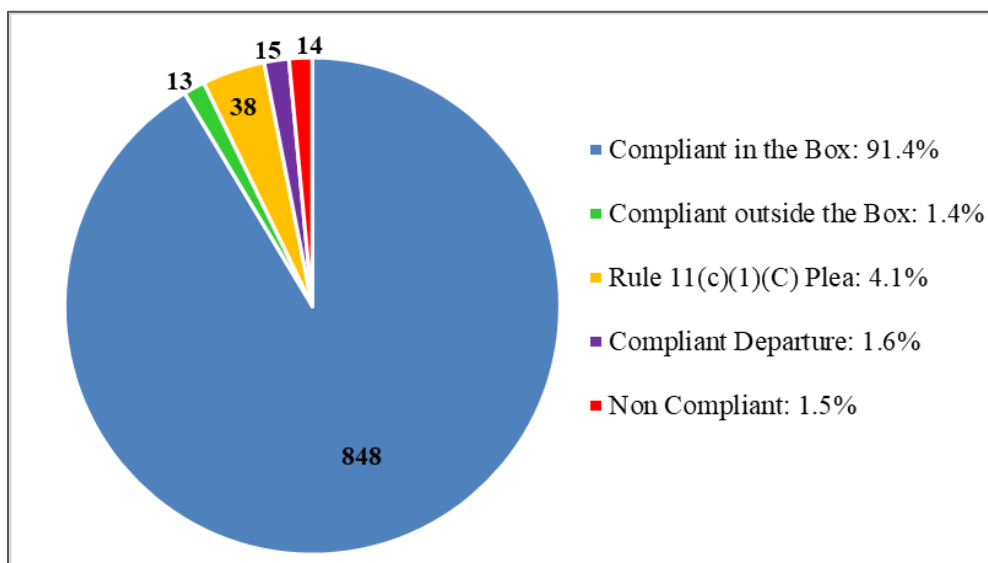
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Compliant	91.7%	96.1%	96.7%	95.0%	97.5%	97.2%	97.6%	98.1%	99.0%	98.5%
Non-Compliant	8.3%	3.9%	3.3%	5.0%	2.5%	2.8%	2.5%	1.9%	1.0%	1.5%

2. Judicial Compliance Sub-Categories

There are four sub-categories of Guidelines compliant sentences: compliant in the box, Rule 11(c)(1)(C) Plea, compliant outside the box, and compliant departure.⁵¹ Under any of these circumstances the imposed sentence is deemed compliant with the Guidelines. The distribution of all compliance categories is presented in Figure 27 below.

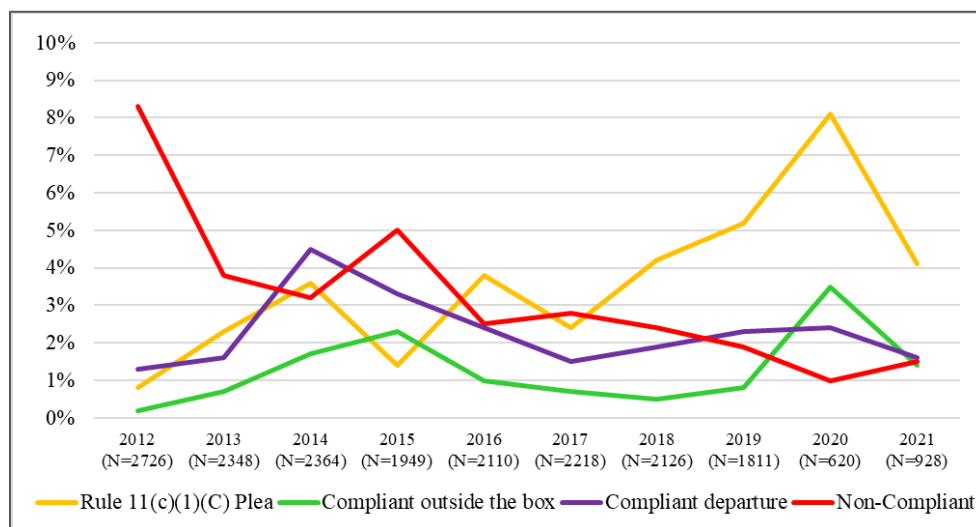
⁵¹ The definition for each Guidelines compliant sub-category can be found on pages 45-46.

Figure 27: Compliance Sub-Categories (2021)



The historical compliance sub-category is presented in Figure 28 below. Non-compliant is the only sub-category that experienced an increase in 2021, however the increase was only by 0.5%. The sharp increases observed in 2020 for both Rule 11(c)(1)(C) pleas and compliant outside the box sentences did not continue in 2021; outside the box Rule 11(c)(1)(C) pleas decreased by approximately 25% while compliant outside the box sentences decreased by 41%. Compliant departures also decreased slightly in 2021. With the exception of 2020, compliant in the box sentences have remained at or above 87% since 2012.

Figure 28: Trends in Sentencing, Sub-Categories



3. Compliant Departures

In 1.6% (n =15) of all felony counts sentenced in 2021, the judge departed from the in the box range by utilizing a compliant departure factor.⁵² These departures offer insight into why judges may choose to impose a sentence outside of the Guidelines Grid boxes in particular cases. Judges used the following aggravating (A) and mitigating (M) factors for departures in 2021:

- *A11*: There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in 1 to 10 above, which aggravates substantially the seriousness of the offense or the defendant’s culpability. Note: Going to trial is not an aggravating factor and should not be used to go outside of the box.
- *M5*: The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.
- *M6*: The defendant’s capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was impaired significantly, though not sufficiently to constitute a complete defense. Voluntary use of alcohol or other drugs should not be considered in relation to this mitigating factor.
- *M7*: The defendant has provided substantial assistance to law enforcement in the detection or prosecution of other offenders, and departure for this reason does not demean the seriousness of the defendant’s crime or create an unacceptable risk to the safety of the community.
- *M10*: There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in mitigating factors 1 to 9, which does not amount to a defense, but which substantially mitigates the seriousness of the offense or the defendant’s culpability.
- *M11*: There is a substantial and compelling basis, as articulated by the sentencing judge, to reduce the defendant’s applicable guideline sentence due to the invocation of D.C. Code § 11-947 or the circumstances that warranted the invocation of D.C. Code § 11-947.

Figure 29 displays the compliant departure factors cited by judges for sentences in 2021.

Figure 29: Compliant Departure Reasons by Severity Group (2021)

	Offense Severity Group			
Departure Factor	M5	M6	M8	Total
A11	0	0	1	1
M5	1	0	0	1
M6	1	0	0	1
M7	2	0	0	2
M10	0	3	4	7
M11	0	0	3	3
Total	4	3	8	15

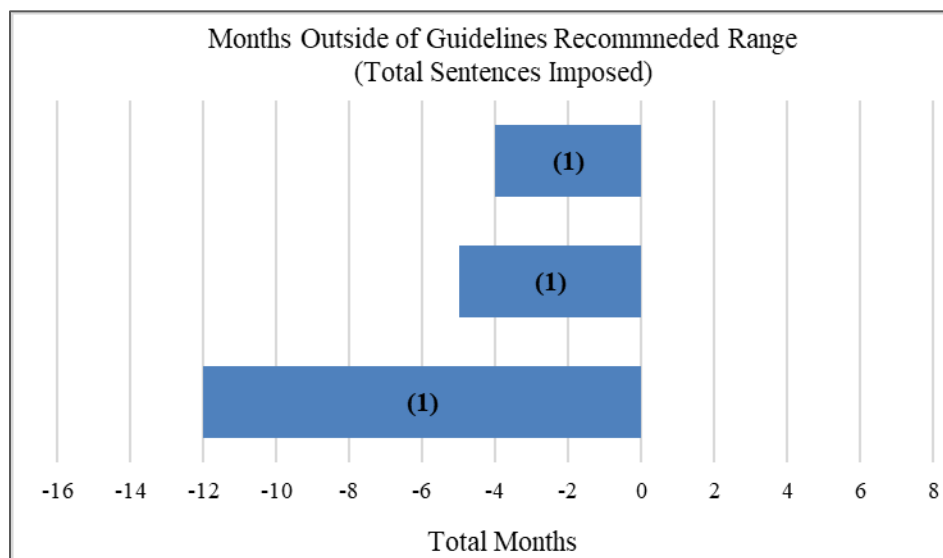
⁵² Appendix E lists all available aggravating and mitigating departure factors.

The majority (87%) of compliant departures were mitigating, with M10 (54%) being the most frequently cited departure factor. Since its inception in July of 2021, the new M11 mitigating departure factor has been used three times, representing 20% of all compliant departures.⁵³ Only one felony count cited an aggravating departure principle in 2021; this count was a durational departure, meaning that sentence imposed was greater than the recommended sentencing range.

Comparatively, 71% (10 counts) of the mitigating departures were durational. These durational departures were commonly the result of a “non-compliant split sentence,” where the sentence imposed was *within* the recommended Guidelines range, but the amount of time suspended results in a sentence to serve that is below that range. However, these otherwise non-compliant sentences are deemed compliant given that the sentencing judge elected to use one of the available departure factors. The remaining four mitigating counts (29%) were dispositional departures.

In total, there were four durational departures where the sentence imposed was outside of the Guidelines recommendation. One sentence was 152 months above the recommended Guidelines range. The length of the remaining three sentences, all downward durational departures, is presented in Figure 30, below. The number displayed in each bar represents the total number of sentences that resulted in a departure of that magnitude, either above or below the Guidelines range (i.e., one sentence was four months above the Guidelines recommended range).

Figure 30: Durational Compliant Departures, Sentence Imposed



⁵³M11: There is a substantial and compelling basis, as articulated by the sentencing judge, to reduce the defendant’s applicable guideline sentence due to the invocation of D.C. Code § 11-947 or the circumstances that warranted the invocation of D.C. Code § 11-947.

4. Non-Compliant Sentences

A sentence is considered a non-compliant departure when the judge imposes an outside the box sentence: 1) without citing a departure principle, or 2) where no enhancement applies, or 3) the sentence was not the result of a Rule 11(c)(1)(C) plea. A total of 14 felony counts received a non-compliant sentence, representing 1.5% of all felony sentences imposed in 2021.

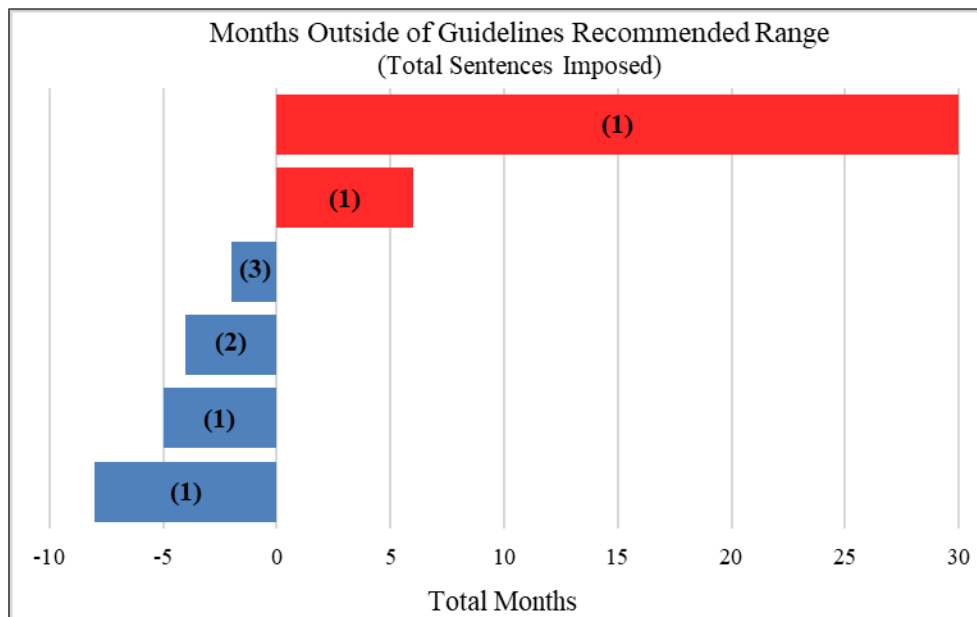
Half of the non-compliant sentences were for Weapon offenses (7, 50%), followed by Drug offenses (4, 29%), Property offenses (2, 14%), and lastly Violent offenses (1, 7%). Note that all Homicide, Sex, and Other counts received a Guidelines compliant sentence.

The majority of non-compliant sentences (12, 86%) were downward departures. Seven were durational downward departures, where the defendant received a sentence length less than the range specified in the Guidelines, and five were dispositional downward departures, where the defendant received a sentence type less severe than advised by the Guidelines.

The remaining two of the 14 non-compliant sentences were upward departures. Both upward departures were durational, meaning that the sentence imposed was greater than the length recommended by the Guidelines. Figure 31 depicts the sentencing trends of the nine durational departures imposed in 2021, in terms of sentence length imposed compared to the recommended Guidelines range.

Red shaded bars represent instances where the sentence imposed was above the Guidelines recommended range; blue shaded bars represent sentences that were below the Guidelines recommendation. The number displayed in each bar represents the total number of sentences that resulted in a departure of that magnitude, either above or below the Guidelines range (i.e., one sentence was 30 months above the Guidelines recommended range, while three counts received sentences that were two months below the Guidelines recommended range).

Figure 31: Durational Non-Compliant Sentences, Sentence Imposed



In summary, compliance with the Guidelines has remained consistently high since 2010, indicating consistent application and use of the Guidelines by Superior Court judges. 1.6% percent of the sentences imposed represented compliant departures, with mitigating factors M10 and M11 being the most common departure factors as the Commission and the Superior Court continues to adapt to the COVID-19 pandemic.

APPENDIX A - GUIDELINES MASTER GRID

		Criminal History Score				
3 Points*	Ranking Group Most Common Offenses	0 to ½ A	¾ to 1¼ B	2 to 3¾ C	4 to 5¾ D	6 + E
	Group 1 1st degree murder w/armed 1st degree murder	360 - 720	360 - 720	360 - 720	360 - 720	360 +
	Group 2 2nd degree murder w/armed 2nd degree murder 1st degree sex abuse 1st degree sex abuse w/armed	144 - 288	156 - 300	168 - 312	180 - 324	192 +
	Group 3 Voluntary manslaughter w/armed 1st degree child sex abuse Carjacking while armed Assault with intent to kill w/armed Armed burglary I	90 - 180	102 - 192	114 - 204	126 - 216	138 +
	Group 4 Aggravated assault w/armed Voluntary manslaughter	48 - 120	60 - 132	72 - 144	84 - 156	96 +
	Group 5 Possession of firearm /CV Armed robbery Burglary I Obstruction of justice Assault with intent to kill	36 - 84	48 - 96	60 - 108	72 - 120	84 +
2 Points*	Group 6 ADW Robbery Aggravated assault 2nd degree child sex abuse Assault with intent to rob	18 - 60	24 - 66	30 - 72	36 - 78	42 +
	Group 7 Burglary II 3rd degree sex abuse Negligent homicide Attempt 2nd degree sex abuse	12 - 36	18 - 42	24 - 48	30 - 54	36 +
1 Point*	Group 8 Carrying a pistol (CPWL) UUV Attempt robbery/burglary Unlawful poss. of a firearm (prior fel.) 1st degree theft Assault w/significant bodily injury	6 - 24	10 - 28	14 - 32	18 - 36	22 +
	Group 9 Escape/prison breach BRA Receiving stolen property Forgery/uttering Fraud	1 - 12	3 - 16	5 - 20	7 - 24	9 +
*Criminal History Points for prior convictions in these groups.						
White/unshaded boxes – prison or compliant long split only.						
Green shaded boxes – prison, compliant long split, or short split permissible.						
Yellow shaded boxes – prison, compliant long split, short split, or probation permissible.						

APPENDIX B - GUIDELINES DRUG GRID

		Criminal History Score				
	Ranking Group Most common offenses	0 to ½ A	¾ to 1¾ B	2 to 3¾ C	4 to 5¾ D	6 + E
2 Points*	Group 1 Distribution w/a (any drug) PWID w/a (any drug)	30-72	36-78	42-84	48-90	54+
1 Point*	Group 2 Distribution or PWID (schedule I or II narcotic/ abusive drugs)	12-30	16-36	20-42	24-48	28+
	Group 3 Distribution or PWID (except schedule I or II narcotic or abusive drugs) Attempt distribution or attempt PWID (schedule I or II narcotic/ abusive drugs) Possession of Liquid PCP	6-18	10-24	14-30	18-36	22+
¾ Point*	Group 4 Attempt distribution or attempt PWID (except schedule I or II narcotic or abusive drugs) Attempt possession of liquid PCP	3-12	5-16	7-20	9-24	11+
*Criminal History Points for prior convictions in these groups.						
White/unshaded boxes – prison or compliant long split only.						
Green shaded boxes – prison, compliant long split, or short split permissible.						
Yellow shaded boxes – prison, compliant long split, short split, or probation permissible.						

APPENDIX C – DATA REPORTING ADJUSTMENTS: HISTORIC CHANGES

The key adjustments to the data include:

- Prior to calendar year 2013, case level sentencing data was analyzed based on the count with the longest sentence. In 2014, the case level analysis was changed to be based on the most severe count in each case, which is determined by the OSG, sentence type, sentence length, and then offense category.
- Prior to calendar year 2013, the Commission’s reporting of split sentences included both short split and long split sentences.⁵⁴ In 2013, the Commission decided to categorize long split sentences as prison sentences because a compliant long split sentence requires the offender to serve at least the minimum Guidelines compliant prison sentence. This sentencing option is available in all Grid boxes. For data reporting purposes, all split sentences that do not qualify as a short split sentence under the Guidelines’ rules are classified as prison sentences. By including long split sentences with prison sentences, the Commission now classifies three types of sentences for the purpose of analysis: probation, short split, and prison sentences.
- In 2014, the Commission removed probation revocations from the yearly analysis of sentences imposed since they do not represent an initial sentence imposed by Superior Court.
- In 2015, the Commission determined that sentences following a remand from the D.C. Court of Appeals would not be analyzed with other initial sentences. Sentences imposed following a remand often do not receive a Guidelines compliant sentence because they may occur several years after the initial sentence was imposed. In addition, the data available to the Commission does not indicate why a case was remanded by the Court of Appeals.
- In 2019, the Commission revised its rules algorithms to improve the ability of the GRID system to identify whether a felony sentence was a result of a probation revocation.

After several years of monitoring, use, and adjustments, the GRID system has moved past the initial implementation phase. Initial data consistency and quality issues in sentencing data have been resolved. Moving forward, the Commission can undertake a more robust analysis of sentencing data.

⁵⁴ A long split sentence is one where the court imposes a prison sentence and suspends execution of some of the sentence but requires the offender to serve a Guidelines compliant sentence in prison and imposes up to five years of probation to follow the portion of the prison term to be served (after suspending supervised release). A long split sentence is compliant under the Guidelines in every box if the prison term to be served before release to probation meets the minimum prison term in the grid box. A short split sentence is a prison sentence in which the court suspends execution of *all but six months or less* - but not all - of that sentence, and imposes up to five years of probation to follow the portion of the prison term to be served (after suspending supervised release). In 2021, the Commission slightly modified the definition of a short split sentence. See Chapter 2, Section 2 for an explanation of this change.

APPENDIX D - GROUP OFFENSE LISTINGS

1. Assault
 1. Assault with a Dangerous Weapon (ADW)
 2. Assault with a Dangerous Weapon (ADW) -- Gun
 3. Aggravated Assault while armed (W/A) -- Grave Risk
 4. Aggravated Assault -- Grave Risk
 5. Aggravated Assault Knowingly -- Grave Risk
 6. Aggravated Assault Knowingly
 7. Armed Assault with Intent
 8. Assault with Intent to Kill while armed (W/A)
 9. Assault with Intent to Commit Third Degree Sexual Abuse
 10. Assault – Felony
 11. Assault on a Police Officer (APO)
 12. Assault with Intent to Commit Any Other Offense
 13. Assault with Intent to Commit Robbery
 14. Assault with Intent to Kill
 15. Assault with Intent to Commit First Degree Sexual Abuse
 16. Assault with Intent to Commit First Degree Sexual Abuse -- Force
 17. Assault with Intent to Commit First Degree Sexual Abuse – Threatening
 18. Assault with Significant Bodily Injury
 19. Malicious Disfigurement
 20. Mayhem
 21. Mayhem While Armed (W/A)
 22. Resisting Arrest
 23. Threat to Kidnap or Injure a Person
2. Attempted drug offenses
 1. Attempted Distribution of Heroin
 2. Distribution of a Controlled Substance
 3. Distribution of Counterfeit Substance
 4. Manufacture or Possessing with Intent to Manufacture a Controlled Substance
 5. Obtain Controlled Substance by Fraud
 6. Possession of a Controlled Substance -- Misdemeanor
 7. Possession with Intent to Distribute a Controlled Substance
 8. Possession with Intent to Distribute Marijuana -- Felony
 9. Unlawful Possession of Liquid PCP
3. Burglary
 1. Armed Burglary One
 2. Armed Burglary Two

3. Burglary
4. Burglary One
5. Burglary Two
4. Drug offenses
 1. Distribution of a Controlled Substance
 2. Distribution of a Counterfeit Substance
 3. Possession of a Controlled Substance -- Misdemeanor
 4. Possession with Intent to Distribute a Controlled Substance
 5. Possession with Intent to Distribute Marijuana -- Felony
 6. Possession with Intent to Distribute Marijuana -- Misdemeanor
 7. Uniform Controlled Substances Act (UCSA) Distribution of Cocaine
 8. Uniform Controlled Substances Act (UCSA) Possession with Intent to Distribute Cocaine
 9. Uniform Controlled Substances Act (UCSA) Possession with Intent to Distribute Heroin
 10. Unlawful Possession of Liquid PCP
5. Kidnapping
 1. Armed Kidnapping
 2. Kidnapping
6. Murder
 1. First Degree Murder While Armed (W/A)
 1. Second Degree Murder While Armed (W/A)
 2. Felony Murder
 3. Felony Murder While Armed (W/A)
 4. Involuntary Manslaughter
 5. Murder I -- Premeditated
 6. Murder I
 7. Murder II
 8. Soliciting Murder
 9. Voluntary Manslaughter While Armed (W/A)
 10. Voluntary Manslaughter
7. Other
 1. First Degree Cruelty to Children
 2. First Degree Cruelty to Children -- Grave Risk
 3. Any Other Felony
 4. Armed Carjacking
 5. Arson
 6. Assault with Intent to Kill

7. Bail Reform Act -- Felony
8. Blackmail
9. Bribery
10. Conspiracy
11. Conspiracy to Commit a Crime of Violence
12. Contempt -- Felony
13. Contributing to the Delinquency of a Minor by a Person while armed (W/A) -- Prior Conviction
14. Contribution Limitations
15. Corrupt Election Practices
16. Credit Card Fraud -- Felony
17. Criminal Street Gang Affiliation -- Felony or Violent Misdemeanor
18. Cruelty To Animals
19. Escape from Department of Youth Rehabilitation Services (DYRS)
20. Escape from Officer
21. Extortion
22. Felony Stalking
23. First Degree Identity Theft
24. Flee Law Enforcement Officer
25. Fraud First Degree \$1000 Or More
26. Fraud Second Degree \$1000 Or More -- Felony
27. Identity Theft First Degree
28. Intimidating, Impeding, Interfering, Retaliating Against a Government Official or Employee of DC
29. Maintaining a Crack House
30. Manufacture or Possession of a Weapon of Mass Destruction
31. Negligent Homicide -- Felony
32. Negligent Homicide -- Pedestrian
33. Obstruction of Justice
34. Obstruction of Justice -- Harassment, Reporting
35. Obstruction of Justice -- Witness or Officer - Influence, Delay
36. Obstruction of Justice -- Due Administration
37. Obstruction of Justice -- Harassment - Arrest
38. Obstruction of Justice -- Harassment - Institution of Prosecution
39. Obstruction of Justice -- Injury/Property Damage - Giving Information
40. Obstruction of Justice -- Injury/Property Damage - Official Duty
41. Obstruction of Justice -- Witness or Officer - Cause Absence
42. Obstruction of Justice -- Witness or Officer - Withholding
43. Obtain Controlled Substance by Fraud
44. Offenses Committed During Release
45. Perjury

46. Prison Breach
 47. Prisoner Escape
 48. Riot Act -- Felony
 49. Second Degree Cruelty to Children
 50. Second Degree Cruelty to Children -- Grave Risk
 51. Second Degree Insurance Fraud
 52. Stalking -- Felony
 53. Stalking (seriously alarmed, disturbed, frightened & emotional distress)
 54. Tampering with Physical Evidence
 55. Unarmed Carjacking
 56. Unlawful Introduction of Contraband into Penal Institution
 57. Unlawful Possession of Contraband into Penal Institution
8. Other-Property
1. Breaking and Entering Vending Machine
 2. Deceptive Labeling -- Felony
 3. Destruction Of Property -- \$1000 Or More
 4. Destruction Of Property -- Over \$200
 5. Forgery
 6. Receiving Stolen Property -- Misdemeanor
 7. Receiving Stolen Property -- \$1000 Or More
 8. Trafficking Stolen Property
 9. Uttering
 10. Vandalizing, Damaging, Destroying, Taking Property of a Government Official
9. Robbery
1. Armed Carjacking
 2. Armed Robbery
 3. Assault with Intent to Commit Robbery
 4. Attempted Robbery
 5. Carjacking
 6. Robbery
 7. Unarmed Carjacking
10. Sex
1. First Degree Sexual Abuse of Patient or Client (during course of treatment)
 2. First Degree Unlawful Publication
 3. Arranging For Sexual Contact with a Real or Fictitious Child
 4. Assault with Intent to Commit First Degree Sexual Abuse
 5. Enticing A Child -- Felony
 6. First Degree Child Sexual Abuse
 7. First Degree Sexual Abuse -- Force

8. First Degree Sexual Abuse -- Threatening
 9. First Degree Sexual Abuse
 10. First Degree Sexual Abuse of a Minor
 11. First Degree Sexual Abuse of a Ward
 12. Fourth Degree Sexual Abuse -- Intoxicant
 13. Fourth Degree Sexual Abuse -- Other
 14. Incest
 15. Operating a House of Prostitution
 16. Pandering
 17. Procuring
 18. Prostitution
 19. Second Degree Child Sexual Abuse
 20. Second Degree Sexual Abuse -- Incompetent
 21. Second Degree Sexual Abuse -- Threats
 22. Second Degree Sexual Abuse of a Minor
 23. Second Degree Sexual Abuse of a Patient or Client
 24. Sex Trafficking of Children
 25. Sexual Abuse of a Secondary Education Student
 26. Sexual Performance Using Minors
 27. Third Degree Sexy Abuse -- Force
 28. Third Degree Sex Abuse -- Threats
 29. Third Degree Sexual Abuse
11. Theft
1. Theft First Degree
 2. Theft Second Degree
 3. Theft Second Degree -- Felony
 4. Unauthorized Use of a Vehicle
 5. Unauthorized Use of a Vehicle -- Crime of Violence
 6. Unauthorized Use of a Vehicle -- Prior Conviction
12. Weapon
1. Carrying Dangerous Weapon -- Outside Home/Business
 2. Carrying Dangerous Weapon -- Outside Home/Business -- Prior Felony
 3. Carrying Dangerous Weapon -- Felony
 4. Carrying Pistol -- Prior Gun Conviction or Felony
 5. Carrying Pistol Outside Home/Business
 6. Carrying Pistol Without License (CPWL) -- Outside Home/Business
 7. Carrying Pistol Without a License (CPWL) -- Prior Gun Conviction or Felony
 8. Carrying Pistol Without a License (CPWL) -- Inside Home -- Prior Felony (2015)
 9. Carrying Rifle or Shotgun Outside Home or Business -- Violation of Inoperable Pistol Emergency Act of 2008

10. Carrying Pistol Without a License (CPWL)
11. Carrying Pistol Without a License (CPWL) -- Outside Home or Place of Business (2014)
12. Carrying Pistol Without a License (CPWL) -- Outside Home or Place of Business (2015)
13. Carrying Pistol Without a License (CPWL) -- Outside Home or Place of Business (2014)
14. Carrying A Pistol Without a License -- Outside Home or Place of Business/Prior Felony (2015)
15. Carrying a Rifle or Shotgun Outside Home or Place of Business
16. Carrying a Rifle or Shotgun Outside Home or Place of Business -- Prior Conviction
17. Carrying Dangerous Weapon Outside Home or Place of Business (2014)
18. Carrying Dangerous Weapon Outside Home or Place of Business (2015)
19. Carrying Dangerous Weapon Outside Home or Place of Business /Prior Felony (2014)
20. Carrying Dangerous Weapon Outside Home or Place of Business/Prior Felony (2015)
21. Carrying Dangerous Weapon Outside Home or Place of Business (2015)
22. Carrying Dangerous Weapon -- Felony
23. Carrying a Pistol Without a License (CPWL) Outside Home or Place of Business -- in Violation Of Second Emergency Act of 2014
24. Distribution of Firearm, Destructive Device, Ammunition
25. Felon in Possession
26. Possession of Firearm During Crime of Violence
27. Possession of Firearm During Crime of Violence or Dangerous Offense
28. Possession of a Prohibited Weapon -- Felony
29. Possession of a Destructive Device
30. Possession of a Large Capacity Ammunition Feeding Device
31. Possession of a Large Capacity Ammunition Feeding Device
32. Possession of Unregistered Firearm/Unlawful Possession of a Firearm or Destructive Device
33. Presence in a Motor Vehicle Containing a Firearm
34. Presence in Motor Vehicle Containing Firearm
35. Unlawful Possession of a Firearm
36. Unlawful Possession of a Firearm -- Prior Crime of Violence
37. Unlawful Possession of a Firearm -- Crime of Violence
38. Unlawful Possession of a Firearm -- Fugitive from Justice
39. Unlawful Possession of a Firearm -- Intrafamily Offense
40. Unlawful Possession of a Firearm -- Order to Relinquish
41. Unlawful Possession of a Firearm -- Prior Conviction > 1 year
42. Unlawful Possession of a Firearm -- Prior Conviction Under Chapter 45

- 43. Unlawful Possession of a Firearm – Prior Conviction
- 13. While armed drug offenses
 - 1. Distribution of a Controlled Substance
 - 2. Possession with Intent to Distribute a Controlled Substance
 - 3. Possession with Intent to Distribute Marijuana -- Felony

APPENDIX E - GUIDELINES DEPARTURE FACTORS

Aggravating Factors

- A1: There was deliberate cruelty to a victim or there was gratuitous violence inflicted upon a victim in a manner substantially beyond that normally associated with this offense.
- A2: A victim was particularly vulnerable due to age or reduced physical or mental capacity, which was known or should have been known to the offender, unless that vulnerability constituted an element of the offense of conviction.
- A3: A victim sustained a “devastating injury.” Devastating injury is defined as a physical or mental injury that results in one or more of the following: (a) Permanent and substantial impairment of the person’s employment opportunity and/or lifestyle; (b) Permanent, gross disfigurement; or (c) Medical confinement and/or immobilization for a period of more than three months.
- A4: The crime committed or attempted was substantially premeditated, as evidenced by a high degree of planning or sophistication or planning over an extended period of time.
- A5: The defendant committed for hire or hired another to commit any one of the following offenses: Murder; Manslaughter; First-Degree Sexual Abuse; Kidnapping; Mayhem/Malicious Disfigurement; Aggravated Assault; Assault with intent to commit any of the foregoing; Assault with intent to kill; Assault with a Deadly Weapon; or Arson.
- A6: The offense was part of an enterprise significantly related to organized crime or high-level drug trafficking. This aggravating factor does not apply in cases charging only distribution or possession with intent to distribute a controlled substance where the defendant’s only connection to organized crime or high-level drug trafficking is street- level drug trafficking.
- A7: The defendant threatened, bribed, attempted to bribe, induced, or attempted to induce a victim, a member of the victim’s family, or a potential witness, or any other person to withhold truthful testimony or provide false testimony, or otherwise attempted to obstruct justice, unless the defendant is separately convicted of an offense that arises out of the same conduct.
- A8: The offense is a violation of Chapter 32 of Title 22 of the D.C. Official Code, which involves an intended or actual monetary loss substantially greater than what would normally be associated with the offense or any one or more of the following: (a) The offense(s) involved multiple victims or multiple incidents per victim; (b) The defendant has been involved in other conduct similar to the current offense(s) as evidenced by the findings of criminal, civil or administrative law proceedings or the imposition of professional sanctions; and/or (c) The defendant used his or her position of confidence or fiduciary responsibility to facilitate the commission of the offense(s).
- A9: The offender, in attempting to gain or while holding public office by appointment or election, betrayed the public trust by his or her unlawful conduct.
- A10: The consecutive/concurrent sentencing policy results in a guideline sentence so lenient in relation to the seriousness of the offense and the history of the defendant that imposition of the guideline sentence would result in manifest injustice. A departure based solely on this factor shall not result in a sentence that exceeds the sentence that would result if all guideline sentences were consecutive.

- A11: There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in 1 to 10 above, which aggravates substantially the seriousness of the offense or the defendant's culpability. Note: Going to trial is not an aggravating factor and should not be used to go outside of the box.

Mitigating Factors

- M1: A victim was an aggressor, initiator, willing participant in, or provoker of the incident to such a degree that the defendant's culpability is substantially less than that typically associated with the offense.
- M2: Before detection in a crime other than a crime of violence, the defendant compensated or made a good faith effort to compensate the victim(s) for any damage or injury sustained.
- M3: The defendant participated under duress, coercion, threat, or compulsion insufficient to constitute a complete defense, but which significantly reduces the defendant's culpability.
- M4: The offense was principally accomplished by another, and the defendant manifested extreme caution or sincere concern for the safety and well-being of a victim.
- M5: The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.
- M6: The defendant's capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was impaired significantly, though not sufficiently to constitute a complete defense. Voluntary use of alcohol or other drugs should not be considered in relation to this mitigating factor.
- M7: The defendant has provided substantial assistance to law enforcement in the detection or prosecution of other offenders, and departure for this reason does not demean the seriousness of the defendant's crime or create an unacceptable risk to the safety of the community.
- M8: The guideline sentence calls for a prison sentence but, after consultation with corrections authorities, the court determines that the defendant, by reason of obvious and substantial mental or physical impairment or infirmity, cannot be adequately protected or treated in any available prison facility.
- M9: The consecutive/concurrent sentencing policy results in a guideline sentence that is so excessive in relation to the seriousness of the offense and history of the defendant that imposition of the guideline sentence would result in manifest injustice. A departure based solely on this factor shall not result in a sentence that is less than the sentence that would result if all guideline sentences were concurrent.
- M10: There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in mitigating factors 1 to 9, which does not amount to a defense, but which substantially mitigates the seriousness of the offense or the defendant's culpability.
- M11: There is a substantial and compelling basis, as articulated by the sentencing judge, to reduce the defendant's applicable guideline sentence due to the invocation of D.C. Code § 11-947 or the circumstances that warranted the invocation of D.C. Code § 11-947.

APPENDIX F - THE SEVEN-STEP PROCESS TO DETERMINE AND VERIFY JUDICIAL COMPLIANCE

Step 1 - Identify Felony Offenses

The Guidelines only apply to felony convictions; therefore, compliance is not calculated for misdemeanor offenses. The offense charge code within the GRID system is associated with each count in a case and can determine if the count is a felony or misdemeanor offense. If the GRID system does not recognize a charge code, the system will automatically generate a notification. Staff then reviews the offense and updates the system with the new charge code information. If the case contains at least one felony count, the process then proceeds to step 2.

Step 2 - Determine the Appropriate Grid Box

The GRID system computes compliance for every felony count sentenced. Compliance is determined automatically based upon the sentencing option available in the appropriate grid box. If a sentence falls within the recommended sentence type and range available in the applicable grid box, the GRID system calculates the sentence as compliant with the Guidelines. If the sentence does not fall within the recommended sentence type and range, the process then proceeds to step 3.

Step 3 - Determine if the Sentence Runs Concurrently with another Count

An otherwise non-compliant sentence may still be compliant with the Guidelines if it runs concurrent with a longer or equal compliant sentence for a count within the same case. For this to occur, both sentences must be eligible to run concurrently under the Guidelines.⁵⁵ In an eligible case containing multiple counts, if the non-compliant sentence runs concurrently with an equal or longer compliant sentence, then the otherwise non-compliant sentence is deemed to be a compliant outside- the-box sentence. The GRID system reclassifies the sentence as compliant because the longest sentence among concurrent counts determines the length of time a defendant will actually serve in prison. If the sentence does not run concurrent to another sentence or if the longest sentence is non-compliant, the process then proceeds to step 4.

Step 4 - Determine if the Sentence is the Result of an Appropriate Departure Factor or a Statutory Enhancement

There are several instances when an otherwise non-compliant sentence is nonetheless compliant with the Guidelines due to recorded departure factors or statutory enhancements. When a sentencing judge imposes a non-compliant sentence but selects an enumerated departure reason, the sentence is deemed a compliant departure.⁵⁶ If Superior Court records a departure factor, the GRID system will automatically mark the sentence as a compliant departure and record the reason for the departure. Sentences above the recommended Guidelines range due to a statutory

⁵⁵Chapter Six of the Guidelines Manual discusses which sentences must, may, and may not run concurrently. For example, two crimes of violence committed against two separate people cannot run concurrent to each other. Similarly, two crimes of violence against one person but occurring as part of two separate events cannot run concurrent to each other.

⁵⁶ See Appendix D for a complete list of departure factors.

enhancement are also deemed to be compliant if the sentence falls within the expanded range.⁵⁷ The GRID system incorporates enhancements into its calculations when they are reported by Superior Court in the IJIS 12.1 feed. Non-reported enhancements are verified and manually entered into the GRID system by Commission staff. If a departure cannot be identified, and no enhancement applies, the process then proceeds to step 5.

Step 5 - Determine if the Sentence is the Result of a Special Circumstance or is Non-Guideline Applicable

Certain special factors can change how a sentence is treated under the Guidelines:

Rule 11(c)(1)(C) plea bargains: The Guidelines and the GRID system classify all sentences following a Rule 11(c)(1)(C) plea compliant, regardless of whether the actual agreed upon sentence falls within the in the box sentence range and/or options. This is done because Rule 11(c)(1)(C) pleas are agreed to by the parties before the defendant's CH score is calculated.

Pleas and verdicts entered before June 14, 2004: The Guidelines do not apply to sentences from a plea or verdict before June 14, 2004. Therefore, the GRID system automatically deems these sentences as "non-guideline applicable" sentences.

Indeterminate sentences: The Guidelines do not apply to most indeterminate sentences because the District changed from an indeterminate to a determinate system of sentencing on August 5, 2000, and the Guidelines were designed primarily for the new determinate system.⁵⁸ However, a small number of pleas, verdicts or sentences entered after June 14, 2004, are cases in which an indeterminate sentence must be imposed because the offense was committed before August 5, 2000. If the plea or verdict was entered on or after June 14, 2004, the Guidelines apply regardless of when the offense was committed - i.e., whether the offense was committed before or after August 5, 2000. Commission staff manually evaluates compliance for indeterminate sentences.

Remanded sentences: Remand sentences are labeled "Remand" by the GRID system and are not evaluated for initial Guidelines compliance. A remand is a case sent back to the sentencing court for re-sentencing from the Court of Appeals.

The GRID system also checks the compliance status of sentences following a probation revocation. However, for data analysis purposes, these sentences are separated and not used to calculate the overall initial compliance rate.⁵⁹

⁵⁷ Chapter Four and Appendix H of the Guidelines Manual address expanding the Guidelines range based upon a statutory enhancement. For example, if a gun offense is committed in a designated "gun-free zone," the upper limit of the Guidelines range is doubled.

⁵⁸ See D.C. Code § 24-403.01 (sentencing, supervised release, and good time credit for felonies committed on or after August 5, 2000) (Formerly § 24-203.1). Determinate sentences are sentences with a definitive release date. For example, an offender sentenced to 360 months knows that they will be released in 360 months (minus any administrative good time credit). An indeterminate sentence is a sentence given in a range, where release could occur at any time within that range. For example, a sentence of 30 years to life incarceration is an indeterminate sentence, where the offender cannot predict at what point within that range they will be released.

⁵⁹ Probation revocation sentences are not included in the overall Guidelines compliance rate because they would result in compliance being calculated twice for the same case and count, once when the sentence was initially imposed, and once again when probation is revoked.

If none of the above conditions apply, the process then proceeds to step 6.

Step 6 - Verification of Non-Compliance

If, after completion of the five initial steps outlined above, the sentence still appears to be non-compliant, the count(s) and CH score information are manually reviewed by Commission staff to verify that the data on which the GRID system performed its evaluation are valid and that there are no data quality issues present. Simultaneously, Commission staff confirm relevant information using data from an alternate source: the CJCC JUSTIS System. If the sentence still appears to be non-compliant after the relevant information is verified, a departure form is sent to the sentencing judge (Step 7).

Step 7 - Departure Forms

For sentences that still appear to be non-compliant after the previous six steps are completed, the Commission sends an electronic Departure Form to the sentencing judge to verify the sentencing data and to inquire as to whether the judge intended to impose a non-compliant sentence. The Departure Form allows the judge to easily update or correct any information regarding the case. For example, if the defendant's CH score was changed during the sentencing hearing, the judge may provide the updated CH score. The sentencing judge may also provide a reason for intentionally imposing a non-compliant sentence. The Commission has a follow-up process for all Departure Forms sent, allowing for a six-week response period, with regular follow-up attempts by Commission staff. If no response is received, the Commission then proceeds with the initial sentence and updates the GRID system accordingly by recording the applicable compliance classification.

APPENDIX G - ANALYSIS OF CH SCORES AND SENTENCES BY OFFENSE TYPE AND GENDER

Homicide Offenses⁶⁰

Homicide Offenses, CH Score and Sentence Length by Gender, Case Level (2017 - 2021)

Sentence Year	Number of Cases		Mean CH Score		Sentence Length Imposed (Months)			
					Mean		Median	
	Male	Female	Male	Female	Male	Female	Male	Female
2017	37	(<10)	1.8	0	198	84	180	72
2018	53	(<10)	2	0.1	212	196	180	84
2019	70	-	2.1	-	161	-	132	-
2020	21	(<10)	1.7	0	152	1	132	1
2021	25	(<10)	1.7	1	163	120	144	120

Homicide Offenses, Sentence Type by Gender, Case Level (2017 - 2021)

Sentence Year	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
	Male	Female	Male	Female	Male	Female
2017	0%	0%	0%	0%	100%	100%
2018	2%	0%	0%	0%	98%	100%
2019	1%	-	0%	-	99%	-
2020	0%	0%	0%	0%	100%	100%
2021	4%	0%	0%	0%	96%	100%

⁶⁰ Cases for which gender or CH score information was unavailable and cases with life or indeterminate sentences were excluded from the following tables. Percentages may not add up to 100% due to rounding.

Sex Offenses

Sex Offenses, CH Score and Sentence Length by Gender, Case Level (2017 - 2021)

Sentence Year	Number of Cases		Mean CH Score		Sentence Length Imposed (Months)			
					Mean		Median	
	Male	Female	Male	Female	Male	Female	Male	Female
2017	40	(<10)	0.9	0	82	30	36	30
2018	40	(<10)	1.3	0.2	68	39	37	40
2019	30	-	0.8	-	76	-	39	-
2020	(<10)	-	0.9	-	106	-	48	-
2021	16	(<10)	1.4	0	59	60	46	60

Sex Offenses, Sentence Type by Gender, Case Level (2017 - 2021)

Sentence Year	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
	Male	Female	Male	Female	Male	Female
2017	2%	0%	12%	100%	85%	0%
2018	5%	33%	10%	67%	85%	0%
2019	17%	-	13%	-	70%	-
2020	22%	-	0%	-	78%	-
2021	0%	0%	12%	100%	88%	0%

Violent Offenses

Violent Offenses, CH Score and Sentence Length by Gender, Case Level (2017 - 2021)

Sentence Year	Number of Cases		Mean CH Score		Sentence Length Imposed (Months)			
					Mean		Median	
	Male	Female	Male	Female	Male	Female	Male	Female
2017	456	49	1.6	0.6	34	28	24	18
2018	356	40	1.8	1.2	35	24	24	18
2019	417	33	1.7	0.5	34	22	24	18
2020	140	21	1.7	1.2	32	26	24	18
2021	259	21	1.8	1.3	35	26	24	18

Violent Offenses, Sentence Type by Gender, Case Level (2017 - 2021)

Sentence Year	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
	Male	Female	Male	Female	Male	Female
2017	16%	39%	20%	35%	64%	27%
2018	16%	40%	23%	38%	62%	22%
2019	17%	42%	24%	36%	60%	21%
2020	19%	19%	27%	29%	54%	52%
2021	14%	29%	20%	29%	66%	43%

Weapon Offenses

Weapon Offenses, CH Score and Sentence Length by Gender, Case Level (2017 - 2021)

Sentence Year	Number of Cases		Mean CH Score		Sentence Length Imposed (Months)			
	Male	Female	Male	Female	Mean		Median	
					Male	Female	Male	Female
2017	343	(<10)	1.5	1.3	23	18	18	15
2018	404	(<10)	1.4	0.6	18	9.8	14	6
2019	420	(<10)	1	0.6	14	12	12	8
2020	130	-	1.3	-	16	-	12	-
2021	273	(<10)	1.6	1.8	18	14	14	14

Weapon Offenses, Sentence Type by Gender, Case Level (2017 - 2021)

Sentence Year	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
	Male	Female	Male	Female	Male	Female
2017	29%	50%	10%	0%	61%	50%
2018	37%	40%	16%	40%	47%	20%
2019	45%	60%	18%	20%	37%	20%
2020	42%	-	18%	-	40%	-
2021	33%	50%	14%	0%	52%	50%

Property Offenses

Property Offenses, CH Score and Sentence Length by Gender, Case Level (2017 - 2021)

Sentence Year	Number of Cases		Mean CH Score		Sentence Length Imposed (Months)			
					Mean		Median	
	Male	Female	Male	Female	Male	Female	Male	Female
2017	166	13	2.4	1	25	13	18	10
2018	124	12	2.5	2.2	25	18	18	13
2019	119	(<10)	2.7	1.4	23	28	18	28
2020	37	(<10)	3.2	1.3	24	21	24	15
2021	53	10	2.4	1.6	25	16	22	14

Property Offenses, Sentence Type by Gender, Case Level (2017 - 2021)

Sentence Year	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
	Male	Female	Male	Female	Male	Female
2017	17%	46%	29%	23%	54%	31%
2018	23%	33%	30%	25%	47%	42%
2019	32%	14%	24%	57%	44%	29%
2020	16%	33%	24%	33%	59%	33%
2021	19%	20%	25%	60%	57%	20%

Drug Offenses

Drug Offenses, CH Score and Sentence Length by Gender, Case Level (2017 - 2021)

Sentence Year	Number of Cases		Mean CH Score		Sentence Length Imposed (Months)			
					Mean		Median	
	Male	Female	Male	Female	Male	Female	Male	Female
2017	431	71	2.1	1.4	15	11	14	10
2018	350	43	2.1	1.3	14	12	14	14
2019	196	19	2.1	1.3	16	12	14	12
2020	54	(<10)	1.9	0.2	15	6	14	6
2021	55	(<10)	2.4	0.4	16	5.5	14	5.5

Drug Offenses, Sentence Type by Gender, Case Level (2017 - 2021)

Sentence Year	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
	Male	Female	Male	Female	Male	Female
2017	46%	61%	28%	25%	26%	14%
2018	56%	51%	30%	40%	14%	9%
2019	57%	47%	28%	37%	15%	16%
2020	56%	100%	28%	0%	17%	0%
2021	49%	50%	25%	0%	25%	50%

Other Offenses

Other Offenses, CH Score and Sentence Length by Gender, Case Level (2017 - 2021)

Sentence Year	Number of Cases		Mean CH Score		Sentence Length Imposed (Months)			
					Mean		Median	
	Male	Female	Male	Female	Male	Female	Male	Female
2017	77	27	2.2	1.5	14	11	12	12
2018	80	21	1.7	0.6	15	9.3	12	12
2019	53	14	2.2	0.5	14	11	12	10
2020	14	(<10)	1.8	0.8	20	9.2	14	10
2021	17	(<10)	1.4	0	16	15	12	15

Other Offenses, Sentence Type by Gender, Case Level (2017 - 2021)

Sentence Year	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
	Male	Female	Male	Female	Male	Female
2017	36%	44%	25%	33%	39%	22%
2018	39%	67%	25%	24%	36%	10%
2019	34%	79%	30%	7%	36%	14%
2020	57%	25%	14%	75%	29%	0%
2021	24%	50%	47%	50%	29%	0%

APPENDIX H – PUBLISHED 2021 FAST FACTS

In 2021, the Commission developed its second Fast Facts series which highlighted some of the more common Violent/Weapons offenses in D.C. The series included reports on the offenses of Assault with a Deadly Weapon, Possession of a Firearm during a Crime of Violence, Carjacking, and Unlawful Possession of a Firearm-Prior Felony. Each of these Fast Facts is presented below. Fast Facts released in previous years can be found on the Commission's website.



D.C. Sentencing Commission - Fast Facts

January 2021

Assault with a Dangerous Weapon (ADW)

Between January 1, 2016 and December 31, 2020 there were a total of:

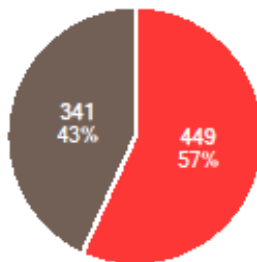
- 790 ADW counts sentenced
- 713 ADW cases sentenced
- 702 ADW individuals sentenced

Definition: Assault with a Dangerous Weapon

"Dangerous weapon" refers to any object that is used or threatened to be used in a way that is likely to produce serious bodily injury.

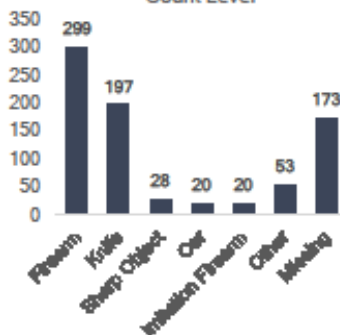
- Dangerous weapons can range from firearms, to knives, to hammers, to rocks, to even pens and brooms.

ADW Counts Sentenced
2016-2020



• ADW • Attempted ADW

Dangerous Weapons
Count Level



ADW

Sentencing Information

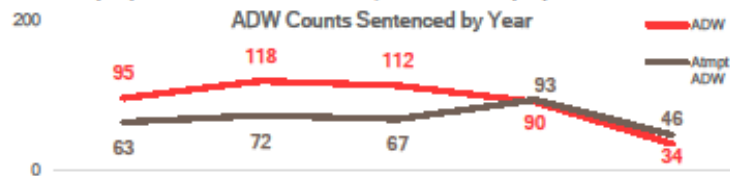
- ADW represented 8.6% (790 counts) of all felony offenses (9,152) sentenced between 2016 and 2020
 - Of all 790 ADW counts sentenced in this timeframe, 57% (449 counts) were for ADW and 43% (341 counts) were for Attempted ADW
- The majority (77%) of ADW counts received a prison sentence. Prison was also the predominant sentence type for Attempted ADW; however, it was imposed at a much lower rate (43%) compared to ADW

ADW

Attempted ADW

- | | ADW | Attempted ADW |
|-------------|------------------|------------------|
| Prison | 344 counts (77%) | 148 counts (43%) |
| Short Split | 85 counts (19%) | 110 counts (32%) |
| Probation | 20 counts (4%) | 83 counts (34%) |

- On average, prison sentences were about twice as long for ADW as they were for Attempted ADW; 40 months and 17 months, respectively
 - Median sentences: ADW - 36 months, Attempted ADW - 17 months
- 79% of ADW counts were resolved via a plea; the remaining 20% were disposed via jury trial. One count was resolved with a bench trial
 - 100% of all Attempted ADW counts were resolved via plea agreements
- Approximately 15% of all ADW sentences (116 counts) were the result of an 11(c)(1)(C) plea
 - 72% of the 11(c)(1)(C) pleas were for ADW, compared to 28% for Attempted ADW
- 40% of ADW counts belonged to cases where there were additional felony counts sentenced
 - ADW was the most serious count in 65% of ADW cases, whereas it was the most serious in 97% of Attempted ADW cases
- The number of ADW counts sentenced has remained stable during this timeframe. The number of Attempted ADW sentences has consistently been slightly less than that for ADW, until converging in 2019



**The sharp decline observed in 2020 is likely attributed to the impact of Covid-19

Criminal History and Compliance

- About 73% of individuals sentenced for ADW had a prior conviction
- 40% of ADW offenders fall in the lowest criminal history group, while 3% fall in the highest criminal history group
- All but 13 (1.6%) of ADW counts received the Guidelines recommended sentence. Of the 13 non-compliant sentences, eight were for ADW and five were for Attempted ADW

Offender Demographics

- On average, individuals sentenced for ADW were 30 years old at the time of the offense. The median age at offense was 26.
- Approximately 13% of ADW offenders were female, the remaining 87% were male.
- 93% of individuals sentenced for ADW were black, 5% were white.



D.C. Sentencing Commission - Fast Facts

April 2021

Possession of a Firearm During a Crime of Violence

Between January 1, 2016 and December 31, 2020 there were a total of:

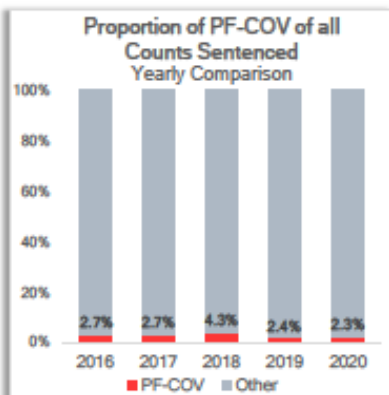
- 273 PF-COV counts sentenced
- 132 PF-COV cases sentenced
- 132 PF-COV individuals sentenced

PF-COV

Possession of a Firearm During a Crime of Violence (PF-COV)

Definition: Possessing a pistol, machine gun, shotgun, rifle, or any other firearm or imitation firearm while committing a crime of violence or dangerous crime.

Mandatory Minimum: 5 years
Statutory Maximum: 15 years



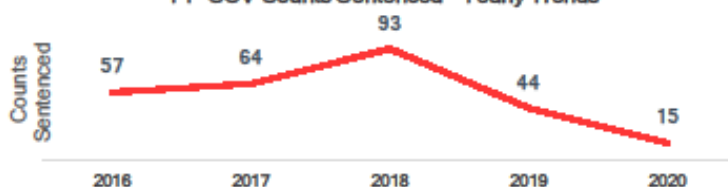
The proportion of PF-COV counts sentenced has remained relatively stable between 2016 and 2020, representing between 2.3% and 4.3% of all counts sentenced each year.

While COVID-19 may have impacted the volume of counts sentenced, the proportion of PF-COV counts sentenced in 2020 did not appear to be affected.

Sentencing Information

- PF-COV represented 3% (273 counts) of all felony offenses (9,152) sentenced between 2016 and 2020
- Of the 132 PF-COV cases sentenced, 59 (45%) contained multiple PF-COV counts. These 59 cases represented approximately 75% of all PF-COV counts sentenced
 - PF-COV was the most serious count sentenced in 57(43%) of PF-COV cases
- All but three PF-COV counts were initially charged as PF-COV
 - One count was initially charged as Armed Robbery and two were initially charged as Unlawful Possession of a Firearm Prior Crime of Violence
- The vast majority (270 counts, 99%) of PF-COV counts received a prison sentence
 - Only three (3) counts received non-prison sentence; all three counts were sentenced under the Youth Rehabilitation Act (YRA)
- The average prison sentence imposed for PF-COV was 71 months; while the median sentence imposed was 60 months
- Plea agreements typically account for 90% of all sentences imposed each year, however only 20% of PF-COV counts were resolved via a plea agreement in this timeframe
 - The remaining 80% (217 counts) were resolved via a jury trial
- 11(c)(1)(C) pleas represented 8% (22 counts) of all PF-COV counts sentenced
- The number of PF-COV counts sentenced gradually increased from 2016 until peaking in 2018, then experienced a sharp decline in 2019 which continued into 2020

PF-COV Counts Sentenced - Yearly Trends



**2020 data is heavily impacted by the limited operations of D.C. Superior Court due to Covid-19

Criminal History and Compliance

- About 80% of individuals sentenced for PF-COV had a prior conviction
- 22% of PF-COV offenders fall in the lowest criminal history group, while 2% fall in the highest criminal history group
 - Criminal History Group C represented the largest proportion (37%) of offenders sentenced for PF-COV
- All but one (< 0.5%) PF-COV count received the Guidelines recommended sentence

Offender Demographics

- On average, individuals sentenced for PF-COV were years 25 old at the time of the offense; the median age at offense was 24
- Of all 132 individuals sentenced for PF-COV, only one (< 1%) was female
- 96% of individuals sentenced for PF-COV were black, 2% were white; the race of two individuals is unknown



D.C. Sentencing Commission - Fast Facts

July 2021

Carjacking – Armed, Unarmed, and Attempted

Between January 1, 2016 and December 31, 2020 there were a total of:

- 34 carjacking counts sentenced
- 32 carjacking cases sentenced
- 32 carjacking individuals sentenced

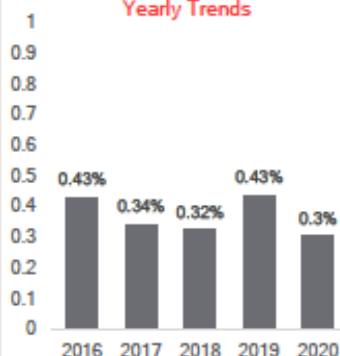
*Note that one carjacking case has been excluded from the following analysis since sentencing information was not available.

Definition: *Knowingly or recklessly by force or violence, whether against resistance or by sudden or stealthy seizure or snatching, or by putting in fear, or attempts to do so, taking from another person immediate actual possession of a person's motor vehicle.*

Mandatory Minimums

Carjacking : 7 years
Armed Carjacking: 15 years

Carjacking - Proportion of all Felony Counts Sentenced Yearly Trends



The proportion of carjacking counts sentenced has remained relatively stable between 2016 and 2020, representing between 0.3% and 0.43% of all counts sentenced each year.

While COVID-19 may have impacted the volume of counts sentenced, the proportion of carjacking counts sentenced in 2020 did not appear to be affected.

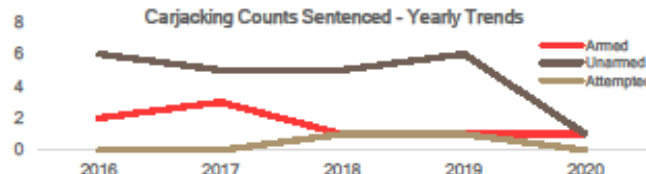
Carjacking

Sentencing Information

- Carjacking represented less than 1% (33 counts) of all felony offenses (9,152) sentenced between 2016 and 2020
- Of the 33 carjacking counts sentenced, 23 (70%) were for unarmed carjacking, eight (24%) were for armed carjacking, and two (6%) were for attempted carjacking
- Carjacking was the most serious offense convicted in all but one of the 31 carjacking cases sentenced
- 14 of the 23 (61%) unarmed carjackings were initially indicted as an armed carjacking, and all the attempted carjackings were initially indicted as unarmed carjacking
- 97% of carjacking counts received a prison sentence. Only one count (an attempted carjacking) received a short-split sentence
- The average and median prison sentences for armed/unarmed carjacking are presented below:

	Average	Median
<u>Armed Carjacking</u>	180 months	180 months
<u>Unarmed Carjacking</u>	87 months	84 months
- Approximately 25% of carjacking counts were sentenced under the Youth Rehabilitation Act (YRA)
- 75% of carjacking counts (25 counts) were resolved via a plea agreement
 - Over half of the pleas (17 counts, 68%) were the result of 11(c)(1)(C) pleas
- Except for 2020, each year there were between seven and eight carjacking counts sentenced, with unarmed carjacking being the most frequently sentenced type of carjacking each year

Carjacking Counts Sentenced - Yearly Trends



**2020 data is heavily impacted by the limited operations of D.C. Superior Court due to Covid-19

Criminal History and Compliance

- About 75% of individuals sentenced for carjacking had a prior conviction
- Nine individuals (30%) fell into the lowest Criminal History (CH) group A; there were no individuals in the highest CH group E
 - CH scores A and C were the dominant CH groups, each representing about 30% of individuals sentenced
- Two carjacking counts (belonging to the same case) received non-compliant sentences. All other sentences were compliant with the D.C. Voluntary Sentencing Guidelines

Offender Demographics

- On average, individuals sentenced for carjacking were 23 years old at the time of the offense; the median age at offense was 22
- All individuals sentenced for carjacking were male
- 90% of individuals sentenced for carjacking were black, the remaining 10% were white



D.C. Sentencing Commission - Fast Facts

September 2021

Unlawful Possession of a Firearm (FIP)

Between October 2018 and June 2021 there were a total of:

- 351 FIP counts sentenced
- 348 FIP cases sentenced
- 343 individuals sentenced for FIP

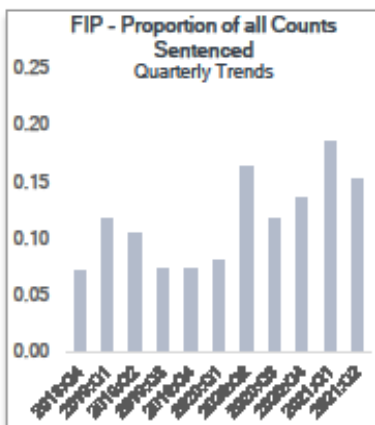
Definition

No person shall own or keep a firearm, or have a firearm in his or her possession or under his or her control, within the District of Columbia, if the person has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year

Mandatory Minimum: 1 year

Important Background

In July 2018 the Commission re-ranked Unlawful Possession of a Firearm from an Offense Severity Group (OSG) M7 offense to an OSG M8 offense. This change took effect for all pleas or verdicts entered on or after July 16, 2018. The present analysis evaluates sentencing trends for all FIP sentences that were imposed between CY 2018-Q4 and CY 2021-Q2, given that this timeframe represents approximately three complete years since the change was implemented.

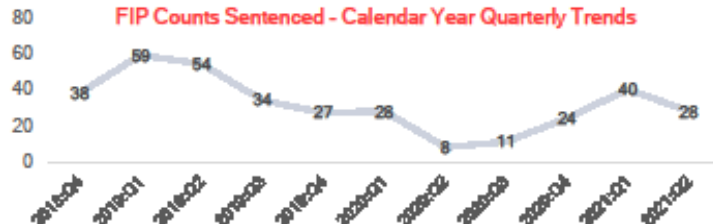


FIP

Sentencing Information

- FIP represented approximately 10% (351 counts) of all felony offenses (3,437) sentenced between October 2018 and June 2021
- Eight individuals were sentenced for multiple FIP counts during timeframe
 - Three were convicted of multiple counts in a single case, five were convicted in multiple cases
- FIP was the single felony offense sentenced in 70% of FIP cases
- The vast majority of FIP counts (331, 95%) received a prison sentence
 - The remaining 5% (20 counts/individuals) received probation or short split sentences - all were sentenced under the Youth Rehabilitation Act (YRA)
- The average prison sentence for FIP was 16 months, while the median sentence was 14 months
 - One in five FIP counts (21%) received the exact mandatory minimum sentence of 12 months
- 88% of FIP counts (311 counts) were resolved via a plea agreement
 - 53 counts were resolved via an 11(c)(1)(C) plea, which represented 17% of plea agreements, and 15% of all FIP counts sentenced
- The total number of FIP counts sentenced has fluctuated over the last 11 quarters, peaking in CY2019-Q1 with 59 counts and reaching a low of 8 counts in CY2020-Q2

FIP Counts Sentenced - Calendar Year Quarterly Trends



**2020 data is heavily impacted by the limited operations of D.C. Superior Court due to Covid19

- The proportion of FIP counts sentenced each quarter has been gradually increasing since CY2018-Q4.

Criminal History and Compliance

- Due to the nature of the offense, all individuals sentenced for FIP have had a prior felony conviction
- Approximately 93% of individuals had a CH score of B, or higher
 - Group C was the dominant CH group, representing 41% of individuals
- Only 3.7% of FIP sentences (13 counts) were non-compliant. All individuals who received a non-compliant sentence had a CH score of C.
 - Twelve of these counts received the 12 month mandatory minimum sentence, which is below the Guidelines recommended 14 month sentence for individuals convicted of FIP that are in CH group C

Offender Demographics

- On average, individuals sentenced for FIP were 29 years old at the time of the offense; the median age at offense was 27
- All individuals sentenced for FIP were male
- 98% of individuals sentenced for FIP were black