DISTRICT OF COLUMBIA

SENTENCING COMMISSION

2023 ANNUAL REPORT
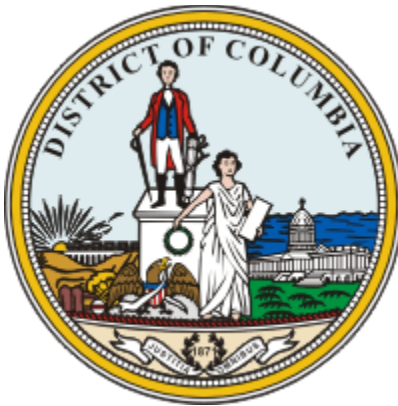
April 26, 2024

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

Hon. Milton C. Lee
Chairperson

Hon. Rainey Brandt
Frederick D. Cooke Jr., Esq.
Renata Kendrick Cooper, Esq.
Hon. Marisa J. Demeo
Nazgol Ghandnoosh, Ph. D.
Joel Castón
Cedric Hendricks, Esq.
William "Billy" Martin, Esq.
Dave Rosenthal, Esq.
Katerina Semyonova, Esq.
Leslie Parsons
Sean Holihan

Non-voting members:
Hon. Brooke Pinto
Erika McJimpsy
Lindsey Appiah
Sonya D. Thompson
Stephen J. Husk

Linden Fry
Executive Director

April 24, 2024

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 obligations, the District of Columbia Sentencing Commission respectfully submits its 2023 Annual Report for your review.

The 2023 Annual Report provides a comprehensive overview of felony sentences imposed by the D.C. Superior Court from January 1, 2023, through December 31, 2023. The data analyzed in this year's report shows that in 2023 a greater percentage of felony counts sentenced received a prison sentence (68.5%) than any year since 2014. The Commission also observed a corresponding decrease in the percentage of probation sentences imposed.

As in recent years, the vast majority of felony cases sentenced in 2023 were for non-Drug offenses (95.3%). Only 4.7% of felony counts sentenced in 2023 were for Drug offenses, the lowest percentage the Commission has ever observed. Violent and Weapon offense categories accounted for the majority (72%) of felony counts sentenced when combined.

Judicial Compliance with the Sentencing Guidelines remains very high. In 2023, 98.6% of all felony counts sentenced were Compliant with the Guidelines, compared to 97.3% in 2022 and 98.5% in 2021. Additionally, an overwhelming majority (94.4%) of all felony counts were Compliant in the box, meaning that both the sentence length and type were within the Guidelines recommendation. 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,

M. Lee

Honorable Milton C. Lee, Chairman

TABLE OF CONTENTS

FIGURE TABLE OF CONTENTS

COMMISSION MEMBERS AND STAFF

As of APRIL 2, 2024:

MEMBERSHIP OF THE DISTRICT OF COLUMBIA SENTENCING COMMISSION[1]

<u>Chairperson:</u>
The Honorable Milton C. Lee
Superior Court of the District of Columbia

<u>Voting Members:</u>

The Honorable Rainey Brandt
Superior Court of the District of Columbia

The Honorable Marisa J. Demeo
Superior Court of the District of Columbia

Renata Kendrick Cooper, Esq.
United States Attorney's Office for the District of Columbia

Katerina Semyonova, Esq.
Public Defender Service for the District of Columbia

Dave Rosenthal, Esq.
Office of the Attorney General for the District of Columbia

Cedric Hendricks, Esq.
Court Services and Offender Supervision Agency

Frederick D. Cooke Jr., Esq.
Attorney, Criminal Prosecution Experience

William R. Martin, Esq.
Attorney, Criminal Defense Experience

Nazgol Ghandnoosh, Ph.D.
Sentencing Researcher

Assistant Chief Leslie Parsons
D.C. Metropolitan Police Department

Joel Castón
D.C. Resident - Returning Citizen

Vacant – Council Appointment
D.C. Resident – Victim of Crime of Violence and Background in Victims' Rights or Services

Sean Holihan
D.C. Resident

Vacant – Mayoral Appointment
D.C. Resident

<u>Non-Voting Members:</u>

The Honorable Brooke Pinto
Council of the District of Columbia

Sonya D. Thompson
Federal Bureau of Prisons

Erika McJimpsey, Esq.
District of Columbia Department of Corrections

Stephen J. Husk, Esq.
United States Parole Commission

Deputy Mayor Lindsey Appiah
Deputy Mayor for Public Safety and Justice

---

[1] The listed Commission membership reflects changes made by the Secure DC Omnibus Emergency Amendment Act of 2024, D.C. Act 25-410. § 4(a), eff. Mar. 11, 2024, exp. June 6, 2024. *See also* D.C. Code § 3-102(a).

STAFF OF THE DISTRICT OF COLUMBIA SENTENCING COMMISSION[2]

Linden Fry, Esq.
Executive Director

Taylor Tarnalicki
Statistician

Brittany Bunch
Outreach Specialist

Basil Evans
IT Specialist

Nicholas McGuire, Esq.
Attorney Advisor

Maeghan Buckley, Esq.
Attorney Advisor

Emily Blume
Research Analyst

Mia Hebb
Administrative Assistant

Keelin Herbst, Esq.
Policy Advisor

---

[2] In 2023, the Commission hired two additional staff members: Nicholas McGuire and Keelin Herbst.

EXECUTIVE SUMMARY

Throughout 2023, in addition to the agency's other mandated duties, the District of Columbia Sentencing Commission (the Commission) focused on increasing the public's understanding of the D.C. Sentencing Guidelines (the Guidelines) and the District's felony sentencing process. This was primarily accomplished through a robust community engagement program. As part of this effort, the Commission created and distributed educational resources and data analysis that attempted to demystify the criminal justice system for the broader community and foster informed dialogue. The Commission will continue this effort in 2024, in part by distributing and explaining the data and analysis contained in this Annual Report.

The Commission has also increased its data sharing by responding to data request submissions. As the Commission's data analysis capabilities have become more well known to agency partners, policy makers, and the public, the number and complexity of the data requests received have increased. In 2023, the Commission responded to 19 data requests, which utilized approximately 1,018 staff hours. The average data request response time was 12 business days. The Commission also began publishing noteworthy and informative data request responses on its website so that members of the public could have access to the data and analysis. Notably, the Commission's publications saw a high community interaction rate, prompting increased inquiries for more information, indicating a growing public interest and engagement in sentencing matters.

Moreover, the Commission increased its presence in the community by participating in 55 events and forums in collaboration with various local organizations and institutions. This direct community engagement, enhanced by the launch of the Sentencing 101 training program and resources for D.C. Jail residents, marks a pivotal step towards providing resources to individuals from a wide variety of backgrounds. These initiatives are aimed at diverse audiences, ranging from high school students to the general public, underscoring the Commission's commitment to transparency and educational outreach.

2023 TRENDS IN SENTENCING

Throughout 2023, the Commission observed sentencing trends stabilize as the Superior Court resumed pre-pandemic levels of operation, processing both new cases and the backlog accumulated during 2020 and 2021. In 2023, there were 1,007 adult individuals sentenced for felony offenses in a total of 1,046 cases, which were comprised of 1,473 distinct felony counts. All three metrics reflect a slight decrease from 2022 but align with the downward trend observed from 2017 to 2019.

Plea agreements remained the dominant method of case disposition. Ninety-two percent (92%) of felony cases in 2023 were resolved through a plea agreement, demonstrating a slight reduction from the previous year but consistent with pre-pandemic levels. The decrease in plea agreements was offset by a 3.6% increase in jury trials, which were used to resolve 6.6% of felony cases sentenced. The increased jury trial rate also indicates a return to normal Superior Court Criminal Division operations.

Rule 11(c)(1)(C) plea agreements, which offer certainty in sentencing, showed a 2.5% decrease in 2023, reflecting the first substantial decline in ten years. This change, alongside the gradual increase in jury trials, marks a shift towards the sentencing trends observed pre-pandemic.

Last year, Superior Court Judges increased the percentage of prison sentences imposed for non-Drug felony offenses. Approximately 70% of felony counts received a prison sentence. Probation and short split sentences each constituted around 15.5% of sentences imposed. The data also reveals an increase in the severity of offenses sentenced, with significant proportions in higher severity Master Groups. Notably, Drug offenses reached an all-time low, comprising only 4.7% of all adult felony sentences imposed in 2023.

While the data indicates an overall post-COVID-19 return to normal criminal justice operations in the District, it is crucial to consider the lingering effects of COVID-19 on sentencing trends when interpreting the data, acknowledging both the pandemic's disruptions and the court's efforts to return to its standard operations.

GUIDELINES COMPLIANCE

Judicial Compliance with the Sentencing Guidelines in 2023 remained high. Specifically, in 2023, the in the box Compliance rate revealed that 94.3% of sentences aligned with the Guidelines recommendation.

Overall, 98.6% of the felony sentences (1,452 out of 1,473 felony counts sentenced) adhered to the Guidelines. All Non-Compliant counts involved durational departures, with 81% being downward departures—where the sentence length was less than the range specified by the Guidelines—and 19% being upward departures.

MODIFICATIONS TO THE GUIDELINES

In 2023, the D.C. Sentencing Commission updated the Sentencing Guidelines following the enactment of new legislation. The "Prioritizing Public Safety Emergency Amendment Act of 2023" introduced two new felony offenses: "Endangerment with a Firearm" and "Strangulation." These were ranked by the Commission in September, with Endangerment With a Firearm ranked in Master Group 9, and Strangulation ranked in Master Group 8. The Act also amended the "Unlawful Possession of a Firearm" statute, which did not require a re-ranking due to unchanged penalties. The Commission did not make any other substantive changes to the Sentencing Guidelines.

KEY FINDINGS

1. In 2023, there were a total of 1,007 individuals sentenced in 1,046 cases, consisting of 1,473 unique felony counts. The number of counts, cases, and individuals sentenced in 2023 have slightly declined from 2022, which strongly suggests that the Superior Court Criminal Division has returned to its pre-pandemic operating status. *See* page 21.

2. Superior Court Criminal Rule 11(c)(1)(C) pleas represented 12% (128 cases) of all felony cases sentenced in 2023, representing a 2.5% decline from 2022 and the first substantial decrease in Rule 11(c)(1)(C) pleas in the last 10 years. *See* page 24.

3. 2023 marks the greatest proportion of felony prison sentences (62% of cases) and the lowest proportion of felony probation sentences (19% of cases) imposed since 2014. Prison sentences increased by 10% from 2022, which was offset by a decrease in probation sentences of a similar magnitude (12%). Short split sentences have remained consistent across both years, accounting for 19% of all felony cases sentenced in 2023 and 18% of all felony cases sentenced in 2022. *See* page 28.

4. In 2023, 40% (393 cases) of all non-Drug felony cases fell into a probation eligible box on the Master Grid, however probation sentences were imposed for only 37% of this subset of 393 felony cases. Twenty-eight percent (28%) of the felony cases in probation eligible boxes received prison sentences, while 34% received a short split sentence. *See* page 28.

5. Drug offenses have been steadily declining since 2017, reaching an all-time low in 2023 where they accounted for only 5% of the 1,473 felony counts sentenced. Probation sentences were imposed in only 40% of all felony Drug convictions in 2023, marking the lowest proportion of probation sentences for Drug offenses in the last ten years. *See* pages 30 and 31.

6. Consistent with historical trends, offenses ranked in Master Group 8 represented the majority (57%) of all 2023 felony sentences imposed. Sixty percent (60%) of M8 convictions resulted in a prison sentence, demonstrating a 13-percentage-point increase from the previous year; in 2022 just under half (47%) of M8 offenses received a prison sentence. *See* page 31.

7. Possession of a Firearm During a Crime of Violence (PFCOV) sentences nearly doubled in 2023, from 34 sentences in 2022 to 59 sentences in 2023, attributing to a 3.4% increase in the number of M5 sentences. *See* page 33.

8. Violent and Non-Violent offenses have seen substantial increases since 2020, with Non-Violent offenses increasing at a faster rate than Violent offenses (61% vs. 46%). However, rates of change slowed in 2023 as convictions for Violent offenses only increased by 4% and convictions for Non-Violent offenses *decreased* by 4% when compared to 2022. *See* page 35.

9. Consistent with previous years, Carrying a Pistol without a License (CPWL) and Unlawful Possession of a Firearm – Prior Conviction (UPF-PF) constituted the majority (76%) of the Weapon offenses sentenced. Similarly, Assault with a Dangerous Weapon (ADW) and

Robbery were the two most frequently sentenced Violent offenses, representing 67% of the offenses in the Violent offense category. *See* pages 40 and 42.

10. In 2023, male defendants had an average CH score of 1.9 and female defendants had an average CH score of 0.6. This was the lowest average CH score for female defendants within the last ten years. *See* page 48.

11. Eighty-seven percent (87%) of all defendants sentenced to prison in 2023 were under the age of 41, where 37% of all defendants were between the ages of 22 and 30 at the time of the offense. *See* page 50.

12. In 2023, there was a total of 5,319 adult felony arrests made in the District of Columbia. Sixty-six percent (66%) of these arrests were sent to court for prosecution, a 12% increase from the papering rate observed in 2022, and the first increase in papering rates observed between 2018 and 2023. *See* pages 54 and 55.

13. The 3,506 papered felony arrests generated a total of 3,489 non-fugitive cases in D.C. Superior Court. As of January 10, 2024, approximately one-third (32%) of those cases resulted in a finding of guilt (for any criminal offense). Twenty percent (20%) of cases were closed without conviction, while the remaining 48% are still pending disposition. *See* page 53.

14. Consistent with previous years, the overwhelming majority (98.6%) of all felony counts sentenced were determined to be Compliant with the D.C. Voluntary Sentencing Guidelines. Approximately 94% of all felony sentences imposed in 2023 were ruled Compliant in the box, meaning that the sentence type and sentence length both fell within the Guidelines recommendation. This in the box Compliance rate was the greatest rate observed in the last nine years. *See* pages 64 and 66.

TABLE OF ABBREVIATIONS AND ACRONYMS

Term	Definition
BRA	Bail Reform Act
BOP	United States Bureau of Prisons
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
District	District of Columbia
DOC	District of Columbia Department of Corrections
FY	Fiscal Year
GRID	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
OAG	Office of the Attorney General for the District of Columbia
OSG	Offense Severity Group
PCP	Phencyclidine
PFCOV	Possession of a Firearm During a Crime of Violence
PSI Report	Presentence Investigation Report
PWID	Possession with Intent to Distribute a Controlled Substance
RCCA	Revised Criminal Code Act of 2023
Rule 11(c)(1)(C)	D.C. Superior Court Rule of Criminal Procedure 11(c)(1)(C)
Superior Court	Superior Court of the District of Columbia
UPF-PF	Unlawful Possession of a Firearm, Prior Felony (commonly referred to as FIP or felon in possession)
UPF-PCOV	Unlawful Possession of a Firearm, Prior Crime of Violence
USAO	The United States Attorney's Office for 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) monitor the implementation and use of the District of Columbia Voluntary Sentencing Guidelines (Guidelines), (2) rank newly created felony offenses, and (3) review and analyze data on sentencing practices and trends in the District of Columbia.[3] 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 each new sentencing provision enacted by the Council of the District of Columbia (the Council) into the Guidelines structure.[4]

B.   Commission Duties

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

> 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;

---

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

[4] 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, trainings, 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. 2023 Commission Membership

In 2023, the Commission was composed of 17 members: 12 voting members and five non-voting members. Its membership included representatives from a wide range of criminal justice agencies, the judiciary, academic and research institutions, practicing attorneys, and the public. This diverse membership provided a variety of perspectives in the development of sentencing policy.

The voting members of the Commission included:

- Three judges of the Superior Court of the District of Columbia, 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 D.C. Public Defender Service 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 for the District of Columbia 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 the 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 were:

- The chairperson of the Council committee that has oversight of the Commission within its purview;
- 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. Current Commission Membership

On March 11, 2024, the Secure DC Omnibus Emergency Amendment Act ("Secure DC Emergency Act") became law. Part of that legislation increased the size of the Commission from 17 to 20 members (now comprised of 15 voting members and five non-voting members) and made minor modifications to some of the existing membership positions. The added or modified positions are noted in italics.

The current voting members of the Commission include:

- Three judges of the Superior Court of the District of Columbia, 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 D.C. Public Defender Service 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 for the District of Columbia or his or her designee;
- Two members of the District of Columbia Bar, *one who has experience with criminal defense in the District of Columbia, and one who has experience with criminal prosecution in the District of Columbia*, 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;
- *Two residents of the District of Columbia, nominated by the Mayor, subject to confirmation by the Council*;
- *Two residents of the District of Columbia, appointed by the Council, one of whom is a returning citizen, and one of whom has been a victim of a crime of violence and who has a background in victim's rights or service*; and
- *The Chief of the Metropolitan Police Department or the Chief's designee.*

The current non-voting members of the Commission are:

- The Chairperson of the Council committee that has oversight of the Commission within their purview;
- The Director of the District of Columbia Department of Corrections or his or her designee;
- The Director of the United States Bureau of Prisons or his or her designee;
- The Chairperson of the United States Parole Commission or his or her designee; and
- *The Deputy Mayor for Public Safety and Justice or the Deputy Mayor's designee.*

C.   Commission Staff

1.   Commission Staff Members

As of the issuance of this Report, 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	Keelin Herbst, Esq. Policy Advisor	Nicholas McGuire, Esq. Attorney Advisor

2. Organizational Structure

Figure 1: Sentencing Commission Organizational Chart

```
                    ┌─────────────────────┐
                    │ Executive Director  │
                    │ Linden Fry - FTE    │
                    └─────────────────────┘

┌─────────────────────┐         ┌─────────────────────┐
│ Attorney Advisor    │         │ Statistician        │
│ Maeghan Buckley-FTE │         │ Taylor Tarnalicki-FTE│
└─────────────────────┘         └─────────────────────┘

┌─────────────────────┐         ┌─────────────────────┐
│ Outreach and        │         │ Research Analyst    │
│ Education Specialist │         │ Emily Blume - FTE   │
│ Brittany Bunch - FTE│         └─────────────────────┘
└─────────────────────┘

┌─────────────────────┐         ┌─────────────────────┐
│ Attorney Advisor    │         │ Policy Advisor      │
│ Nicholas McGuire-FTE│         │ Keelin Herbst - FTE │
└─────────────────────┘         └─────────────────────┘

┌─────────────────────┐         ┌─────────────────────┐
│ Administrative      │         │ IT Specialist       │
│ Assistant           │         │ Basil Evans - FTE   │
│ Mia Hebb - FTE      │         └─────────────────────┘
└─────────────────────┘
```
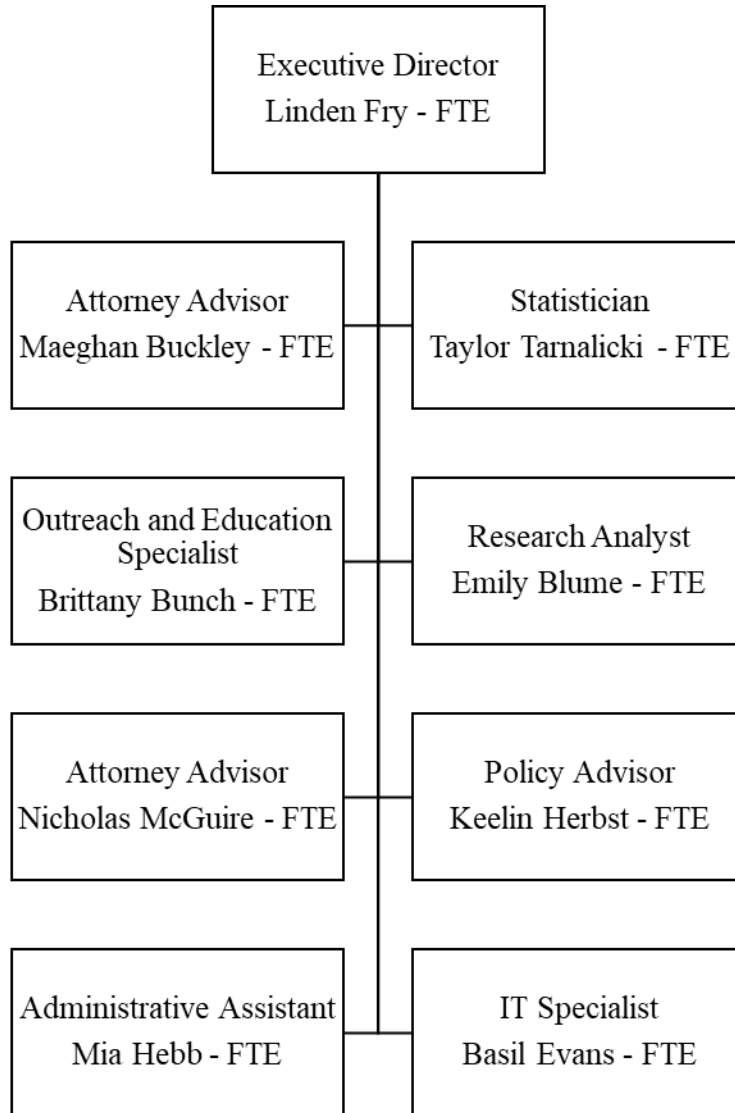
III. Commission's Budget

In Fiscal Year (FY) 2024, the Commission has a local funds operating budget of $1,611,787. The Commission also received $350,000 in capital funds from the Council to continue preparing the agency's internal data system (GRID) for the Superior Court's anticipated conversion to a new case management system. The Commission has not received any grant funds in FY 2024.

Table 1: The Commission's Total FY 2024 Budget

Personnel Services (Salaries and Benefits)	$ 1,104,849
Non-Personnel Services	$ 506,938
Total Operating Budget	$ 1,611,787
Capital Funds	$ 350,000
Grant Funds	$ 0
Total Agency Budget	$ 1,961,787

Table 2: The Commission's Total FY 2023 Budget

Personnel Services (Salaries and Benefits)	$ 1,071,212
Non-Personnel Services	$ 546,990
Total Operating Budget	$ 1,618,202
Capital Funds	$ 0
Grant Funds	$ 0
Total Agency Budget	$ 1,618,202

The Commission has a relatively small budget and runs a lean operation. In the agency's FY 2024 budget, over 68% of the Commission's funding goes to personnel service expenses (staff salaries and benefits). An additional 26% of the agency's budget is used to upgrade, maintain, and operate the Commission's GRID system. Data system related costs represent approximately 85% of the Commission's total non-personnel service budget.

IV. Commission's Work

A. Commission Meetings

The Commission met eight times in calendar year 2023, addressing a variety of Guidelines sentencing policy topics, including:

- The Revised Criminal Code Act of 2023 (RCCA);

- Ongoing efforts to receive access to Presentence Investigation Reports (PSI Reports), which include Criminal History (CH) data pertinent to the Commission's research;

- Revising and clarifying concurrent and consecutive sentencing rules;

- Reviewing and preparing for recently approved and/or pending criminal justice legislation;

- Monitoring and preparing for the Superior Court's transition to a new case management system (Enterprise Justice, formerly known as Odyssey) and its impact on the Commission's data collection system GRID; and

- Preparing Modifications to the Voluntary Sentencing Guidelines Manual.

All Commission meetings are open to the public. The Commission offers a hybrid meeting structure that allows members and the public to participate in meetings virtually or in person consistent with the District of Columbia's Open Meetings Act. The Commission met on the following dates in 2023:

January 17, 2023	February 27, 2023
April 18, 2023	May 16, 2023
June 20, 2023	July 18, 2023
September 19, 2023	October 17, 2023

The minutes and video recordings of the Commission's public meetings are available at the Commission's website, located at *https://scdc.dc.gov/page/commission-meetings.*

B. New Criminal Justice Legislation

In 2023, the D.C. Council enacted legislation that created new felony offenses, which the Commission reviewed and ranked. On July 20, 2023, Mayor Bowser's Prioritizing Public Safety Emergency Amendment Act of 2023 ("Prioritizing Public Safety") went into effect.[5] In part, Prioritizing Public Safety established two new felony offenses: Endangerment with a Firearm,[6] and Strangulation.[7] The Commission ranked the new offenses at its September 2023 meeting and subsequently released a Guidelines Alert detailing the new offense rankings.[8] Additional information regarding the Commission's ranking of these offenses is discussed in Chapter 2. Prioritizing Public Safety also amended the Unlawful Possession of a Firearm statute, however, the Commission did not re-rank this offense as the amendments did not affect the penalty.[9]

---

[5] Prioritizing Public Safety Emergency Amendment Act of 2023, D.C. Act 25-0175, 70 D.C. Reg. 20358(exp. October 18, 2023). An identical copy of the Emergency Act was passed as temporary legislation and went into effect on January 17, 2024, and is effective for 225 days. *See* D.C. Act 25-229, 70 D.C. Reg. 010358.

[6] D.C. Code § 22-4503.03.

[7] D.C. Code § 22-404.04

[8] The Guidelines Alert can be found at: *https://scdc.dc.gov/node/1681191*.

[9] D.C. Code § 22-4503.

On March 11, 2024, the Secure DC Omnibus Amendment Act of 2024[10] ("Secure DC") and the Secure DC Emergency Act were signed by Mayor Bowser.[11] The Secure DC Emergency Act immediately went into effect.[12]

In addition to modifying Commission membership and voting rules[13] and making other modifications to D.C. Code, Secure DC and the Secure DC Emergency Act created new criminal offenses and modified certain existing offenses. The Commission is currently working on ranking the new offenses and penalties included in the Secure DC Emergency Act.

Additionally, on December 21, 2023, Chairman Mendelson proposed the Evidence-Based Gun Violence Reduction and Prevention Act 2023, which increases the Commission's data reporting requirements.[14] The Evidence-Based Gun Violence Reduction and Prevention Act would require the Commission to produce a biannual report with statistics on repeat violent offenders arrested and convicted in the prior year, as well as updates on the disposition of cases involving repeat violent offenders. The Commission continues to monitor this legislation and work with the D.C. Council on the feasibility of the reporting requirement, given that the Commission currently does not have access to complete defendant criminal history data.

C.   Enterprise Justice/Odyssey

Over the past several years, the Superior Court has been working to upgrade its legacy case management system, known as CourtView, to a new case management system, called Enterprise Justice (formerly known as Odyssey). The Court has broken the process down into two phases: phase one implements the Enterprise Justice system in the Court's Civil and Probate divisions, phase two implements the system in all remaining Court divisions, including the Criminal and Family divisions. Phase one was initially implemented in the fall of 2022, however the Court continues to work on issues that have arisen with phase one. The Court has delayed the implementation of phase two while it works to address these issues. The Court has not announced a projected phase two implementation date. As part of the phase two system upgrade, the Court will have to modify the structure of the data that will be transmitted from Enterprise Justice to criminal justice partners once the new system is activated.

The Court's implementation of Enterprise Justice will necessitate major changes to the Commission's internal GRID data system, which stores, processes, and analyzes data transmitted by a variety of criminal justice agencies. This includes but is not limited to, a redesign of the entire

---

[10] Secure DC Omnibus Amendment Act of 2024, D.C. Act 25-411.

[11] Secure DC is currently pending a 60-day Congressional review following the Mayor's signature as required under Section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code 1-206.02(c)(2)).

[12] Secure DC Omnibus Emergency Amendment Act of 2024, D.C. Act 25-410, eff. Mar. 11, 2024, exp. June 6, 2024.

[13] To accommodate the updated membership numbers, Secure DC and the Secure DC Emergency Act modify the Commission's quorum and voting requirements. To establish a quorum, there must now be a majority of appointed voting members present, rather than a majority of voting members which did not account for unfilled positions. Any Commission action may now be undertaken by a majority vote of the voting members present after a quorum is established. Previously, Commission action could only be taken if at least seven voting members voted affirmatively. D.C. Code § 3-103(a), (b).

[14] Evidence-Based Gun Violence Reduction and Prevention Act of 2023, D.C. Act B25-637.

data intake process to ensure that data transmitted from the Court can be integrated. The current version of the GRID system cannot accommodate the format and organization of many of the data elements that Enterprise Justice will provide. Additionally, the Commission will have to establish a process that maps historical data formatted from CourtView data to the new data format produced by Enterprise Justice to ensure that historical sentencing data is not lost and remains available for analysis.

The Commission continues to work with its vendor, the Court, and other criminal justice partners to reduce the impact of these changes, however, the total level of effort and complete list of system changes will not be known until the new format of data under Enterprise Justice is fully developed and tested.

D.   Criminal History Data

The Commission is tasked with evaluating the effectiveness of the District's sentencing and Guidelines systems to recommend changes based on sentencing and corrections practice and research. This is accomplished through robust data collection, processing, and analysis, which allows the Commission to examine components of the Guidelines to ensure that the system is operating as intended. The goal of the Commission is to develop a Guidelines system that promotes certain, consistent, and adequate sentences with respect to the seriousness of the offense, the dangerousness of the offender, public safety, and the potential for rehabilitation and prison alternatives, when appropriate.

An individual's criminal history represents a critical component in any thorough evaluation of a sentencing guidelines system. Historically, sentencing guidelines have considered both the nature of the current offense and the extent of an individual's prior criminal convictions. Such an approach is predicated on the notion that past actions offer substantive insights into an individual's criminal trajectory, ensuring that sentences not only account for the present offense but also reflect any historical patterns of behavior.

The Commission's criminal history formula has not been evaluated since the Guidelines' implementation nearly two decades ago, though there has not been a lack of effort to do so. This is because the Commission does not currently have access to the full defendant criminal history data contained in each PSI Report. Without access to this information, the Commission is unable to conduct any comprehensive criminal history analysis. As a result, the Commission cannot evaluate components of its criminal history schema to ensure that they are operating as intended, nor can it simulate potential changes to the criminal history formula to gauge the real-world impact of such proposed changes. Any hypothetical analysis would involve multiple estimated data points, and when presented in its entirety, the majority of the analysis would be based on guesswork. The Commission continues to work with its criminal justice partners to gain access to this information and evaluate criminal history data.

E.   Data Projects

Data Requests

The Commission's data and analysis capabilities enable the agency to evaluate sentencing and criminal justice trends from arrest through the conclusion of any related Superior Court Criminal Division case.[15] In addition to the data and analysis presented in this report and on the agency's website, the Commission regularly responds to requests for sentencing related data and analysis from individual Commission members, Council members, the Mayor's Office, government agencies, nonprofit organizations, educational institutions, researchers, legal practitioners, and the general public.

Information pertaining to the submission of data requests is available on the Commission's website.[16] Data shared by the Commission is available in two formats: aggregate data and felony data sets void of identifying information about individuals, defendants, or incarcerated citizens. The Commission does not provide individual case sentencing information or information that would allow for the identification of any individual.

The agency received 19 data requests in 2023. All responses were delivered on or before the requested completion date. It took approximately 1,018 staff hours to respond to the data requests received in 2023, and the average response time to complete a data request was 12 business days.[17]

Two data requests submitted in 2023 were denied. The first request was regarding self-surrender statistics. Specifically, how frequently the D.C. Superior Court allows defendants to self-surrender to the United States Bureau of Prisons (BOP) compared to keeping the defendant in custody with the District of Columbia Department of Corrections (DOC) until they are transferred to the BOP. While the Commission does receive basic information from the BOP for defendants convicted of D.C. Code offenses, the limited data available did not allow the Commission to respond to the request. The second denied request was for data on the predicate offenses for Unlawful Possession of a Firearm by a Person with a Prior Felony conviction(s). The request was denied because the structure of the data that is made available to the Commission does not allow the Commission to determine the underlying felony offense. As discussed, the agency cannot currently analyze the full composition of a defendant's criminal history score, including specific prior convictions.

Historically, data request responses were only provided to the group or person requesting the data. During 2023, the agency began an initiative to publish select data request responses on the Commission's website allowing anyone with internet access to review and make use of the data. As part of this initiative, published data request responses are highlighted in the agency's social media posts and publications. Sharing data request responses has been a successful initiative. The Commission published five data responses in 2023 and has continued publishing responses in

---

[15] The Voluntary Sentencing Guidelines do not apply to juvenile adjudications occurring in the Court's Family Division; the Commission only receives data from the Criminal Division, for both misdemeanor and felony cases. However, because the Guidelines only apply to adult felony convictions the Commission does not report on misdemeanor sentencing trends.

[16] Information detailing how to submit a data request can be found here: *https://scdc.dc.gov/node/1109316.*

[17] The Commission aims to fulfill data requests within 30 business days from the date a data request is approved by the Executive Director. Individuals or entities requesting data will receive a confirmation of the approval and a projected delivery date.

2024. This program has allowed the Commission to share a variety of different analyses with the public at a minimal increase in staff time and resources. These publications have a high community interaction rate and have led to partners and members of the public contacting the Commission for more information or additional data. The Commission hopes to expand this initiative by publishing all data responses deemed interesting or noteworthy.

Issue Papers

The Commission published one Issue Paper in 2023. 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 Issue Paper published in 2023 examined felony arrest and prosecution trends in the District of Columbia between 2019 and 2022, by geographic location.

All published Issue Papers can be found at *https://scdc.dc.gov/node/1109427*.[18]

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, defendant related information, and other pertinent offense related information using a combination of graphics, charts, and accompanying text.

In FY 2023, the Commission updated its Fast Facts template to be more simplified and easier for the public to read. The Commission has released six Fast Fact sheets since the update. Topics are as follows: Felony Sex Offenses, FY 2022 and FY 2023 Rule 11(c)(1)(C) Pleas, Assault with a Dangerous Weapon, Felony Drug offenses, and Arrest to Sentencing Trends for Robbery Offenses. The Commission's Fast Facts publications are available at *https://scdc.dc.gov/page/fast-facts.*

F.   Community Outreach and Education

In 2023, the Commission continued to increase its efforts to educate the community on the purpose and work of the D.C. Sentencing Commission, the adult felony sentencing process in D.C., and how the Guidelines operate in practice. The agency attended and presented at community events and forums in collaboration with partners such as CSOSA, the United States Attorney's Office of the District of Columbia (USAO), Advisory Neighborhood Commissions (ANCs), and Citizen Advisory Councils (CACs). In 2023, the Commission began participating in in-person events with ANCs, CACs, MPD, Dunbar High School's "Law and Public Policy Program," American University, Friends of Anacostia River, and the D.C. Public Library. Commission staff participated in and/or attended a total of 55 community focused events.

Throughout 2023, the Commission continued to optimize its dispersal of information on its website and social media platforms. Commission staff produced 1,169 social media posts, implemented

---

[18] This link shows all Commission Issue Papers from 2010 to 2024, to date, and will include all future Issue Papers released by the Commission.

123 website updates, and engaged with a total of 809 followers across various social media platforms. Below details the Commission's social media updates for 2023:

- The Commission launched a new Instagram account, with the handle @dcsentencingcommission;

- In addition to its yearly D.C. Voluntary Sentencing Guidelines training video, the Commission posted four new informational videos on YouTube:[19]

    o "Data Capabilities & Data Requests"

    o "How to Book A Presentation/ Training with the D.C. Sentencing Commission"

    o "Website Resources"

    o "The Commission's Data System: GRID"

- The Commission released two biannual newsletters.

The Commission is dedicated to educating the public regarding adult felony sentencing in the District. If you would like the Commission to host a community informational session, please email the Commission's Outreach Specialist at *brittany.bunch@dc.gov*.

G. Guidelines Trainings, Inquires, and Website

Trainings

During the COVID-19 pandemic, the Commission migrated to web-based remote Guidelines trainings. Beginning in 2022, the Commission resumed in-person training, though the Commission continues to offer web-based remote trainings. During 2023 and the beginning of 2024, Commission staff provided 17 group training sessions, attended by a total of 187 individuals. These trainings concentrated on the Commission's partners including: The Office of the Attorney General (OAG), CSOSA, Superior Court judges, D.C. Council members, and Superior Court law clerks.

In 2023, the Commission expanded its training efforts in multiple ways. The Commission began providing a training program titled Sentencing 101, which reviews the basics of the criminal justice system in the District, and how a case proceeds from arrest to sentencing. This presentation has been given to high school students, college students, and the general public. Additionally, the Commission has begun providing resources to D.C. Jail residents, including a video training about the Guidelines as well as providing copies of the Sentencing Guidelines Manual. Finally, Commission staff have provided quarterly materials and/or trainings to the agency's partners who utilize the Sentencing Guidelines the most: Superior Court judges and staff, CSOSA presentence report writers, and criminal law practitioners. Provided resources include in-person trainings, pre-taped training videos, virtual trainings, and a one-page Annual Report fact sheet. The Commission also offered "virtual office hours" to practitioners and partners to attend; however, the Commission did not receive regular attendance during these sessions and the program was discontinued.

---

[19] The D.C. Sentencing Commission's YouTube handle is @d.c.sentencingcommission6539.

The Commission also provides training resources on its website. These resources include links to training videos, PowerPoints, and information on how to schedule an in-person or virtual training session. The training resources include a general overview of the most recent version of the Sentencing Guidelines as well as topic-specific training materials, such as: Scoring out-of-District Offenses; Scoring Prior Adjudications and Misdemeanors; and Handling Accessory and Attempt Charges. In 2023, a Guidelines Resource Page was established on the Commission's website to provide resources and references for criminal law practitioners. In 2024, the Commission will continue to offer both remote and in-person trainings and expand its training resources.

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 during business hours to provide information about the Guidelines and to assist users with applying the Guidelines in specific cases. 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. Many of the inquiries are from criminal law practitioners, including CSOSA presentence investigation report (PSI Report) writers, 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 (444 in FY 2019, 282 in FY 2020, 212 in FY 2021, 420 in FY 2022, and 445 in FY 2023). The number of Guidelines questions received by the Commission last year is nearly identical to pre-pandemic levels. Most inquiries involve assistance determining how to score out-of-District convictions, calculating an individual's total Criminal History score, application of the Guidelines in specific circumstances, identifying the applicable Guidelines range, or reviewing whether a specific sentence is Compliant with the Guidelines.[20]

Commission Website

Through regular updates to the Commission's website, the agency has been able to increase transparency and awareness regarding the Commission's activities. The website provides viewers with a plethora of information concerning the Commission, Guidelines, and the Commission's data research.

The Commission's website resources include:

- A data dictionary with definitions for all publicly available shared data;
- Yearly datasets (not including case specific identifying information);
- Data and charts presenting information about felony sentences and sentencing trends;
- Fast Facts sheets;
- Issue Papers;

---

[20] 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.

- Past Data Responses;
- Annual Reports;
- The Guidelines Manual;
- Guidelines Alerts;
- The Guidelines Master and Drug Grids;
- The Top, Middle, and Bottom of Grids Calculations;
- A glossary of Guidelines and sentencing language;
- A frequently asked questions (FAQ) section;
- Resources on how to contact the Commission, ask for a training session, submit queries regarding sentencing data, or receive assistance applying the Guidelines;
- Digital forms for Guideline Assistance and Data Requests;
- Self-guided Sentencing Guidelines training material;
- YouTube video releases;
- "The Commission Chronicle" newsletters;
- Link to sign up for the Commission's email subscriber list;
- Community focused brochures;
- Links to engage with the Commission via its social media platforms;
- The date, link, minutes, video recordings, and agenda for Commission meetings;
- A calendar of all Commission events;
- A list of current Commission members and staff;
- A history of the Guidelines and the Commission;
- Agency updates, press releases, and news;
- Employment opportunities with the Commission; and
- Open Government and Freedom of Information Act materials.

The Commission's website received 34,147 visits in fiscal year 2023, a slight decrease from the 36,408 visits the website garnered in 2022. Commission staff continue to seek different ways to further the usefulness and capabilities of the agency's website.

CHAPTER TWO: VOLUNTARY SENTENCING GUIDELINES

In its Annual Report, the Commission is statutorily required to discuss any substantive changes made to the Guidelines during the previous year.[21] This discussion includes changes to Offense Severity Group rankings, Guidelines recommended sentencing ranges or sentencing options, and rules for calculating an individual's Criminal History score. Additionally, if the Council enacted legislation during the preceding year creating 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, which outline the recommended sentencing range and options for felony offenses. In 2023, while no substantive changes were made to the Guidelines, the Commission implemented several technical changes. These technical changes, prompted by practitioner feedback, were aimed at improving clarity and maintaining consistency. These changes include clarifying language on how to score prior out-of-District convictions and adding definitions for Aggravating and Mitigating Factors. Additional technical changes made to the 2023 Guidelines Manual included minor formatting and grammatical corrections.

I.   New Offense Rankings

The Prioritizing Public Safety Emergency Amendment Act of 2023 ("Emergency Act") established two new felony offenses: Endangerment with a Firearm, and Strangulation. On September 25, 2023, the Commission issued a Guidelines Alert ranking the new offenses, as follows: [22]

Endangerment with a Firearm (D.C. Code § 22-4503.03):

- Guidelines Offense Severity Group Ranking: Master Group 9

- Maximum Statutory Penalty: Two years

Strangulation (D.C. Code § 22-404.04):

- Guidelines Offense Severity Group Ranking: Master Group 8

- Maximum Statutory Penalty: Five years

---

[21] 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."

[22] The Guidelines Alert can be found at: *https://scdc.dc.gov/node/1681191*.

II. Substantive Changes to the Guidelines Rules and Manual

In 2023, the Commission did not make any substantive changes to the Voluntary Sentencing Guidelines.

III. Technical Changes to the Guidelines Manual

In 2023, the Commission made the following technical changes to the Guidelines Manual:

Chapter 2:

- Section 2.2.5 – Scoring Out-of-District Convictions/Adjudications: The "Additional Guidance" section was updated to provide guidance on how to determine the most serious offense, as well as guidance when the out-of-District common law conviction or adjudication penalty is unknown.

- Section 2.2.7(d) – Scoring Prior Marijuana-Related Convictions: The section was updated to provide guidance on how to treat subsequent marijuana convictions.

Chapter 3:

- Section 3.6 – Mandatory Minimums and Statutory Minimums: The section formerly titled 'Additional Discretion for Offenders Under 18' was retitled 'Youth Rehabilitation Act' and rephrased for clarity.

Chapter 7:

- Section 7.1 – Aggravating Factor: The definition of "Aggravating Factor" was added for consistency.

- Section 7.22 – Mitigating Factor: The definition of "Mitigating Factor" was added for consistency.

- Chapter 7 was renumbered to account for the new definitions.

CHAPTER THREE: OVERVIEW OF AGENCY DATA SOURCES AND COLLECTION PROCEDURES

Commission staff routinely utilize the agency's in-house data system to review and analyze D.C. criminal justice and sentencing data. The Guidelines Reporting Information Data (GRID) system processes and stores data transmitted by multiple criminal justice agencies and readies this data for analysis. Additionally, the GRID system enables the Commission to review every felony sentence imposed in D.C. Superior Court to determine Compliance with the Guidelines.

I. The GRID Application

The GRID system is a custom developed web-based application platform that was first implemented by the Commission in 2013. Since its initial deployment, the GRID system has been significantly updated and expanded. The system's core capabilities include receiving and processing data from agency partners; storing, displaying, and exporting data; calculating Compliance with the Guidelines; and enabling staff to perform data analysis.

The Commission has made substantial investments in developing, testing, and enhancing the GRID system. Over the past several years the GRID system has encountered challenges that are typical of aging database applications, including the expanding size of the database which has contributed to declining system performance. The agency recently upgraded the GRID system infrastructure to add additional hardware, memory, and storage to improve performance. Future upgrades will be necessary to keep the system performing at its current level. Additionally, the Commission makes regular GRID system adjustments and modifications to address data quality and classification issues. The resolution of some of these issues affect how the Commission analyzes and reports sentencing data. At times, these changes result in discrepancies with data presented in earlier reports. A description of key adjustments made over the past decade is included in Appendix C.

II. Data Sources

The GRID system uses data from four sources: the D.C. Superior Court ("the Court"), CSOSA, individual D.C. Superior Court judges, and MPD. The Court provides the Commission with all offense, conviction, and sentencing-related data. This data is transmitted from the Court to the Commission electronically through the CJCC's Integrated Justice Information System Outbound Data Feed (IJIS 12.1). CSOSA presentence report writers directly input basic defendant CH score and demographic information into the GRID system via the GRID Scoring System (GSS) module. Individual judges provide case-specific information in response to departure letters sent by Commission staff regarding potential Non-Compliant departures from the Guidelines. Finally, MPD provides arrest data through CJCC's MPD_AFE data feed.

A. Sentencing Data

Improved data quality and access enables the Commission to evaluate both current and historical arrest, prosecution, and sentencing trends, as well as to measure Compliance with the Guidelines. The Commission captures more than 500 data elements from the Court that are transmitted from the Court's case management system to the Commission. This data is electronically transferred

into the GRID system on a nightly basis. For example, when an individual's charge in a case is updated by the Court (e.g., following a dismissal, indictment, or plea), the GRID system will maintain a record of both the new and old charge(s). This allows the Commission to analyze data by count, case, or sentenced individual levels. The Commission classifies this data as "live data," because it is continuously updated.

In addition to capturing live data, the GRID system contains a historical data feature that preserves data captured during each calendar year. The historical data is referred to as an annual "*snapshot*." The 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 future modifications or case 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 2021 that was modified in 2023. While the GRID system records the 2023 modification, the annual snapshot data allows the Commission to report case-related activity that occurred only before or during 2021.

B.   Criminal History Data

An individual'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.[23] CSOSA presentence investigation report writers provide the Commission with a defendant's high-level CH score information via the GSS module.[24] The GSS module then automatically calculates an individual's total CH score. When necessary, individual judges provide case-specific information about CH scores in response to departure letters sent by Commission staff. Criminal history information and Compliance calculations are updated daily in the GRID system.

Given that the Commission does not currently have access to PSR data, it only receives very limited criminal history information from CSOSA. Specifically, the Commission receives the numeric total criminal history score of each sentenced individual, though it does not receive any information as to the composition of an individual's criminal history score.

C.   Compliance Data

The GRID system uses a series of algorithms to make an initial determination as to whether a felony sentence complies with the Guidelines recommended sentence. When a sentence falls within the recommended Guidelines range and sentence options, the sentence is deemed Compliant with the Guidelines.[25] The Guidelines use two Grids, the Master Grid and the Drug Grid, to determine an individual's recommended range and available sentencing options based primarily on the offense of conviction and the individual's CH score.[26] If the GRID system initially determines that a sentence is Non-Compliant, the sentence is then manually reviewed by Commission staff to assess whether the sentence imposed is Compliant with the Guidelines

---

[23] The other two primary factors are the offense of conviction and the sentence imposed.

[24] The presentence investigation report is provided to the Court before sentencing and includes a detailed breakdown of each felony defendant's criminal history score; however, the Commission does not have access to the presentence investigation reports. The Commission only receives basic criminal history information from CSOSA.

[25] *See* Chapter 4 for more details on calculating Guidelines Compliance.

[26] *See* Appendices A and B for the Master and Drug Grids.

because of an exception to the normal Guidelines rules. The Commission uses a seven-step process to determine if the sentence imposed is Compliant with the Guidelines.[27] The GRID system automatically performs the first five steps in that process; the two remaining steps, if necessary, are performed 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 and 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.

D.   Arrest Data

The Commission receives more than 700 data elements for each arrest coming from MPD's arrest feed. Arrest data is electronically transferred from MPD into the GRID system every 30 minutes. The arrest data is regarded as "live data" because it continuously changes. Like the sentencing data, the Commission also takes an annual snapshot of arrest data at the end of each calendar year to preserve trends for year-over-year analysis.

The Commission began receiving arrest data from MPD in January 2020, which has significantly expanded its analytical capabilities. Integrating this data into the GRID system has enabled the Commission to track an adult case from initial arrest through final disposition and sentencing, and analyze the trends at each phase of the criminal justice lifecycle, which include: the arrest, the papering outcome (i.e., whether the arrest was filed in D.C. Superior Court), the case disposition of papered arrests, and the conviction and sentencing trends for cases that resulted in a finding of guilt.

---

[27] *See* Appendix G for a detailed description of the Commission's seven-step Compliance verification process.

CHAPTER FOUR: SENTENCING AND COMPLIANCE TRENDS

This chapter provides an overview of felony sentences imposed by Superior Court judges in 2023, including judicial Compliance with the Sentencing Guidelines. Data used in this chapter includes all initial felony convictions sentenced between January 1 and December 31, 2023, without regard to the date of the offense, case initiation, plea, or verdict. The analysis focuses on the day of sentencing, therefore the information presented does not include felony sentences following a remand from the Court of Appeals, a probation revocation, the granting of an Incarceration Reduction Amendment Act or Compassionate Release motion, or other post-sentencing sentence modifications. Federal, misdemeanor, and juvenile convictions/adjudications are not analyzed because the Guidelines only apply to adult felony offenses sentenced in the Criminal Division of the Superior Court.

In addition to presenting an overview of sentencing in 2023, this chapter includes a comparison of felony sentencing trends and Guidelines Compliance from 2014 through 2023. This broader comparative analysis highlights changes in sentencing patterns over the past decade, 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 individual 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, individual offender level analysis identifies trends related specifically to the felony population sentenced in Superior Court in 2023. Each case may have one or more counts sentenced and each sentenced individual may be convicted in one or more cases in a given calendar year. The 2023 sentencing data has been analyzed on the count level, except where noted.

To allow for year-to-year comparison of sentencing trends, the Commission determined that it is necessary to capture or "freeze" annual data after the end of each calendar year. As previously described in Chapter 3, this is referred to as an annual data "snapshot." The snapshot 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 have been taken for each subsequent calendar year. The 2023 data snapshot was captured on January 10, 2023.

Prior to 2016, 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. Since live data is continually changing, 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.

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.[28] These Grids are comprised of two axes: one for the sentenced individual's CH score (horizontal axis) and one for the offense severity group (OSG) of each offense for which a sentence is imposed (vertical axis). All CH scores are broken into five classification groups (A to E) on the horizontal axis of both the Master and Drug Grids. A CH classification of "A" represents the lowest CH classification, while a CH classification of "E" represents the highest.[29] The Master Grid classifies offenses into nine OSGs 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 individual'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).[30]

II. Sentencing, Offense, and Sentenced Individual Data

The impact of the COVID-19 pandemic on Superior Court operations is a recurring theme throughout the analyses in this report as it caused major deviations in sentencing trends, primarily through the decreased number of felony cases, counts, and individuals sentenced in 2020 and 2021. The impact of COVID-19 should be considered when comparing data from 2020-2021 with figures from earlier years. Additionally, the dramatic increases in sentences from 2020-2021 to 2022-2023 indicate a return to normal operations for the Superior Court. In 2022 the Court not only processed new cases but also worked through the backlog of cases that had accumulated during 2020 and 2021. The Commission will continue to monitor any fluctuations in this data.

A. Adult Felony Sentences Imposed in 2023

In 2023, a total of 1,007 adult individuals were sentenced for felony offenses in Superior Court. These individuals were sentenced in 1,046 distinct cases and convicted of 1,473 unique felony counts. Among the 1,046 felony cases sentenced, 775 involved a single felony count, while 271 involved convictions for multiple felony counts.

Figure 2 illustrates the historical trends for the number of counts, cases, and individuals sentenced each year. The numbers reported in 2023 show a slight decrease compared to 2022; this follows the trajectory of pre-pandemic sentencing trends where all three metrics have demonstrated a gradual decline between 2017 and 2019. The 2022 data exhibits an 18% decrease in the number of counts, cases, and individuals sentenced when compared to 2019. These declines continued in 2023, with a 3% reduction in counts and approximately a 12% reduction in both cases and individuals sentenced. The trends reported in 2023 strongly suggest that the Superior Court Criminal Division has returned to its pre-pandemic operating status.

---

[28] *See* Appendices A and B for the Master Grid and the Drug Grid.

[29] 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+).

[30] *See* Appendices A and B for the Master Grid and the Drug Grid.

Figure 2: Felony Sentences by Year (2014-2023)
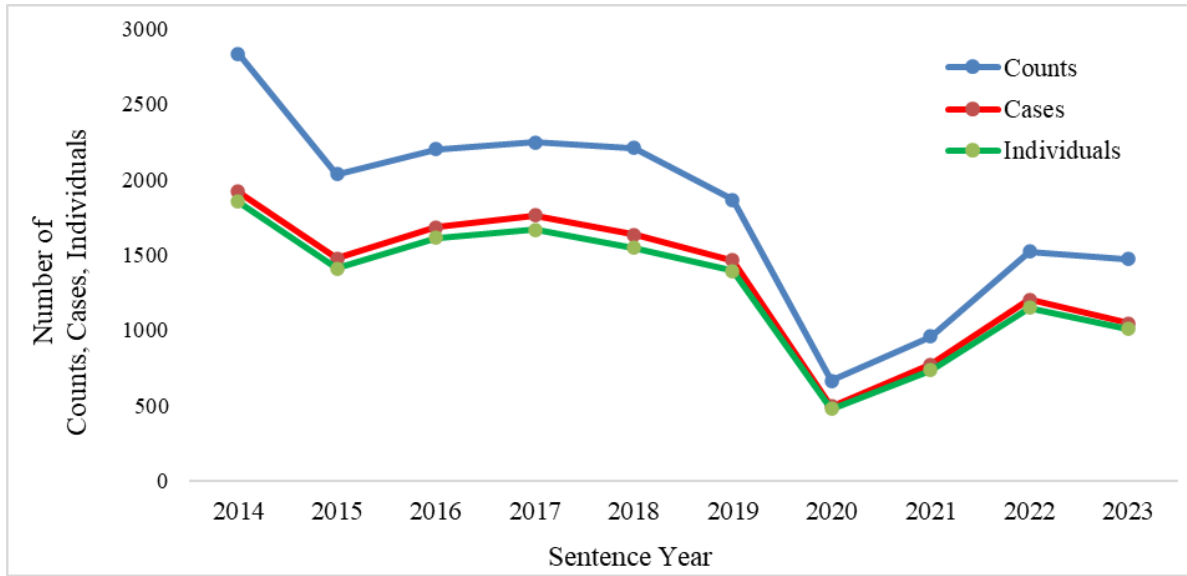
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Counts	2835	2033	2201	2244	2208	1865	664	960	1521	1473
Cases	1919	1477	1683	1762	1635	1464	495	774	1202	1046
Individuals	1854	1410	1611	1666	1546	1393	479	736	1148	1007

Figure 3 presents the disposition of felony cases sentenced from 2014 through 2023. The 2023 data aligns with trends observed in previous years, as an overwhelming majority (92%) of cases were disposed of through a plea agreement. This marks a slight decrease from 2022 where plea agreements accounted for 97% of cases, yet remains consistent with pre-pandemic levels. Historically, plea agreements were used to resolve 92% of felony cases sentenced between 2014 and 2019, on average.

The minor reduction in sentences following a plea observed in 2023 was offset by a 3.6 percentage-point increase in jury trials; 6.6% of counts were disposed of via a jury trial in 2023, which is the greatest proportion observed since 2015. The frequency of bench trials has remained extremely stable since 2014, averaging 0.7% each year. Similar to the decreases in counts, cases, and individuals sentenced (shown in Figure 2 above), an increase in jury trials also indicates that the D.C. Superior Court has resumed its normal operations.

Figure 3: Disposition Type, Case Level (2014-2023)
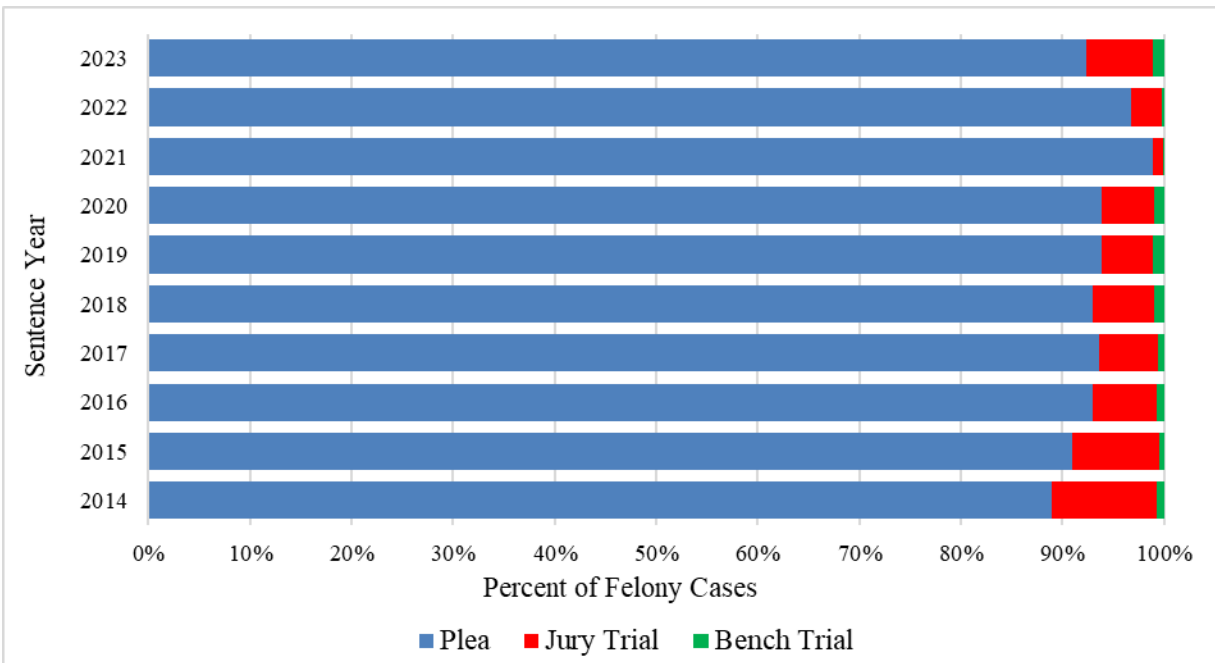
	2014	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Plea	88.9%	90.9%	93.0%	93.5%	93.0%	93.9%	93.9%	98.8%	96.8%	92.3%
Jury Trial	10.4%	8.5%	6.4%	5.8%	6.0%	5.0%	5.1%	1.0%	3.0%	6.6%
Bench Trial	0.7%	0.5%	0.7%	0.6%	1.0%	1.1%	1.0%	0.1%	0.2%	1.1%
Total Felony Cases	*1918*	*1476*	*1683*	*1762*	*1635*	*1464*	*495*	*774*	*1202*	*1046*

In 2023, 965 cases were sentenced following a plea agreement, 128 of these cases (13%) were the result of a Superior Court Criminal Rule 11(c)(1)(C) plea. A Rule 11(c)(1)(C) plea bargain is a specific type of plea wherein the prosecution and the defense agree upon a specified sentence or sentence range as part of the plea agreement. This agreement is presented to the court, which can either accept or reject the plea. If accepted, the plea agreement becomes binding on the court. Under Guidelines rules, all Rule 11(c)(1)(C) plea sentences are deemed Compliant with the Guidelines, even if the agreed upon sentence is outside of the Guidelines recommended sentencing range or type.[31]

---

[31] A sentence following an accepted Rule 11(c)(1)(C) plea is always deemed Compliant with the Guidelines for two reasons: (1) the judge is bound to impose the sentence even if it falls outside the recommended Guidelines range and/or sentencing options, and (2) the plea agreement is made before the parties receive the defendant's CH score from CSOSA.

Figure 4 illustrates the gradual increase in the proportion of felony cases sentenced following a Rule 11(c)(1)(C) plea since 2014. The greatest proportion of Rule 11(c)(1)(C) pleas (14.9%) was observed in 2020, a figure which remained constant through 2021 and 2022. This high rate of Rule 11(c)(1)(C) pleas is likely attributed to the COVID-19 pandemic given that a Rule 11(c)(1)(C) plea creates certainty in sentencing, therefore lessening the need for a jury trial.

In 2023, however, Rule 11(c)(1)(C) pleas declined by 2.5%, marking the first substantial decrease in the last 10 years. Rule 11(c)(1)(C) pleas accounted for 12% of all felony cases sentenced in 2023.

Figure 4: Proportion of Rule 11(c)(1)(C) Pleas, Case Level (2014-2023)
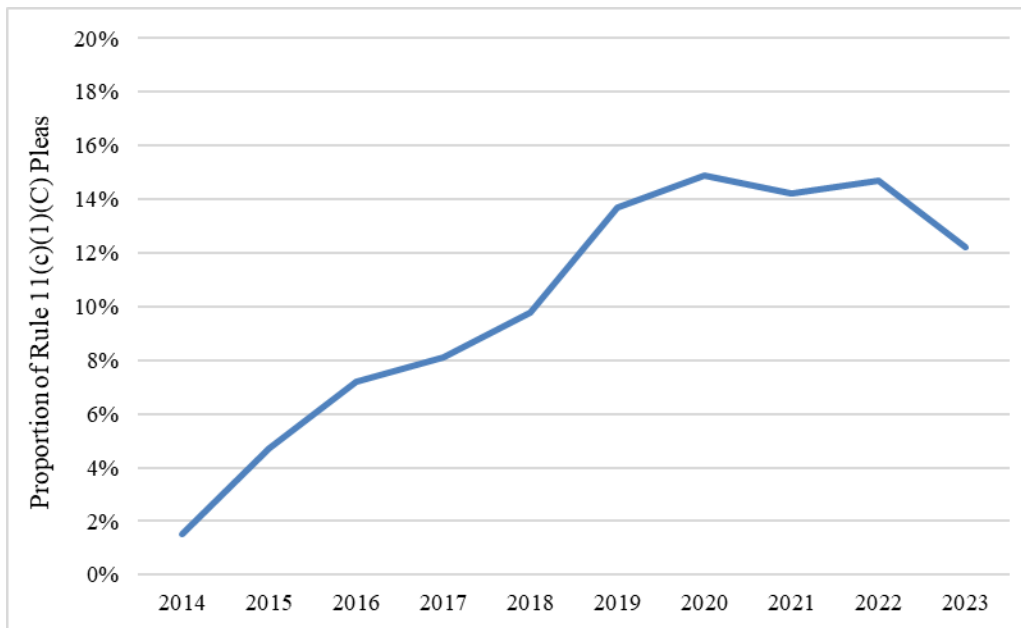
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Rule 11(c)(1)(C) Pleas	29	69	121	143	161	200	74	110	177	128
Proportion of all Felony Cases	1.5%	4.7%	7.2%	8.1%	9.8%	13.7%	14.9%	14.2%	14.7%	12.2%

The 128 cases sentenced following a Rule 11(c)(1)(C) plea consisted of 181 felony counts, which represented 12% of all counts sentenced in 2023. This shows a 5% decline from the previous year, where 17% of all counts were sentenced following a Rule 11(c)(1)(C) plea.

Figure 5: 2023 Rule 11(c)(1)(C) Pleas, Count Level (2023)
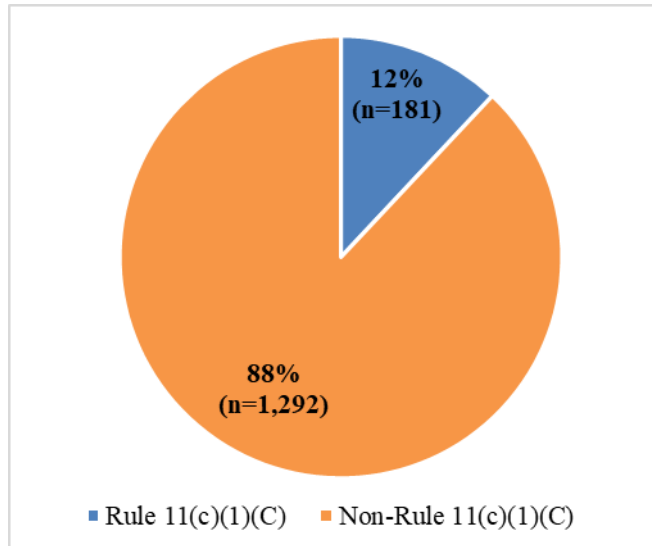
While sentences resulting from a Rule 11(c)(1)(C) plea are always considered Compliant with the Voluntary Sentencing Guidelines, the Commission is able to determine whether the resulting sentence is within the Guidelines' recommended sentencing options. The majority (84%) of Rule 11(c)(1)(C) plea sentences were Compliant in the box, meaning that both the sentence type and range followed the Guidelines recommendation. Conversely, only 15% of Rule 11(c)(1)(C) plea sentences were outside of the box, with the majority being below the Guidelines recommended sentence (81%, n=21). Two percent of counts following a Rule 11(c)(1)(C) pleas were sentenced without a criminal history score, and therefore in the box/outside the box Compliance cannot be determined.

Table 3: Distribution of Rule 11(c)(1)(C) Pleas (2023)

11(c)(1)(C) Plea Type		
Compliant In the Box		152 (84%)
Compliant out of the Box	*Above Box*	5 (3%)
	Below Box	21 (12%)
No CH Score		3 (2%)

Most Rule 11(c)(1)(C) pleas were imposed for Violent offenses followed by Weapon offenses; these offense categories represented 36% and 28% of all Rule 11(c)(1)(C) pleas, respectively. When analyzing the use of Rule 11(c)(1)(C) pleas within specific offense types it was concluded that Murder sentences had the greatest rate of Rule 11(c)(1)(C) plea sentences. Just over half (51%, n=43) of all Murder counts were sentenced following a Rule 11(c)(1)(C) plea. In comparison, 30% (n=13) of Sex offense and 15% (n=65) of Violent offense sentences were the result of Rule 11(c)(1)(C) pleas. Less than 10% of counts were resolved via a Rule 11(c)(1)(C) plea for all remaining offense categories (Weapon, Property, Drug, and Other).

1. Sentence Type

The Commission classifies sentences into three categories: prison, short split, and probation.[32]

Short Split vs. Probation

It is important to clarify the distinction between probation and short split sentences, as defined by the Commission. A short split sentence is one in which the total sentence imposed is within the D.C. Voluntary Guidelines recommended sentencing range, and all but six months or less of the sentence is suspended. After release, the defendant is placed on a period of supervision for up to five years. When a defendant is sentenced to short split, they will spend a limited amount of time in jail (between one day and six months), followed by a term of probation (up to five years). If the defendant's supervision is later revoked, the Court can impose the unserved portion of their sentence. Comparatively, a probation sentence is one in which the entirety of the sentence imposed is suspended and the defendant is placed on a period of supervision.

The Sentencing Commission's internal data system distinguishes short split sentences from probation sentences based on two factors: 1) the portion of the sentence that has been suspended, and 2) whether there is mention of "time served" in the sentencing docket; if the entirety of the sentence is suspended _and_ the sentencing docket text includes "time served" then the sentence is classified as short split, because the Court is recognizing that some amount of time has already been served. Without such notation, a completely suspended sentence is classified as a probation sentence. Note that the Commission does not currently receive any information from the Court or the Department of Corrections (DOC) as to the *amount* of time served in any case.

Under the Guidelines, a prison sentence is an available sentencing option in every Grid box. However, only 22% of the Grid boxes on the Master Grid (10 out of 45) provide a probation or short split Guidelines Compliant sentence option.[33] These types of sentences are typically imposed for less severe offenses and/or individuals with a limited CH score.[34]

From 2014 to 2022, probation was imposed for an average of 25% of felony counts sentenced each year. In 2023, however, the proportion of felony counts sentenced to probation dropped significantly to 15.3%, marking a 12% decrease compared to 2022. This decrease was offset by a 12% increase in prison sentences, which represented 68.5% of all felony sentences in 2023. Notably, 2023 represents the greatest proportion of prison sentences and the lowest proportion of probation sentences imposed since 2014.[35] Short split sentences have shown remarkable consistency during this timeframe, accounting for 17.5% of sentences on average each year.

---

[32] Prison sentences include long split and life sentences. *See* Section IV.A of Chapter 4 for the definition of a Compliant long split sentence.

[33] *See* Chapter 4 Section I for a detailed explanation of the Guidelines structure and Appendices A and B for the Master and Drug Grids. Seventy percent (70%) of the boxes on the Drug Grid (14 out of 20) allow for a Guidelines Compliant probation or short split sentence.

[34] Some offenses are subject to mandatory minimum sentencing provisions, which require a judge to impose a minimum prison term, even if the individual was otherwise eligible for a short split or probation sentence under the Guidelines.

[35] 69% of felony counts sentenced in 2014 received a prison sentence.

Figure 6: Sentence Type, Count Level (2014-2023)
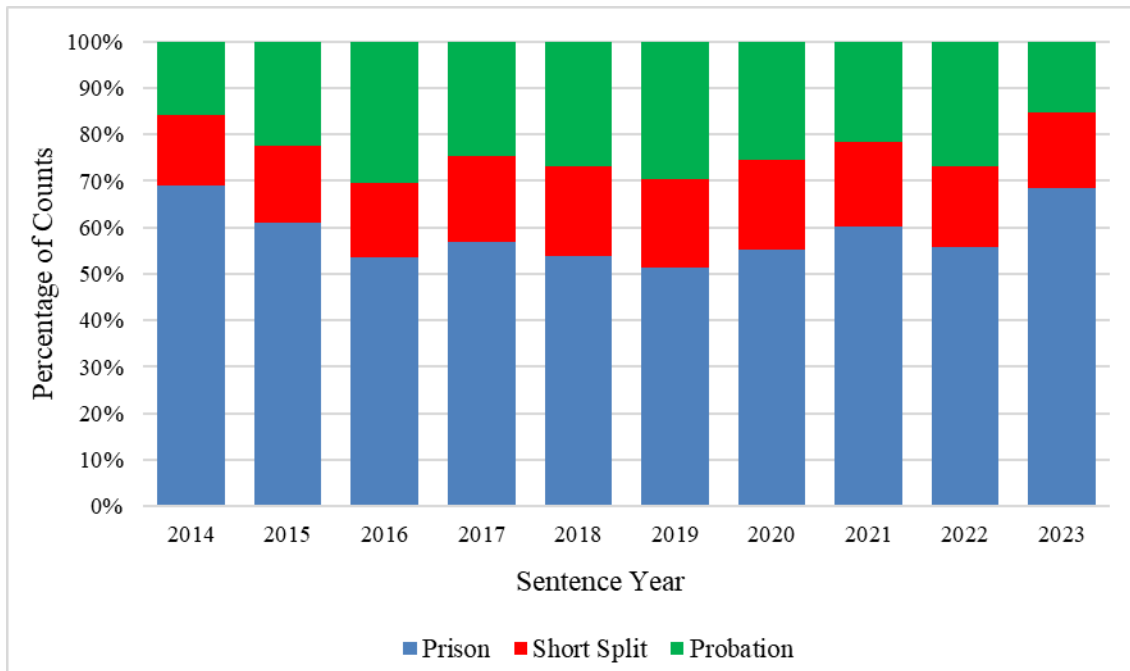
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Prison	69.0%	61.0%	53.6%	56.9%	53.8%	51.5%	55.3%	60.3%	55.7%	68.5%
Short Split	15.1%	16.5%	15.9%	18.4%	19.2%	18.9%	19.3%	18.1%	17.3%	16.2%
Probation	15.8%	22.4%	30.3%	24.7%	27.0%	29.6%	25.5%	21.6%	27.0%	15.3%
Total Counts	*2835*	*2033*	*2201*	*2244*	*2208*	*1865*	*664*	*960*	*1521*	*1473*

Similar trends are observed when this analysis is repeated at the **case level**, which is presented in Figure 7. Note that the analysis presented in Figure 6 above is performed at the count level, which reports on the sentences imposed for all felony counts sentenced.[36] In a case level analysis, cases with multiple felony convictions are represented by the most serious count (MSC) sentenced. The MSC is what often drives the overall sentence of the case, and therefore is reflective of the overall sentence type imposed. Similar to the count level analysis, 2023 represents the greatest proportion of case level prison sentences (62%), and the lowest proportion of case level probation sentences (19%) imposed since 2014.

---

[36] A single case can contain multiple felony counts.

Figure 7: Sentence Type, Case Level (2014-2023)
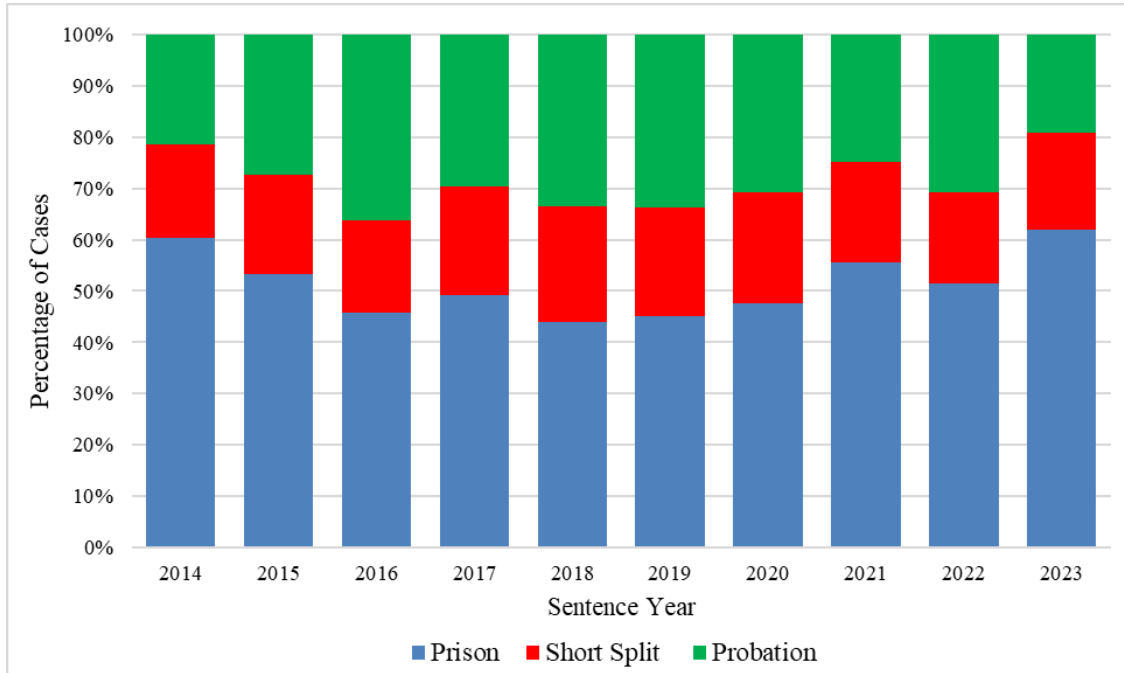
	2014	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Prison	60.3%	53.2%	45.8%	49.2%	44.0%	45.1%	47.7%	55.7%	51.5%	62.0%
Short Split	18.2%	19.5%	17.9%	21.2%	22.6%	21.2%	21.6%	19.5%	17.7%	18.9%
Probation	21.4%	27.3%	36.2%	29.6%	33.5%	33.7%	30.7%	24.8%	30.8%	19.1%
Total Cases	*1919*	*1477*	*1683*	*1762*	*1635*	*1464*	*495*	*774*	*1201*	*1046*

As discussed, prison is an available sentencing option in **every** Grid box on both the Master and Drug Grids. The majority (78%) of Master Grid boxes are presumptive prison boxes, meaning that the imposition of a non-prison sentence would be considered a Departure from the Guidelines. In contrast, short split sentences are available in 22% of Grid boxes, while probation is an option in only 13% of the boxes on the Master Grid.

Figure 8 illustrates the sentence type distribution within each region of the Master Grid, which is color-coded to identify the recommended sentencing options.[37] Similar to Figure 7 above, this analysis is also performed on the case level.[38]

Forty percent (n=393, 40%) of all non-Drug felony cases sentenced in 2023 fell into a probation eligible box. Of these 393 cases, only 147 received a probation sentence, accounting for 37% of all cases sentenced within this region of the Master Grid (i.e., yellow-shaded boxes). Twenty-eight percent (28%) of cases sentenced in probation eligible boxes received a prison sentence and 34%

---

[37] Yellow shaded boxes indicate that probation, short split, and prison are all available sentencing options. Green boxes indicate short split and prison sentences, and white corresponds to prison only. *See* Appendix A for a copy of the Master Grid.

[38] Note that the 19 cases where defendant criminal history information is not available (because the Superior Court did not request a PSI Report or a CH score calculation) are excluded from this analysis.

received a short split sentence. Therefore, in 2023, 62% of convictions for offenses in probation eligible boxes resulted in the defendant receiving either a short split or incarceration sentence.[39]

Prison sentences accounted for 76% of cases sentenced in the four green shaded (i.e., short split and prison eligible) Grid boxes on the Master Grid. Furthermore, an overwhelming majority (98%) of cases sentenced in presumptive prison boxes (white boxes) resulted in prison sentences. Figure 8 below illustrates the distribution of sentence type within each region of the Master Grid.

As depicted by the green and yellow portions of the far-left column of Figure 8, and the yellow portion of the middle column, 25 sentences for non-Drug felony cases did not follow the Guidelines recommended sentence type in 2023. These sentences are referred to as Dispositional Departures from the Guidelines. A comprehensive analysis of Guidelines departures is presented in the Compliance Analysis section beginning on page 63.

Figure 8: Sentence Type Distribution by Grid Region, Case Level (2023)

---
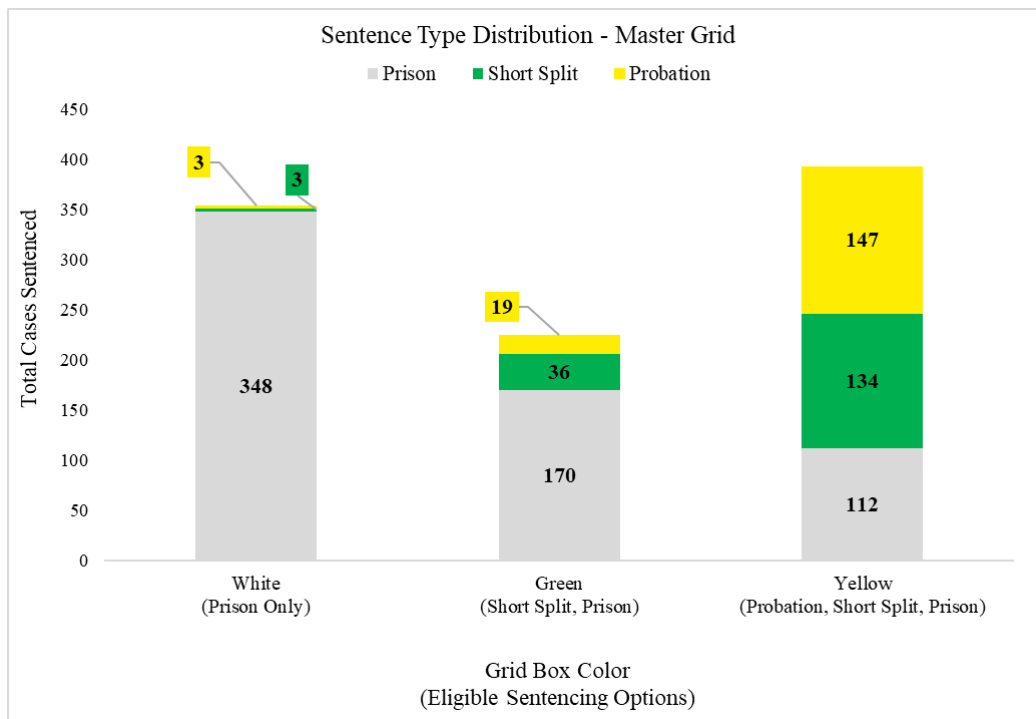
[39] Short split sentences result in a period of incarceration between one day and six months, while prison sentences result in a period of incarceration within the Guidelines recommended sentencing range.

Table 4: Sentence Type Distribution by Grid Region, Case Level (2023)

Sentence Type Imposed - Case Level				
Eligible Sentence Types	Prison	Short Split	Probation	Total
White *(Prison Only)*	98% 348	1% 3	1% 3	354
Green *(Short Split, Prison)*	76% 170	16% 36	8% 19	225
Yellow *(Probation, Short Split, Prison)*	28% 112	34% 134	37% 147	393
Total Sentences <u>Imposed</u>	(65%) 630	(18%) 173	(17%) 169	972

Note that the last row in the above table represents the distribution of sentence types *imposed*, at the case level.

This information is also presented at the <u>count level</u> in Table 5, where it was found that a slightly greater proportion of *counts* sentenced in probation eligible boxes received prison and short split sentences when compared to the case level analysis. These increases are offset by a decrease in probation sentences; at the case level, 37% of <u>cases</u> in probation eligible boxes received a probation sentence, whereas 30% of <u>counts</u> in probation eligible boxes received a probation sentence.

Table 5: Sentence Type Distribution by Grid Region, Count Level (2023)

Sentence Type Imposed - Count Level				
Eligible Sentence Types	Prison	Short Split	Probation	Total
White *(Prison Only)*	99% 521	1% 3	1% 3	527
Green *(Short Split, Prison)*	80% 239	13% 38	7% 20	297
Yellow *(Probation, Short Split, Prison)*	40% 227	30% 167	30% 167	561
Total Sentences <u>Imposed</u>	(71%) 987	(15%) 208	(14%) 190	1,385

2. Offense Severity Group

In 2023, only 4.7% of adult felony sentences were the result of a Drug-related conviction, the vast majority (95.3%) of felony sentences imposed were for non-Drug offenses. This marks the lowest proportion of Drug counts ever observed by the Commission. Figure 9 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.
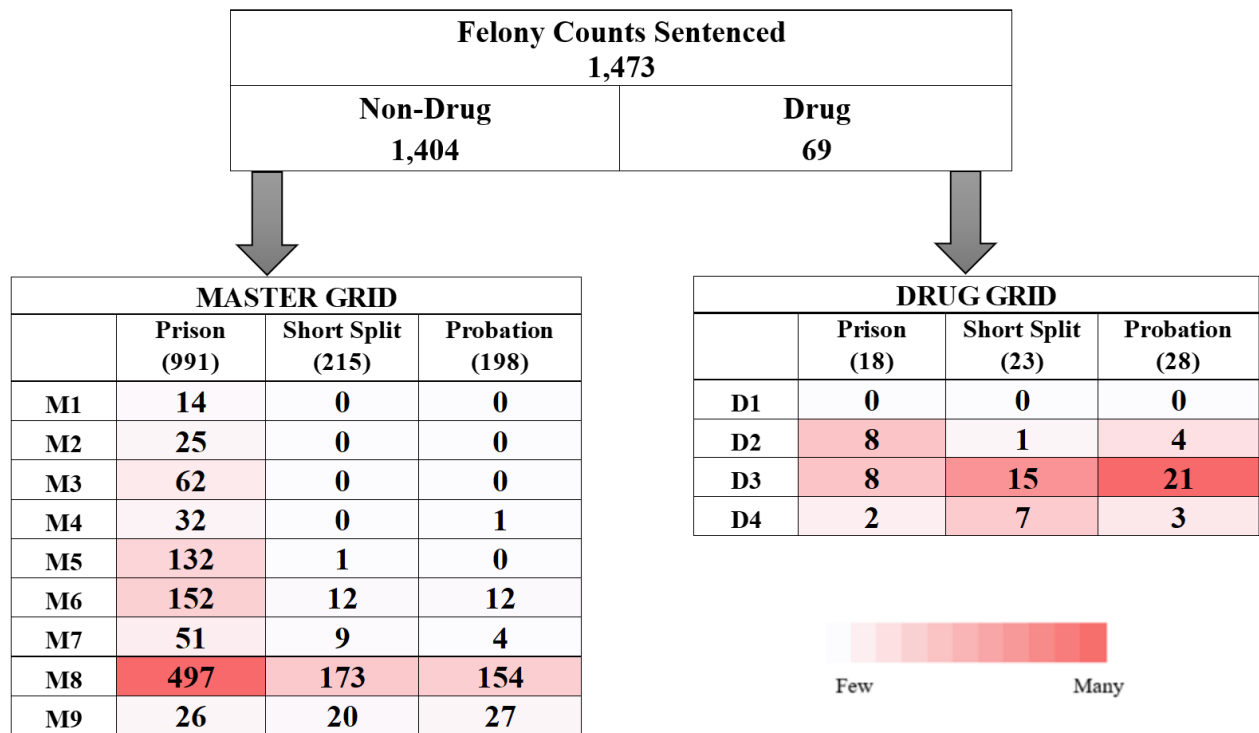
<u>Master Grid (left)</u>

Prison was the most frequently imposed sentence type on the Master Grid in 2023, comprising 70% of all non-Drug felony offenses sentenced. Short split and probation sentences each represented approximately 14.5% of non-Drug sentences. The majority (80%) of short split and probation sentences were imposed for offenses ranked in Master Groups 8 and 9.

Consistent with previous years, over half (57%, 824 counts) of non-Drug sentences were for offenses ranked in M8. This OSG contains offenses such as Carrying a Pistol Without a License (CPWL), Unlawful Possession of a Firearm-Prior Felony (UPF-PF), and Attempted Assault with a Dangerous Weapon (ADW).[40] Sixty percent (60%) of M8 convictions resulted in a prison sentence, demonstrating a 13-percentage point increase from the previous year; in 2022 just under half (47%) of M8 offenses received a prison sentence.

It is worth noting that the single count in Master Group 4 that received a probation sentence was for a voluntary manslaughter conviction, imposed following a Rule 11(c)(1)(C) plea.

Figure 9: Counts Sentenced by Offense Severity Group (2023)

Felony Counts Sentenced 1,473	
Non-Drug 1,404	Drug 69

MASTER GRID			
	Prison (991)	Short Split (215)	Probation (198)
M1	14	0	0
M2	25	0	0
M3	62	0	0
M4	32	0	1
M5	132	1	0
M6	152	12	12
M7	51	9	4
M8	497	173	154
M9	26	20	27

DRUG GRID			
	Prison (18)	Short Split (23)	Probation (28)
D1	0	0	0
D2	8	1	4
D3	8	15	21
D4	2	7	3

Few   Many

Drug Grid (right)

In 2023, probation sentences were imposed in only 40% of felony Drug convictions, marking the lowest proportion of probation sentences for Drug offenses since 2014. Historically, between 47% and 60% of Drug counts were sentenced to probation each year. This decrease is offset by increased rates in both prison and short split sentences. The number of prison sentences (n=18) remained unchanged from 2022, however prison sentences constituted a greater *proportion* of felony Drug sentences in 2023 (26% vs. 17%) due to the reduced number of felony Drug offenses sentenced during the year. Similarly, the number of short split sentences remained consistent but accounted for one-third (33%) of all Drug sentences imposed in 2023, compared to 25% in 2022.

---

[40] Combined, these three offenses accounted for 66% of all M8 convictions.

The majority of sentenced Drug offenses were ranked in D3, with Possession with Intent to Distribute a Controlled Substance (PWID) being the most frequent offense sentenced within this category. PWID accounted for 66% of D3 sentences in 2023.

The charts in Figure 10 show the average CH score for each OSG, broken down by sentence type. The yellow and green shading matches the color coding used on the Master and Drug Grids to differentiate between the Guidelines available sentencing options. This information is presented at the count level.

The below analysis reveals that individuals receiving short split and probation sentences typically have lower CH scores than those who are sentenced to prison. This trend is particularly evident for all Drug offenses and for offenses ranked in OSGs 6 through 9 on the Master Grid. For example, the average CH score for individuals sentenced to prison for offenses in Master Group 8 is 2.5 points, compared to 0.5 points for those receiving a probation sentence for similarly ranked offenses.[41] This observation underscores that the Guidelines are functioning as intended: defendants with lengthier criminal histories tend to receive a more severe sentence.

Figure 10: Offense Severity Group by Sentence Type and Average CH Sore, Count Level (2023)

MASTER GRID

Proportion of Sentence Type by OSG
Average CH Score

	Prison (991)	Short Split (215)	Probation (198)
M1	100% 1.5	-	-
M2	100% 2.6	-	-
M3	100% 1.4	-	-
M4	97% 1.7	-	3% 0.0
M5	99% 1.4	1% -	-
M6	86% 2.0	7% 0.1	7% 0.4
M7	80% 2.9	14% 0.3	6% 0.1
M8	60% 2.5	21% 0.9	19% 0.5
M9	36% 2.2	27% 1.1	37% 0.9

DRUG GRID

Proportion of Sentence Type by OSG
Average CH Score

	Prison (18)	Short Split (23)	Probation (28)
D1	-	-	-
D2	62% 2.2	31% 1.5	8% 1.0
D3	18% 3.1	48% 1.8	34% 1.2
D4	17% 2.6	25% 1.8	58% 1.6

---

[41] The Commission does not have access to the full composition of an individual's CH score, though it is generally implied that a criminal history of less than 1 only consists of misdemeanor convictions and/or recent juvenile adjudications (if the defendant was under the age of 25 at the commission of the instant offense).

Figure 11 presents the distribution of counts sentenced in each OSG over the past 10 years; each cell represents the proportion of all felony counts sentenced for that given calendar year while the gradient colors indicate which OSGs had the most felony counts sentenced. A darker red signifies a higher volume of sentences within a particular severity group, whereas white or pale red indicates fewer sentences.

The majority (55.9%) of all felony sentences imposed in 2023 were for offenses ranked in Master Group 8. This is a small decline from the previous two years, though is consistent with historical trends.[42] The downward shift in M8 sentences is offset by an increase of the same magnitude (3.4%) in M5 sentences. M5 sentences increased from 5.6% to 9% in 2023, which is primarily driven by an increase in the number of Possession of a Firearm During a Crime of Violence (PFCOV) sentences. PFCOV sentences nearly doubled in 2023, from 34 sentences in 2022 to 59 sentences in 2023.

Master Groups M3 and M4 also experienced slight increases in 2023. Collectively, these minor fluctuations show an overall increase in the number of high severity offenses sentenced; Master Groups 1 through 5 represented 18.1% of all non-Drug felony sentences in 2023, compared to only 11.8% in 2022. This shift aligns with the 12% increase in prison sentences also observed in 2023, as prison is the only available sentencing option among the top five OSG's.

Drug offenses have been steadily declining since 2017, reaching an all-time low in 2023 where they accounted for only 4.7% of all adult felony sentences.

Figure 11: Felony Sentences Imposed by Offense Severity Group, Count Level (2014-2023)

OSG	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2023 TOTAL
M1	0.9%	0.7%	0.5%	0.4%	1.4%	0.6%	0.0%	0.3%	0.2%	1.0%	
M2	1.6%	2.1%	1.5%	1.1%	1.4%	2.0%	1.8%	1.3%	1.6%	1.7%	
M3	2.9%	2.7%	1.5%	1.8%	2.2%	2.1%	1.4%	1.0%	3.0%	4.2%	18.1%
M4	1.7%	1.8%	1.2%	0.9%	1.2%	1.6%	2.6%	1.5%	1.4%	2.2%	
M5	13.6%	10.1%	9.1%	8.3%	9.4%	6.8%	6.8%	5.8%	5.6%	9.0%	
M6	10.2%	13.7%	15.1%	16.2%	12.9%	13.0%	14.6%	14.8%	11.6%	11.9%	16.3%
M7	8.1%	11.4%	11.4%	12.0%	9.8%	3.4%	4.4%	5.2%	4.8%	4.3%	
M8	33.6%	31.9%	32.1%	29.1%	35.6%	50.0%	50.0%	58.0%	59.5%	55.9%	60.9%
M9	10.8%	10.2%	7.0%	5.1%	5.7%	7.1%	8.3%	4.6%	5.3%	5.0%	
NON-DRUG	**83.4%**	**84.6%**	**79.5%**	**75.0%**	**79.6%**	**86.8%**	**89.8%**	**92.5%**	**93.0%**	**95.3%**	**95.3%**
D1	0.3%	0.1%	0.2%	0.2%	0.2%	0.1%	0.0%	0.3%	0.1%	0.0%	
D2	5.7%	5.3%	5.1%	6.1%	4.6%	3.9%	2.9%	1.0%	0.9%	0.9%	4.7%
D3	8.6%	7.9%	11.7%	13.9%	13.1%	7.6%	6.9%	5.2%	4.7%	3.0%	
D4	2.0%	2.0%	3.5%	4.8%	2.5%	1.6%	0.5%	0.9%	1.3%	0.8%	
DRUG	**16.6%**	**15.3%**	**20.5%**	**25.0%**	**20.4%**	**13.2%**	**10.2%**	**7.5%**	**7.0%**	**4.7%**	**4.7%**

---

[42] Note that there was a prominent increase in the proportion of M8 offenses sentenced in 2019, which is attributed to the Commission's re-ranking of Unlawful Possession of a Firearm – Prior Felony from OSG M7 to OSG M8. The change took effect in July 2018.

3. Offense Type

Listed below are the Commission's offense categories and common offenses within each category:[43]

- 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:
  - <u>Homicide:</u> First Degree Murder, Second Degree Murder, Voluntary and Involuntary Manslaughter;[44]
  - <u>Violent Offenses:</u> Robbery (Armed, Unarmed, and Attempted), Assault with a Dangerous Weapon (ADW), Aggravated Assault, Carjacking, and Kidnapping;
  - <u>Sex Offenses:</u> all degrees of Sexual Abuse, Child Sexual Abuse, and Human Trafficking offenses;
  - <u>Property Offenses:</u> Arson, First Degree Burglary, Second Degree Burglary, First Degree Theft, Felony Receiving Stolen Property, Unauthorized Use of a Vehicle, Fraud, and Forgery;
  - <u>Weapon Offenses:</u> Carrying a Pistol without a License (CPWL), Unlawful Possession of a Firearm with a Prior Felony (UPF-PF),[45] Unlawful Possession of a Firearm with a Prior Crime of Violence (UPF-PCOV),[46] and Possession of a Firearm During a Crime of Violence (PFCOV);[47] and
  - <u>Other Offenses:</u> Prison Breach, Fleeing Law Enforcement, Obstruction of Justice, and Bail Reform Act ("BRA") violations.[48]

At a general level, the Commission uses these categories to classify offenses into three broader categories: Violent, Non-Violent, and Drug. The broad Violent offense category is comprised of Homicide, Violent, and Sex offenses, and the broad Non-Violent offense category includes Property, Weapon, and Other offenses. Historical sentencing trends for these three broad categories are presented in Figure 12 below.[49]

All three offense categories have experienced gradual declines since 2014, though note that the dramatic decreases observed in 2020 are largely attributed to the COVID-19 pandemic and its impact on D.C. Superior Court operations. Following this period, Violent and Non-Violent offense

---

[43] *See* Appendix D for additional information regarding sentences by offense type. *See* Appendix C-1 of the Guidelines Manual for statute codes and other information regarding each offense.

[44] 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.

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

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

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

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

[49] *See* page 43 for an explanation on the differences between Violent crimes (as defined by the Commission) and D.C. Crimes of Violence.

convictions appear to have resumed to pre-pandemic levels, however Drug offense convictions have remained low. Between 2014 and 2019, Drug offenses constituted 18.5% of all felony sentences, on average, compared to only 7.3% between 2020 and 2023.

Convictions for both Violent and Non-Violent offenses have substantially increased since 2020, with Non-Violent offenses increasing at a faster rate than Violent offenses. Between 2020 and 2022, on average, Non-Violent offense convictions increased by 61% each year, while Violent offense convictions only increased by 46%. However, rates of change slowed in 2023 as convictions for Violent offenses only increased by 3.6% and convictions for Non-Violent offenses *decreased* by 3.6%.

More information pertaining to sentencing trends among Violent and Weapon offense convictions can be found beginning on page 39.

Figure 12: Sentenced Violent and Non-Violent Counts (2014-2023)
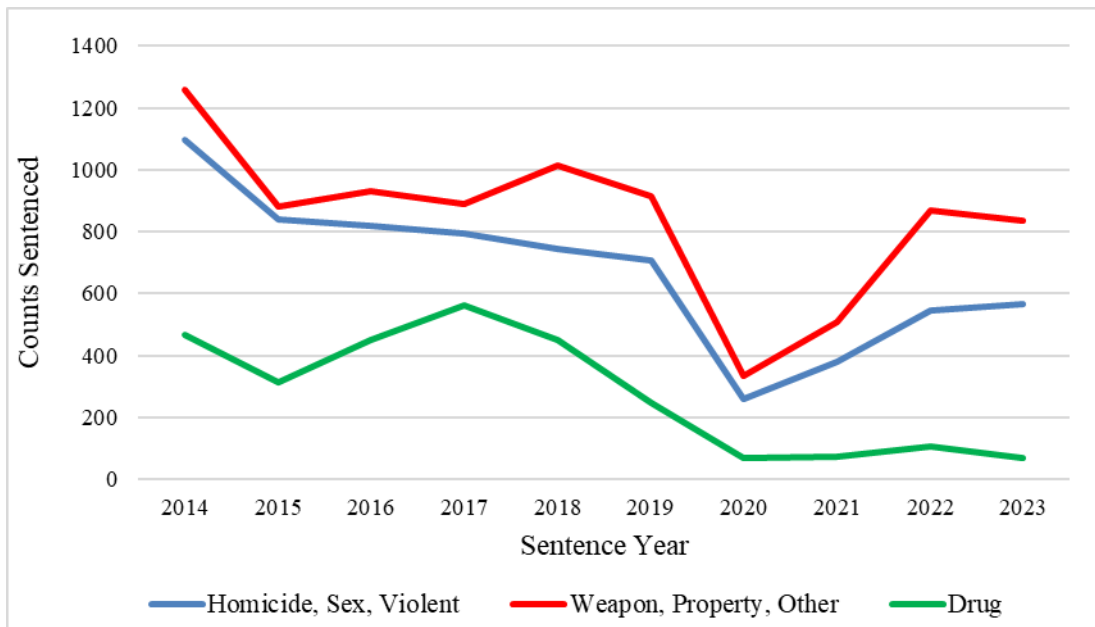
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
<u>Violent</u> *Homcide* *Sex* *Violent*	1095	838	819	795	743	705	260	381	547	567
<u>Non-Violent</u> *Weapon* *Property* *Other*	1257	883	930	888	1014	914	336	507	868	837
<u>Drug</u>	468	312	452	561	451	246	68	72	106	69
Total Counts	*2835*	*2033*	*2201*	*2244*	*2208*	*1865*	*664*	*960*	*1521*	*1473*

Figure 13 presents the distribution of sentences in 2023 by offense category, at the count level. Overall, felony non-Drug offenses represented approximately 95% of all counts sentenced, with

Violent and Weapon offenses accounting for approximately 72% of all felony counts sentenced. The Weapon offense category was the largest category, representing 42% of all sentences.

Figure 13: Offense Categories, Count Level (2023)
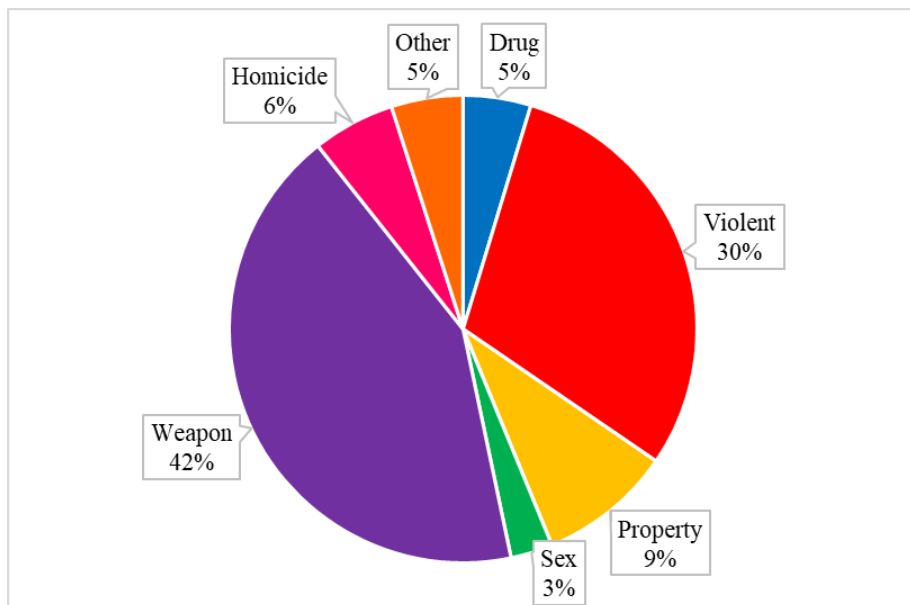
Figure 14 compares the distribution of offense categories for sentences imposed in 2022 and 2023. The trends observed in 2023 closely reflect those of 2022, where changes in offense categories only fluctuated by an average of 1.6%. The largest shift (3.5%) was observed for Weapon offenses, which declined from 46.1% in 2022 to 42.6% in 2023. Similarly, Drug offenses decreased by 2.3% in 2023, accounting for only 4.7% of all felony counts sentenced; this is the lowest reported percentage of Drug offenses ever reported by the Commission. All other offense categories (Homicide, Sex, Violent, Property, and Other) contributed a slightly greater proportion of felony sentences compared to the previous year.

Overall, both the total number of counts sentenced and the distribution of sentences across all offense categories have remained largely unchanged in 2023 when compared to 2022. Like other analyses in this report, this suggests a stabilization in sentencing trends following the COVID-19 pandemic.

Figure 14: Offense Categories, Count Level (2022 and 2023)
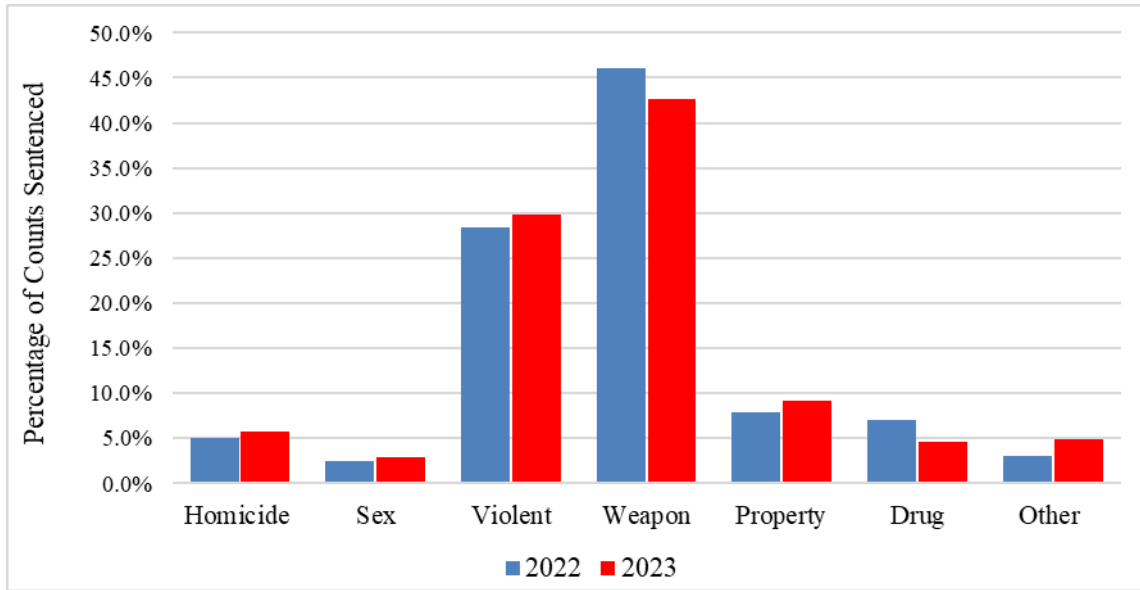
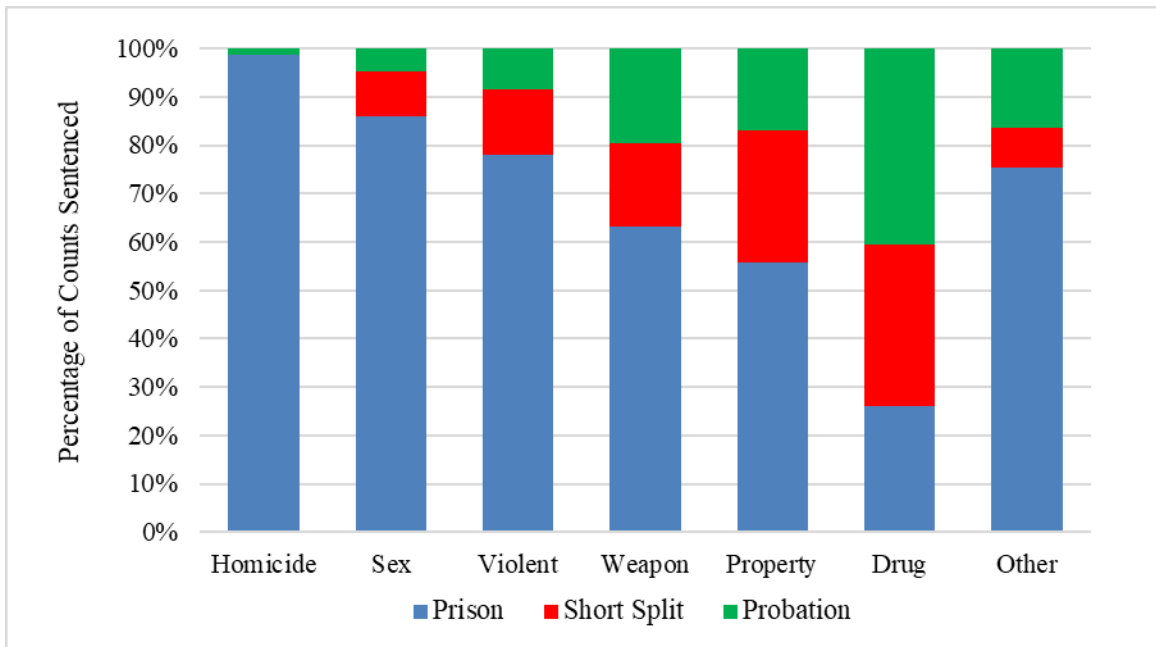|	Homicide	Sex	Violent	Weapon	Property	Drug	Other	Total
2022	76	38	433	701	121	106	46	*1521*
	5%	*2.5%*	*28.5%*	*46.1%*	*8%*	*7%*	*3%*	
2023	84	43	440	628	136	69	73	*1473*
	5.7%	*2.9%*	*29.9%*	*42.6%*	*9.2%*	*4.7%*	*5%*	
Total Counts	*160*	*81*	*873*	*1329*	*257*	*175*	*119*	*2994*

Figure 15 illustrates the distribution of sentence types among each offense category. In 2023, prison sentences were imposed for 68.5% of all felony counts sentenced, demonstrating a 12% increase from the previous year. This increase was largely attributed to the increase in prison sentences imposed for Weapon offenses; less than half (44%) of felony Weapon counts received a prison sentence in 2022 compared to 63% in 2023. This data aligns with 2021 trends, where 57% of Weapon offenses resulted in prison sentences. Prison was the predominant sentence type across all offense categories, though Drug offenses remained an exception as only 26% of Drug sentences received a prison sentence. This is consistent with the historical trends, where an average 25% of Drug counts resulted in prison sentences each year since 2014.

One Homicide count received a probation sentence: a Voluntary Manslaughter conviction sentenced following a Rule 11(c)(1)(C) plea. Additionally, two Sex offenses received probation sentences; both were for offenses that are ranked in M8 where the probation sentence was Compliant with the Guidelines given the CH scores of the sentenced individuals.[50]

---

[50] The two Sex offenses ranked in M8 were Attempted Third Degree Sex Abuse and Attempted Second Degree Child Sex Abuse.

Figure 15: Offense Category by Sentence Type, Count Level (2023)

|	**Homicide**	**Sex**	**Violent**	**Weapon**	**Property**	**Drug**	**Other**	**Total**
Prison	83	37	343	397	76	18	55	1009
Short Split	0	4	60	108	37	23	6	238
Probation	1	2	37	123	23	28	12	226
Total	*84*	*43*	*440*	*628*	*136*	*69*	*73*	***1473***

Figure 16 depicts the historical sentencing trends for Violent and Weapon offenses, which have both been volatile since 2014. Most notable among these trends is the shift in the dominant offense category. Prior to 2018, Violent offenses were the most frequently sentenced offense type, though the number of Violent sentences has gradually declined over the last decade. This decline has been offset by a more rapid increase in Weapon sentences.[51] 2018 was the first year where the number of Weapon sentences surpassed that of Violent sentences. This trend has remained constant ever since as Weapon offenses have been the leading offense type sentenced each year (with the exception of 2020), in respect to both the number and proportion of felony counts sentenced. However, the 10% decrease in Weapons sentences observed in 2023, accompanied by the 1.6% increase in Violent offenses suggests that these two offense categories may be approaching another convergence.

Due to the time it takes cases to proceed through the District's criminal justice system, sentencing events typically occur months or even years after the offense was committed. Therefore, sentencing trends are not always reflective of *current* crime trends, however, they do correlate to

---

[51] It is important to acknowledge that the extreme increases observed in 2021 and 2022 are largely attributed to the D.C. Superior Court gradually resuming its normal operations and the ability to process the accumulated backlog of lower severity cases.

recent crime and arrest patterns.[52] The Commission will continue to monitor these trends into 2024.

Figure 16: Sentenced Violent and Weapon Offense Counts (2014-2023)
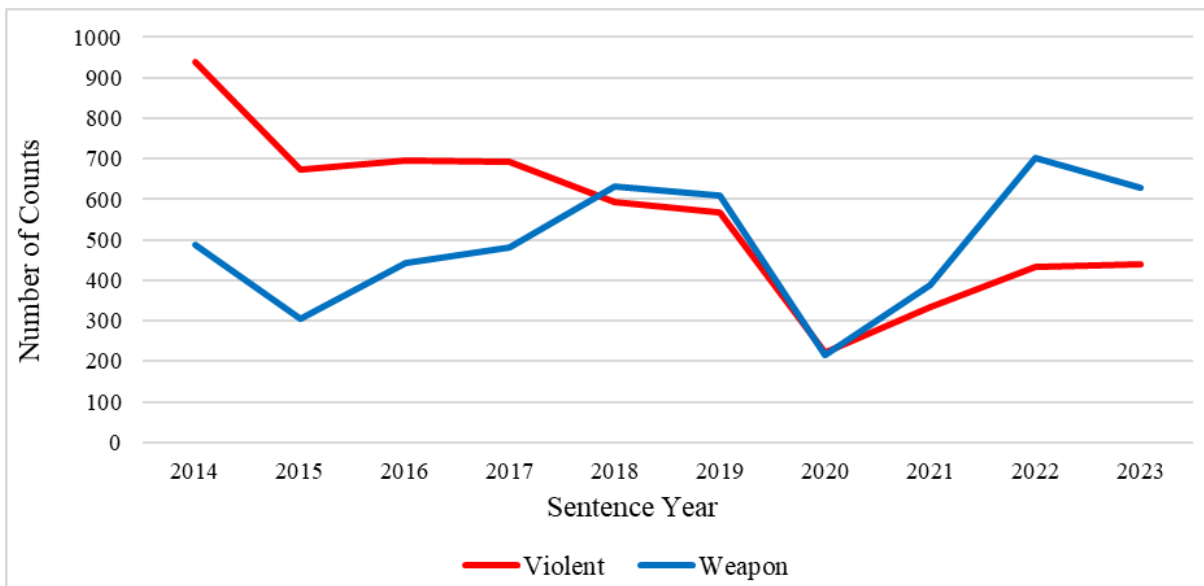
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Violent	939	674	697	692	593	567	221	333	433	440
Weapon	488	306	444	481	632	609	216	387	701	628
Combined Percentage of all Felony Counts	*50.3%*	*48.2%*	*51.8%*	*52.3%*	*55.5%*	*63.1%*	*65.8%*	*75.0%*	*74.6%*	*72.5%*

Combined, Violent and Weapon offenses represented 72.5% of all felony counts sentenced in 2023. Although this is consistent with recent trends, the numbers reported between 2021 and 2023 are much greater than previous years where, on average, Violent and Weapon sentences represented 55% of all counts sentenced (years 2014-2020).

The following analysis further examines sentencing trends for these two prominent offense categories.

Weapon Offenses:

There were 628 Weapon offenses sentenced in 2023, representing 42% of all felony counts sentenced. Just over half (52%, n=539) of all adult felony cases contained at least one Weapon offense. A Weapon count was the Most Serious Count (MSC) in 40% of all cases sentenced in 2023. Notably, Carrying a Pistol without a License (CPWL) was the MSC in 20% of cases and

---

[52] "Recent" is somewhat of an arbitrary term, as it is very dependent on the severity of the offense. More serious offenses (e.g., Murder) typically take longer to progress through the justice system, often spanning years, whereas a lower severity offense (CPWL) could have the arrest, disposition, and sentencing all occur within the same year. Regardless, the sentencing event will always occur sometime <u>after</u> the commission of the offense.

Unlawful Possession of a Firearm – Prior Conviction (UPF-PF) was the MSC in 15% of cases sentenced in 2023.[53]

At the count level, CPWL was the top Weapon offense sentenced (42%, n=265), followed by UPF-PF (34%, n=211). These two dominant offenses represented 76% of all Weapon sentences imposed in 2023, a seven percentage-point decrease compared to the previous year. The downward shift is primarily attributed to a 30% decrease in CPWL counts sentenced (380 counts to 265 counts); the number of UPF-PF sentences did not change in 2023 (211 counts to 209 counts).

The distribution of sentence type for these two dominant offenses is presented in Figure 17 below.

Figure 17: CPWL and UPF-PF Sentence Type Distribution, Count Level (2023)
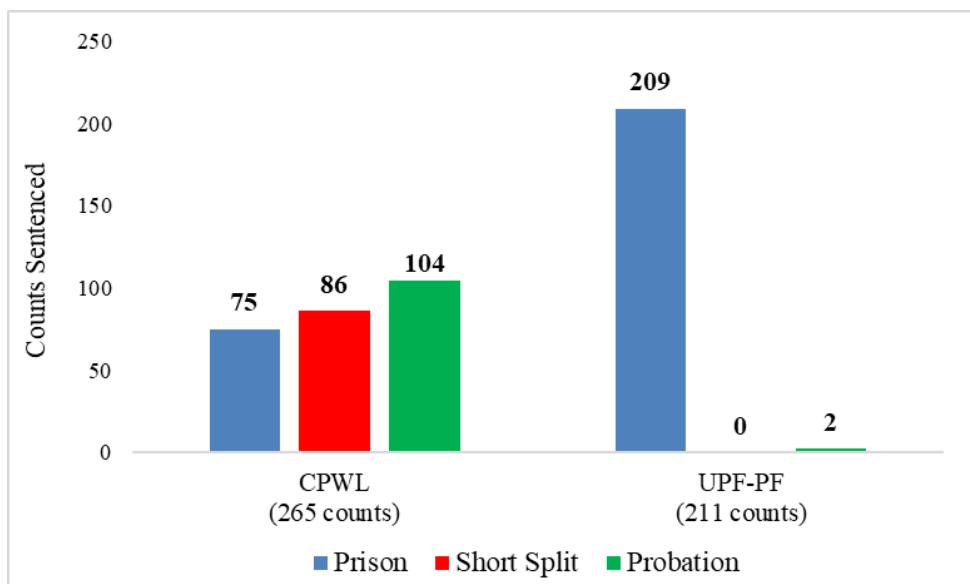
Overall, the sentence type distribution for CPWL in 2023 is relatively uniform, where short split and prison were imposed at fairly equal rates, 28% and 32%, respectively, and probation was imposed at a slightly greater rate of 40%. This is a major shift from 2022, where over half (57%) of CPWL counts were sentenced to probation and only 13% received prison sentences.

Note that a CPWL charge, rather than a UPF-PF charge, implies that the sentenced individual <u>does not</u> have a prior felony conviction, and therefore has a very limited or no criminal history. The average criminal history score of individuals convicted of CPWL was 0.9 compared to 2.9 for those convicted of UPF-PF. A low criminal history score for an offense ranked in Master Group 8 often makes a defendant eligible for a probation sentence under the Guidelines. Therefore, it is expected to see a higher rate of probation sentences for CPWL.[54] Note that the rate of probation sentences was magnified in 2022 as the Court returned to its normal operating status and regained the capacity to process the accumulated backlog of lower severity cases; 70% of CPWL counts sentenced in 2022 belonged to cases that were filed at the onset of, or during the COVID-19 pandemic (2019-2021).

---

[53] The sentence imposed for the most serious count on a case often drives the overall sentence for that case.

[54] *See* Master Grid in Appendix A.

All but two UPF-PF counts sentenced in 2023 (99%) resulted in prison sentences. The high rate of prison sentences is attributed to the one-year mandatory minimum for this offense, however the mandatory minimum can be suspended in cases that are sentenced pursuant to the Youth Rehabilitation Act (YRA).[55] Of the two UPF-PF counts that received a probation sentence, one was sentenced under the YRA, and the other received credit for time served.[56] A manual review of the latter probation sentence indicated that the defendant had served 14 months prior to their sentencing date, thus making the total sentence (when accounting for time served) greater than the 12 month mandatory minimum.

The median prison sentence imposed for the 75 CPWL counts sentenced and the 207 UPF-PF counts sentenced was 18 months, which is unchanged from 2022.

CPWL:

Figure 18 below shows a segment of the Master Grid which shows the Guidelines recommended sentencing options for CPWL and UPF-PF (labeled as "Unlawful poss. Of a firearm (prior fel.)"), which are ranked in OSG M8. As indicated by the yellow shaded boxes, probation is an eligible sentence type for individuals with a limited or no criminal history (CH Columns A and B). Short split is available in the yellow and green boxes, and a prison sentence is available in every box. It is important to acknowledge that both the Guidelines range and sentence type are voluntary, sentencing judges are only obligated to give a legal sentence. While probation may be an available sentencing option in a Grid box, judges are never obligated to impose a probation or short split sentence; a prison sentence is always an option under the Guidelines rules.

Figure 18: Master Grid - Offense Severity Group 8

	Criminal History Score				
	0 to ½ A	¾ to 1¾ B	2 to 3¾ C	4 to 5¾ D	6 + E
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 +

Figure 19 shows the distribution of CPWL sentences within each Grid box. The majority (84%, n=222) of CPWL counts fell in a probation eligible box, however, probation was imposed for only 43% (n=96) of these convictions. Similarly, 39% of CPWL counts in Grid box M8, CH column C received a short split sentence. Note that the vast majority (90%) of all CPWL convictions were the result of a plea agreement. Only 7.5% of CPWL convictions were the result of a jury trial while 3% were resolved via a bench trial.

---

[55] D.C. Code § 24-901, *et seq.*

[56] It is entirely within the sentencing judge's discretion to determine whether the YRA is an appropriate sentencing option in a case. Further, sentencing a defendant pursuant to the YRA does not affect the defendant's recommended Guidelines sentencing range or type.

Figure 19: CPWL Sentence Type Distribution by Grid Box, Count Level (2023)
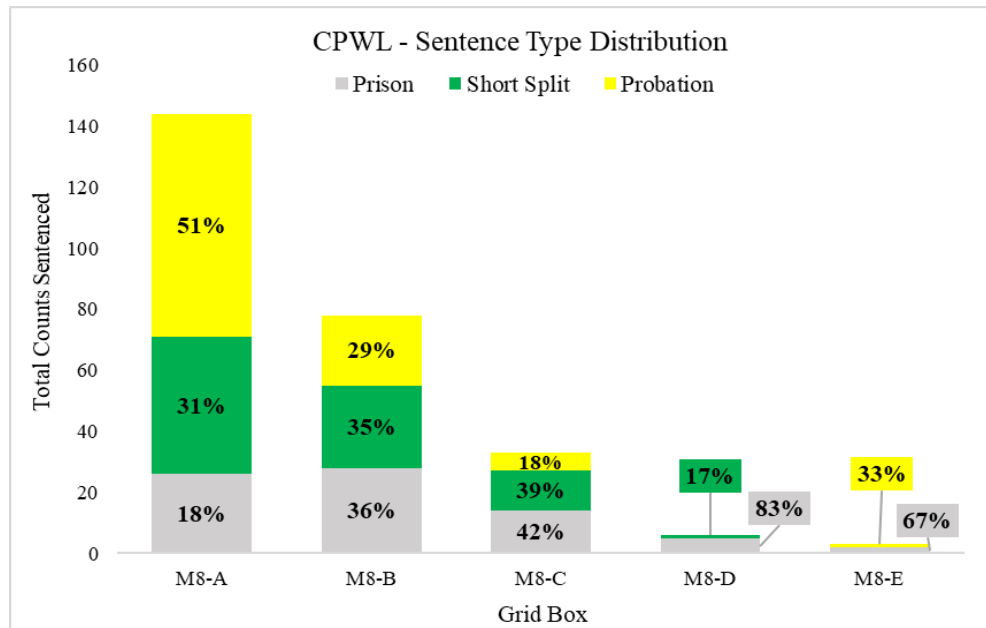
A total of eight CPWL counts resulted in sentences not recommended by the Guidelines: the single short split sentence imposed in M8-D was the result of a Rule 11(c)(1)(C) plea, while the seven probation sentences (six in M8, CH Column C and one in M8, CH Column E) all received an unknown amount of credit for time served.

Violent Offenses:

Violent offenses represented 30% of all felony sentences in 2023. There were a total of 440 Violent counts sentenced, belonging to 366 cases and 358 individuals. Violent offenses were the most serious offense of conviction in 32% of felony cases.

Consistent with previous years, Assault with a Dangerous Weapon (ADW) and Robbery were the two most frequently sentenced Violent offenses, each accounting for 33.5% (n=148 and n=147, respectively) of Violent offenses sentenced, and 10% of all felony counts sentenced. The distribution of sentence types for both offenses, broken down by gradation (i.e., armed vs. unarmed) is shown in Figure 20.[57]

---

[57] Having a weapon during the commission of the offense is an element of ADW. Therefore, there cannot be a separate offense for ADW while armed.

Figure 20: ADW and Robbery Sentence Type Distribution, Count Level (2023)
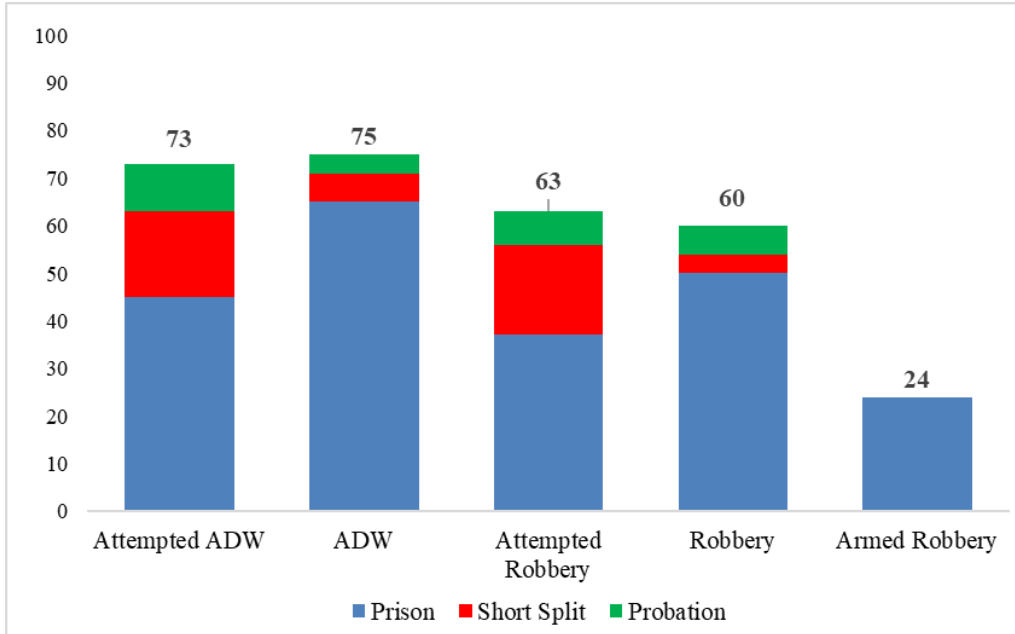
Total Counts	Attempted ADW	ADW	Attempted Robbery	Robbery	Armed Robbery
Prison	45	65	37	50	24
Short Split	18	6	19	4	0
Probation	10	4	7	6	0
Total Counts	*73*	*75*	*63*	*60*	*24*
	ADW: 148		**Robbery: 147**		

Carjacking offenses are also included in the Violent offense category. There were only seven adult carjacking counts sentenced in 2023: one armed carjacking count, four unarmed carjacking counts, and two attempted carjacking counts.[58]

Statutory Crimes of Violence:

It is important to acknowledge that the classification of "Violent Offenses" as analyzed in the D.C. Sentencing Commission's Annual Report, is similar but not identical to the "Crimes of Violence" that are defined pursuant to D.C. Code § 23-1331(4).[59] The primary difference between the two definitions is that the statutory Crimes of Violence include Burglary, Arson, and Sex Abuse offenses. The Commission classifies Burglary and Arson as "Property Offenses", and categorizes all degrees of Sex Abuse as Sex Offenses. Using a narrower set of offense categories allows for a more granular analysis of sentencing trends for these specific types of offenses. A high-level

---

[58] The Commission's data is reflective of adult felony sentences only. Juvenile data is not included in any of the analyses presented in this report.

[59] A complete list of Crimes of Violence as defined by D.C. Code § 23-1331(4) can be found in Appendix E.

analysis of D.C. Code "Crimes of Violence" is presented below, though all other analyses in this report use the Commission's offense categorizations, as defined on page 34.

Of the 1,473 felony counts sentenced in 2023, 607 (41%) were defined as "Crimes of Violence" pursuant to D.C. Code § 23-1331(4). As presented in Figure 21 below, this proportion is consistent with historical trends, where "Crimes of Violence" represented 42.6% of adult felony sentences each year.

Figure 21: Sentenced Statutory Crimes of Violence, Count Level (2014-2023)
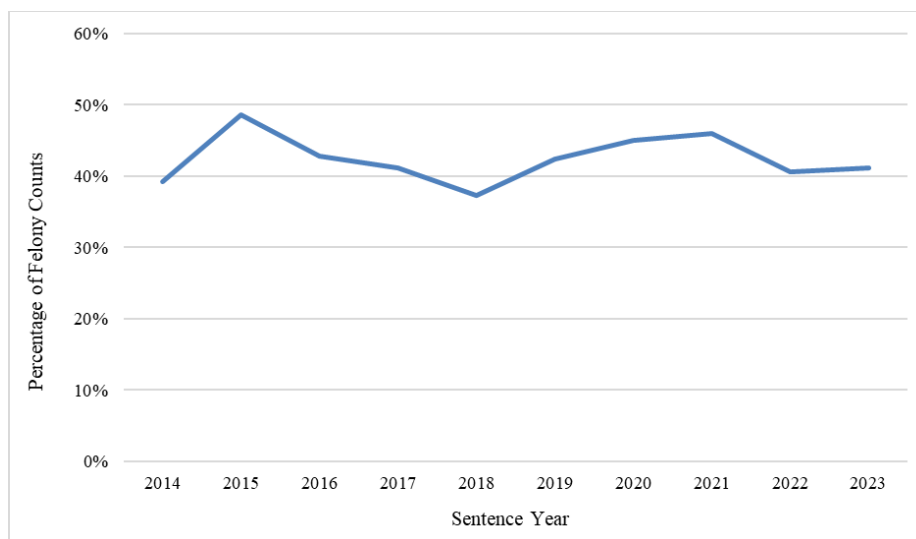
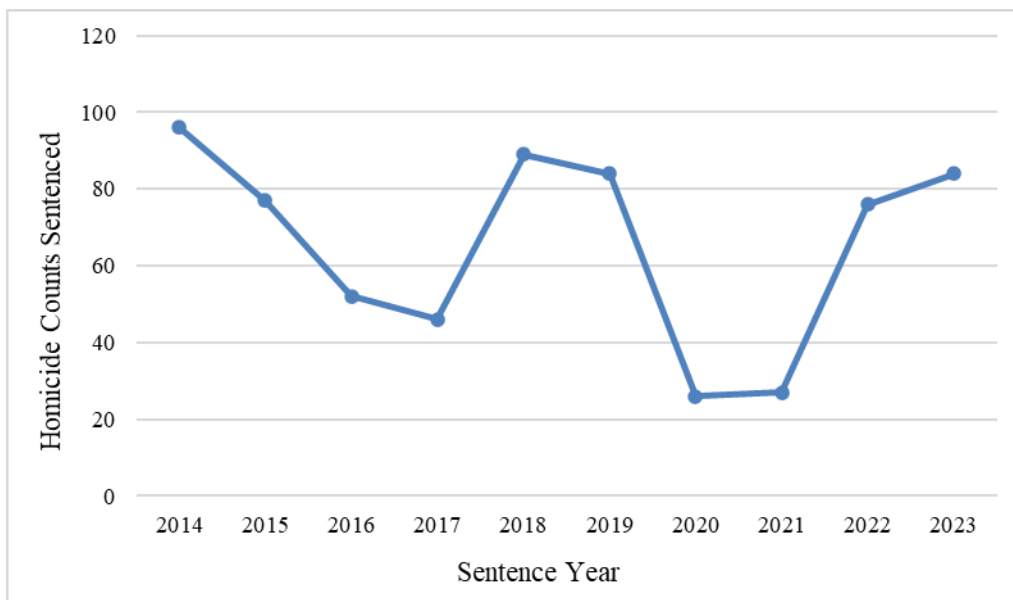|	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Proportion of all Felony Counts	39.3%	48.6%	42.8%	41.2%	37.3%	42.4%	45.0%	46.0%	40.5%	41.2%

In 2023, the most frequently sentenced Crime of Violence was Assault with a Dangerous Weapon (ADW), (n=148), closely followed by Robbery offenses (n=147). Each of these two offenses accounted for 24% of all Crimes of Violence, and 10% of all felony counts sentenced in 2023. Sentencing trends for ADW and Robbery are discussed in more detail in the analysis of Violent offenses (as defined by the Commission) on page 43.

Homicide Offenses:

Yearly Homicide sentencing trends are presented in Figures 22 and 23. The number of Homicide sentences gradually decreased between 2014 and 2017, before experiencing a 93% increase in 2018. The sharp decline observed in 2020 and 2021 is largely attributed to the impact of COVID-19 and the slowdown in court operations; this changed in 2022 where the number of Homicide counts sentenced nearly tripled as the court returned to its pre-pandemic operating status. This increase continued into 2023 with 84 Homicide counts sentenced, demonstrating a 10% increase from the previous year. However, it is important to acknowledge that 78% of Homicide sentences in 2023 belonged to cases filed between 2015 and 2021. Homicide cases often have the longest criminal justice lifecycle, where the time between arrest and sentencing can often span multiple years. As a result, Homicide trends will likely continue to fluctuate, as the reported sentences are generally reflective of crime and arrest rates in prior years.

The 84 Homicide counts represented 5.7% of all felony sentences imposed in 2023, which is the greatest proportion observed in the last 10 years. Interestingly, there were also 84 Homicide counts sentenced in 2019, which, like other analyses presented in this report, suggests a return to normal trends observed prior to the pandemic.

Figure 22: Sentenced Homicide Counts (2014-2023)

	2014	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Homicide Counts Sentenced	96	77	52	46	89	84	26	27	76	84
Proportion of all Felony Counts	*3.4%*	*3.8%*	*2.4%*	*2.0%*	*4.0%*	*4.5%*	*3.9%*	*2.8%*	*5.0%*	*5.7%*

Figure 23 shows that most Homicide counts sentenced in 2023 were for Voluntary Manslaughter, which represented 52% of all Homicide sentences imposed. Despite a 15% decrease in Voluntary Manslaughter sentences, from 52 counts in 2022 to 44 counts in 2023, these numbers still exceed pre-pandemic levels. Two-thirds (66%, 29 counts) of Voluntary Manslaughter counts were sentenced following a Rule 11(c)(1)(C) plea.

In contrast, Murder I, Murder II, and Involuntary Manslaughter sentences all increased in 2023. The most notable increase is for Murder I which more than tripled from 3 to 14 counts, demonstrating a 367% increase from the previous year. All Murder I convictions in 2023 resulted from a jury trial; therefore, this significant increase is reflective of the Court having processed through the backlog of Murder I jury trials that had accumulated during the COVID-19 pandemic. The 14 Murder I counts sentenced belonged to 11 cases, all of which were the result of a jury trial verdict. Further, 10 of the 11 Murder I cases with 2023 sentences were filed before 2020.

As previously mentioned, there were also 84 Homicide counts sentenced in 2019, though the offense distribution varies when compared to 2023. The biggest shift is the increase in Voluntary Manslaughter counts, which is offset by a decrease in Murder II counts; Voluntary Manslaughter

sentences increased by 26%, while Murder II sentences decreased by 34%.[60] The number of Murder I and Involuntary Manslaughter counts is almost identical in both years.

Note that the data presented in Figure 23 includes convictions for both armed and unarmed Homicide offenses.

Figure 23: Homicide Sentences by Year, Count Level (2014-2023)
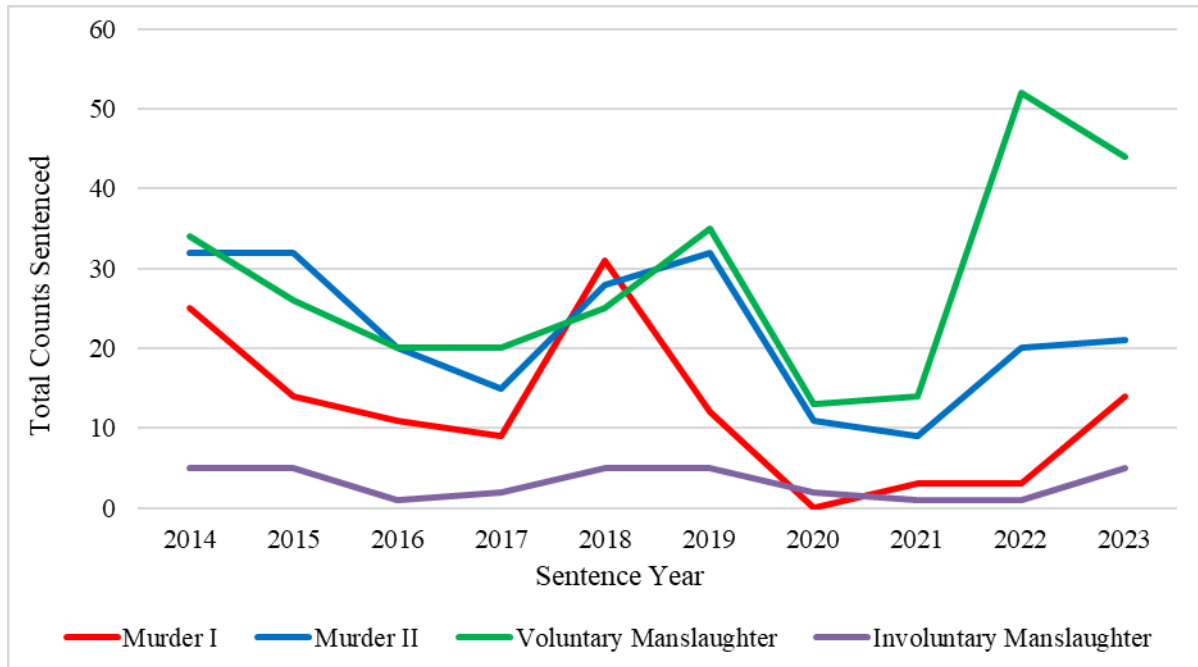
|	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Murder I	25	14	11	9	31	12	0	3	3	14
Murder II	32	32	20	15	28	32	11	9	20	21
Voluntary Manslaughter	34	26	20	20	25	35	13	14	52	44
Involuntary Manslaughter	5	5	1	2	5	5	2	1	1	5
Total Counts	*96*	*77*	*52*	*46*	*89*	*84*	*26*	*27*	*76*	*84*

---

[60] The proportion of Murder II sentences following a plea agreement are similar in 2019 (84%) and 2023 (81%).

B.   Felony Sentencing Demographics: Gender, Race & Age

1. Gender

Gender[61] was recorded for 998 of the 1,007 sentenced individuals in 2023 (Figure 24).[62] Consistent with previous years, most sentenced individuals in 2023 were male; 920 males were sentenced, representing 91.4% of the sentenced population. Females only represented 7.7% of sentenced individuals (n= 78), a slight increase from 2022 where females represented 5.0% of the sentenced population.

Figure 24: Felony Sentenced Individuals by Gender, Individual Level (2014-2023)
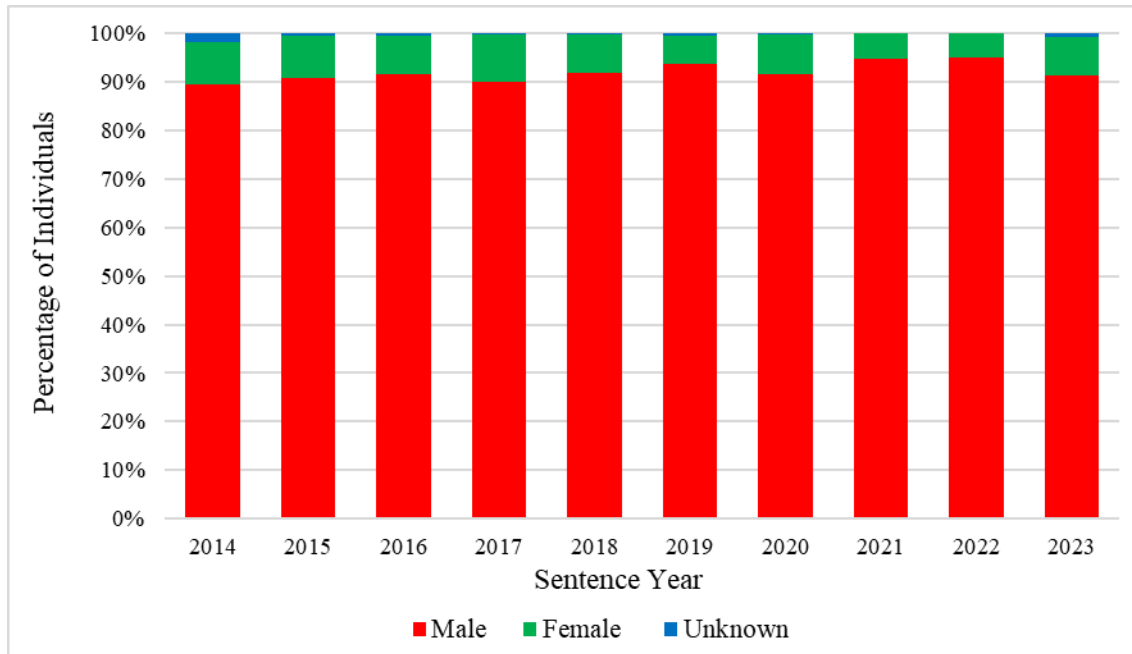
	2014 (N=1854)	2015 (N=1410)	2016 (N=1611)	2017 (N=1666)	2018 (N=1546)	2019 (N=1393)	2020 (N=479)	2021 (N=736)	2022 (N=1148)	2023 (N=1007)
Male	89.4%	90.9%	91.6%	89.9%	91.7%	93.8%	91.6%	94.6%	94.9%	91.4%
Female	8.7%	8.5%	7.8%	9.8%	8.1%	5.8%	8.1%	5.3%	5.0%	7.7%
Unknown	1.9%	0.6%	0.6%	0.4%	0.3%	0.4%	0.2%	0.1%	0.1%	0.9%

Figure 25 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.

The distribution of offense type among males is consistent with previous years. Males were most frequently sentenced for Weapon offenses (42.1%), followed by Violent offenses (30.6%). Combined, these two offense categories constituted approximately 73% of all male sentences. Comparatively, over half of female sentences were for Violent offenses (54.4%). Property offenses

---

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

[62] Each case may have one or more counts, and each individual may have one or more cases in a given calendar year.

replaced Weapon offenses as the second most prominent offense type sentenced for females, increasing from 3.4% in 2022 to 15.2%, offset by a decrease in Weapon offenses (23.7% vs. 13.9%). Like 2022, females were not sentenced for any Sex offenses in 2023.

Figure 25: Gender by Offense Category, Case Level (2023)
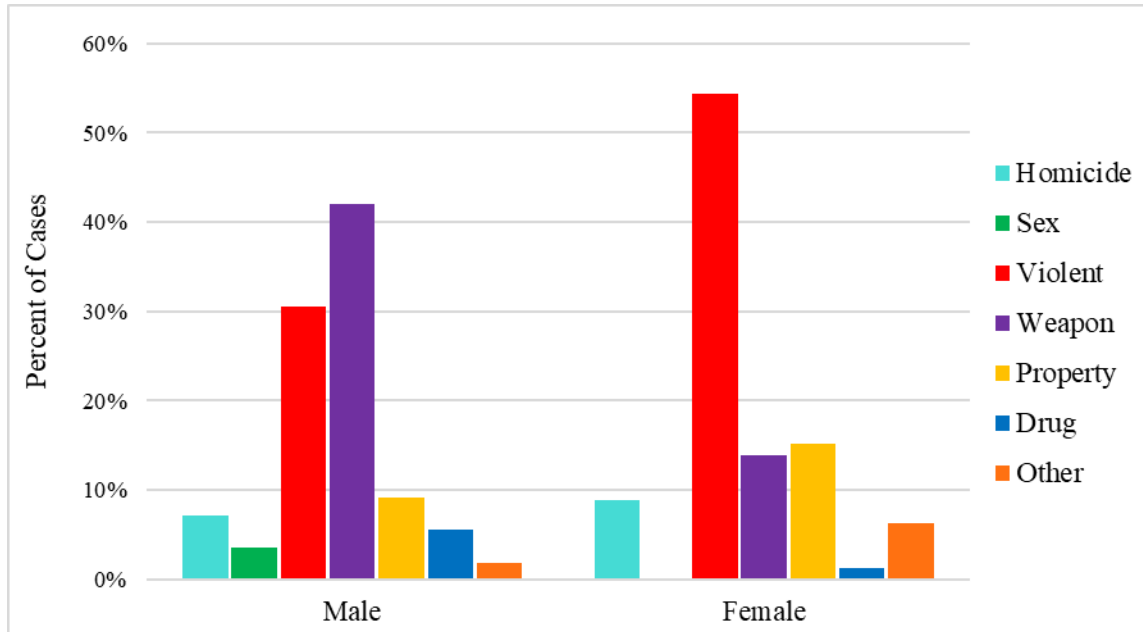
	Homicide	Sex	Violent	Weapon	Property	Drug	Other
Male (958)	7.1%	3.5%	30.6%	42.1%	9.2%	5.6%	1.9%
Female (79)	8.9%	0.0%	54.4%	13.9%	15.2%	1.3%	6.3%

CH scores and sentences by gender, at the case level, are provided in Table 6.[63] In 2023, males had a 1.9 average CH score (n=939), and females had a 0.6 average CH score (n=76). This was the lowest average CH score for female defendants within the last ten years.

---

[63] 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.

Table 6: CH Score and Sentence Length by Gender, Case Level (2014-2023)

Sentence Year	Number of Cases		Mean CH Score	
	Male	Female	Male	Female
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
2022	1,141	59	1.8	0.7
2023	939	76	1.9	0.6

2. Race

In 2023, race was reported for 983 of the 1,007 individuals sentenced. Consistent with previous years, almost all individuals sentenced for felony offenses were Black (91%, n=919).[64] The remaining individuals sentenced were categorized as follows: White (5%, n=52), Unknown (2%, n=24), Hispanic (1%, n=10), and Asian (<1%, n=2).

Weapon offenses were the most frequently sentenced offenses among Black defendants, accounting for 41% of all felony sentences. In comparison, Violent offenses were most frequent among White defendants, representing 35% of sentences. Sex, Drug, and Other offenses were the least frequently sentenced across both race categories. Note that White individuals only represented 5.2% of the sentenced population in 2023; Asian and Hispanic individuals and individuals of Unknown race were not included in this comparison due to the low number of individuals in each of these race categories.

3. Age

The individual's age at the time of the offense was calculated in all adult cases sentenced in 2023.[65] 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+.[66] Individuals who were between the ages of 22 and 40 at the time of the offense accounted for the majority (62.9%) of all sentences in 2023 (Figure 26). The 22-30 age

---

[64] Race category data used by the Commission does not capture ethnicity, thus Black individuals of Hispanic origin or White individuals of Hispanic origin are not separately presented.

[65] The age of each individual 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.

[66] Although there is an age group for 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 2023 for adult felony offenses.

group was the most prevalent, representing 37% of all individuals sentenced. There were no sentenced individuals who were over the age of 70 at the time of the offense in 2023.

Figure 26: Sentences Imposed by Age Group, Case Level (2023)
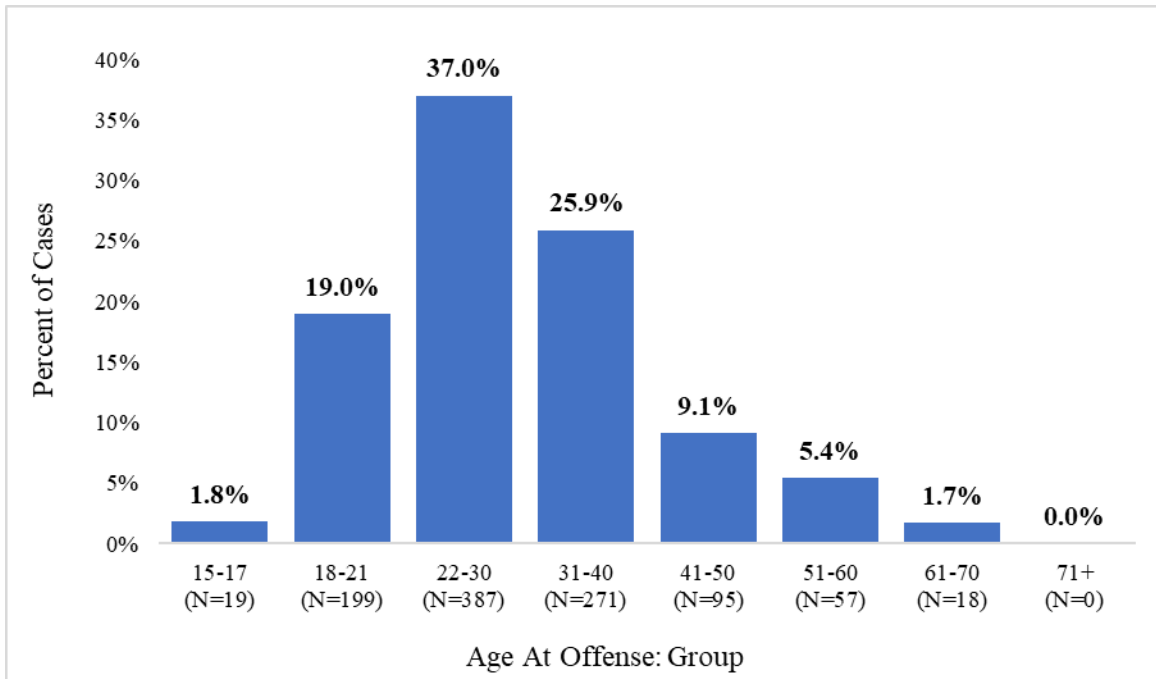
The age group composition has remained relatively stable over the last 10 years. Those between the ages of 22 and 30 years old at the time of the offense have continued to represent the plurality of individuals sentenced, constituting 37% of all felony cases sentenced in 2023. The proportion of individuals in this age category has been gradually increasing since 2014, which is primarily offset by gradual decreases in the 18-21 age group category. Individuals aged 71 or older have continued to represent the smallest proportion of all felony cases sentenced each year.

Figure 27: Sentences by Age Group, Case Level (2014-2023)

	2014 (N=1894)	2015 (N=1476)	2016 (N=1669)	2017 (N=1753)	2018 (N=1628)	2019 (N=1459)	2020 (N=492)	2021 (N=771)	2022 (N=1199)	2023 (N=1046)
15-17	2.6%	2.3%	3.6%	2.5%	2.1%	2.1%	2.0%	1.8%	0.7%	1.8%
18-21	31.8%	27.8%	26.0%	20.9%	19.3%	21.1%	22.0%	24.1%	18.6%	19.0%
22-30	28.8%	32.7%	32.5%	36.9%	37.8%	40.2%	37.4%	38.0%	42.7%	37.0%
31-40	17.4%	18.1%	17.7%	17.5%	19.8%	18.2%	22.4%	20.4%	21.0%	25.9%
41-50	11.0%	10.3%	10.7%	9.6%	10.7%	9.7%	8.1%	9.1%	10.2%	9.1%
51-60	7.1%	7.7%	7.7%	10.0%	7.6%	7.2%	6.3%	6.1%	4.7%	5.4%
61-70	1.2%	0.9%	1.8%	2.5%	2.3%	1.2%	1.6%	0.3%	1.7%	1.7%
71+	0.1%	0.2%	0.1%	0.1%	0.2%	0.3%	0.2%	0.3%	0.1%	0.0%

Few   Many

Without controlling for the offense category, 81.8% of all individuals sentenced to prison in 2023 were under the age of 41 at the time of the offense (Figure 28). Prison sentences were most frequently imposed for all age categories. Eleven percent (11%) of all cases sentenced among the 15-17 age group resulted in a probation sentence and no individuals in this age group received a short split sentence. For comparison, in 2022, there were no individuals aged 15-17 that received a probation sentence, and 25% of individuals in this age category received a short split sentence.[67]

Figure 28: Age Group by Sentence Type, Case Level (2023)
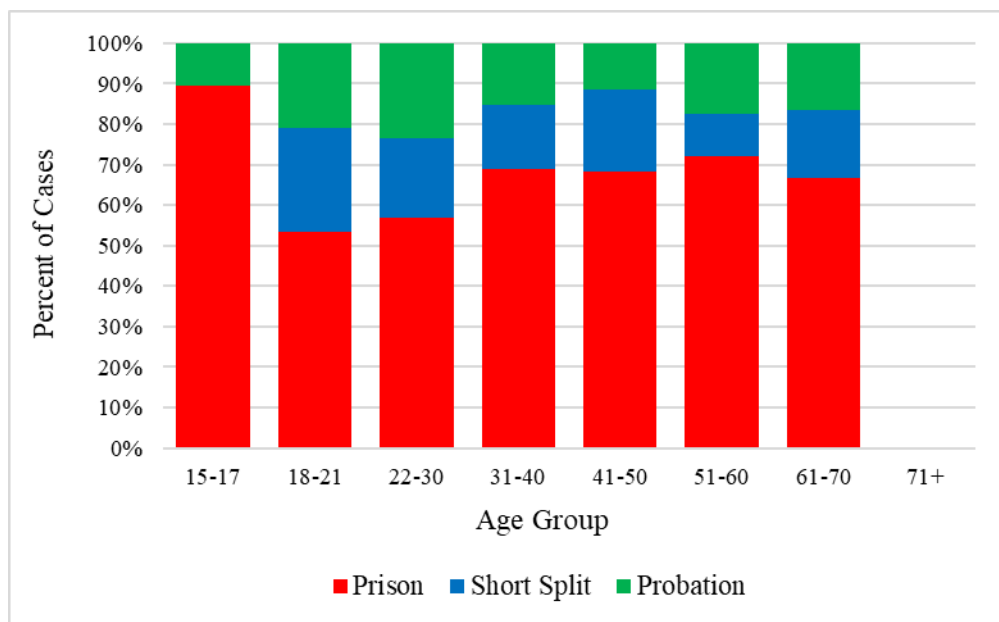
	15-17	18-21	22-30	31-40	41-50	51-60	61-70	71+
Prison	17	106	220	186	65	41	12	0
Short Split	0	51	76	43	19	6	3	0
Probation	2	42	91	41	11	10	3	0

---

[67] No (0) 15-year-old individuals were charged or sentenced as adults in 2022. The relatively high rate of prison sentences for 16- and 17-year-olds is due to the fact that individuals in this age range 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 GRID system enhancements has enabled the agency to track the lifecycle of a felony case, beginning with the initial arrest, through final disposition and/or sentencing. This allows the Commission to undertake more comprehensive sentencing analyses of offenses and sentenced individuals. The following analyses highlight historical and 2023 arrest trends and demonstrate the capabilities of the 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, merging the data sets 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, not all sentenced cases can be linked back to an arrest.

- The structure in which arrest data is recorded causes limitations on the Commission's ability to track case outcomes back to arrest charges when multiple court cases originate from a single arrest. For example, when an individual is arrested for a new offense and has an existing arrest warrant or fugitive warrant, or if they are a suspect in an active, unrelated case. Currently the data is organized in a way that prevents the Commission from automatically identifying which case links directly back to the original arrest, in respect to offense conduct. While the Commission is able to easily identify and exclude cases where the arrested individual is being prosecuted as a fugitive from justice ("fugitive cases"), the distinction cannot be made when the secondary case(s) are for separate criminal conduct, unless the case is reviewed manually by staff. Therefore, any analysis reporting on arrest-to-case outcomes will include all Superior Court non-fugitive cases that resulted from a felony adult arrest.

- Due to the inherent nature of the criminal justice system, there is a delay between an 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 cases are still pending.[68] More data will become available for these arrests over time.

B. 2023 Adult Felony Arrests

In 2023, MPD reported a total of 5,319 adult felony arrests made in the District of Columbia. Please note the following about the felony arrest information included in this analysis:

---

[68] As of January 10, 2024, the date the 2023 data was frozen for this report.

- The analysis only covers adult felony arrests, it does not include juvenile arrests or arrests for misdemeanor and/or miscellaneous offenses.[69]

- The term "no papered" means that the prosecuting authority (USAO or OAG) elected not to immediately file charges in Superior Court related to the arrest.[70] The Commission only analyzes arrest papering rates based on charges initially brought in D.C. Superior Court. This means that charges transferred to U.S. District Court or charges re-brought after an initial decision not to paper the case are not included in the papered case data.[71] Further, the Commission does not receive any information regarding why prosecutors made a papering decision in relation to a specific arrest or case.

- All non-fugitive Superior Court cases that resulted from an adult felony arrest are represented in the case disposition portions of the analysis.[72] This includes cases that contained initial charges for felony offenses only, a combination of felony and misdemeanor charges, and cases that contained misdemeanor charges only.

The papering and case disposition trends for adult felony arrests made in 2023 are presented in Figure 29. Roughly two-thirds (66%, n=3,506) of all adult felony arrests made in 2023 were papered, meaning that the prosecuting authority immediately filed charges in D.C. Superior Court. The 3,506 papered arrests generated 3,489 adult non-fugitive cases; about half of which (48%) are still pending final disposition.[73] Thirty-two percent of cases resulted in a finding of guilt, while the remaining 20% were closed without conviction.[74] When cases that were closed without conviction are analyzed in conjunction with the no papered arrests, the available data indicates that approximately 47% of all adult felony arrests made in 2023 did not result in a Superior Court conviction.[75] The Commission will continue to monitor these trends as the subset of pending cases progresses through the court system.

---

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

[70] All no papered arrests had an arrest number generated by MPD.

[71] For example, if an individual was arrested for possessing a firearm but prosecutors decided they needed DNA evidence prior to bringing a criminal case against the defendant, they might not initially paper the case. The case could be re-brought after the DNA analysis has been completed. Under the analysis conducted in this paper, based on the data available to the Sentencing Commission, the arrest would be classified as no papered.

[72] Fugitive from justice cases are not reported because they do not result in a new arrest.

[73] 138 arrests resulted in multiple D.C. Superior Court cases, while 160 arrests generated fugitive from justice cases only and have been excluded from the case disposition portion of the analysis.

[74] In 2023, the Court cited the following dispositions for cases closed without a conviction: Acquittal, Acquitted, Court Trial Not Guilty, Dismissed, Dismissed – No Probable Cause, Dismissed as part of Plea Agreement, Dismissed for Want of Prosecution, DWP (Dismissed with Prejudice), DWP No Police Officer, Jury Trial Not Guilty, Nolle Prosequi, Nolle-Diversion, and Prosecution Abated (Prosecution Abated is often used in situations where the defendant has passed away).

[75] As noted, this percentage does not account for cases that were initially no papered and later re-filed or cases transferred to U.S. District Court. Therefore, the actual percentage of felony arrests that did not result in a conviction is lower than 47%, however the Commission does not have data to determine the number of cases re-filed or transferred.

Figure 29: 2023 Adult Felony Arrests - Court Disposition
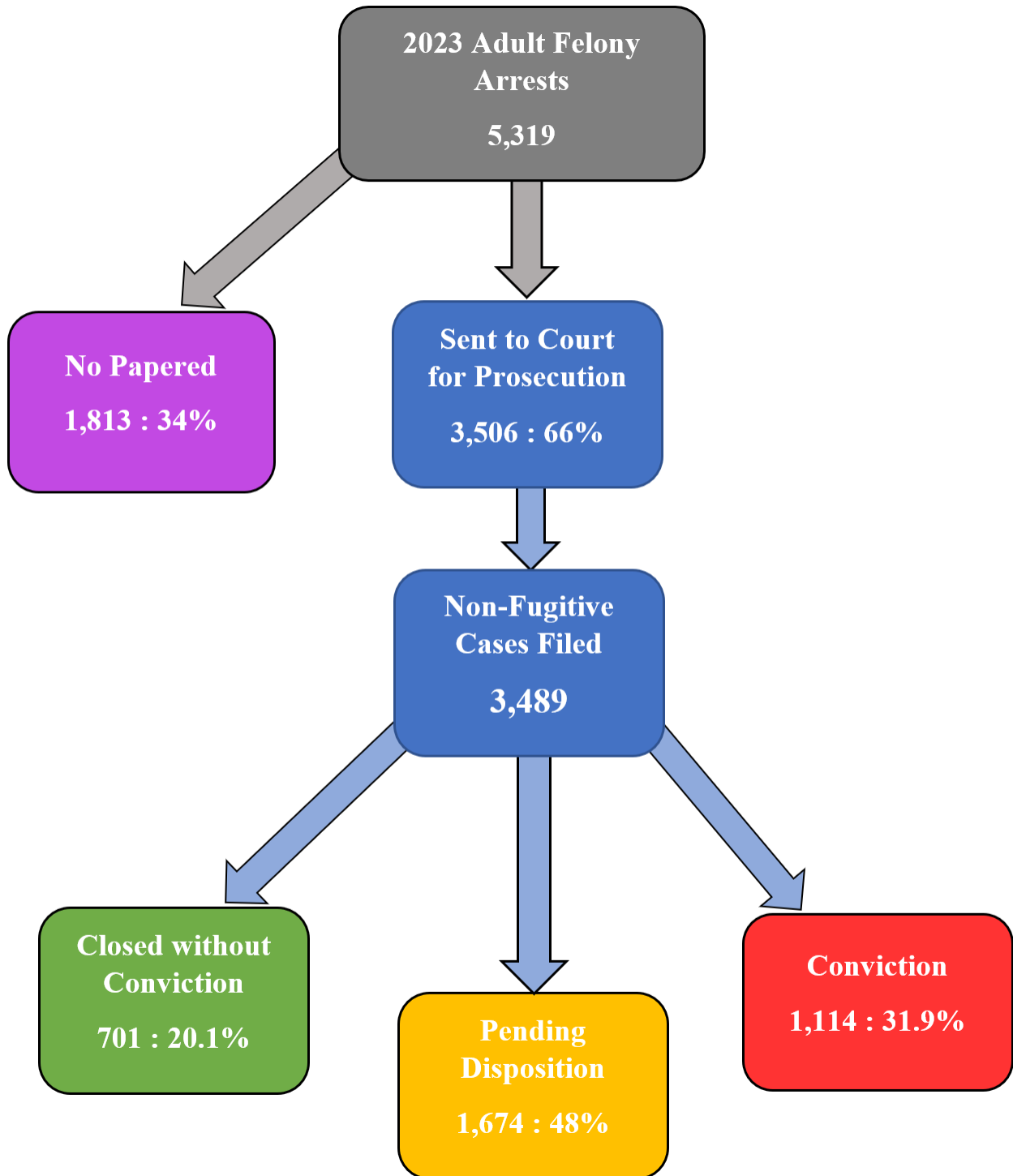
C. Historical Adult Felony Arrests – Disposition Trends

The court disposition analysis was repeated for the previous five calendar years, the findings of which are presented in Figures 30 and 31. Disposition data for arrests made in prior years was updated using the 2023 sentencing snapshot data. This is done because 2023 data is more reflective of the current disposition rates, especially for arrests that were sent to court for prosecution in previous years. For example, the 2022 Annual Report indicated that 44% of arrests made that year were pending disposition.[76] The current data shows that by January 10, 2024, the proportion of 2022 arrests pending disposition has dropped to 12%, which is offset by increases in both the number of cases that resulted in a finding of guilt or were closed without conviction. As a result, updated data from prior years will not match previous reports.

The proportion of papered arrests gradually declined from 72% in 2018 to 54% in 2022. In 2023, however, the proportion of papered arrests increased to 66%, which is the first increase in papering rates observed during this timeframe.

Figure 30: Case Disposition of Felony Arrests, Historical Trends (2018-2023)

	2018	2019	2020	2021	2022	2023	Total
Total Felony Arrests	**6,354**	**6,200**	**5,402**	**5,003**	**5,122**	**5,319**	**33,400**
Arrest Disposition							
Arrests Not Papered	**28%** (1,790)	**31%** (1,918)	**35%** (1,879)	**43%** (2,143)	**46%** (2,361)	**34%** (1,813)	**36%** (10,091)
Sent to Court for Prosecution	**72%** (4,564)	**69%** (4,282)	**65%** (3,523)	**57%** (2,860)	**54%** (2,761)	**66%** (3,506)	**64%** (17,990)
Total Cases Filed	4,736	4,484	3,664	2,921	2,730	3,489	**22,024**
Disposition of Filed Cases							
Closed without Conviction	**46%** (2,167)	**46%** (2,041)	**47%** (1,732)	**40%** (1,167)	**33%** (892)	**20%** (701)	**40%** (8,700)
Pending	**1%** (62)	**4%** (161)	**6%** (235)	**8%** (233)	**12%** (332)	**48%** (1,114)	**12%** (2,697)
Conviction	**53%** (2,507)	**51%** (2,282)	**46%** (1,697)	**52%** (1,521)	**55%** (1,506)	**32%** (1,674)	**48%** (10,627)

It is important to acknowledge that the apparent decreases in the proportion of cases that have been closed without conviction and have resulted in a finding of guilt are offset by the 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 and case disposition or sentencing. Though generally, it does appear as though the conviction rate of papered arrests has increased between 2020 and 2022.

---

[76] Pending disposition at the time of the 2022 data freeze.

Figure 31: Sentencing Disposition of Papered Arrests (2018-2023)
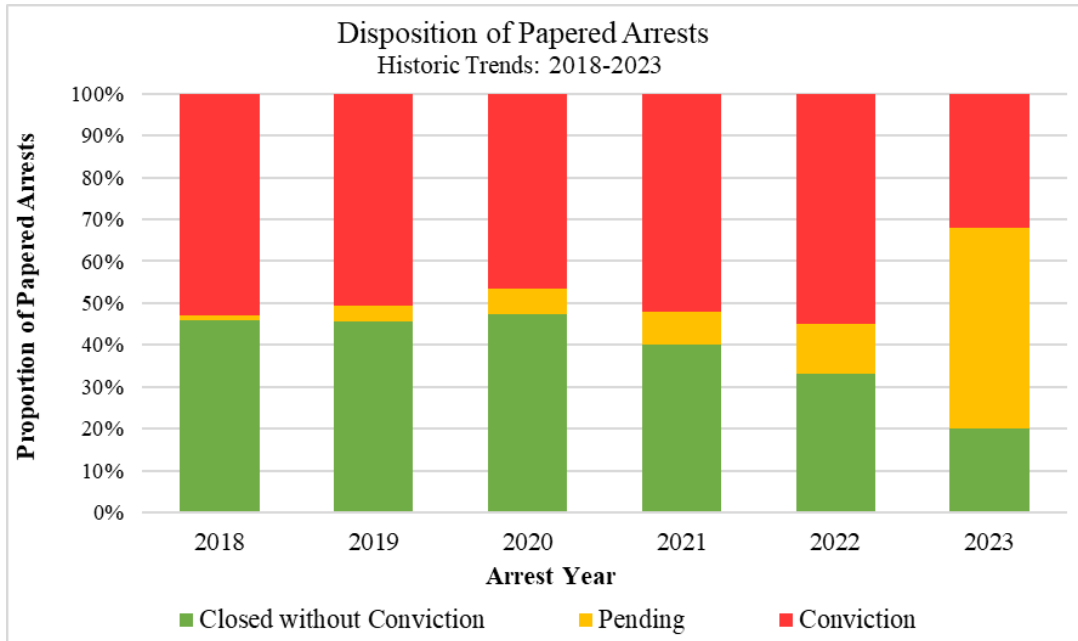
## D. Arrest-to-Sentencing Analysis – Gun Possession Offenses

The following analysis showcases the arrest-to-sentencing trends for two of the most prominent gun possession offenses in the District, CPWL and UPF-PF, examined by the Ward of the arrest location. The analysis identifies the total number of adult arrests that contained at least one count of the aforementioned offenses, and tracks these arrests through final disposition and sentencing. Note that the gun possession offense is not necessarily the most severe offense included in the arrest; any reference to "gun possession arrests" throughout this analysis means that the arrest contains at least one CPWL or UPF-PF charge.

In 2023, there were 1,649 adult felony arrests that contained at least one charge for either CPWL and/or UPF-PF. The location and papering outcomes are presented in Figure 32 below, where each circle represents a single arrest. Opaque circles indicate that the arrest was papered, while translucent circles show that the arrest was no papered. Note that Ward information is available for 1,597 of the 1,649 arrests. The remaining 52 felony arrests were omitted from the papering rate by Ward analysis because the arrest location ward either does not exist or could not be verified.[77]

Two-thirds (67%, n=1,069) of all gun possession arrests were papered, with papering rates ranging between 59% and 75% across arrest location Wards. Ward 3 had the greatest papering rate while Ward 7 had the lowest, though it is important to interpret these statistics in the context of the sample size. There were only 20 gun possession arrests made in Ward 3 compared to 382 in Ward 7. Just under half (48%, n=761) of all gun possession arrests made in 2023 occurred in Wards 7 or 8.

---

[77] Arrests that are made outside of the District of Columbia will not have an associated Ward. Additionally, Ward information is not available for arrests where the arrest location address cannot be recognized due to data entry errors (e.g., incomplete addresses, missing/excess punctuation).

Figure 32: Papering Rate by Arrest Location Ward - Gun Possession Arrests (2023)
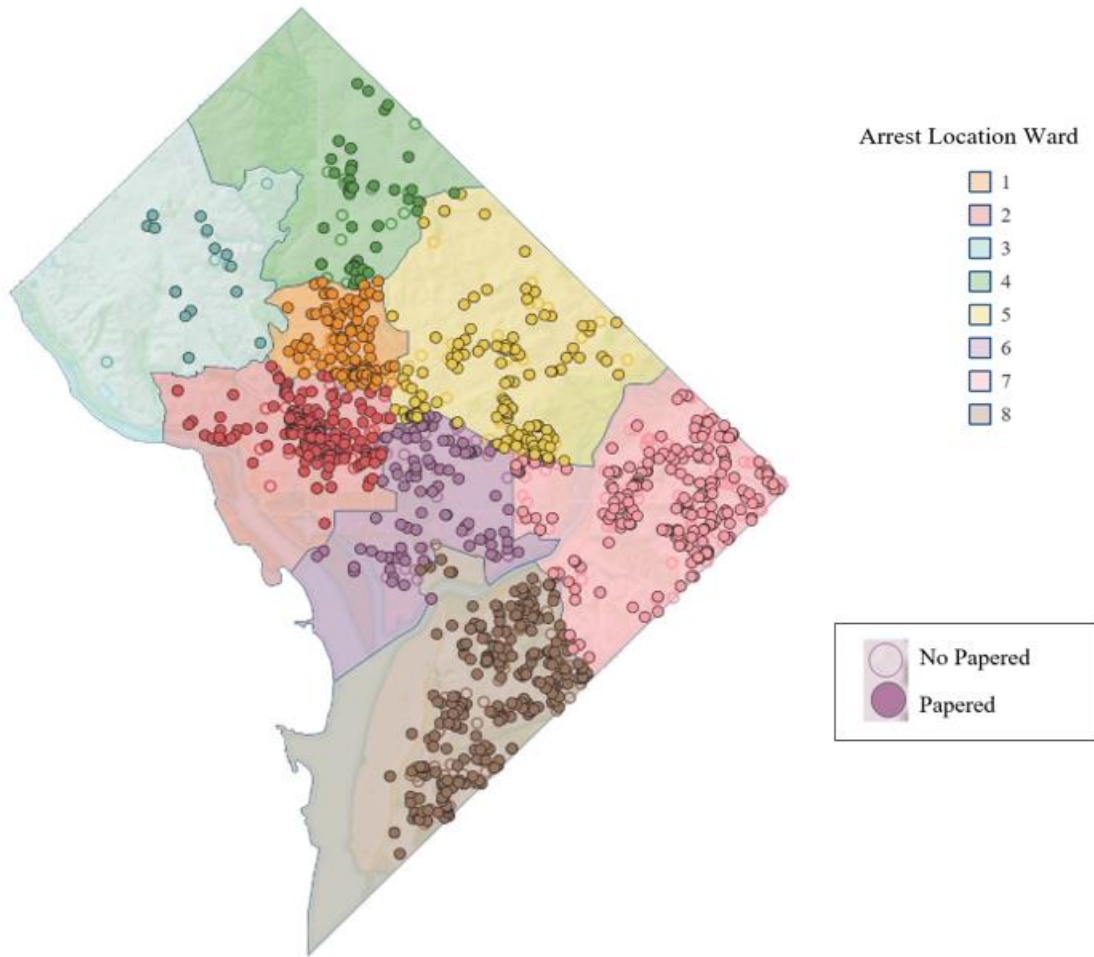
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**Total**
No Papered	33% (52)	27% (71)	25% (5)	40% (27)	34% (63)	29% (40)	41% (157)	30% (113)	**33% (528)**
Papered	67% (107)	73% (194)	75% (15)	60% (41)	66% (121)	71% (100)	59% (225)	70% (266)	**67% (1069)**
Total Arrests	*159*	*265*	*20*	*68*	*184*	*140*	*382*	*379*	*1597*

CPWL was the only gun possession offense in the majority (75%) of the gun possession arrests. Comparatively, UPF-PF was the sole gun possession offense on 4.7% of gun possession arrests, while 20% of gun possession arrests contained charges for both gun possession offenses (UPF-PF and CPWL). This result is expected because most UPF-PF offenses also meet all the elements of CPWL, specifically possession of a pistol. The following analysis explores the papering, case disposition, and sentencing trends for each group of arrests: CPWL only, UPF-PF only, and CPWL and UPF-PF.

Two-thirds (1,102 arrests, 67%) of all adult gun possession arrests made in 2023 were papered, which generated 1,132 cases in D.C. Superior Court. Approximately 22% (n=245) of filed cases were closed without conviction.[78] Thirty-eight percent (38%) of papered arrests resulted in a finding of guilt for a criminal offense, while the remaining 40% are still pending disposition. The table below shows the arrest and sentencing trends for each subset of gun possession arrests.

Table 7: Arrest to Sentencing Analysis, Gun Possession Offenses (2023)

	CPWL	UPF-PF	CPWL and UPF-PF	Total
Total Felony Arrests	**1,238**	**79**	**332**	**1,649**
Arrest Disposition				
Arrests Not Papered	**32%** (390)	**44%** (35)	**34%** (114)	**33%** (539)
Sent to Court for Prosecution	**68%** (840)	**56%** (44)	**66%** (218)	**67%** (1,102)
Total Cases Filed	*865*	*40*	*227*	**1,132**
Disposition of Filed Cases				
Closed without Conviction	**22%** (186)	**38%** (15)	**19%** (44)	**22%** (245)
Pending	**39%** (340)	**28%** (11)	**44%** (101)	**40%** (452)
Conviction	**39%** (339)	**35%** (14)	**36%** (82)	**38%** (435)
Conviction Trends - Sentenced Cases				
Total Sentenced Cases	250	11	52	313
Misdemeanor Convictions Only	**60%** (149)	**27%** (3)	**10%** (5)	**50%** (157)
Felony Conviction(s)	**40%** (101)	**72%** (8)	**90%** (47)	**50%** (156)
Gun Possession Sentencing Trends - Most Severe Count Sentenced				
CPWL	**59, 58%** *Prison: 11, 19% 16 months*	**0, 0%**	**6, 13%** *Prison: 1, 17% 7 months*	**55, 35%** *Prison: 12, 22% 15.3 months*
UPF-PF	**27, 27%** *Prison: 27, 100% 17 months*	**7, 88%** *Prison: 7, 100% 17 months*	**32, 68%** *Prison: 32, 100% 20 months*	**66, 42%** *Prison: 66, 100% 18.2 months*
Other	**15, 15%**	**1, 12%**	**9, 19%**	**25, 16%**

Felony conviction rates were highest among cases generated from arrests that contained both CPWL and UPF-PF charges (90%, n=47). In contrast, only 40% of CPWL arrests resulted in a conviction for a felony offense. An overwhelming majority (97%) of CPWL convictions were resolved via a plea agreement.

Across all gun possession arrest categories, a gun possession offense (CPWL or UPF-PF) was the most severe count sentenced in more than 75% of the 156 cases that resulted in a felony conviction. In respect to the total number of gun possession *arrests*, as of January 10, 2024, only 8% (n=131)

---

[78]Accounting for the 539 arrests that were no papered, and the 245 arrests that were closed without conviction.

resulted in a conviction for either a gun possession offense or a more serious charge, or are still pending disposition.[79] However, **it is expected that the gun possession conviction rate will increase as cases continue to progress through the justice system**; 35% of gun possession arrests are still pending (either case disposition (n=452) or sentencing (n=122)). When combined, it is determined that 43% of gun possession arrests are pending or resulted in a conviction.

UPF-PF was the most serious count sentenced in 42% (n=66) of cases filed from gun possession arrests that resulted in a felony conviction. All 66 UPF-PF counts received a prison sentence, where the average sentence imposed was 18.2 months. Comparatively, CPWL was the most serious count sentenced in 35% (n=55) of cases with a felony conviction. However, only 22% of these CPWL counts were sentenced to prison. The average sentence imposed for CPWL was 15.3 months.

To better illustrate the arrest and sentencing trends for gun possession offenses, the analysis presented in Table 7 was replicated for gun possession arrests that were made in 2022. Table 8 reflects the outcomes of these arrests as of January 10, 2023, the date of the 2023 data freeze. A much greater proportion of the 2022 papered arrests have reached a disposition (94%) compared to 60% in 2023. Notably, the majority (63%) of papered gun possession arrests resulted in a finding of guilt, and also resulted in convictions for at least one felony offense (59%).

---

[79] A gun possession offense was the Most Serious Count in 121 felony cases. Additionally, ten cases resulted in convictions for offenses that were more serious than the arrested gun possession offense.

Table 8: Arrest to Sentencing Analysis, Gun Possession Offenses (2022)

	CPWL	UPF-PF	CPWL and UPF-PF	Total
Total Felony Arrests	**1,199**	**106**	**419**	**1,724**
Arrest Disposition				
Arrests Not Papered	**47%** (568)	**51%** (54)	**42%** (174)	**46%** (796)
Sent to Court for Prosecution	**53%** (631)	**49%** (52)	**58%** (245)	**54%** (928)
Total Cases Filed	*630*	*52*	*252*	**934**
Disposition of Filed Cases				
Closed without Conviction	**30%** (186)	**38%** (20)	**33%** (82)	**31%** (288)
Pending	**5%** (31)	**4%** (2)	**9%** (23)	**6%** (56)
Conviction	**66%** (413)	**58%** (30)	**58%** (147)	**63%** (590)
Conviction Trends - Sentenced Cases				
Total Sentenced Cases	406	26	144	576
Misdemeanor Convictions Only	**48%** (195)	**23%** (6)	**25%** (36)	**41%** (237)
Felony Conviction(s)	**52%** (211)	**77%** (20)	**75%** (108)	**59%** (339)
Gun Possession Sentencing Trends - Most Severe Count Sentenced				
CPWL	**114, 54%** *Prison: 8, 7%* *16 months*	**7, 35%** *Prison: 1, 14%* *3 months*	**35, 32%** *Prison: 8, 23%* *19 months*	**156, 46%** *Prison: 17, 11%* *16.6 months*
UPF-PF	**45, 21%** *Prison: 44, 98%* *19 months*	**7, 35%** *Prison: 7, 100%* *20 months*	**52, 48%** *Prison: 50, 96%* *18 months*	**104, 31%** *Prison: 101, 97%* *18.4 months*
Other	**52, 25%**	**6, 30%**	**21, 19%**	**79, 23%**

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

The Commission monitors judicial Compliance with the Guidelines as part of its statutory mandate.[80] This oversight function allows the Commission to assess the effectiveness of the Guidelines in promoting effective, fair, and consistent sentences. It also helps identify sentencing trends that may indicate a need to modify the Guidelines.

Judicial Compliance with the Guidelines, as used in this section, means that the sentence imposed either complied with the type and length of sentence recommended by the Guidelines or was a sentence outside of the recommended type/length but was still deemed Compliant with the Guidelines due to other factors.

Since the Guidelines were put into effect, judicial Compliance with the Guidelines has been at or above 91.7%. The highest Compliance rate was observed in 2020 (99%), while the lowest rate recorded since the implementation was in 2012 (91.7%). In 2023, 98.6% 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 overall 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 individual's total 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 individual'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 recommended sentence type and sentence range.[81] To be considered a Guidelines Compliant in the box sentence, the sentence imposed for each felony count must be Compliant in length (Durational Compliance)[82] and sentence type (Dispositional Compliance).[83]

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.

---

[80] The Sentencing Guidelines are voluntary. Therefore, a judge can impose any legal sentence, whether or not it is Compliant with the Guidelines.

[81] *See* Appendices A and B for the Master Grid and Drug Grid.

[82] Durational Compliance means the total sentence falls within the specific Guidelines range for the individual's Grid box.

[83] Dispositional Compliance means the type of sentence imposed is an available option in the individual's Grid box.

- **Probation Sentences**: available in yellow or light shaded boxes.

Sentence options are defined as:

- **Prison Sentence**: In a Compliant prison sentence, the Court sentences the defendant to a prison term within the applicable Grid box range. None of the time imposed is suspended. The prison term may be followed by a period of supervised release as governed by D.C. Code § 24-403.01(b).
- **Long Split Sentence**: A Compliant long split sentence is one where the Court imposes a sentence within the applicable prison range, suspends execution of all but a term that also falls within the applicable prison range, such that the time initially served (not suspended) is more than six months, and imposes a term of probation following release for a period up to five years.
- **Short Split Sentence**: A sentence where the Court imposes a sentence within the applicable prison range, suspends execution of all but six months or less (but not all) of it, and imposes a term of probation following release for a period up to five years.
- **Probation Sentence**: A sentence where the Court imposes a sentence within the applicable Guidelines prison range, suspends execution of the entire sentence, suspends the period of supervised release, and places the defendant on probation for up to five years.

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 individual'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. Even if the sentences do not follow the recommended Guidelines range or sentence type, the following are deemed Compliant outside of the box sentences:
    – Sentences that run concurrently with a Compliant greater or equal sentence;
    – Sentences based on a statutory enhancement;[84]
    – 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; and
    – Compliant Departures.

---

[84] 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.

- **Rule 11(c)(1)(C) Sentences**: Sentences that follow from 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 proposed Rule 11(c)(1)(C) sentence. Once accepted, the sentencing range 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 Compliant outside the box sentences if the sentence falls outside the recommended Guidelines range and sentencing options. All sentences following an accepted Rule 11(c)(1)(C) plea are deemed Compliant with the Guidelines because they are often developed before a defendant's CH score is calculated by CSOSA.
- **Compliant Departures**: Sentences that are either not of a Compliant sentence type or that fall above or below the Grid box recommended sentence range where the judge utilizes one of the 22 Aggravating or Mitigating departure factors.[85]
- **Non-Compliant Departures**: Sentences that either are not of a Compliant type or that fall above or below the Grid box range based on the individual's offense of conviction and CH score, and where 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.[86] A Non-Compliant departure means the judge elected not to follow the Guidelines recommendation.

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

Compliance is used to evaluate the rate at which sentences are imposed within the recommendations provided by the D.C. Voluntary Sentencing Guidelines.

The Commission measures Compliance in two ways: 1) Overall Compliance and 2) In the box Compliance. Overall Compliance captures all instances where a sentence falls within the recommended sentence type and range, falls outside the type or range but is Compliant for another reason or is Compliant because of an applicable departure principle. In the box Compliance refers to any sentence that falls within the Guidelines recommended sentencing range and sentencing options as set forth in the Guidelines Master or Drug Grid, regardless of any other Guidelines rule.

---

[85] In order to address atypical cases or individuals, the Guidelines allow judges to depart from the recommended sentencing range and options. Departures are classified as either Aggravating or Mitigating 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."

[86] 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.

This includes sentences imposed under a Rule 11(c)(1)(C) plea that are within the Guidelines recommendations.

1. Overall Compliance

In 2023, overall Compliance was calculated for 1,455 of the 1,473 felony counts sentenced. The remaining 18 counts occurred in cases where Superior Court did not request a PSI Report or a CH score calculation. The overall Compliance analysis is based on the 1,455 felony counts where Guidelines Compliance was calculated.

Consistent with previous years, the overwhelming majority (98.6%) of felony sentences were Compliant with the Guidelines in 2023, based upon the five conditions mentioned in the previous section.

Figure 33: Overall Judicial Compliance (2023)
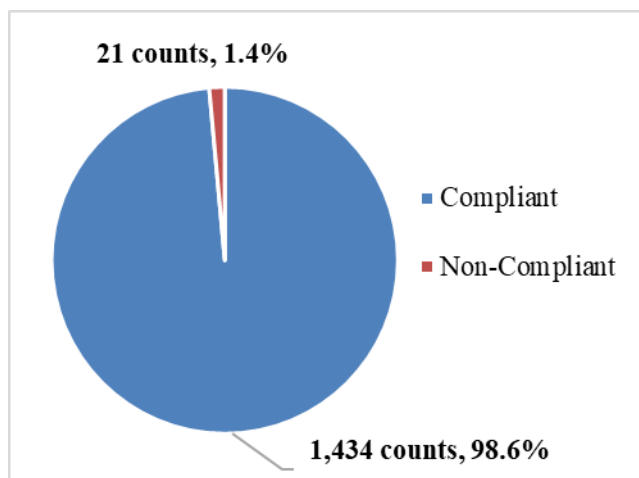
As shown in Table 9, Overall Compliance has remained at or above 95% since 2014, and above 97% since 2016. A high Compliance rate reflects the strong acceptance of the Guidelines by Superior Court judges, and that the Guidelines bring consistency to felony sentences. The high Compliance rate is attributed to: 1) the Guidelines broad in the box sentencing ranges, which gives judges a high amount of discretion, and 2) because most Superior Court non-11(c)(1)(C) felony plea agreements developed by USAO include a clause prohibiting a party from asking for a sentence outside of the applicable in the box sentencing range.[87]

Table 9: Overall Judicial Compliance - Historical Trends (2014-2023)

|	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Compliant	96.7%	95.0%	97.5%	97.2%	97.6%	98.1%	99.0%	98.5%	97.3%	98.6%
Non-Compliant	3.3%	5.0%	2.5%	2.8%	2.5%	1.9%	1.0%	1.5%	2.7%	1.4%

---

[87] This clause only applies to the parties, it does not prohibit the sentencing judge from imposing an outside the box sentence.

2. Judicial Compliance Subcategories

In the box Compliance was calculated for 1,452 of the 1,473 felony counts sentenced in 2023. In addition to the 18 counts omitted from the overall Compliance analysis for which a PSI Report/CH score calculation was not requested by the Superior Court, there were three (3) sentences imposed under Rule 11(c)(1)(C) pleas where a CH score was not requested. Since a CH score is required to calculate in the box Compliance, a total of 21 counts were omitted from the subsequent analysis; the in the box analysis is focuses on the 1,452 felony counts where in the box Compliance was calculated.[88]

In 2023, 1,369 of the 1,452 felony sentences analyzed were inside the Guidelines recommended sentencing range and type. The in the box Compliance rate of 94.3% is comprised of 1,217 Compliant in the box sentences, and 152 Rule 11(c)(1)(C) plea sentences with an in the box sentence. The remaining 83 sentences (5.7%) were outside of the Guidelines recommendation, consisting of 26 Rule 11(c)(1)(C) pleas, 21 Compliant Departures, 21 Non-Compliant sentences, and 14 outside the box Compliant sentences. The 83 sentences that were outside of the Guidelines recommendations are further examined in the following analysis.

Figure 34: Compliance Subcategories (2023)
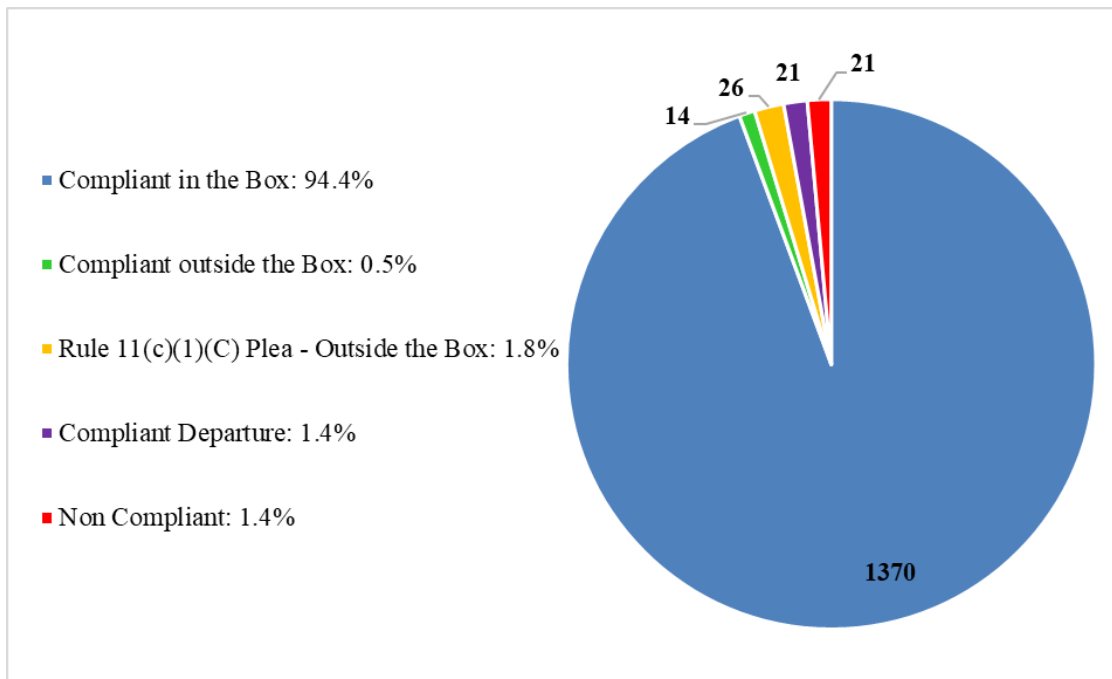
Figures 35 and 36 show historical trends for in the box and outside the box sentences. Note that this historical analysis only dates back to 2015 as the Rule 11(c)(1)(C) data reported in prior years did not identify whether Rule 11(c)(1)(C) pleas were in the box or outside of the box.

Figure 35 compares the proportion of sentences each year that are outside of the box to those that are in the box, where outside the box sentences are further differentiated based on whether they

---

[88] Sentences imposed under a Rule 11(c)(1)(C) plea are calculated in overall Compliance given that they will always be ruled Compliant with the Guidelines.

were otherwise Compliant with the Guidelines.[89] In previous editions of the Annual Report, the Rule 11(c)(1)(C) plea category in this analysis included Rule 11(c)(1)(C) pleas that were sentenced without a CH score. The analysis has been updated to exclude these sentences given that a CH score is required to determine if a sentence is in the box or outside the box. As such, the numbers and proportions reported for each outside the box subcategory will differ slightly from previous editions of the Annual Report.

Since 2015, on average, 91.6% of the felony sentences imposed each year were within the Guidelines recommended sentencing range and sentence type. 2023 was the greatest in the box rate observed over this timeframe, where 94.3% of the felony sentences imposed were within the Guidelines recommended sentencing range and sentence type.

*Figure 35: Distribution of In the Box vs. Outside the Box Sentences (2015-2024)*
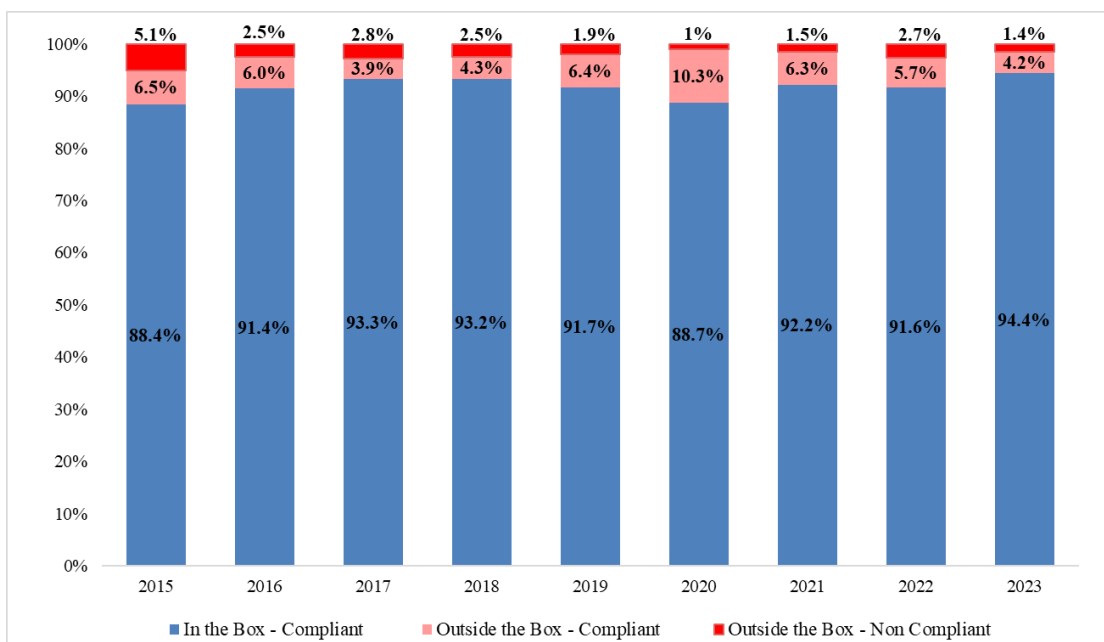
	2015	2016	2017	2018	2019	2020	2021	2022	2023
In the Box	88.4%	91.4%	93.3%	93.2%	91.7%	88.7%	92.2%	91.5%	94.4%
Outside the Box	11.6%	8.50%	6.7%	6.8%	8.3%	11.3%	7.8%	8.5%	5.6%

Since 2019, Rule 11(c)(1)(C) plea – outside the box sentences have represented the plurality of outside the box sentences; between three and four percent of all felony counts sentenced each year were Rule 11(c)(1)(C) pleas. Rule 11(c)(1)(C) plea – outside the box sentences represented 1.8% of all felony counts sentenced in 2023, a slight decrease from 2022, where they represented 3.5% of all felony counts.

---

[89] Outside of the box Compliant sentences include Rule 11(c)(1)(C) pleas, Compliant Departures, and Compliant outside of the box sentences.

Figure 36: Outside the Box Sentence Subcategories (2015-2023)
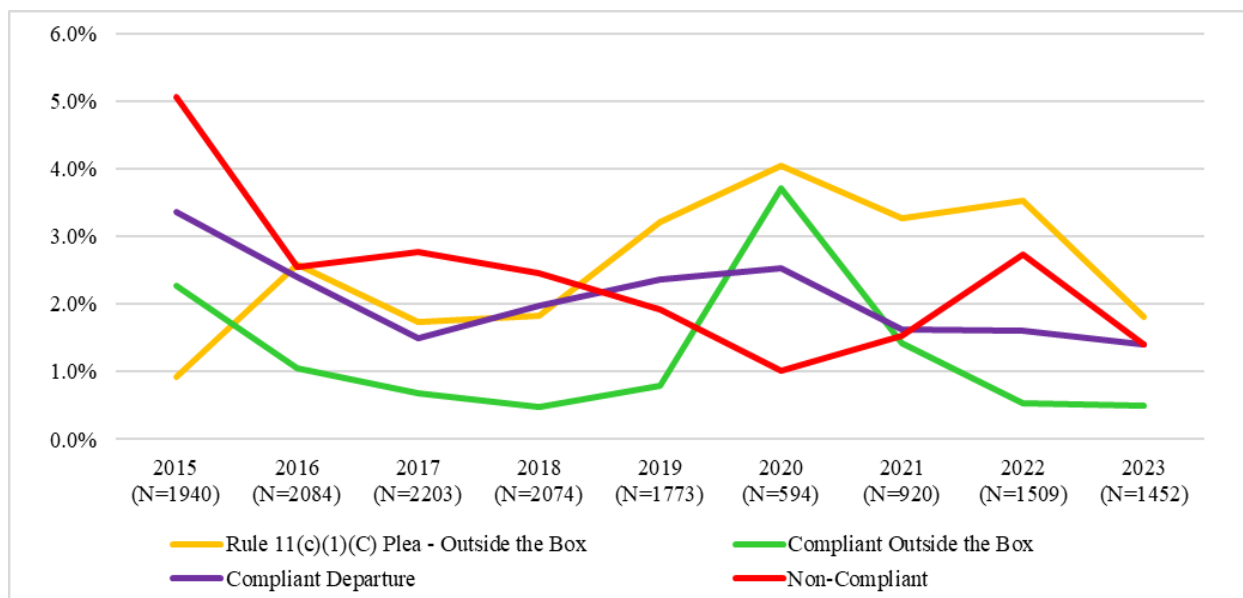
3. Compliant Departures

In 1.5% (n=21) of all felony counts sentenced in 2023, the judge departed from the in the box range and/or sentencing type by utilizing a Compliant Departure factor.[90] 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 Compliant Departures in 2023:

- *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.
- *M7*: The defendant has provided substantial assistance to law enforcement in the detection or prosecution of other defendants, 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.
- *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 Guidelines Compliant counts were run concurrently.
- *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.

---

[90] Appendix F lists all available Aggravating and Mitigating departure factors.

- *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.[91]

Departure factors were cited for three additional counts; however, these counts received a sentence within the Guidelines recommend range and sentencing options. Therefore, those three counts were classified as Compliant in the box. Table 10 displays the 21 total departure factors cited by judges in 2023 where the sentence imposed was outside of the Guidelines recommendation.

Table 10: Compliant Departure Reasons by Severity Group (2023)

Departure Factor	Offense Severity Group								
	M2	M4	M5	M6	M7	M8	M9	D3	**Total**
A1						1			**1**
M7	2	3							**5**
M9								1	**1**
M10			2	4		7			**13**
M11							1		**1**
Total	**2**	**3**	**2**	**5**	**7**	**1**	**1**	**1**	**21**

Consistent with historical trends, an overwhelming majority of cited departure factors were Mitigating departures. M10 was the most frequently cited departure factor, accounting for over 63% of all departures, which was followed by M7 (5 counts, 21%). Only one sentence received an Aggravating departure.

Of the 23 counts where a Mitigating departure was cited, 20 were durational departures. Just under half (45%, n=9) were the result of a "Non-Compliant split sentence", where the sentence imposed was within the recommended Guidelines range, but the amount of time suspended resulted in a sentence to initially serve that does not comply with the Guidelines rules. Thirty-five percent (35%, n=7) were downward durational departures, and the remaining 20% resulted in sentences that were above the Guidelines recommendation, even though a Mitigating departure factor was cited.[92]

The length of the eight durational Compliant Departures *not* classified as "Non-Compliant split sentences" are presented in Figure 37, 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 8 months above the Guidelines recommended range). Please note that one sentence was 108 months above the Guidelines recommendation, and three sentences were 276 months above the Guidelines recommendation; all four sentences have been omitted from the following chart.[93]

---

[91] Although this mitigator was drafted in response to the COVID-19 pandemic, it is intended to apply to future situations of such gravity that D.C. Code § 11-947 is invoked.

[92] The Commission relies on and directly reports on data how it is relayed by the Superior Court.

[93] These four sentences were the ones where a mitigating departure factor was cited, but the sentence was above the Guidelines recommendation.

Figure 37: Durational Compliant Departures, Sentence Imposed (2023)
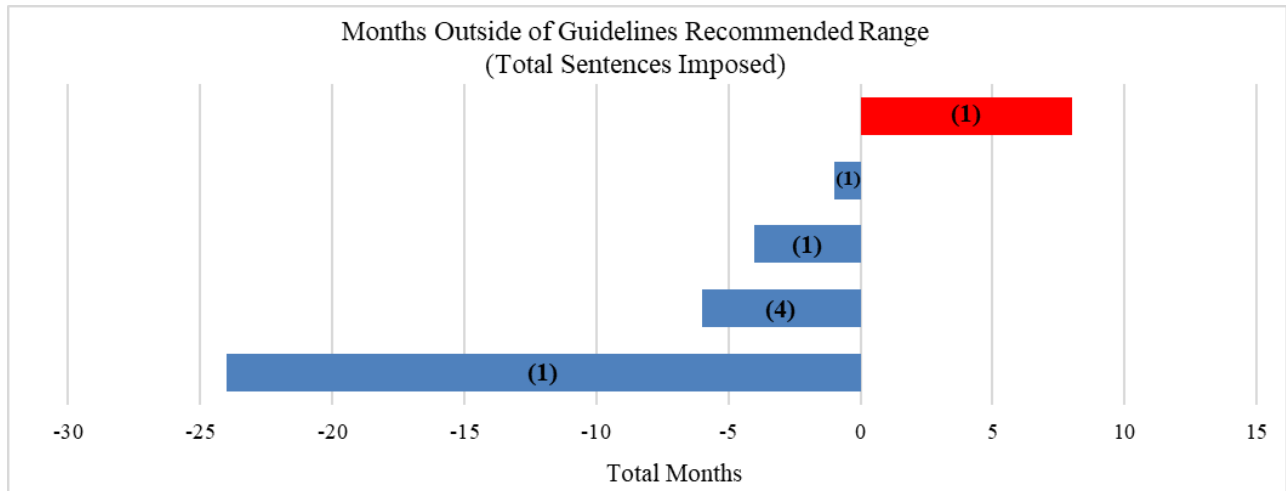
4. Non-Compliant Sentences

A sentence is considered a Non-Compliant departure when the judge imposes an outside the box sentence: 1) without citing a departure principle, 2) where no enhancement or exception applies, and 3) the sentence was not the result of a Rule 11(c)(1)(C) plea. A total of 21 felony counts received a Non-Compliant sentence, representing 1.4% of all felony sentences imposed in 2023.

Non-Compliant sentences were most frequently imposed for Violent and Weapon offenses. Combined, Violent and Weapon offenses accounted for 76% (n=16) of Non-Compliant sentences. Non-Compliant sentences were also imposed for Property (19%, n=4) and Sex offenses (5%, n=1). Note that all Drug, Murder, and Other offense counts received Guidelines Compliant sentences.

As shown in Figure 38, all Non-Compliant sentences in 2023 were durational Departures, meaning that all sentence types aligned with the Guidelines, a trend not seen since 2013. A majority of the durational Departures (81%, n=17) were downward, where the length of the sentence was less than the range specified by the Guidelines. Four were upward durational Departures, where the length of the sentence was greater than the range specified by the Guidelines.

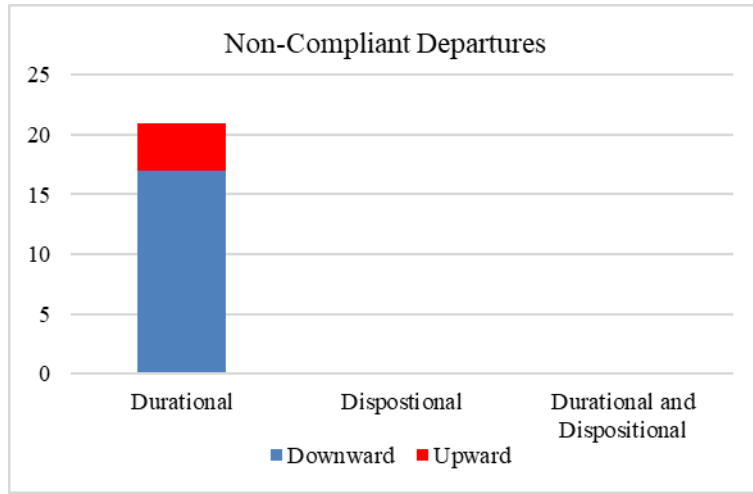*Figure 38: Non-Compliant Departures - Departure Type (2023)*

Figure 39 depicts the sentencing trends for Durational departures imposed in 2023, highlighting how the actual sentence lengths imposed compared to those recommended by the Guidelines. Red shaded bars represent instances where the sentence imposed was above the Guidelines range; blue shaded bars represent sentences that fell below the Guidelines recommended range. The numbers within each bar represent the total number of sentences that resulted in a departure of that magnitude, either above or below the Guidelines range (e.g., one sentence was 12 months above the Guidelines recommended range, while two counts received sentences that were two months below the Guidelines recommended range).

Notably, a majority (14 counts, 67%) of all Durational departures were due to Non-Compliant split sentences. This subset of Durational departures is omitted from Figure 39 given that the total sentence imposed (time served + time suspended) for these counts is within the Guidelines recommendation. A high level overview of Non-Compliant split sentences can be found on page 71.

Consistent with 2022, upward Durational departures were of a greater magnitude than downward durational departures in 2023. The average upward departure was 17.25 months greater than the top end of the recommended range, compared to downward departures, which averaged 3.33 months below the lower bound of the recommended range.

Figure 39: Durational Non-Compliant Sentences, Sentence Imposed (2023)
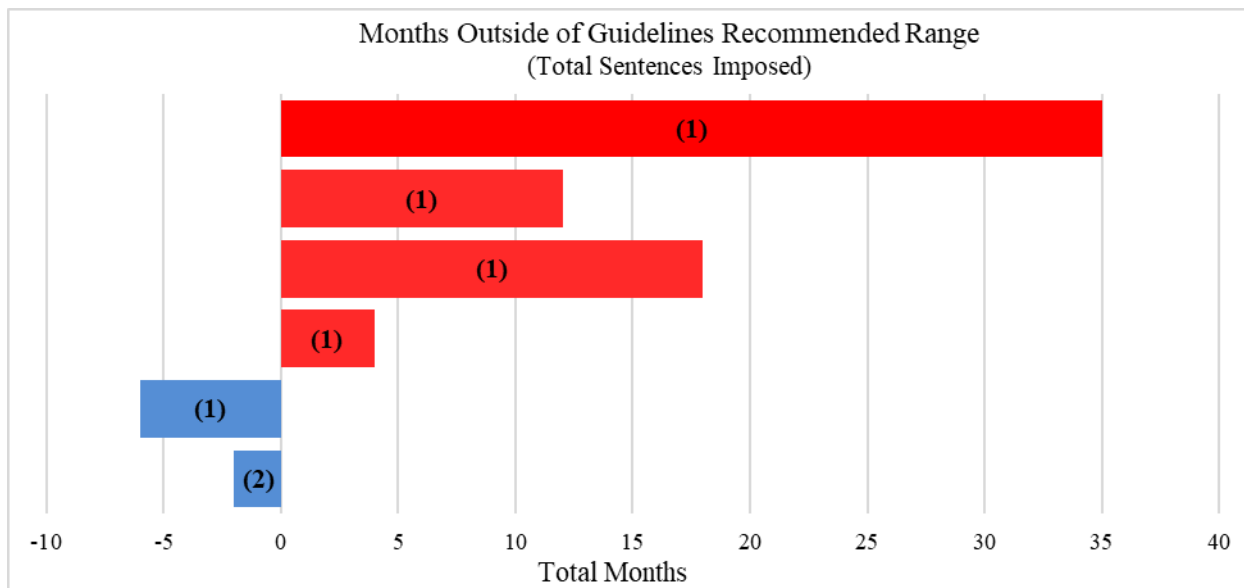
Non-Compliant Split Sentences:

A Non-Compliant split sentence is when the sentence imposed is within the recommended Guidelines range, but the amount of time suspended results in a sentence to serve that is below the lower boundary of that range. In short split eligible boxes, the resulting sentence to serve is also greater than six months, thus making it Non-Compliant with the Guidelines.[94] In 2023, there were 14 Non-Compliant split sentences imposed.

- Non-Compliant split sentences were most frequently imposed for M8 offenses, which accounted for 71% of all Non-Compliant splits. The remaining 29% were for M6 offenses.

- 29% of the Non-Compliant split sentences were imposed for UPF-PF counts – in all of which the individual had a CH score in Box C or greater. Note that UPF-PF has a mandatory minimum sentence of 12 months making these sentences ineligible for a compliant short split sentence. However, the lower boundary of the recommended sentencing range for individuals convicted of UPF-PF with a CH score of C or higher is greater than 12 months. Therefore, in order to impose only the mandatory minimum sentence of 12 months the judge would have to depart from the Guidelines.

- Robbery and Unlawful Use of a Vehicle (UUV) each represented 21% of Non-Compliant split sentences (n=3).

- Across all 14 Non-Compliant split sentences, the average sentence to serve was six months below the lower boundary of the recommended range.

---

[94] Short split sentences are ones in which the sentence imposed is within the Guidelines recommended rage, and time suspended results in a sentence to serve that is one day or more but less than six months.

APPENDIX A - GUIDELINES MASTER GRID

	Ranking Group Most Common Offenses	Criminal History Score				
		0 to ½ **A**	¾ to 1¾ **B**	2 to 3¾ **C**	4 to 5¾ **D**	6 + **E**
3 Points*	**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 UPF-PCOV 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.

I

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+
3/4 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: HISTORICAL 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.[95] 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 the 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.

- In 2022 the Commission updated its GRID system to more accurately capture adult felony arrests that involved multiple parties. The arrest data transmitted from MPD includes information on all parties involved in the arrest, including the arrested individual, witnesses, and victims. The specific role a person has in an arrest is documented as their "Person Role", which is the data field that records an individual's role in the arrest (e.g., "Defendant in Arrest", "Witness"). An arrest involving multiple parties will have multiple, competing values for the "Person Role". Prior to this update, a subset of arrests involving multiple parties

---

[95] A long split sentence is one where the court imposes a prison sentence and suspends execution of some of the sentence but requires the individual 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.

were not available in the analysis portion of the GRID system, given that the system did not know which entry to select for analysis. The Commission resolved this issue by updating the GRID system's logic to select for analysis the entry where the "Person Role" value is "Defendant in Arrest." The Commission continues to work with MPD to ensure that all valid adult felony arrests are processed by the GRID system.

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

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 (PFCOV)
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 (UPF)
36. Unlawful Possession of a Firearm -- Prior Crime of Violence (UPF-PCOV)
37. Unlawful Possession of a Firearm -- Crime of Violence (UPF-PCOV)
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 (UPF-PF)
42. Unlawful Possession of a Firearm -- Prior Conviction Under Chapter 45

43. Unlawful Possession of a Firearm – Prior Conviction (UPF-PF)

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 – STATUTORY CRIMES OF VIOLENCE

Crimes of Violence are defined pursuant to D.C. Code § 23-1331(4). The statute identifies the following offenses in this category:

- Aggravated assault;
- Act of terrorism;
- Arson;
- Felony assault on a police officer;
- Assault with a dangerous weapon;
- Assault with intent to kill, commit first degree sexual abuse, commit second degree sexual abuse, or commit child sexual abuse;
- Assault with significant bodily injury;
- Assault with intent to commit any other offense;
- Burglary;
- Carjacking;
- Armed carjacking;
- Child sexual abuse;
- Cruelty to children in the first degree;
- Extortion or blackmail accompanied by threats of violence;
- Gang recruitment, participation, or retention by the use or threatened use of force, coercion, or intimidation;
- Kidnapping;
- Malicious disfigurement;
- Manslaughter;
- Manufacture or possession of a weapon of mass destruction;
- Mayhem;
- Murder;
- Robbery;
- Sexual abuse in the first, second, or third degrees;
- Use, dissemination, or detonation of a weapon of mass destruction; or
- An attempt, solicitation, or conspiracy to commit any of the foregoing offenses.

APPENDIX F - 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 G - 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 review 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.[96] 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 sentenced individual will 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.[97] 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

---

[96] Chapter 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.

[97] *See* Appendix F for a complete list of departure factors.

enhancement are also deemed to be Compliant if the sentence falls within the expanded range.[98] 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 individual'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.[99] 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.[100]

---

[98] 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.

[99] *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 individual 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 individual cannot predict at what point within that range they will be released.

[100] 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 individual'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.