2026 D.C. Voluntary Sentencing Guidelines Manual

District of Columbia
Sentencing Commission

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.

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Dear Voluntary Sentencing Guidelines Manual Users,

As Executive Director, on behalf of the District of Columbia Sentencing Commission (Commission), I am pleased to provide the 2026 edition of the Voluntary Sentencing Guidelines Manual (Manual) for the District of Columbia, which replaces the 2025 Manual. The 2026 Manual builds on the significant structural changes introduced in the 2025 Manual to make the Guidelines easier to understand and apply. The 2026 Manual goes into effect on January 1, 2026, and should be used for all pleas or verdicts entered on or after that date unless otherwise noted in the Manual.

The 2026 Manual does not include any significant substantive changes to the Guidelines rules. However, it does include new offense rankings. Additionally, the Commission has reranked three Title 48 offenses from the Main Grid to the Drug Grid. All ranked Title 48 felony offenses are now on the Drug Grid. These changes are reflected in Appendix C.[1]

Lesser-used or repetitive materials from previous Manuals remain on the Commission's website. Those materials include older hypotheticals, the offense chart organized by statute citation (formerly Appendix C-I), and the list of the most common offenses organized by Offense Severity Group (formerly Appendix D). Materials moved to the website can be found at: https://scdc.dc.gov/page/latest-sentencing-guidelines. These supplements are citable; however, if any discrepancies arise, the printed Manual shall take precedence. The website also includes additional resources, such as Grids set out by year and Grids showing the bottom third, middle third, and top third of each Grid box.

Commission staff are available daily to assist criminal justice professionals and the public with interpreting and/or applying the Voluntary Sentencing Guidelines. If you have a Guidelines question, inquiry, or would like to schedule a training session, please contact the Commission at (202) 727-8822 or scdc@dc.gov.[2]

Please do not hesitate to contact the Sentencing Commission if you need further assistance with this Manual or when applying the Guidelines.

Sincerely,

Linden Fry
Executive Director

[1]For more information, see the Guidelines Alert at: https://scdc.dc.gov/node/1803721.

[2] When contacting the Commission for assistance, it is important to note that assistance regarding the use or application of the Sentencing Guidelines provided by 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 or parties in any case, and do not constitute the official opinion of the Sentencing Commission.

SENTENCING GUIDELINES AT A GLANCE

1. The Guidelines' Main Grid (Appendix A) and Drug Grid (Appendix B) apply to adult sentencings for felony offenses and set forth the recommended sentencing range and sentence types for each felony offense sentenced based on 1) the Offense Severity Group of the offense of conviction; and 2) the defendant's Criminal History Score.

2. To determine the applicable Offense Severity Group, find the offense of conviction on the Chart of Felony Offenses. Offenses are listed in alphabetical order by common name (Appendix C) and by statutory citation (Supplement I, which is available online). The third column of each chart provides the Offense Severity Group for that offense. See Section 2.1.

3. Calculate the defendant's Criminal History Score using the rules in Chapters 3 – 5.

4. Using the Drug Grid (Appendix B) for felony Drug offenses and the Main Grid (Appendix A) for all other felony offenses, find the row for the Offense Severity Group on the vertical axis and the column for the Criminal History Score on the horizontal axis. The Box at the intersection of the Offense Severity Group and the Criminal History Score displays the sentencing option(s) (*i.e.*, the Guidelines Recommended Sentencing Range (GRSR) coupled with the type of sentence (*i.e.*, Probation, Short Split, Long Split, and Prison)) available for the conviction.

    a. Available sentencing types are indicated on the Main Grid and Drug Grid through box coloring/shading. White boxes indicate that a Prison or Long Split sentence is the only Guidelines In-the-Box Compliant sentence type available. Dark blue/dark-shaded boxes indicate that either a Prison, Long Split, or Short Split sentence (*e.g.*, ESS all but six months or less, but not ESS all)[3] is a Guidelines Compliant sentence type available. Light blue/light-shaded boxes indicate that either a Prison, Long Split, Short Split, or Probation sentence (*e.g.*, ESS all) is a Guidelines Compliant sentence type available.

        Note: A Prison or Long Split sentence is a Guidelines Compliant sentence type in every box.

        i. If the judge wants to impose a Compliant Prison sentence (an option available in all boxes), the judge should impose a term of incarceration that is within the appropriate Guidelines Recommended Sentencing Range, unless the judge decides to apply one of the Departure Factors. For example, in Box D2B, a Prison sentence should be no lower than 16 months and no higher than 36 months. See Sections 6.1.1, 10.35.

[3] A Short Split sentence may include "ESS all but time served" provided that, consistent with the definition of a Short Split, the period of time served is less than six months.

ii. If the judge wants to impose a Compliant Long Split sentence (an option available in all boxes), the judge should impose a term of incarceration in the appropriate Guidelines Recommended Sentencing Range plus the period of supervised release appropriate for that offense, suspend execution of only a portion of the term of incarceration so that the unsuspended portion is still in the appropriate GRSR *and* is greater than six months, suspend execution of the period of supervised release, and impose any amount of probation up to the five-year maximum. See Sections 6.1.2, 10.24.

iii. If the judge wants to impose a Compliant Short Split sentence (an option available in the light blue/light-shaded or dark blue/dark-shaded boxes), the judge should impose a term of incarceration in the GRSR plus the period of supervised release appropriate for that offense, suspend execution of all *except for six months or less*, but *not all*, of the term of incarceration (ESS all but XX (where XX equals six months or less), but *not* ESS *all*), suspend execution of the period of supervised release, and impose any amount of probation up to the five-year maximum. See Sections 6.1.3, 10.38.

iv. If the judge wants to impose a Compliant Probation sentence (an option available only in light blue/light-shaded boxes), the judge should impose a term of incarceration in the GRSR plus the period of supervised release appropriate for that offense, suspend execution of the entire term of incarceration (ESS all), and impose any amount of probation up to the five-year maximum with the same terms and conditions that are currently available. See Sections 6.1.4, 10.36.

5. Several factors may alter the sentencing options, however:

    a. A sentence cannot be lower than a mandatory minimum, if applicable. See Section 6.2.1.

    b. If enhancement papers have been filed and/or statutory enhancements proven, the higher number in the Guidelines Recommended Sentencing Range is raised by the statutory multiplier or amount. See Section 6.5.

    c. If there are multiple convictions sentenced on one day:

        i. Calculate the sentence for each conviction; and

        ii. Apply the concurrent/consecutive rules. See Chapter 7.

d. Aggravating and Mitigating Factors may be used in atypical cases if the sentencing judge determines there is a substantial and compelling reason to depart from the Guidelines Recommended Sentencing Range. See Chapter 8.

e. Rule 11(c)(1)(C) plea agreements control the sentence regardless of the otherwise applicable Guidelines range. Meaning, all Rule 11(c)(1)(C) pleas are Guidelines Compliant. See Section 8.6.

6. Recommended Citation Form

a. Full Citation Form Example:

D.C. Sentencing Commission, Voluntary Sentencing Guidelines Manual, Chapter 2, Section 2.5.3 (2026 ed.).

b. Abbreviated Citation Form Example:

DCVSG Ch. 2 Sect. 2.5.3 (2026).

c. Online Supplemental Materials Citation Form Example:

D.C. Sentencing Commission, Voluntary Sentencing Guidelines Manual - Supplemental Materials, Supplement IV, Section 4. (2025 Online ed.). https://scdc.dc.gov/page/latest-sentencing-guidelines.

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ABBREVIATIONS AND ACRONYMS

Term	Definition
ADW	Offense of Assault with a Dangerous Weapon
AWIK	Offense of Assault with Intent to Kill
CHS	Criminal History Score
Commission	District of Columbia Sentencing Commission
COV(s)	Crime(s) of Violence as Defined in D.C. Code § 23-1331(4)
CPWL	Offense of Carrying a Pistol Without a License
CSOSA	Court Services and Offender Supervision Agency for the District of Columbia
D.C.	District of Columbia
ESS	Execution of Sentence Suspended
FIP-1	Offense of Unlawful Possession of a Firearm – Prior Conviction
FIP-3	Offense of Unlawful Possession of a Firearm – Prior Crime of Violence
Grid	The Main Grid or the Drug Grid
GRSR	Guidelines Recommended Sentencing Range
Guidelines	District of Columbia Voluntary Sentencing Guidelines
ISS	Imposition of Sentence Suspended
LWOR	Life Without Release
Manual	D.C. Sentencing Commission Voluntary Sentencing Guidelines Manual
Misd.	Misdemeanor
OSG	Offense Severity Group
PCP	Phencyclidine
PSR	Presentence Investigation Report
PWID	Offense of Possession with Intent to Distribute a Controlled Substance
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
w/a	While Armed
YRA	Youth Rehabilitation Act ("YRA" D.C. Code § 24-901 et seq.)

COLOR KEY

Scored Offense
Not Scored Offense
Instant Offense
Revived Offense
TEN-YEAR
WINDOW
FIVE-YEAR
WINDOW

CHAPTER 1: GUIDELINES OVERVIEW

1.1 Principles

In 1998, the District of Columbia Sentencing Commission (Commission) was charged with developing a comprehensive structured sentencing system for D.C. or explaining why no such system was needed. After examining the system in effect, the Commission concluded that D.C. could benefit from a comprehensive structured sentencing system. Consequently, the Commission embarked upon the difficult task of creating workable sentencing guidelines for felonies.

Following the example of other jurisdictions and an earlier effort in D.C., the Commission developed two Grids to be used for sentencing in felony cases. The Drug Grid is used for sentencing in all felony Drug convictions, and the Main Grid is used for all other felony convictions (collectively known as the Grids). The Grids are used to plot two of the dominant factors in sentencing: the offense of conviction (on the vertical axis) and the criminal history of the defendant (on the horizontal axis). The intersection of these two factors on the Grids is a Box containing the sentencing options (sentence types and sentence range) for that particular combination of the offense of conviction and the criminal history of the defendant. As the severity of the offense and the Criminal History Score (CHS) of the defendant increase, the length of the Guidelines Recommended Sentencing Range (GRSR) increases, while alternatives to incarceration decrease.

The sentence types and ranges in each box are based on historical data from the D.C. Superior Court (Superior Court) for the eight years preceding the promulgation of the D.C. Voluntary Sentencing Guidelines (Guidelines), with some adjustments for consistency and symmetry. In developing the Grids, the Commission aimed to move sentences toward the historical center, without shifting that center up or down.[4]

The Commission also established standards for departing from the GRSR in extraordinary cases, rules for imposing concurrent or consecutive sentences, and adjustments and exceptions to sentencing "In-the-Box." Together, the Grids, standards, rules, adjustments, and exceptions form the Guidelines.[5]

1.1.1 Voluntary

The Guidelines are and have always been completely voluntary. Judges are under no obligation to follow them. Even though they are voluntary, there has been a high rate of Compliance since the Guidelines were implemented in June 2004. See Section 10.8. Nevertheless, judges have discretion to impose any sentence they choose, provided that it is lawful under the D.C. Code.

[4] See "Criminal Sentencing Practices 1993-1998," which can be found at: https://scdc.dc.gov/node/1109686.

[5] For further information on the development of the Guidelines, refer to the Commission's 2003 Annual Report, which can be found at: https://scdc.dc.gov/node/1108767.

Sentences imposed under the Guidelines, just like sentences imposed before the Guidelines were in effect, are not appealable unless they are unlawful.[6] Judges are expected to acknowledge that they have followed the Guidelines, provide the factor(s) upon which they relied for Departure sentences, or state why they did not use the Guidelines. *See* D.C. Superior Court Administrative Order 04-11. The Commission's Annual Report to the D.C. Council includes the rate of Compliance with the Guidelines, the number and extent of Departures, and the cited reasons for Departure.[7]

1.1.2 *Authority*

In accordance with the Commission's statutory mandate, the Guidelines are intended to facilitate the uniform application of sentences imposed for felony offenses in the Superior Court.

a. D.C. Code Section 3-101(b) provides that:

"[t]he Commission shall perform the following duties:

(1) Promulgate, implement, and revise a system of voluntary sentencing guidelines for use in the Superior Court of the District of Columbia 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 court and practitioners on sentencing and sentencing guideline issues…."

[6] "The Sentencing Guidelines shall not create any legally enforceable rights in any party nor shall they diminish any rights that currently exist." D.C. Code § 3-105(c). An otherwise lawful sentence may not be appealed on the theory that the sentencing judge misapplied the Guidelines. *Speaks v. United States,* 959 A.2d 712, 717-720 (D.C. 2008); *White v. United States,* 958 A.2d 259, 265-66 (D.C. 2008).

[7] Throughout the Manual, words such as "must," "shall," and "are required to" are used. These should be interpreted to mean that if a judge wants to impose a Guidelines Compliant sentence, they "must," "shall," or "are required to" follow the specified procedures. However, judges are not legally obligated to follow the Guidelines in any case.

1.1.3 Applicability

The Guidelines apply to all felony convictions where verdicts and pleas are entered on or after June 14, 2004.

1.1.4 Effective Date

The sentencing judge shall use the Guidelines Manual in effect on the date of plea or verdict, unless both parties agree to use the version in effect at the time of sentencing.

1.1.5 Supplemental Website Materials

Supplementary Materials to the Guidelines are available on the Commission's website at: https://scdc.dc.gov/page/sentencing-guidelines-manual-sccrc. If there are any discrepancies between the printed Manual (*i.e.,* the physical copy of the Manual and the electronic copy/pdf of the Manual) and the website materials, the printed Manual shall take precedence.

1.1.6 Translated Versions of the Manual

As the Commission works to increase access to the Guidelines, translated Manuals will be available on the Commission's website at: https://scdc.dc.gov/page/spanish-translation-dc-voluntary-sentencing-guidelines-. Only the English version of the Guidelines Manual contains the official Sentencing Guidelines as approved by the D.C. Sentencing Commission. If there are any discrepancies between the English and translated versions, the English version shall control.

1.1.7 Factors That May Not Be Considered

Neither a defendant's nor a victim's race, gender, marital status, ethnic origin, religious affiliation, or sexual orientation may be considered in sentencing a defendant. However, this restriction does not preclude reference to the listed protected traits when they are relevant to an issue in the proceeding (*e.g.*, Bias-Related Crime Enhancement (D.C. Code § 22-3703)).

In determining an appropriate sentence within the Box, the sentencing judge may consider any appropriate factor other than those listed above, including any information that the sentencing judge could have taken into consideration before the introduction of the Guidelines. If sentencing outside of the Guidelines recommended options, the sentencing judge should identify the applicable Departure Factors outlined in Sections 8.3, 8.4.

1.2 Sentencing Commission

1.2.1 Commission's Role

The Commission will continue to monitor the use of the Guidelines, collecting data and making revisions as needed. The Commission will also make changes to the Manual to clarify the Guidelines or to create new policy rules where necessary.[8]

1.2.2 Assistance From the Commission

The Commission provides information to assist in understanding and applying the Guidelines. The Commission strongly encourages practitioners to ask questions regarding the application of the Guidelines. If you have a Guidelines application inquiry, please contact the Commission at (202) 727-8822 or scdc@dc.gov. The issues raised by the inquiry may also be used to inform subsequent revisions of the Guidelines.

It is important to note that assistance regarding the use or application of the Guidelines provided by 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 sentencing judge or parties in any case, and do not constitute the official opinion of the Commission.

1.3 Basic Structure

1.3.1 The Grids

The Commission developed two Grids ("the Grids"), as shown on pages 6 and 7 to be used when imposing a felony sentence. The Drug Grid is used for sentencing in all felony Drug convictions, and the Main Grid is used for all other felony convictions. Each Grid contains groups of offenses, ranked by level of severity, along the vertical axis: Main Offense Severity Groups (OSGs) 1 through 9 on the Main Grid and Drug OSGs 1 through 4 on the Drug Grid. Each Grid contains five Criminal History Score columns along the horizontal axis, listed as Columns A through E. See Sections 10.13, 10.25 and Appendices A, B.

1.3.2 Ranking Offenses

The Commission ranks all felonies in the D.C. Code in groups by level of descending severity. There are nine Main Groups of offenses on the Main Grid (ranging from First Degree Murder While Armed (w/a) in Main Group 1 to Receiving Stolen Property in Main Group 9) and four Drug Groups on the Drug Grid (ranging from Distribution w/a in Drug Group 1 to Attempted Distribution of Marijuana in

[8] See the Commission's website for a list of all historical substantive amendments to the Guidelines at www.sentencing.dc.gov.

Drug Group 4).

The OSG is determined by the offense of conviction (defined in Section 10.31), not the underlying conduct. The Guidelines do not provide any discretion to decide in which OSG to place the offense of conviction for D.C. Code offenses.

The Commission has endeavored to assign every felony in the D.C. Code to an OSG. As new offenses are created and/or amended, the Commission will continue to rank the offenses. If an offense is unranked, see Section 2.5 for the default ranking, and please inform the Commission, which will rank the offense appropriately.

1.3.3 *Criminal History Scores*

There are a series of rules for computing a defendant's CHS that depend primarily on (1) the number and severity of prior convictions and juvenile adjudications and (2) the length of time between the imposition **or** the expiration of the defendant's last sentence and the commission of the instant offense. See Chapters 3 – 5.

1.3.4 *Finding the Right Box*

The starting point for finding a Guidelines Compliant sentence for a conviction is:

a. Determining the OSG for the offense of conviction; and then

b. Calculating the CHS for the defendant.

The place where these two factors intersect on the Main Grid or the Drug Grid contains the Guidelines recommended 'In-the-Box' Compliant sentencing options (available sentence types and ranges) for that combination of OSG and CHS. This process must be done individually for each offense being sentenced (regardless of whether it is consecutive or concurrent to another Compliant offense in the case).

MAIN GRID

January 2026 -- Sentencing Ranges Listed in Months

CH Points	OSG	Most Common Offenses	Criminal History Score 0–0.5 A	0.75–1.75 B	2–3.75 C	4–5.75 D	6 + E
3 Points*	1	1st Degree Murder w/a 1st Degree Murder	360 - 720	360 - 720	360 - 720	360 - 720	360 +
	2	2nd Degree Murder w/a 2nd Degree Murder 1st Degree Sex Abuse w/a 1st Degree Sex Abuse	144 - 288	156 - 300	168 - 312	180 - 324	192 +
	3	Voluntary Manslaughter w/a 1st Degree Child Sex Abuse Carjacking w/ Armed Assault With Intent to Kill w/a Burglary I w/ Armed	90 - 180	102 - 192	114 - 204	126 - 216	138 +
	4	Aggravated Assault w/a Voluntary Manslaughter	48 - 120	60 - 132	72 - 144	84 - 156	96 +
	5	PFCOV Robbery w/a Burglary I Obstruction of Justice Assault With Intent to Kill	36 - 84	48 - 96	60 - 108	72 - 120	84 +
2 Points*	6	ADW Robbery Aggravated Assault 2nd Degree Child Sex Abuse Assault with Intent to Rob	18 - 60	24 - 66	30 - 72	36 - 78	42 +
	7	Burglary II 3rd Degree Sex Abuse FIP-3 Negligent Homicide Attempt 2nd Degree Sex Abuse	12 - 36	18 - 42	24 - 48	30 - 54	36 +
1 Point*	8	Carrying a Pistol (CPWL) UUV Attempt Robbery/Burglary FIP-1 1st Degree Theft Assault w/ Sig. Bodily Injury	6 - 24	10 - 28	14 - 32	18 - 36	22 +
	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 Long Split only.

Dark-shaded boxes – Prison, Long Split, or Short Split permissible.

Light-shaded boxes – Prison, Long Split, Short Split, or Probation permissible.

DRUG GRID

January 2026 -- Sentencing Ranges Listed in Months

CH Points	OSG	Most Common Offenses	Criminal History Score 0–0.5 A	0.75–1.75 B	2–3.75 C	4–5.75 D	6 + E
2 Points*	1	Distribution w/a (Any Drug) PWID w/a (Any Drug)	30 - 72	36 - 78	42 - 84	48 - 90	54 +
1 Point*	2	Distribution or PWID (Schedule I or II Narcotic/Abusive Drugs)	12 - 30	16 - 36	20 - 42	24 - 48	28 +
	3	Distribution or PWID (Except Schedule I or II Narcotic/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 +
0.75 Points*	4	Attempt Distribution or Attempt PWID (Except Schedule I or II Narcotic/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 Long Split only.

Dark-shaded boxes – Prison, Long Split, or Short Split permissible.

Light-shaded boxes – Prison, Long Split, Short Split, or Probation permissible.

1.3.5 *Sentencing Options*

All boxes on the Grids have a Compliant Prison and Long Split sentence type available. The numbers within the Box indicate the range within which the initial sentence must fall, unless a Departure Factor or other exception applies. See Sections 8.1, 10.12.

Some boxes (white/unshaded) permit only a Prison or Long Split sentence type, unless a Departure Factor or other exception applies. See Sections 6.1.1, 6.1.2, 10.24, 10.35.

Some boxes (dark blue/dark-shaded) permit a Short Split sentence type. To impose a Short Split sentence, the sentencing judge must impose a sentence that falls within the GRSR in that Box, suspend execution of all but six months or less of that sentence – but not all – and impose up to five years of probation. A Prison or Long Split sentence is also permissible in those boxes. See Sections 6.1.3, 10.11, 10.38.

Some boxes (light blue/light-shaded) permit a Probation sentence type. To impose a Probation sentence, the sentencing judge must impose a sentence that falls within the GRSR in that Box, suspend execution of all of it (ESS all), and impose up to five years of probation. A Short Split sentence, a Prison sentence, or a Long Split sentence is also permissible in these boxes. See Sections 6.1.4, 10.23, 10.36.

1.3.6 *Statutory Enhancements*

The Manual accommodates statutory enhancements by raising the higher number in the Box by the same percentage or ratio in which the statutory maximum is increased. See Section 6.5, Appendix F.

1.3.7 *Single v. Multiple Events*

For purposes of determining which offenses count toward a defendant's CHS (see Sections 3.1, 3.2), and which counts must be sentenced consecutively/concurrently (see Chapter 7), offenses are part of a single event if they were:

a. Committed at the same time and place or

b. Have the same nucleus of facts.

Offenses are part of multiple events if they were:

a. Committed at different times and places or

b. Have a different nucleus of facts.

When criminal conduct crosses jurisdictional lines (*e.g.*, from Maryland into D.C.), it may result in multiple cases in multiple jurisdictions. However, this should not change the analysis regarding whether the offenses constitute single or multiple events.

Example 1: Single v. Multiple Events
One Event The defendant robbed a cashier at a convenience store at gunpoint, receiving cash from the clerk. While still inside the store, the defendant exchanged gunfire with a police officer who had been surveilling the store. The defendant was later convicted of Armed Robbery and felony Assault on a Police Officer While Armed (APO w/a). In this scenario, the Armed Robbery and APO w/a convictions occurred at the same time and place and arose from the same nucleus of facts; therefore, they are part of the same event. **Two Events** The defendant robbed a cashier at a convenience store at gunpoint, receiving cash from the clerk. The defendant sped away from the scene, but later slowed and began driving normally. The defendant was then stopped for a minor traffic violation. At the officer's request to exit the vehicle, the defendant shot at the police officer and then fled the scene. The defendant was later convicted of Armed Robbery and felony Assault on a Police Officer While Armed (APO w/a). In this scenario, the Armed Robbery and the APO w/a are not part of the same nucleus of facts and occurred at different times and places; therefore, they are part of separate events.

1.3.8 *Departure Factors*

The Guidelines contain non-exclusive lists of Aggravating and Mitigating Factors that permit the sentencing judge to sentence Outside-the-Box but still comply with the Guidelines. If the sentencing judge finds one of the enumerated factors or another substantial and compelling reason comparable in gravity to the enumerated factors, the sentencing judge is not bound by the Grid options. Other than statutory limits, there are no limitations on the sentence the sentencing judge can impose if they find a substantial and compelling reason to depart.[9] Any legal sentence may be imposed. See Chapter 8.

1.3.9 *Rules for Consecutive and Concurrent Sentences*

There are rules for imposing consecutive or concurrent sentences in cases involving multiple counts sentenced on the same day or following a revocation of probation or supervised release. Judicial discretion applies in other cases. See Chapter 7.

1.3.10 *Exceptions*

a. Rule 11(c)(1)(C) pleas control the sentence or sentencing range regardless of the otherwise applicable Grid options, recommended range, or Guidelines rules. See Section 8.6.

[9] The only exceptions to this rule are Aggravating Factor #10 (Section 8.3 (A10)) and Mitigating Factor #9 (Section 8.4 (M9)), which allow the judge to depart if the application of the rules for consecutive or concurrent sentencing results in a sentence that is either too lenient or too harsh. These limitations are explained in Chapter 8.

b. The Guidelines do not alter statutory or mandatory minimums, and the sentencing judge has no discretion to sentence below the mandatory minimum. See Section 6.2.1.

1.3.11 *Challenging Information Contained in the Presentence Report*

Sentencing hearings should be scheduled so that the Presentence Investigation Report (PSR) is completed and provided to both parties at least two weeks prior to the hearing to give the parties the opportunity to assess the accuracy of the Guidelines calculation.

If a party intends to challenge the initial CHS, that party should immediately notify the opposing party and the PSR writer, providing information on why the challenging party believes that a conviction or date is incorrect. See Section 8.2 for more information on the procedures for challenging the CHS.

If a party knows that it will challenge the CHS and that it will submit evidence or information not introduced at trial or a pretrial hearing, the challenging party should notify the opposing party and the judge as early as possible so that sentencing will not have to be continued.

Additionally, if a party believes the PSR contains errors or a misapplication of the Guidelines rules (*e.g.,* older D.C. Code offenses, factual errors, or the miscalculation of the CHS), the party may raise these issues with the sentencing judge and seek a PSR correction.

Either party may request a correction and provide evidence or argument, as appropriate. If the sentencing judge concludes that a correction should be made, they shall update the PSR and inform the Commission.[10]

[10] Please contact the Commission with any updates at scdc@dc.gov.

CHAPTER 2: DETERMINING THE OFFENSE SEVERITY GROUP

2.1 Offense Severity Groups and the Grids

The Offense Severity Groups on the Main Grid and Drug Grid are arranged in order of severity, descending from the most severe offenses in Main Group 1 (*e.g.*, First Degree Murder) to the least severe offenses in Main Group 9 (*e.g.*, Receiving Stolen Property) and on the Drug Grid from Drug Group 1 (*e.g.*, Distribution/Possession with Intent to Distribute a Controlled Substance While Armed (PWID w/a)) to Drug Group 4 (*e.g.*, Felony Attempted Distribution of Marijuana).

2.2 Offense of Conviction

The offense(s) of conviction is (are) determined by the plea agreement or the verdict. Once the offense(s) of conviction is (are) determined, the parties and the sentencing judge need only refer to Appendix C to determine the OSG. Appendix C lists the ranked D.C. felonies in alphabetical order by common name. Supplement I lists the ranked D.C. felonies by D.C. Code citation.[11] Column 3 of both Appendix C and Supplement I provides the OSG for each offense.

The OSG determines which row on the Main Grid or Drug Grid a conviction falls into for sentencing purposes.

Example 2: Offense Severity Groups

Offense	D.C. Code (2001)	Offense Severity Group	Appendix C
Kidnapping	22-2001	Main Group 5 (M5)	C-13
Cruelty to Animals	22-1001(d)	Main Group 9 (M9)	C-8
Trafficking in Stolen Property	22-3231	Main Group 8 (M8)	C-23
Possession with Intent to Distribute While Armed - Cocaine	48-904.01(a), (b); 22-4502	Drug Group 1 (D1)	C-8

Over time, the Commission may re-rank offenses into different OSGs. Judges and practitioners should not – except in circumstances that are controlled by a Departure Factor (see Section 8.1) – use an OSG different from the one in which the offense of conviction falls. If a judge or practitioner believes that an offense or a common method of committing an offense should be ranked differently, they should share that observation with the Commission.

Note: *The offense of conviction, **not** the alleged offense conduct, controls the OSG.*

[11] Supplement I (formerly Appendix C-I) can be found on the Commission's website at: https://scdc.dc.gov/page/latest-sentencing-guidelines.

Example 3: Offense of Conviction

The defendant was initially charged with Armed Carjacking (M3) after committing the offense with a knife. However, the defendant pleaded guilty to unarmed Robbery (M6). Therefore, regardless of the use of the knife, unarmed Robbery is the offense of conviction and is used to determine the defendant's OSG. Section 2.2. However, the sentencing judge may consider the use of the knife when deciding where within the appropriate GRSR to sentence the defendant.

2.3 Offense Severity for Felony Drug Offenses

The OSG for felony Drug offenses is determined by the D.C. Code Drug Schedule based on the classification of the underlying substance and whether it is defined under D.C. Code as a Narcotic or Abusive Drug under D.C. Code § 48-904.01(a)(2)(A).

In some cases, the name of the drug is ambiguous, making it difficult to determine the applicable drug schedule and classification of the underlying substance(s) (*e.g.*, Synthetic Marijuana or Synthetic Cannabinoid). For instances where the name of the drug is ambiguous, the best practice is to determine the specific drug from the indictment, information, or other charging document or waiver, which can then be used to find the appropriate OSG. For adult Drug convictions:

a. A conviction for Distribution or PWID While Armed of **any** Drug is ranked in Drug Group 1.

b. If the underlying substance(s) is classified as a Narcotic or Abusive Drug and is a Schedule I or II controlled substance, then a Distribution or PWID conviction falls into Drug Group 2.

c. If the underlying substance(s) is **not** classified as a Narcotic or Abusive Drug and/or is **not** listed as a Schedule I or II controlled substance, then a Distribution or PWID conviction falls into Drug Group 3.

d. A conviction for Possession of Liquid Phencyclidine (PCP) falls into Drug Group 3.

e. A conviction for Attempt or Conspiracy to Commit Distribution or PWID falls into the OSG immediately below the OSG for the completed offense (*e.g.*, attempt of a D2 offense falls into D3 and attempt of a D3 offense falls into D4).

2.4 Offense Severity for Accessory After the Fact

When the offense of Accessory After the Fact (D.C. Code § 22-1806) is being sentenced as part of the instant event, use the box applicable to the underlying offense and multiply the top and bottom numbers of the GRSR by 0.5. To determine whether the defendant is eligible for a Probation or a Short Split sentence, go to the OSG immediately below that for the underlying offense and then to the appropriate column given the defendant's CHS. See Appendix C for more information on the OSG.

2.5 Special Rules

2.5.1 *Offense Severity Group of Currently Unranked or Amended Statutes*

If an offense has not yet been ranked by the Commission (*i.e.,* it does not appear in Appendix C), or if the penalty for the conduct of conviction has changed since the Commission last ranked the offense (comparing the offense penalty in the current D.C. Code with the penalty indicated in Appendix C), the sentencing judge should use the following rules to establish the OSG for the instant offense(s) being sentenced. The burden is on the party seeking the benefit of this Section to establish by a preponderance of the evidence that it applies.

a. For a current D.C. felony offense that does not appear in Appendix C, unless and until the Commission ranks it, use the following table to determine the OSG ranking:

Table 1: Offense Severity Group for Offenses Not Yet Ranked By The Commission

OFFENSE SEVERITY GROUP FOR OFFENSES NOT YET RANKED BY THE COMMISSION		
If the maximum penalty is greater than one year and…	**Main Grid OSG**	**Drug Grid OSG**
Less Than Five Years	9	3
Five Years or More, But Less Than 10	8	
10 Years or More, But Less Than 15	7	2
15 Years or More, But Less Than 20	6	
20 Years or More, But Less Than 30	5	1
30 Years or More, But Less Than 40	4	
40 Years or More, But Less Than Life	3	
Life, But Not Life Without Release	2	
Life Without Release	1	

b. Where the D.C. Council amends the penalty of a criminal offense that was previously ranked by the Commission:

1. If the penalty for the offense has increased, use the OSG that was applicable to the offense at the time the offense was committed.

2. If the penalty for the offense has decreased but the offense remains a felony, use the table in subsection (a) of this Section, unless doing so places the offense in a more severe OSG, in which case use the OSG that was applicable to the offense at the time the offense was committed.

3. If the penalty for the offense has decreased and the amended offense is now a misdemeanor, score the conviction as a misdemeanor.

4. If the penalty for the offense was a misdemeanor when the offense was committed, but is now a felony, score the conviction as a misdemeanor.

5. If the offense had a maximum penalty of less than 90 days incarceration when the offense was committed, but now has a maximum penalty of 90 days or more of incarceration, do not score the conviction.

6. If the penalty for the offense had a maximum penalty of 90 days or more of incarceration when the offense was committed, but now has a maximum penalty of less than 90 days, do not score the conviction.

2.5.2 *Offense Severity Group of Previously Unranked or Re-Ranked Statutes*

If, after the commission of the instant offense, the Commission has:

(1) changed the OSG in Appendix C or

(2) ranked a previously unranked offense in a different OSG than the default ranking rules in Section 2.5.1 would have required at the time of the commission of the offense:

a. If the Commission has increased the OSG, use the OSG at the time of the commission of the offense.

b. If the Commission has lowered the OSG, use the current OSG listed in Appendix C.

c. For misdemeanor offenses, score only those offenses with a penalty of 90 days or more, pursuant to the rules set forth in Section 2.5.1(b)(3) – (6).

Example 4: Offense Severity Group for Amended Offense Rankings

The defendant pleaded guilty to violating a new statute not yet ranked by the Commission. The penalty for the new statute carries a ten-year maximum sentence. Table 1 provides the default rankings for offenses that the Commission has not yet ranked. The default rankings in Table 1 are based solely on the statutory maximum sentence. For an unranked felony offense with a ten-year statutory maximum sentence, the default ranking is M7.

However, if the Commission ranked the offense after the commission of the offense but prior to the defendant pleading guilty, the following would occur:

- If the Commission ranked the offense as an M6, the offense would remain scored as an M7 (Section 2.5.2(a)).
- If the Commission ranked the offense as an M9, the offense would be scored as an M9 (Section 2.5.2(b)).

2.5.3 *Offense Committed During Release*

a. If Prior Conviction is OCDR (Felony)

The D.C. Court of Appeals has determined that an Offense Committed During Release (OCDR) is an enhancement.[12] As such, it should be treated like other enhancements and is not counted toward the defendant's CHS. See Section 6.5 for more information on enhancements.

b. If OCDR (Felony) Applies to an Offense of Conviction

In cases where OCDR enhances the penalty associated with an offense of conviction, the Guidelines treat OCDR as if it were a separate offense for purposes of determining a defendant's GRSR. The D.C. Code provides that OCDR carries a minimum sentence of 1 year and a maximum sentence of 5 years. Thus, OCDR is ranked by the Guidelines in Main Group 9.[13] OCDR is also exempt from the Guidelines rule that only one sentencing enhancement may apply to each count. Instead, OCDR (felony) may be applied along with one other applicable enhancement. Under D.C. Code § 23-1238(c), a sentence imposed for OCDR shall run consecutively to any other sentence. See Chapter 7 for more information on consecutive sentencing.

Note: *The Guidelines do not apply where an OCDR enhancement is associated with a misdemeanor conviction.*

[12] *Tansimore v. United States*, 355 A.2d 799, 803 (D.C. 1973) (finding that Offenses Committed During Release (OCDR) are sentencing enhancements).
[13] See Appendix C-15.

CHAPTER 3: CALCULATING THE CRIMINAL HISTORY SCORE

A defendant's Criminal History Score (CHS) determines the Criminal History Column that will apply. There are five columns along the horizontal axis of each Grid, starting with Column A (0 – 0.5 Criminal History Points), through Column E (6+ Criminal History Points).

Scoring a defendant's Criminal History depends on the following factors:

a. Prior convictions and juvenile adjudications, which are discussed in Section 3.2 and Chapters 4 – 5.

b. Whether the prior conviction or juvenile adjudication was a felony or misdemeanor, as explained in Section 3.3 and discussed in Chapters 4 – 5.

c. The Offense Severity Group (OSG) of the prior felony convictions or juvenile adjudications, which is covered in Section 3.3 and discussed in Chapters 4 – 5.[14]

d. The number of events encompassed in a single case, as detailed in Section 3.1.

e. Whether the prior offense was a criminal conviction or a juvenile adjudication, as discussed in Section 3.3 and Chapters 4 – 5.

f. The date on which a sentence was completed relative to the commission of the crime in the instant case, which is explained in Section 3.2 and Chapter 4.

Note: *A defendant may not use the sentencing process in one case to collaterally attack their conviction or sentence in another case. For example, if a defendant's prior conviction is scored for criminal history purposes to determine a Guidelines Compliant sentence, the defendant may not challenge the validity (as opposed to the existence) of that conviction based on grounds that might otherwise support a collateral attack on their prior conviction.*

[14] Out-of-District convictions must be matched to D.C. Code offenses to determine their OSG. See Chapter 5 for more information on out-of-District convictions.

3.1 Multiple Offenses from a Single Event

Only the most severe conviction arising out of a single event is scored when calculating a defendant's CHS. See also Sections 1.3.7, 3.8, 10.15.

Example 5: Criminal History Scoring - Multiple Offenses from a Single Event

A defendant pleaded guilty to Unauthorized Use of a Vehicle (UUV) (M8), and their criminal history was calculated as part of their Presentence Investigation Report (PSR). Two prior convictions were found, both sentenced on August 5, 2022: 1) Aggravated Assault and 2) Unlawful Possession of a Firearm - Prior Crime of Violence (FIP-3). The Court Services and Offender Supervision Agency (CSOSA) PSR writer must initially determine if these convictions are from the same event or multiple events. Sections 3.1, 3.8. The sentencing judge makes the final determination regarding whether multiple prior convictions are part of the same event.

If these convictions are determined to be part of the same event, only the most severe is scored:

Date of Offense	Offense	OSG	Points	Scored	Reason
8/5/2022	Aggravated Assault	M6	2	Yes	§ 3.1[15]
8/5/2022	FIP-3	M7	2	No	§ 3.1

Criminal History Score: 2 points

With a CHS of 2 points, the defendant would fall in Box M8C with a GRSR of 14 – 32 months (Prison, Long Split, or Short Split sentence types permissible).

However, if the convictions are determined to be from separate events, both offenses are scored:

Date of Offense	Offense	OSG	Points	Scored	Reason
8/5/2022	Aggravated Assault	M6	2	Yes	§ 3.1
8/5/2022	FIP-3	M7	2	Yes	§ 3.1

Criminal History Score: 4 points

With a CHS of 4 points, the defendant would fall in Box M8D with a GRSR of 18 – 36 months (Prison or Long Split sentence types permissible).

Note: *The determination of whether two or more offenses are related to the same event is a factual determination ultimately made by the sentencing judge. The Commission does not opine on factual determinations.*

3.2 What is a Prior Conviction or Adjudication

A prior conviction or juvenile adjudication is any adult conviction or juvenile adjudication for conduct not part of the instant event, for which judgment (an adult sentence or a juvenile disposition) was entered before the day of sentencing in the instant case. The order in which the offenses occurred is not controlling.[16]

[15] Only the most severe conviction arising out of a single event is scored for a defendant's CHS. See also Sections 1.3.7, 3.8, 10.15.

[16] This includes convictions and juvenile adjudications where the unlawful conduct occurred after the instant offense but where judgment was entered before the day of sentencing in the instant case. See Section 4.1.3.

Sentences or dispositions that are entered on the same day as the sentencing in the case at issue or arising from the same event are not considered prior convictions or juvenile adjudications. Therefore, they are not counted in computing the defendant's prior CHS or reviving other convictions. For the definition of "event," refer to Section 10.15.

Cases that are dismissed before a judgment of guilt or before a sentence is imposed are not scored. This includes cases disposed of by diversion, deferred sentencing agreement, probation before judgment, post-and-forfeit, stet docket, juvenile consent decree, or other similar dispositions. If the defendant (or juvenile) is not successful in one of these programs and the case proceeds to sentencing with a final judgment of guilt being entered, it is then scored. In addition, convictions based on pleas of *nolo contendere* are scored. However, a plea or verdict of not guilty by reason of insanity is not a prior conviction and is not scored.

A sentence based solely on the revocation of a defendant's supervision (*i.e.*, revocation of probation, parole, or supervised release) in a prior case is not scored as a new conviction. The treatment of the original underlying conviction is governed by the rules set forth in Section 3.3, Chapter 4, and Chapter 5.

Example 6: Criminal History Scoring - Order of Sentencing

On August 15, 2020, the defendant was arrested for felony Carrying a Pistol Without a License (CPWL, M8). The defendant was released pretrial. While on pretrial release, the defendant was arrested for Third Degree Sexual Abuse (M7), allegedly committed on February 9, 2021. The defendant pleaded guilty to Third Degree Sexual Abuse and was sentenced on July 23, 2021. The defendant subsequently pleaded guilty in the CPWL case and was sentenced on August 29, 2021.

At sentencing for Third Degree Sex Abuse, the defendant had no prior convictions, so the CHS was 0 points, and the defendant was in Box M7A on the Main Grid. However, at sentencing for CPWL, the Third Degree Sex Abuse would be scored as a prior conviction worth two points because a portion of the sentence for Third Degree Sex Abuse (imposed on July 23, 2021) falls within the time period between the commission (August 15, 2020) of the instant CPWL offense and the day before the CPWL sentencing (August 28, 2021). Therefore, in the CPWL case, the defendant falls in Box M8C on the Main Grid, which has a sentencing range of 14-32 months (Prison, Long Split, and Short Split sentencing types permissible). The order of sentencing and lapse and revival are addressed in Section 4.1.3 and Example 13.

3.2.1 *YRA, Sealed, ISS, Reversed, etc. Convictions*

a. *Youth Rehabilitation Act Convictions*

Youth Rehabilitation Act (YRA) and Federal Youth Corrections Act sentences are counted like any other conviction, without regard to whether the conviction has been set aside.

b. Sealed or Expunged Convictions and Juvenile Adjudications

Except as noted in subsections (c) and (d), D.C. sealed or expunged convictions and juvenile adjudications are counted like any other conviction or juvenile adjudication. However, convictions or adjudications that have been sealed or expunged in out-of-District jurisdictions are not counted if the effect of such sealing or expungement is that the conviction or juvenile adjudication cannot

be used or counted against the defendant in that jurisdiction at sentencing for a new offense. The defendant shall bear the burden of proving by a preponderance of the evidence that the out-of-District sealing or expungement exists and has such an effect.

c. Convictions or Juvenile Adjudications Set Aside on Actual Innocence

A conviction or juvenile adjudication that is set aside on grounds of actual innocence, pursuant to D.C. Code §§ 22-4315 or 16-2335.01, is not counted.

d. Convictions or Juvenile Adjudications that Have been Sealed

A conviction or juvenile adjudication that was sealed pursuant to D.C. Code § 16-803.02 on the ground that the conduct resulting in the conviction was decriminalized or legalized is not counted.

e. Imposition of Sentence Suspended Convictions

Imposition of Sentence Suspended (ISS) convictions are counted.

f. Convictions Reversed on Appeal

A conviction or juvenile adjudication that was reversed on appeal is not counted.

g. Pardons and Commutations

A conviction for which the defendant was pardoned is not counted. A conviction for which the sentence was commuted is counted.

h. Convictions Under Statutes Later Held to be Unconstitutional

A conviction or juvenile adjudication under a statute which later has been held to be unconstitutional "on its face" is not counted. A conviction or juvenile adjudication under a statute which later has been held to be unconstitutional "as applied" is initially counted. However, if the defendant proves to the sentencing judge by a preponderance of the evidence that the statute was unconstitutional as applied to the facts of the prior conviction at issue, the sentencing judge should not count the conviction as part of the defendant's CHS.

3.2.2 *Non-Revival of Convictions or Juvenile Adjudications*

Convictions that are not counted under this Section cannot be used to revive other felony convictions.

3.3 Scoring Prior Convictions and Juvenile Adjudications

The first step toward calculating a defendant's CHS is identifying all prior criminal convictions and juvenile adjudications. Convictions and juvenile adjudications are scored based upon their OSG and age at offense. The CHS for convictions and juvenile adjudications is based on the OSG for that offense (*e.g.*, a prior conviction for Assault with a Dangerous Weapon (ADW) is in Main Group 6, just as it is when the instant offense is ADW). Column 3 of Appendix C provides the OSG for all felonies prosecuted under the D.C. Code.[17]

Prior D.C. convictions and juvenile adjudications should be scored as indicated in Table 2.

Prior out-of-District convictions and juvenile adjudications should be matched to a current D.C. Code offense according to the rules set forth in Chapter 5 and then scored as the most closely matching D.C. offense using Appendix C and Table 2. For more information on out-of-District convictions, refer to Chapter 5.

The following should be counted in calculating a defendant's CHS:

a. Adult felony convictions that have not lapsed. See Section 4.1.

b. Adult felony convictions that have lapsed and have been revived by a prior felony. See Sections 4.1.2, 4.1.4, 4.2.

c. Adult misdemeanor convictions that have not lapsed, where the maximum statutory penalty for the offense is 90 days or more. See Section 4.3.1.

d. Juvenile adjudications that have not lapsed. See Section 4.3.2.

[17] Refer to Section 2.5 if the statute in question is not ranked or has been amended since the offense was committed.

Table 2: Scoring Prior Convictions & Juvenile Adjudications

SCORING PRIOR CONVICTIONS & JUVENILE ADJUDICATIONS			
Offense Severity Group	*Adult Conviction*	*Juvenile Adjudication*	*Revived Adult Conviction*
M1 – M5	3	1.5	3
M6 – M7	2	1	1
M8 – M9	1	0.5	0.5
D1	2	1	1
D2 – D3	1	0.5	0.5
D4	0.75	0.5	0.25
Misd.	0.25	N/A	N/A
Offenses with a maximum penalty of less than 90 days are not scored.			

3.3.1 *Scoring Prior Adult Felony Convictions*

Felony offenses in D.C. are categorized into 13 OSGs, which have been determined by the Commission (nine OSGs on the Main Grid and four OSGs on the Drug Grid). Table 2 provides the point values for each scored prior conviction based on its OSG. For amended offenses and offenses not yet ranked by the Commission, see Section 3.6. For information on scoring lapsed and revived offenses, see Section 4.2.

a. Scoring Prior Adult Felony Offenses on the Main Grid

Offenses on the Main Grid are classified in OSGs ranging from M1 – M9, with M1 being the most severe and M9 the least severe. For prior adult felony convictions:

1. Scored convictions for offenses in OSGs M1 – M5 are counted as 3 points each.

2. Scored convictions for offenses in OSGs M6 – M7 are counted as 2 points each.

3. Scored convictions for offenses in OSGs M8 – M9 are counted as 1 point each.

b. Scoring Prior Adult Felony Offenses on the Drug Grid

Offenses on the Drug Grid are classified in OSGs ranging from D1 to D4, with D1 being the most severe and D4 being the least severe. For adult felony convictions:

1. Scored convictions for offenses in OSG D1 are counted as 2 points each.

2. Scored convictions for offenses in OSGs D2 – D3 are counted as 1 point each.

3. Scored convictions for offenses in OSG D4 are counted as 0.75 points each.

See Section 2.3 for more information on determining the OSG of a felony Drug offense.

3.3.2 *Scoring Prior Adult Misdemeanor Convictions*

a. General Scoring Rule

Adult misdemeanor convictions are scored at 0.25 points each.

b. Misdemeanor Convictions Cap

Only four misdemeanor convictions can be counted toward a defendant's CHS, for a maximum total of one (1) point. This means that no matter how many misdemeanor convictions a defendant has from separate events, no more than four will count toward the CHS.

c. Offenses Not Scored

Score only those offenses with a penalty of 90 days or more.

Example 7: Criminal History Scoring - Misdemeanor Convictions

On December 5, 2024, a defendant was charged with Theft II - 2nd+ Offense (M9). The defendant's PSR revealed the following adult convictions:

Date	Offense	OSG	Points	Scored	Reason
4/17/2019	Simple Assault	Misd.	0.25	No	§ 3.3.2(b)[18]
6/1/2020	Unlawful Entry	Misd.	0.25	No	§ 3.3.2(b)
6/3/2020	Possession of Cocaine	Misd.	0.25	No	§ 3.3.2(b)
2/20/2021	Leaving After Colliding	Misd.	0	No	§ 3.3.2(c)[19]
11/29/2021	Shoplifting	Misd.	0.25	Yes	§ 3.3.2(a)[20]
1/1/2022	Public Intoxication	Misd.	0	No	§ 3.3.2(c)
1/11/2022	Theft II	Misd.	0.25	Yes	§ 3.3.2(a)
3/1/2022	Theft II	Misd.	0.25	Yes	§ 3.3.2(a)
8/1/2022	APO (Misd.)	Misd.	0.25	Yes	§ 3.3.2(a)
		Criminal History Score:	**1 point**		

[18] A maximum of four misdemeanor convictions can be counted toward a defendant's CHS, for a maximum total of one point.

[19] A conviction for an offense with a maximum statutory penalty of less than 90 days is not scored.

[20] Adult misdemeanor convictions are scored at 0.25 points each.

In this case, the defendant has multiple prior misdemeanor convictions, seven of which are potentially scorable. Leaving After Colliding (D.C. Code 50-2201.05c(d)(2)(A)) and Public Intoxication have maximum statutory penalties of less than 90 days; therefore, they are never scored. Section 3.3.2(c). While the remaining offenses are scoreable, misdemeanor offenses are capped at one point. Section 3.3.2(b). Therefore, the defendant falls in Main Grid Box M9B with a recommended sentencing range of 3 - 16 months (all sentence types permissible). In this example, the PSR writer chose to score the four most recent misdemeanor convictions; however, it does not matter which non-lapsed misdemeanor convictions are used to reach the one-point cap.

3.3.3 *Scoring Prior Juvenile Adjudications*

a. Scoring Prior Juvenile Adjudications on the Main Grid

A juvenile adjudication for an offense that would be a felony if committed by an adult is placed in the same OSG as an adult felony offense in Appendix C. See Table 2.

1. Juvenile offenses in Main OSGs M1 - M5 are scored as 1.5 points each.

2. Juvenile offenses in Main OSGs M6 - M7 are scored as 1 point each.

3. Juvenile offenses in Main OSGs M8 - M9 are scored as 0.5 points each.

b. Scoring Prior Juvenile Adjudications on the Drug Grid

A juvenile Drug adjudication for an offense that would be a felony if committed by an adult is placed in the same OSG as a felony adult Drug conviction in Appendix C. See Table 2.

1. Juvenile offenses in OSG D1 are scored as 1 point each.

2. Juvenile offenses in OSGs D2 - D3 are scored as 0.5 points each.

3. Juvenile offenses in OSG D4 are scored as 0.5 points each.

c. Prior Juvenile Adjudications Cap

1. **General Rule:** Prior juvenile adjudications are capped at 1.5 points, no matter how many juvenile adjudications a defendant has from separate events.

2. **Exception:** However, if a defendant has more than one prior juvenile adjudication for an offense scored at 1.5 points (M1 – M5 offense) from a separate event(s), each such juvenile adjudication is scored at its full value (1.5 points each), while all other juvenile adjudications are not scored.

d. Juvenile Misdemeanor Adjudications

A prior juvenile adjudication for an offense that would be a misdemeanor if committed by an adult is not scored.

Example 8: Criminal History Scoring - Juvenile Adjudications

On April 15, 2024, a defendant was arrested and charged with Aggravated Assault While Armed (M4). After a jury trial, the defendant was convicted of unarmed Aggravated Assault (M6). At sentencing, the defendant's PSR contained the following juvenile adjudications:

Juvenile Adjudication Date	Juvenile Adjudication	OSG	Points	Scored	Reason
12/18/2022	Armed Robbery	M5	1.5	Yes	§ 3.3.3(a)(1)[21] § 3.3.3(c)(2)[22]
4/9/2023	Theft I	M8	0.5	No	§ 3.3.3(a)(3)[23] § 3.3.3(c)(2)
5/8/2023	Attempted PWID Cocaine	D3	0.5	No	§ 3.3.3(b)(3)[24] § 3.3.3(c)(2)
1/10/2024	Carjacking	M5	1.5	Yes	§ 3.3.3(a)(1) § 3.3.3(c)(2)

Criminal History Score: 3 points

Juvenile adjudications are scored as shown in Section 3.3.3 and are generally capped at 1.5 points each, unless there is more than one conviction for an offense in Main Grid OSGs M1 – M5. Section 3.3.3(c). If a defendant's criminal history includes more than one juvenile adjudication for an offense in OSGs M1 – M5, each such juvenile adjudication is scored, while any other adjudication that is not in OSGs M1- M5 is not scored. Section 3.3.3(c)(2).

Each prior adjudication is from a different event and is potentially scorable. Sections 3.1, 3.8. However, because the defendant has two juvenile adjudications in OSGs M1 – M5 (Armed Robbery (M5) and Carjacking (M5)), only those two juvenile adjudications are scored, placing this defendant in Main Box M6C. While the First Degree Theft and Attempted PWID Cocaine convictions are not scored because they do not fall in OSGs M1 – M5, the sentencing judge may, nevertheless, take them into consideration in determining where in the GRSR to sentence the defendant.

3.3.4 *Consideration of Unscored Prior Convictions or Juvenile Adjudications*

a. Judicial Use of Unscored Prior Convictions or Juvenile Adjudications

Although a conviction or juvenile adjudication is not counted towards a defendant's CHS because it has lapsed, it is part of the same event as another offense, or an applicable scoring cap has been reached, the sentencing judge may still consider unscored convictions and juvenile adjudications when determining the appropriate sentence within the applicable Guidelines box. See Chapter 4 for more information on lapsed offenses.

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[21] Juvenile offenses in Main OSGs M1 – M5 are scored as 1.5 points each.

[22] If a defendant has more than one prior juvenile adjudication for an offense scored at 1.5 points (M1 – M5 offense) from a separate event(s), each such adjudication is scored at its full value (1.5 points each), and all other adjudications are not scored.

[23] Juvenile offenses in Main OSGs M8 – M9 are scored as 0.5 points each.

[24] Juvenile offenses in OSGs D2 – D3 are scored as 0.5 points each.

b. Government Use of Unscored Prior Convictions

There is no bar to the government using a lapsed or otherwise unscored conviction as the basis to indict a specific offense or file papers for a statutory enhancement, in accordance with the D.C. Code.

3.4 Scoring Prior Accessory After the Fact Convictions

For scoring prior Accessory After the Fact convictions, use the OSG for the underlying offense and score the conviction as listed in Table 3 below.

Table 3: Scoring Accessory After the Fact Convictions

SCORING ACCESSORY AFTER THE FACT CONVICTIONS			
Offense Severity Group	*Adult Conviction*	*Juvenile Adjudication*	*Revived Adult Conviction*
M1 – M3	3	1.5	3
M4 – M5	2	1	1
M6 – M9	1	0.5	0.5
D1– D3	1	0.5	0.5
D4	0.75	0.5	0.25
Misd.	0.25	N/A	N/A
Offenses with a maximum penalty of less than 90 days are not scored.			

3.5 Scoring Repealed or Replaced Offenses

3.5.1 Completely Repealed Offenses

A conviction or juvenile adjudication under a statute that was repealed, such that the conduct was fully decriminalized, is not counted. For example, non-forcible sodomy between consenting adults was fully repealed in 1994. Prior convictions for non-forcible sodomy between consenting adults are no longer counted. Ultimately, the conduct of conviction will determine the appropriate scoring.

An out-of-District conviction or juvenile adjudication under a statute that was repealed in that jurisdiction, but for conduct that remains criminalized in D.C., is counted.[25] For more information

[25] However, convictions or adjudications that were sealed or expunged on the grounds of actual innocence shall not be counted. See Section 3.2.1(c).

on how to score an out-of-District conviction, see Chapter 5.

3.5.2 *Completely Replaced Offenses*

A conviction or juvenile adjudication under a statute that was repealed and fully replaced (*i.e.*, all conduct criminalized under the old statute or statutes remain criminalized under the new statute or statutes) is scored using the OSG for the closest comparable offense in the current D.C. Code. For example, Rape and Forcible Sodomy, which were fully repealed in 1994, were replaced by First Degree Sexual Abuse. A prior rape conviction should be treated as a First Degree Sex Abuse conviction and ranked in Main Group 2.

3.5.3 *Partially Repealed or Replaced Offenses*

Where a conviction or juvenile adjudication was under a statute that was repealed or partially replaced, but the conduct remains criminalized under another statute, the conviction or juvenile adjudication is scored using the OSG for the closest comparable offense in the current D.C. Code.

3.6 Scoring Previously Unranked or Re-Ranked Prior Convictions

3.6.1 *Scoring Currently Unranked, Re-Ranked, and Amended Statutes*

If an offense has not yet been ranked by the Commission (*i.e.,* it does not appear in Appendix C), or if the penalty for the conduct of conviction has changed since the Commission last ranked it (comparing the offense penalty in the current D.C. Code with the penalty indicated in Appendix C), the sentencing judge should use the rules in Section 2.5 to establish the OSG to score a prior conviction. The burden is on the party seeking the benefit of this Section to establish by a preponderance of the evidence that it applies.

Example 9: Criminal History Scoring - Previously Unranked or Re-ranked Offenses

In 2024, the Council amended a non-Drug criminal statute that previously had a statutory maximum penalty of two years and was previously ranked as an M9 offense, to carry a maximum statutory penalty of ten years. For defendants who committed the offense after the Council amended the penalty but before the Commission re-ranked the offense, the following would occur:

- If being sentenced as the instant event, the offense would remain scored as an M9. Sections 2.5, 3.6.1.

However, Section 2.5.1(b) will govern once the Commission re-ranks the offense. While prior convictions for the offense committed after the Council amended the offense will be scored with the new ranking, any convictions that occurred prior to the statutory amendment in 2024 will remain scored as an M9 offense.

For example, on August 20, 1994, the Council amended the penalty for an unspecified attempt to commit a crime of violence (COV) from a misdemeanor to a five-year felony.[26] Any prior conviction(s) for an unspecified attempt to commit a COV committed before August 20, 1994, should be scored as a misdemeanor per Sections 3.6.1,

[26] A specified Attempted Robbery, however, has been classified as a three-year felony since the Code was enacted in 1901. D.C. Code § 22-2802. This offense is scored as a felony regardless of when the offense occurred.

2.5.1(b)(4). Convictions for offenses committed after that date should be scored as an M8 offense. Sections 3.6.1, 2.5.1(b)(4).

3.6.2 *Scoring Previously Unranked or Re-Ranked Statutes*

If, after the commission of the offense, the Commission has (1) changed the OSG in Appendix C for the offense or (2) ranked the previously unranked offense in a different OSG than the default ranking rules in Section 3.6.1(a) would have required at the time of the commission of the offense:

a. If the Commission has increased the OSG, score the conviction using the OSG at the time of the offense.

b. If the Commission has lowered the OSG, score the conviction using the current OSG listed in Appendix C.

c. For misdemeanor offenses, score only those offenses with a penalty of 90 days or more, pursuant to the rules set forth in Section 2.5.1(b)(3)–(6).

3.7 Special Circumstance Scoring Rules

3.7.1 *Scoring Prior Marijuana-Related Convictions*

A prior D.C. marijuana-related conviction or juvenile adjudication that occurred before February 26, 2015, and all out-of-District marijuana convictions or juvenile adjudications are treated as follows:

a. A prior conviction or juvenile adjudication for Possession, PWID (Possession with Intent to Distribute), or PWIM (Possession with Intent to Manufacture) Marijuana, Attempt, or Conspiracy to commit such offenses, or a subsequent offense is not initially counted. If the government can prove to the sentencing judge by a preponderance of the evidence that a prior unsealed conviction or juvenile adjudication for Possession, PWID, or PWIM Marijuana, or for Attempt or Conspiracy to commit such offenses, or a subsequent conviction was the result of conduct that has not been decriminalized, the conviction or juvenile adjudication is counted.

b. A prior conviction or juvenile adjudication for Distribution of Marijuana, Manufacturing Marijuana, or for Attempt or Conspiracy to Commit such offenses is initially counted. If the defendant proves to the sentencing judge by a preponderance of the evidence that a prior unsealed conviction or juvenile adjudication for Distribution of Marijuana, Manufacturing Marijuana, or for Attempt or Conspiracy to Commit such offenses, was the result of conduct that is now decriminalized, the conviction or juvenile adjudication is not counted.

Example 10: Criminal History Scoring - Prior Marijuana Convictions

Conviction Date	Offense	Jurisdiction	Drug	OSG	Initial Score	Reason
1/1/2015	PWID	DC	MJ	D3	0	§ 3.7.1(a)[27]
2/4/2019	Distribution (1lb.)	VA	Unknown	D3	1	§ 3.7.1(b)[28]
10/15/2021	Possession	MD	Unknown	Misd.	0	§ 3.7.1(a)[29]
5/30/2024	PWID	DC	MJ	D3	1	§ 3.7.1[30]

Convictions for Prior Out-of-District (OOD) Possession and PWID of a Controlled Substance, where the drug is unknown (*i.e.*, the OOD statute criminalizes possession of many drugs, including marijuana), are initially scored as if the conviction were for marijuana. A party may challenge the scoring by introducing facts to the sentencing judge in accordance with the rules set forth in Sections 3.7.1 and 1.3.11. If the sentencing judge finds that the challenging party has proven by a preponderance of the evidence that the drug was *not* marijuana, the conviction is scored (0.25 or 1 point, depending on the drug). Unlike Possession or PWID convictions, OOD Distribution convictions are initially scored. A party may challenge the conviction by proving by a preponderance of the evidence that the conviction is for an amount of marijuana that is no longer criminalized in D.C.

D.C. PWID Marijuana convictions prior to February 26, 2015, are not scored initially. A party may challenge the conviction and must prove by a preponderance of the evidence that the amount of marijuana was an amount that remains criminalized in D.C., and the offense should be scored appropriately at 1 point.

3.7.2 *Scoring Contempt Convictions and Juvenile Adjudications*

Adult convictions for Violations of Conditions of Release (D.C. Code § 23-1329) are misdemeanors and are scored as 0.25 points. All other Contempt convictions, including those pursuant to D.C. Code § 11-944, are also scored as 0.25 points, unless the sentence imposed was longer than one year.[31] In that case, the Contempt conviction would be a felony and scored as 1 point if not lapsed, and could revive other lapsed felonies. If lapsed and revived, it would be scored as 0.5 points.

A juvenile adjudication for a Contempt offense that would be a felony if they were an adult follows the scoring rules outlined in Section 3.3.3. A juvenile adjudication for a Contempt offense that would be a misdemeanor is not scored.

[27] A prior conviction or juvenile adjudication for PWID Marijuana, or for Attempt or Conspiracy to Commit PWID Marijuana, is not initially counted.

[28] A prior conviction or juvenile adjudication for Distribution of Marijuana, or for Attempt or Conspiracy to Commit Distribution of Marijuana, is initially counted.

[29] A prior conviction for simple Marijuana Possession is not initially counted.

[30] The rule impacts prior D.C. marijuana-related convictions or juvenile adjudications that occurred before February 26, 2015.

[31] The sentence imposed includes the term of incarceration and any time suspended. However, it does not include the supervised release period or term of probation.

3.7.3 *Scoring Prior Assault on a Police Officer Convictions*

Prior D.C. Assault on a Police Officer (APO) convictions or juvenile adjudications that occurred before June 30, 2016, are treated as follows:

a. A prior conviction or juvenile adjudication for APO committed before July 19, 2006, is initially counted as a misdemeanor. If the defendant can prove to the sentencing judge by a preponderance of the evidence that a prior conviction or juvenile adjudication was the result of conduct that is now decriminalized, the conviction or juvenile adjudication is not counted. If the government can prove to the sentencing judge by a preponderance of the evidence that a prior conviction or juvenile adjudication was the result of conduct that matches what is now felony APO, the conviction is scored in OSG M8.

b. A prior conviction or juvenile adjudication for felony APO committed between July 19, 2006, and June 29, 2016, is scored in OSG M8.

c. A prior conviction for misdemeanor APO committed between July 19, 2006, and June 29, 2016, is not initially counted. If the government can prove to the sentencing judge by a preponderance of the evidence that the prior conviction was the result of conduct that remains criminalized after June 20, 2016, the conduct is counted as the closest matching offense (*e.g.*, misdemeanor APO or Resisting Arrest).

d. Prior out-of-District APO convictions and juvenile adjudications are treated as the closest comparable offense under the current D.C. Code, following the procedures explained in Section 5.1.

3.8 Whether Prior Convictions Are Part of the Same Event

Whether two prior convictions are part of the same event is a factual determination. See Sections 1.3.7, 3.1, 10.15. Therefore, the initial decision made by the PSR writer is based on a review of all the information available. Once the PSR writer provides an initial determination, the parties can present their arguments to the sentencing judge.

It is sometimes difficult to ascertain whether offenses that were sentenced on the same day arose out of a single event or multiple events. The PSR writer will make this determination based on available documentation. The PSR writer should indicate in the report the source of the information upon which they relied to make this determination. If the PSR writer cannot make this determination, either because there is no supporting documentation or because the available documentation was not clear, the PSR writer should apply the rules as if the multiple prior convictions arose out of a single event (only the most severe offense is scored, with a note in the PSR that they did not have sufficient information to determine whether there was more than one event).

Upon request by the prosecution, the defense, or the sentencing judge, the PSR writer should either

provide a copy of (or make available for copying) the supporting documentation they consulted on this question.

3.9 Calculating the Overall Score

Using the principles set forth in this Chapter, determine the number of points for the most severe offense arising out of a single event. Add the points for all such offenses together. This will yield the CHS that will determine the defendant's placement in the appropriate Criminal History Column:

Table 4: Calculating The Overall Criminal History Score

CALCULATING THE OVERALL CRIMINAL HISTORY SCORE	
Total Points	**Column**
0 – 0.5	Column A
0.75 – 1.75	Column B
2 – 3.75	Column C
4 – 5.75	Column D
6+	Column E

The Box at the intersection of the Criminal History Column and the OSG row contains the sentencing options (available sentence types and range) for that conviction.

CHAPTER 4: LAPSE AND REVIVAL

4.1 General Rules

4.1.1 *Lapsed Felony Convictions*

A prior adult conviction counts for scoring purposes if any portion of its sentence falls within the time between the commission of the instant offense and the day before sentencing or within the Ten-Year Window before the commission of the instant offense.[32] In other words, if the amount of time between the completion of the sentence for the prior conviction and the commission of the instant offense is ten years or less, then the prior conviction counts for scoring purposes. [33]

For example, if the instant offense was committed on February 9, 2022, then a prior conviction for which parole was completed on February 9, 2012 (within the Ten-Year Window) counts in an individual's Criminal History Score (CHS).

A prior conviction lapses, and is generally not scored, if its entire sentence is beyond the Ten-Year Window. In other words, if the amount of time between the completion of the sentence for the prior conviction and the commission of the instant offense is more than ten years, then the prior conviction lapses.

For example, if the instant offense was committed on February 9, 2019, then a prior conviction for which probation was completed on February 9, 2009 (beyond the Ten-Year Window) would lapse and would not count for Criminal History Scoring purposes.

[32] If the instant offense took place over several dates, calculate the Ten-Year Window based on the date the criminal activity began.

[33] The Guidelines deem a sentence complete at the conclusion of all terms of incarceration, probation, and/or supervision. If at the end of all periods of incarceration, probation, and/or supervision pertaining to a conviction, unpaid fines, fees, and/or restitution remain, the defendant's sentence is considered completed for the purposes of calculating the Ten-Year Window. See Section 10.4.

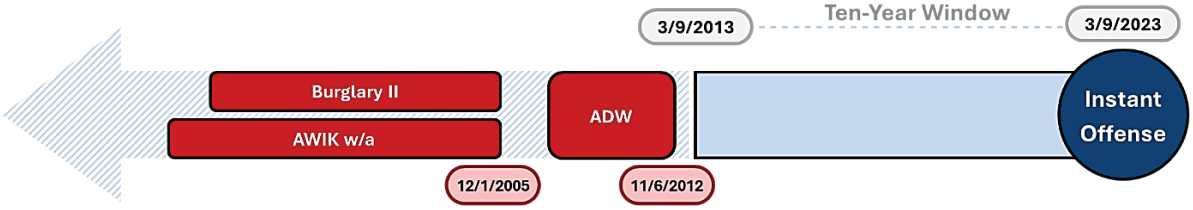
Example 11: Criminal History Scoring - Lapsed Felony Convictions

On March 9, 2023, as part of a buy-bust operation, the defendant was arrested for Distribution of Cocaine. A search incident to arrest revealed the defendant was also in possession of a firearm. After a trial, the defendant was convicted of Distribution of Cocaine while Armed (D1), Possession of a Firearm during a Dangerous Crime (M5), and Unlawful Possession of a Firearm – Prior Crime of Violence (M7). The PSR contained the following prior adult felony convictions:

Offense Date	Offense	Sentence Completed	OSG	Initial Score	Scored	Reason
11/18/1989	Assault with Intent to Kill While Armed (AWIK w/a)	12/1/2005	M3	3	No	§ 3.3.1(a)(1)[34] § 4.1.1[35]
9/14/1992	Burglary II	12/1/2005	M7	2	No	§ 3.3.1(a)(2)[36] § 4.1.1
3/27/2006	Assault with a Dangerous Weapon (ADW)	11/6/2012	M6	2	No	§ 3.3.1(a)(2) § 4.1.1

Criminal History Score: 0 points

In this matter, the Ten-Year Window runs from March 9, 2023 – March 9, 2013. A prior adult conviction is counted if any part of the sentence, including time on supervised release or probation, falls within that window. Sections 3.2, 4.1, 10.40. The defendant has three prior convictions for which they completed the sentence before the start of the Ten-Year Window. In this case, all of the defendant's prior convictions have lapsed. Further, because the defendant does not have any convictions in the Ten-Year Window, the defendant's prior convictions cannot be revived. Therefore, the defendant's CHS is 0, placing the defendant in Boxes D1A, M5A, and M7A. Of note, while none of the prior convictions are scored, that does not bar the government from indicting the defendant on or filing papers for a statutory enhancement based on the lapsed convictions. Additionally, the sentencing judge may consider the lapsed convictions when determining the appropriate sentence within the applicable Grid box. Section 3.3.4.



4.1.2 Revived Felony Convictions

Some lapsed **felony** convictions, however, can be revived, and therefore scored. If any prior **felony** conviction or any part of its sentence (including incarceration, probation, parole, or supervised release) occurred within the Ten-Year Window preceding the commission of the instant offense, then **all** lapsed felony convictions are revived. Refer to Table 2 in Section 3.3 for scoring of revived felony convictions. A conviction that is not scored because of Section 5.4 (Special Jurisdictions), however, cannot be used to revive another felony conviction.

Thus, if the defendant was sentenced or was serving a sentence (either in jail or prison, or on probation, parole, or supervised release) for a felony at any time during the ten years before the commission of the instant offense, then **all** prior adult felony convictions are scored. If, however,

[34] Scored convictions for offenses in OSGs M1 – M5 are counted as 3 points each.
[35] A prior conviction lapses, and is generally not scored, if its entire sentence is beyond the Ten-Year Window.
[36] Scored convictions for offenses in OSGs M6 – M7 are counted as 2 points each.

all previous sentences were completed more than ten years before the date of the commission of the instant offense, **none** of the prior convictions are scored.

Example 12: Criminal History Scoring - Lapse and Revival

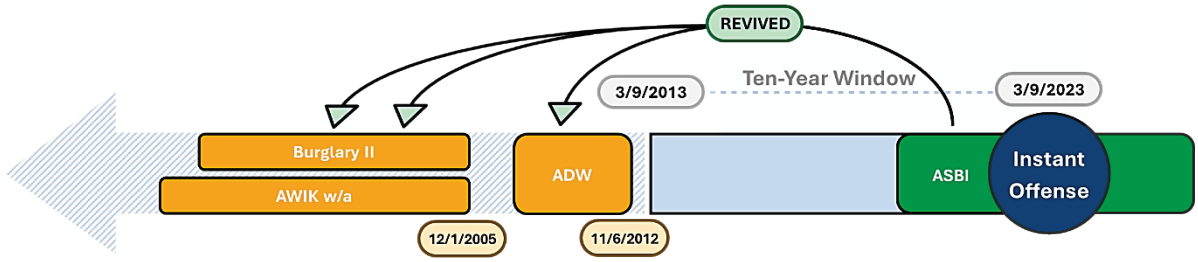
On March 9, 2023, a defendant was charged with Unlawful Possession of a Firearm – Prior Conviction (FIP-1) and Assault with Significant Bodily Injury (ASBI), for conduct that occurred on that same date. Ultimately, the defendant pleaded guilty to one count of FIP-1 (M8). The defendant's PSR contained the following prior adult felony convictions:

Offense Date	Offense	Sentence Completed	OSG	Points	Scored	Reason
11/18/1989	Assault with Intent to Kill While Armed (AWIK w/a)	12/1/2005	M3	3	Yes (Lapsed and Revived)	§ 3.3.1(a)[37] § 4.1.2[38]
9/14/1992	Burglary II	12/1/2005	M7	1	Yes (Lapsed and Revived)	§ 3.3.1(b) [39] § 4.1.2
3/27/2006	Assault with a Dangerous Weapon (ADW)	11/6/2012	M6	1	Yes (Lapsed and Revived)	§ 3.3.1(b) § 4.1.2
5/8/2018	Assault w/ Significant Bodily Injury (ASBI)	Currently on Probation	M8	1	Yes	§ 3.3.1(c)[40]

Criminal History Score: 6 points

In this matter, the defendant's Ten-Year Window runs from March 9, 2023 – March 9, 2013. Prior adult felony convictions are counted if any part of the sentence falls within that window. Sections 4.1.1, 10.40. The defendant's convictions for AWIK w/a, Burglary II, and ADW have all lapsed because the sentences were completed prior to the Ten-Year Window. However, lapsed convictions can be revived. Because the defendant's prior ASBI conviction falls within the Ten-Year Window, it revives all of the defendant's lapsed adult felony convictions. Section 4.1.2.

As a non-lapsed offense, the ASBI conviction is scored at 1 point. Per Table 2 and Section 4.2, the lapsed and revived AWIK w/a conviction is scored at 3 points, and the Burglary II and ADW convictions, originally scored at 2 points, lapsed and revived, are scored at 1 point each. In this case, the defendant's CHS places them in Grid Box M8E, which has a sentencing range of 22+ months (Prison and Long Split sentence types permissible).



[37] Scored convictions for offenses in OSGs M1 – M5 are counted as 3 points each.
[38] If any prior felony conviction or any part of this sentence (including incarceration, probation, parole, or supervised release) occurred within the Ten-Year Window preceding the commission of the instant offense, then all lapsed felony convictions are revived.
[39] Scored convictions for offenses in OSGs M6 – M7 are counted as 2 points each.
[40] Scored convictions for offenses in OSGs M8 – M9 are counted as 1 point each.

4.1.3 Order of Sentencing

As stated above, a prior conviction or juvenile adjudication is any conviction or juvenile adjudication for conduct not part of the instant event, for which judgment (an adult sentence or juvenile disposition) was entered **before** the day of sentencing in the instant case. Acts committed after the commission of the instant offense, where judgment (an adult sentence or juvenile disposition) was entered prior to the day of sentencing, are scored. The order in which the offenses were committed is irrelevant for scoring purposes. However, such a conviction cannot revive other adult felonies if the conviction was for a crime that was committed **after** the instant offense because the Ten-Year Window applies only to offenses that occurred **before** the instant offense. A prior felony conviction can revive an earlier felony conviction only if the more recent conviction or any part of its sentence (including incarceration, probation, parole, or supervised release) occurred within the Ten-Year Window before the commission of the instant offense. See Sections 4.1.1, 10.40.

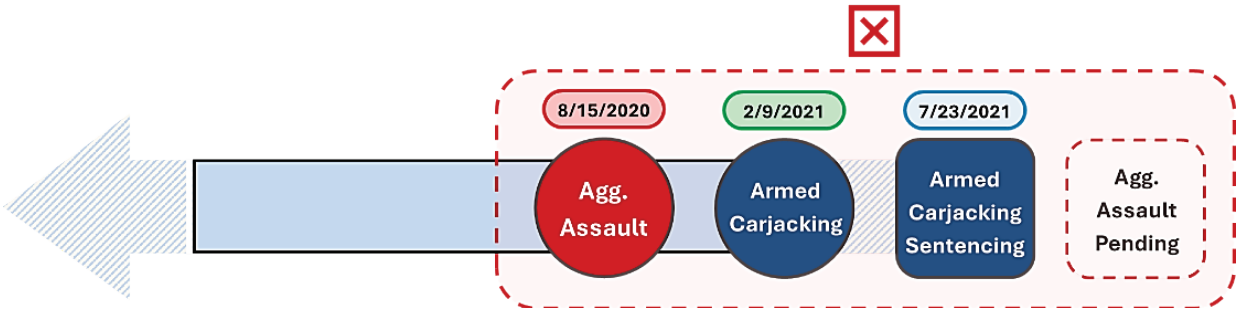
In most cases, the same CHS will apply to all of the convictions in a given case. However, if a case involves offenses committed on different dates, there may be instances where: (a) more than ten years have passed between the completion of an earlier sentence and the commission of one offense, and (b) less than ten years between the completion of the earlier sentence and the commission of another offense. This would yield two different Criminal History Scores.

Example 13: Criminal History Scoring - Order of Sentencing

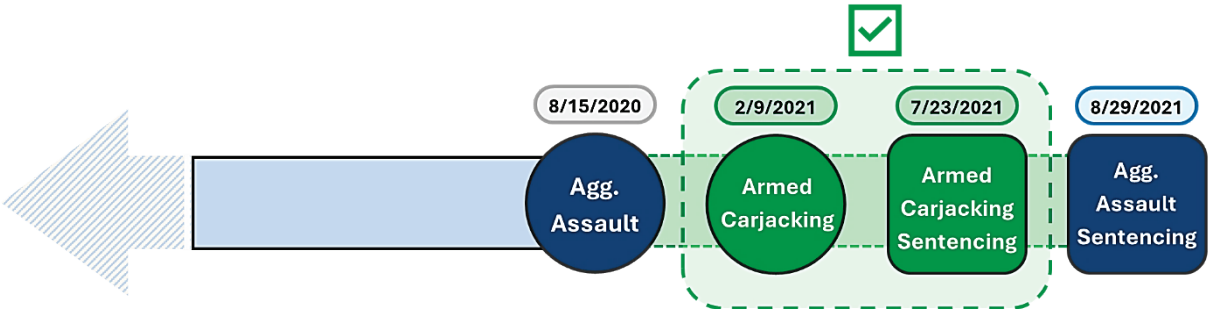
The defendant was convicted of the following offenses:

Case	Date Committed	Offense	Date Sentenced
A	8/15/2020	Aggravated Assault (M6)	8/29/2021
B	2/9/2021	Armed Carjacking (M3)	7/23/2021

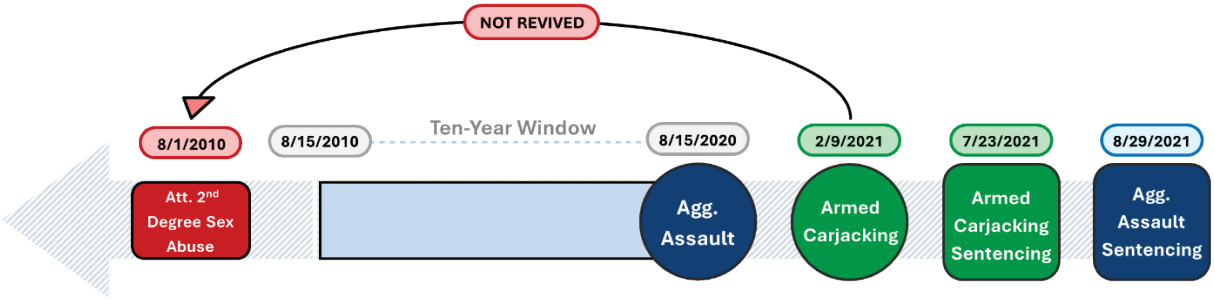
The defendant was sentenced in Case B (Armed Carjacking) on July 23, 2021. On that date, the defendant had not yet been sentenced in Case A (Aggravated Assault). Therefore, the conviction from Case A is not counted toward the defendant's CHS when Case B is sentenced. With no other criminal history, the defendant's CHS places them in Box M3A.



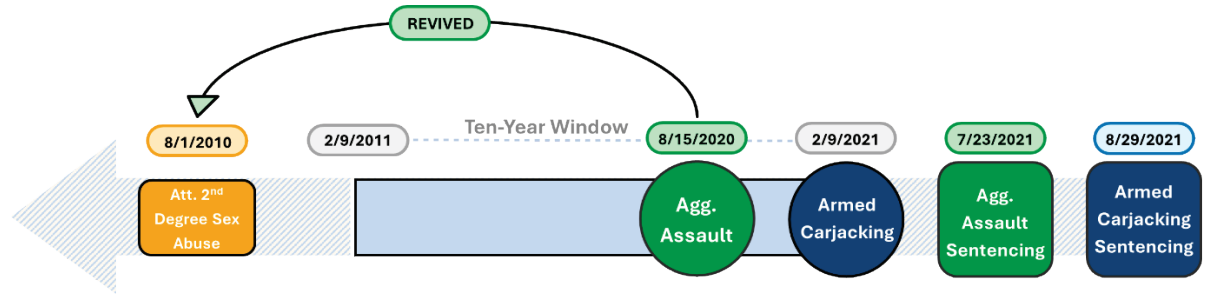
However, because Case B (Armed Carjacking) has already been sentenced, it will be scored as a prior conviction at the Defendant's sentencing for Case A (Aggravated Assault) on August 29, 2021. With no other criminal history, the defendant's CHS would be 3 points in Case A, placing them in Box M6C.



If the scenario is shifted slightly, and the defendant has an additional prior conviction for Attempted Second Degree Sex Abuse (M7) (the sentence for which ended on August 1, 2010), the defendant's CHS would remain unchanged at the sentencing for Case A. The Armed Carjacking would not revive the prior lapsed Sex Abuse. A conviction that occurred after the instant offense can be scored, but it cannot be the revival mechanism for older lapsed convictions because it does not fall within the Ten-Year Window before the Commission of the instant offense. Section 4.1.3, 10.40.



However, if the order of the sentences were reversed, the Aggravated Assault would revive the earlier Sex Abuse conviction as it occurred before the Armed Carjacking and therefore is within the Ten-Year Window. In this scenario, at the sentencing for Case B, the defendant's CHS would therefore be 3, placing them in Box M3C.



4.1.4 Revived Out-of-District Convictions

For purposes of reviving other adult felony convictions and for purposes of being revived, an out-of-District conviction is deemed a felony if, using the rules in Chapter 5, the offense is comparable to a D.C. felony.

4.2 Scoring Revived Adult Convictions

For prior adult felony convictions that have lapsed and been revived:

a. Scored convictions for offenses in OSGs M1 – M5 are counted as 3 points each.

b. Scored convictions for offenses in OSGs M6 – M7 are counted as 1 point each.

c. Scored convictions for offenses in OSGs M8 – M9 are counted as 0.5 points each.

d. Scored convictions for offenses in OSG D1 are counted as 1 point each.

e. Scored convictions for offenses in OSGs D2 – D3 are counted as 0.5 points each.

f. Scored convictions for offenses in OSG D4 are counted as 0.25 points each.

4.3 Special Rules

4.3.1 *Lapsed Misdemeanor Convictions*

Prior convictions for misdemeanors lapse at the same rate as felonies (ten years), but misdemeanors can neither revive other convictions nor can they be revived. Thus, if the only offense in the Ten-Year Window is a misdemeanor, it does not revive earlier felony offenses. If a sentence for a misdemeanor was completed more than ten years before the commission of the instant offense, it is not revived. So, it is not counted, regardless of the number of felony convictions within the Ten-Year Window.

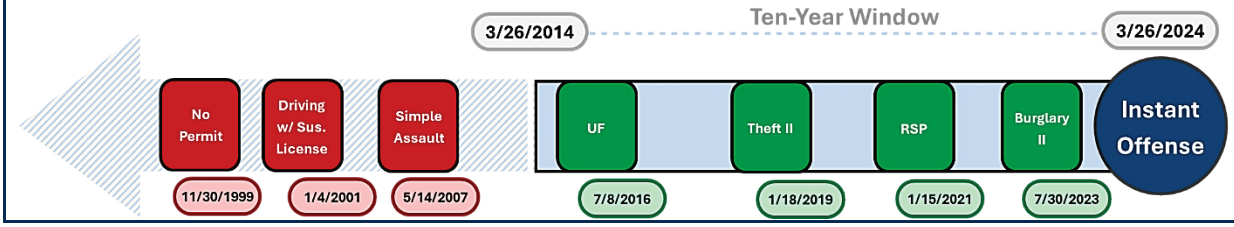
Example 14: Criminal History Scoring - Misdemeanor Lapse

On March 26, 2024, the defendant was arrested for felony Carrying a Pistol Without a License (CPWL) (M8), which the defendant later pleaded guilty to. The defendant's PSR contained the following prior adult convictions:

Offense Date	Offense	Sentence Completed	OSG	Points	Scored	Reason
11/15/1999	No Permit	11/30/1999	Misd.	0.25	No	§ 3.3.2(a)[41] § 4.3.1[42]
10/9/2000	Driving with Suspended License	1/4/2001	Misd.	0.25	No	§ 3.3.2(a) § 4.3.1
10/24/2006	Simple Assault	5/14/2007	Misd.	0.25	No	§ 3.3.2(a) § 4.3.1
11/7/2015	Possession of Unregistered Firearm (UF)	7/8/2016	Misd.	0.25	Yes	§ 3.3.2(a)
7/25/2018	Theft II	1/18/2019	Misd.	0.25	Yes	§ 3.3.2(a)
6/19/2020	Receiving Stolen Property (RSP)	1/15/2021	Misd.	0.25	Yes	§ 3.3.2(a)
2/11/2022	Burglary II	7/30/2023	M7	2	Yes	§ 3.3.1(a)(2)[43]

Criminal History Score: 2.75 points

In this matter, the defendant's Ten-Year Window runs from March 26, 2024 – March 26, 2014, with multiple convictions falling within the Ten-Year Window. The single felony conviction, Burglary II, has not lapsed and is scored at 2 points. The defendant has a total of three misdemeanor convictions within the Ten-Year Window, scored at 0.75 total points. Section 3.3.2. While the defendant has a felony offense in the Ten-Year Window that would revive lapsed felony offenses, lapsed misdemeanor convictions are never revived. Sections 4.3.1, 10.40. In this case, the defendant falls within Grid Box M8C, which has a sentencing range of 14 – 32 months (Prison, Long Split, and Short Split permissible).



4.3.2 Juvenile Adjudications

a. Juvenile Adjudications in Main Groups 1 – 5

Offenses in Main Groups 1 – 5 count if the amount of time between the date of initial disposition, the date of release in that case from New Beginnings or its functional equivalent (see Section 10.29), or the date of release from a locked residential facility, whichever is latest, and the

[41] Adult misdemeanor convictions are scored at 0.25 points each.
[42] Prior convictions for misdemeanors lapse at the same rate as felonies (ten years), but misdemeanors can neither revive other convictions nor can they be revived.
[43] Scored convictions for offenses in OSGs M6 – M7 are counted as 2 points each.

commission of the instant offense is five years or less.[44]

b. Juvenile Adjudications in Main Groups 6-9 or in any Drug Group

Offenses in Main Groups 6 – 9 and in all Drug Groups count if the amount of time between the date of initial disposition or date of release in that case from New Beginnings or its functional equivalent, see Section 10.29, whichever is latest, and the commission of the instant offense is five years or less.

c. Placement in a Multi-Level Facility

If the defendant, as a juvenile, was placed in the locked unit of a multi-level facility, then the defendant's entire stay at that facility is treated as if the defendant were in the locked unit, unless the defendant can establish that they were placed or transferred from the locked unit to a less secure unit and remained there until released from that facility.

d. Lapsed Juvenile Adjudications

Prior juvenile adjudications lapse, meaning they are not counted or scored if they are beyond the Five-Year Juvenile Window (see Section 10.17). A juvenile adjudication that has lapsed can never be revived. If a defendant in any OSG was either sentenced to or released from New Beginnings or its functional equivalent or, in Main Groups 1 – 5, released from a locked residential facility more than five years before the commission of the instant offense, it is not counted, regardless of the number of adjudications or convictions within the Five-Year Juvenile Window.

[44] D.C. juvenile records that state "commitment to DYRS" or similar language do not indicate placement at New Beginnings. "Commitment to DYRS" refers to the legal custody the Department of Youth Rehabilitation Services (DYRS) has over the juvenile but does not indicate the physical location of the juvenile during that custody. The Five-Year Juvenile Window is determined based on the physical location of the juvenile during their commitment. If a juvenile is committed to DYRS, the PSR writer, in completing the PSR, should contact DYRS to determine whether the juvenile has ever been placed at New Beginnings or a locked residential facility. If the juvenile has never been placed at such a facility, the PSR writer should note that fact and report the initial disposition date. However, if the juvenile has been placed at such a facility, the PSR writer should note that fact and report the initial disposition date. However, if the defendant had been placed at such a facility, the PSR writer should ascertain from DYRS and note in the PSR if the juvenile currently resides in such a facility – and note whether such facility is New Beginnings or a locked residential facility – or, if the juvenile is no longer at such a facility, the date that the juvenile last left such a facility and note whether the facility was New Beginnings or a locked residential facility. If the PSR writer cannot ascertain the physical location of the juvenile while committed to DYRS, the PSR writer should note that fact in a footnote in the PSR.

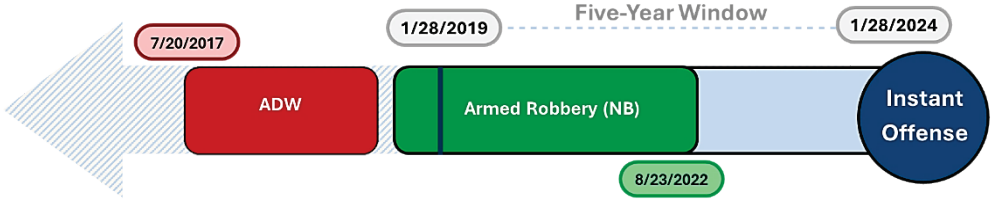
Example 15: Criminal History Scoring - Juvenile Lapse

On January 28, 2024, the defendant was arrested for committing an Aggravated Assault (M6), which the defendant was later convicted of. A PSR was requested, which contained the following prior juvenile adjudications (which would otherwise be a felony if committed by an adult):

Offense Date	Offense	Disposition	OSG	Points	Scored	Reason
7/2/2017	ADW	8/22/2017: One year probation in a juvenile matter 3/14/2018: Probation revoked	M6	1	No	§ 3.3.3(a)(2)[45] § 4.3.2(d)[46]
9/1/2018	Armed Robbery	1/20/2019: Committed to DYRS and placed in New Beginnings 8/23/2022: Released from New Beginnings	M5	1.5	Yes	§ 3.3.3(a)(1)[47] § 4.3.2(d)

Criminal History Score: 1.5 points

In this matter, the Five-Year Juvenile Adjudication Window runs from January 28, 2024 - January 28, 2019. Since the date of adjudication for the ADW offense falls outside of the Five-Year Juvenile Window and there is no indication that the defendant was placed in New Beginnings (listed as NB in the graphic below) or its functional equivalent (the record does not specify what happened after probation was revoked on March 14, 2018), this juvenile adjudication has lapsed and is not scored. Section 4.3.2(c). While the Armed Robbery juvenile adjudication date does not fall within the Five-Year Juvenile Window, the defendant was placed in New Beginnings (a locked residential juvenile facility) within the Five-Year Juvenile Window; therefore, this juvenile adjudication has not lapsed and is scored at 1.5 points. This places the defendant in Grid Box M6B with a recommended sentencing range of 24 – 66 months (Prison and Long Split sentences permissible).



Note: *While a juvenile adjudication that has lapsed is not counted or scored for criminal history purposes, the sentencing judge may still consider it when determining where a defendant should be sentenced within the applicable box.*

Note: *If a defendant was 26 years of age or older at the time of the instant offense, none of their juvenile adjudications are scored. As all D.C. Family Court orders with respect to a juvenile terminate when the juvenile reaches 21 years of age (D.C. Code § 16-2322(f)), there is no possibility of a disposition within the Five-Year Juvenile Adjudication Window after the defendant reaches 26 years of age.*

[45] Juvenile offense in Main OSG's M6 – M7 are scored as 1 point each.
[46] Prior adjudications lapse, meaning they are not counted or scored if they are beyond the Five-Year Juvenile Window (see Section 10.17). A juvenile adjudication that has lapsed can never be revived.
[47] Juvenile offense in Main OSG's M1 – M5 are scored as 1.5 points each.

4.3.3 Lapsed Accessory After the Fact Convictions

For prior adult felony Accessory After the Fact convictions that have lapsed and been revived:

a. Scored convictions for offenses in OSGs M1 – M3 are counted as 3 points each.

b. Scored convictions for offenses in OSGs M4 – M5 are counted as 1 point each.

c. Scored convictions for offenses in OSGs M6 – M9 are counted as 0.5 points each.

d. Scored convictions for offenses in OSGs D1 – D3 are counted as 0.5 points each.

e. Scored convictions for offenses in OSG D4 are counted as 0.25 points each.

Example 16: Criminal History Scoring

On May 30, 2024, the defendant allegedly committed and was arrested for First Degree Burglary. The defendant pleaded guilty to Second Degree Burglary (M7). The defendant's PSR showed the following convictions and juvenile adjudication:

Conviction Date	Offense	Sentence Completed	OSG	Initial Scoring	Final Score	Reason
12/7/2005	UUV (juvenile)	1/17/2007	M8	0.5	0	§ 3.3.3(a)(3)[48] § 4.3.2(d)[49]
6/12/2009	Burglary I	4/10/2014	M5	3	3	§ 3.3.1(a)(1)[50] § 4.2(a)[51]
11/12/2010	Theft II	1/10/2011	Misd.	0.25	0	§ 3.3.2(a)[52] § 4.3.1[53]
7/10/2011	ADW	12/7/2012	M6	2	1	§ 3.3.1(a)(2)[54] § 4.2(b)[55]
11/12/2013	Att. Poss. Liquid PCP	4/10/2014	D4	0.75	0.25	§ 3.3.1(b)(3)[56] § 4.2(f)[57]
6/2/2014	PPW(b)	12/30/2014	Misd.	0.25	0	§ 3.3.2(b)[58]
10/11/2015	Simple Assault	7/14/2016	Misd.	0.25	0.25	§ 3.3.2(a)

[48] Juvenile offenses in Main OSGs M8 – M9 are scored as 0.5 points each.
[49] Prior adjudications lapse, meaning they are not counted or scored if they are beyond the Five-Year Juvenile Window (see Section 10.17). A juvenile adjudication that has lapsed can never be revived.
[50] Scored convictions for offenses in OSGs M1 – M5 are counted as 3 points each.
[51] For prior adult felony convictions that have lapsed and been revived: Scored convictions for offense in OSGs M1 – M5 are counted as 3 points each.
[52] Adult misdemeanor convictions are scored at 0.25 points each.
[53] Prior convictions for misdemeanors lapse at the same rate as felonies (ten years), but misdemeanors can neither revive other convictions nor can they be revived.
[54] Scored convictions for offenses in OSGs M6 – M7 are counted as 2 points each.
[55] For prior adult felony convictions that have lapsed and been revived: Scored convictions for offense in OSGs M6 – M7 are counted as 1 point each.
[56] Scored convictions for OSG D4 are counted as 0.75 points each.
[57] For prior adult felony convictions that have lapsed and been revived: Scored convictions for offense in OSG D4 are counted as 0.25 points each.
[58] A maximum of four misdemeanor convictions can be counted toward a defendant's CHS for a maximum total of one point.

12/18/2016	Poss. Cocaine	2/2/2017	Misd.	0.25	0.25	§ 3.3.2(a)
5/7/2017	Att. CPWL	11/30/2017	Misd.	0.25	0.25	§ 3.3.2(a)
3/4/2019	Att. Robbery	4/30/2024	M8	1	1	§ 3.3.1(a)(3)
1/20/2023	Simple Assault	4/30/2024	Misd.	0.25	0.25	§ 3.3.2(a)

Criminal History Score 6.25 points

In order to determine which convictions should be scored, the Ten-Year Window before the commission of the instant offense of conviction must be determined. In this matter, the Ten-Year Window runs from May 30, 2024 back to May 30, 2014. Section 4.1. The defendant has five misdemeanor convictions within the Ten-Year Window (Simple Assault, Att. CPWL, Poss. Cocaine, Simple Assault, and Possession of a Prohibited Weapon (PPW)(b)), each of which would be potentially scored as 0.25 points. However, due to the misdemeanor scoring cap, a maximum of 1 point is scored for all eligible prior misdemeanor convictions. Section 3.3.2(b). Note that misdemeanor convictions cannot revive other convictions. Section 4.3.1.

The Attempted Robbery conviction is the defendant's sole adult felony conviction within the Ten-Year Window; because it has not lapsed, it is scored at 1 point. Section 3.3.1(a)(3). The unlapsed Attempted Robbery conviction revives **all** lapsed adult felony convictions. Section 4.1.2. The ADW conviction has lapsed and revived; therefore, it is scored at 1 point, while the lapsed and revived First Degree Burglary conviction remains scored at 3 points. Sections 4.1.2, 4.2. The lapsed and revived Attempted Possession of Liquid PCP is scored at 0.25 points. Section 4.2(f). The Second Degree Theft conviction is a lapsed misdemeanor conviction; therefore, it can never be revived and is not scored. Section 4.3.1.

Finally, the defendant's lapsed (outside the Five-Year Juvenile Window) UUV juvenile adjudication can never be revived and, therefore, is not scored. Section 4.3.2. Thus, the defendant's CHS is 6.25 points, placing the defendant in Box M7E (Prison or Long Split sentence types permissible). Nevertheless, the sentencing judge may still consider a non-scored conviction or juvenile adjudication in determining where in the GRSR to sentence the defendant.

CHAPTER 5: OUT-OF-DISTRICT SCORING

5.1 General Rules

Convictions and juvenile adjudications for out-of-District offenses are initially scored like the closest comparable D.C. Code offenses. To determine the closest comparable D.C. Code offense:

a. Examine the name of the offense of the out-of-District conviction as listed on the criminal records check or final order (*e.g.*, NCIC or PRISM);

b. On the document utilized in Step 1, look at the listed out-of-District offense (statute or common law), including any subsection (*e.g.*, Md. Code Ann. § 3-405(c));

c. Look at the title of the out-of-District offense; and

d. Analyze the elements of the out-of-District offense. If the statute or code does not define the elements of the offense, additional resources may be considered, such as case law and jury instructions, to determine the elements of the offense.

e. Consider whether there is more than one D.C. offense that "closely matches" the out-of-District offense. If so, make note of each match. Score the least severe D.C. offense that closely matches, whether that offense is a misdemeanor or a less severe felony. Importantly, do not look to the underlying conduct of the prior offense to select the offense that most closely matches; instead, compare the elements of the D.C. and out-of-District offenses.

Example 17: Scoring Out-of-District Offenses

The Defendant's PSR contains the following prior conviction from Virginia (Va.):

Offense Date	Offense	Disposition	Verified	OSG	Score
1/3/2024	Dest. Property w/ Intent > $1,000	6/23/2024 Guilty, 4 Years ESS all, 2 years supervised probation	NCIC	M8	1 point

Section 5.1 outlines the procedure the PSR writer and the parties should follow to initially score a prior out-of-District conviction. The first step is to consider the name of the offense listed on the defendant's criminal record (in this case from the NCIC report). Here the offense is listed as "Destruction of Property w/ Intent >$1,000." While a specific statute or subsection is not listed, the name of the statute indicates a conviction under Va. Code § 18.2-137. Further, the VA statute can be narrowed to subsection (B)(ii) because the offense is for an amount greater than $1,000. The next step is to consider the title of the offense in the Va. Code, which is "Injuring, etc., any property, monument, etc." The final step is to consider the elements of the VA offense as seen in the table below and compare them to the elements of a closely matching District offense:

VA Dest. Property w/ Intent > $1,000 Va. Code § 18.2-137(B)(ii)	D.C. Malicious Destruction of Property (Felony) D.C. Code § 22-303
unlawfully destroy, deface, damage, or remove without intent to steal property/monument	maliciously injures, breaks, destroys property
property is not their own	property is not their own
with the intent to cause injury	with intent to damage/destroy
> $1,000	> $1,000

Based on an examination of the elements of each offense, not the conduct of conviction, the closest comparable offense is felony Malicious Destruction of Property (D.C. Code § 22-303), scored at 1 point.

5.2 No Comparable D.C. Offenses

If no comparable D.C. offense can be found based on the above rule, then the following default rules apply:

a. Apply 1 point for all convictions classified as felonies by the out-of-District jurisdiction.

b. Apply 0.25 points for all convictions classified as misdemeanors by the out-of-District jurisdiction and have a maximum punishment of 90 days or more of incarceration.

c. Do not score convictions classified as misdemeanors by the out-of-District jurisdiction and have a maximum punishment of less than 90 days of incarceration.

d. Apply 0.5 points for all juvenile adjudications for offenses that are classified as a felony if they were committed by an adult by the out-of-District jurisdiction.

e. Do not score juvenile adjudications for offenses that are classified as a misdemeanor if they were committed by an adult by the out-of-District jurisdiction.

f. Exception: If the conduct of conviction was once criminalized in D.C. but has since been decriminalized, Section 3.5 applies, and the conviction is not scored.

Example 18: Scoring Out-of-District Offenses - No Comparable D.C. Offense

While the name of an offense may help direct the PSR writer and the parties to the most comparable D.C. offense, a determination of the elements of the offenses ultimately controls whether the out-of-District conviction is comparable (or partially comparable) to any D.C. offense or is not comparable to any D.C. offense. For example, a prior conviction for Maryland Conspiracy to Commit First Degree Burglary is a non-comparable offense. D.C.'s Conspiracy statute requires an overt act, while Conspiracy in Maryland is a common law offense that does not require that element. An overt act may have occurred, but without an examination of the facts, it cannot be determined if it did. Therefore, the PSR writer should initially score it as a non-comparable misdemeanor offense because Maryland defines all Conspiracy convictions as a misdemeanor. Section 5.2(b). However, the parties may challenge the scoring by introducing the underlying facts of the conviction. See Section 5.5 for more information on challenging an out-of-District scoring.

5.3 Scoring Out-of-District Convictions for Offenses Committed When the Defendant Was Less Than 18 Years of Age

If the defendant's out-of-District conviction was for an offense that was committed when they were under 18 years of age, the following procedures govern whether the conviction should be scored as an adult conviction or a juvenile adjudication in the Criminal History Score (CHS):

a. A prior conviction where the defendant was less than 15 years of age at the time the offense was committed is scored as a juvenile adjudication.

b. Except as set forth in (c), a prior conviction where the defendant was 15 years of age or older at the time the offense was committed is scored as a juvenile adjudication unless the sentencing judge finds by a preponderance of the evidence that a judicial hearing was conducted in the out-of-District jurisdiction determining that the case would be transferred to or retained in adult court.[59]

c. A prior conviction comparable to Murder, First Degree Sexual Abuse, Burglary in the First Degree, Robbery While Armed (Firearm), or Assault with Intent to Commit any of these offenses where the defendant was 16 years of age or older at the time the offense was committed is scored as an adult conviction, unless the offense was adjudicated in a juvenile proceeding.

    1. A prior out-of-District conviction for Armed Robbery/Robbery with a weapon is scored as an adult conviction unless the defendant can show by a preponderance of the evidence that the weapon associated with the conviction was not a firearm, in which case the Armed Robbery should be scored as a juvenile adjudication. In other words, there is a rebuttable presumption that the weapon involved was a firearm unless proven otherwise. If the PSR writer cannot confirm the type of weapon used in the Armed Robbery, they should post an asterisk to highlight the scoring for this offense and note "presumed firearm otherwise unknown" in the PSR to alert the parties of this rebuttable presumption.

[59] This includes, but is not limited to, a hearing to transfer the juvenile to adult court or a "reverse transfer" hearing to determine if the juvenile, initially charged in adult court, should be "transferred back" to juvenile court (*see e.g.,* D.C. Code § 16-2307). In such cases, the burden would be on the government to show by a preponderance of the evidence that a transfer or reverse transfer hearing had occurred in the other jurisdiction and that the case was transferred from juvenile court to adult court or kept in adult court.

5.4 Scoring Convictions from Special Jurisdictions

5.4.1 *Military Convictions*

Convictions for military offenses are scored if imposed by a general or special court martial consistent with the rules in Section 5.1. Convictions imposed by a summary court martial or through an Article 15 proceeding are not scored.

5.4.2 *Territorial Convictions*

Federal convictions from the U.S. territories are scored. Any other conviction from a U.S. territory is presumptively scored, unless it is shown that the territory's criminal justice system does not provide procedural protections comparable to those afforded under the U.S. Constitution.[60]

5.4.3 *Tribal Convictions*

Convictions imposed by tribal courts are not initially scored. However, a party may challenge the scoring by providing evidence that the tribal court exercised procedural protections consistent with those afforded under the U.S. Constitution. If proven, the convictions are scored consistent with the rules in Section 5.1.

5.4.4 *Foreign Convictions*

Convictions from foreign jurisdictions are not scored.

5.5 Process for Challenging Out-of-District Scoring

If, after the PSR writer has calculated the initial score for an out-of-District offense, a party contends that the CHS for the out-of-District conviction misrepresents the severity of the offense, then the party may seek a correction. At this stage, the parties may utilize the facts underlying the conviction, rather than merely the elements of the offense, as part of their argument. This procedure applies only to out-of-District convictions.

If the sentencing judge concludes by a preponderance of the evidence that the underlying conduct for the out-of-District conviction most closely matches a more or less severe D.C. offense, then the sentencing judge must apply the same number of Criminal History Points applicable to the more or less severe D.C. offense. In making this determination, the burden of proof is on the party challenging the initial determination to establish that the conduct for the out-of-District conviction more closely matches a more or less severe D.C. offense.

[60] For instance, research by the Commission shows that non-federal convictions from the U.S. Virgin Islands, Puerto Rico, American Samoa, and Guam should be scored like state convictions, while non-federal convictions from the Northern Mariana Islands should be scored as misdemeanors unless the sentence imposed was more than five years.

The sentencing judge should apply the new score only if it determines that the conduct of conviction, as opposed to the alleged conduct or conduct relating to other offenses, more closely matches the more or less severe D.C. offense. See Sections 10.2, 10.31. However, the sentencing judge may consider the factual proffer in the record in determining the conduct of conviction.

Example 19: Scoring Out-of-District Offenses - Challenging

A defendant's PSR reveals a prior conviction from 2018 for Virginia Grand Larceny (Va. Code Ann. § 18.2-95(ii)) that falls within the Ten-Year Window. No other information is given regarding the offense of conviction or sentence imposed, leaving the PSR writer unable to determine the value of the property. While D.C. First Degree Theft has a threshold of property valued at $1,000 or more, VA Grand Larceny's threshold was property valued at $500 or more in 2018. Therefore, the VA offense could match either D.C. First Degree Theft (value of $1,000 or more) or Second Degree Theft (value of less than $1,000). The conviction is initially scored as the least severe comparable D.C. offense, Second Degree Theft. Section 5.1(e). The PSR writer should make a note in the PSR indicating that the VA offense could match multiple D.C. offenses and was initially scored as the least severe offense. For example, "the VA offense appears to match First and Second Degree Theft in D.C., it is initially scored as 0.25 points with a note it may be scored at 1 point."

A party may challenge the initial scoring by presenting evidence to the sentencing judge that the value of the property involved in the Virginia conviction was $1,000 or more (for example, by introducing a restitution order showing the value of the property at issue). If the sentencing judge determines that a party has proven that the value of the item(s) at issue was above $1,000 by a preponderance of the evidence, the offense should be scored as matching First Degree Theft, corresponding to 1 point. The sentencing judge should adjust the defendant's CHS accordingly and notify CSOSA and the Commission about the updated score.

The Commission strongly urges PSR writers, practitioners, and judges to contact the Commission at (202) 727-8822 or scdc@dc.gov for assistance regarding the comparability of specific offenses.

5.6 Additional Guidance

a. For purposes of scoring prior out-of-District convictions, choose the most closely matching D.C. offense(s) based only on the name and elements of the out-of-District offense, not on the underlying conduct.

b. The name of the out-of-District conviction utilized in Section 5.1(a) should be noted in the Report for all parties to consider.

c. A party who would like the sentencing judge to consider information separate from the information considered in Section 5.1 should follow the procedure set forth in Sections 5.5 and 1.3.11.

d. In some cases, the least severe D.C. offense might be a felony even if the out-of-District offense is a misdemeanor. What is determinative is how D.C. classifies the offense.

e. If there is more than one possible D.C. offense that "closely matches" the out-of-District offense, the PSR writer should always attempt to identify all matching D.C. offenses. Best practice is to place this information in a footnote and indicate that the least severe D.C.

offense was scored.

f. The same lapse rules apply to out-of-District convictions as to D.C. convictions. Thus, a revived out-of-District felony with no comparable D.C. offense should be scored as 0.5 points under Section 5.2(a). Lapsed out-of-District juvenile adjudications and offenses closely matching D.C. misdemeanors should not be scored at all.

g. While the parties may not normally bargain over the CHS, the parties may agree that the sentencing judge should apply a particular number of points as the appropriate score for an out-of-District conviction. This would help create certainty at the time of a plea and would reduce the need for resources to litigate the appropriate CHS when it is contested. If agreed upon by the parties, CSOSA and the sentencing judge should accept this score when calculating the defendant's CHS. This exception to the general rule prohibiting bargaining over the CHS applies only to out-of-District convictions and is the ONLY EXCEPTION to the general prohibition.

h. In rare instances, the sentence imposed by the sentencing judge may assist in determining the applicable offense of conviction in the out-of-District jurisdiction.

Example 20: Scoring Out-of-District Offenses - Using the Sentence

A defendant's PSR contains the following prior conviction:

Offense Date	Offense	Disposition	Verified	OSG	Score
10/16/2020	N.C. Breaking and Entering	3 years, ESS 2 years 1 year probation completed 5/7/2023	NCIC	M7	2 points

A review of the North Carolina Breaking and Entering (N.C. Gen. Stat. § 14-54) statute reveals that it has both a misdemeanor penalty (subsection (c) is a Class 1 misdemeanor) and a felony penalty (subsections (a) and (a1) are Class H felonies). While the entire statute is initially comparable to D.C. Unlawful Entry (D.C. Code 22-3302), subsections (a) and (a1) match Second Degree Burglary (D.C. Code 22-801(b)). In this case, the penalty aids in determining the relevant subsection for analysis, even though the offense title does not. Since the defendant received a sentence of three years (with two years suspended), the misdemeanor subsection (which carries a maximum statutory penalty of 120 days) can be eliminated. Therefore, the closest comparable offense is D.C. Second Degree Burglary, scored at 2 points.

i. Ascertaining which D.C. offense most closely resembles an out-of-District offense may not be necessary if the number of Criminal History Points assigned to it would be the same regardless of whether it comes closer to one offense or another, or where the total number of Criminal History Points would not change the column in which the defendant is placed.

j. Ascertaining the exact number of Criminal History Points is not necessary if a defendant has six or more points (e.g., two prior violent felony convictions; three prior mid-level felony convictions; six prior low-level felony convictions or a combination of felony and misdemeanor convictions that add up to six or more points).

k. For out-of-District convictions with more than one offense in a single event, the offense that would be considered the most severe offense in D.C. should be scored, which may not always be the most severe offense in the out-of-District jurisdiction.

l. An out-of-District common law conviction or juvenile adjudication with an unknown penalty or offense classification shall be scored in accordance with Sections 5.2 and 5.6(h) based upon the sentence that the defendant received. For example, if the defendant received a sentence that would equate to a misdemeanor in the out-of-District jurisdiction, it should be scored as a misdemeanor.

   Similarly, if the defendant received a sentence that would equate to a felony in the out-of-District jurisdiction, it should be scored as a felony. However, if the sentence is unclear or unknown, the rule of lenity applies, and the conviction shall initially be scored as a misdemeanor.

m. Out-of-District offenses are compared to the closest matching D.C. offense currently in force, regardless of when the out-of-District offense was committed. If the offense has been decriminalized in D.C., see Section 3.5.

CHAPTER 6: SENTENCING WITHIN THE BOX

There are 45 boxes on the Main Grid and 20 boxes on the Drug Grid.[61] The available sentencing types (described in detail in this Chapter) are determined based on the shading in each box.

Table 5: Determining Sentencing Type

DETERMINING SENTENCING TYPE	
Box Color	**Available Sentencing Type**
White	Prison or Long Split only
Dark Blue	Prison, Long Split, or Short Split permissible
Light Blue	Prison, Long Split, Short Split, or Probation permissible

Compliant sentence types are defined as:

a. **Prison Sentence**: In a Compliant Prison sentence, the sentencing judge sentences the defendant to a term of incarceration within the applicable Guidelines Recommended Sentencing Range (GRSR). None of the time imposed is suspended. The term of incarceration may be followed by a period of supervised release as governed by D.C. Code § 24-403.01(b). For more information on Prison sentences, see Sections 6.1.1, 10.35.

b. **Long Split Sentence**: In a Compliant Long Split sentence, the sentencing judge imposes a sentence within the applicable GRSR, suspends execution of all but a term that also falls within the applicable GRSR, such that the time initially served (not suspended) is more than six months, and places the defendant on probation for a period of up to five years. For more information on Long Split sentences, see Sections 6.1.2, 10.24. For more information on statutorily required supervised release, see Appendix D.

c. **Short Split Sentence**: In a Compliant Short Split sentence, the sentencing judge imposes a sentence within the applicable GRSR, suspends execution of all but six months or less (but not all) of the incarceration component of the sentence (specifying the period of incarceration that is *not* suspended, if known), and places the defendant on probation for a period up to five years. For more information on Short Split sentences, see Sections 6.1.3, 10.38.

d. **Probation Sentence**: In a Compliant Probation sentence, the sentencing judge imposes a sentence within the applicable GRSR, suspends execution of the entire sentence, suspends the supervised release, and places the defendant on probation for up to five years. For more information on Probation sentences, see Sections 6.1.4, 10.36.

[61] For information on how the Commission decided on the parameters of the boxes, see the 2008 Manual.

6.1 Sentence Types

6.1.1 Prison Sentence

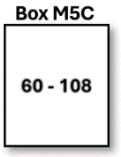
In a Compliant Prison sentence, the sentencing judge sentences the defendant to a term of incarceration within the applicable GRSR. None of the time imposed is suspended. The term of incarceration must be followed by a period of supervised release as provided by D.C. Code § 24-403.01(b). See Appendices C, D.

Prison is a Compliant sentence in all boxes on both Grids. Each box has two numbers. The lower number represents the minimum number of months for a Compliant Prison sentence, and the upper number represents the maximum number of months for a Compliant Prison sentence.

The sentencing judge may impose any Prison sentence within the range specified in the box where the offense of conviction and the Criminal History Score (CHS) of the defendant intersect.

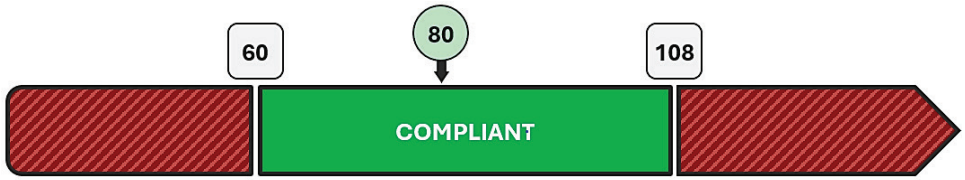
Note: *The boxes in Criminal History Column E on both Grids do not have upper numbers for the sentence ranges, but rather plus signs. A defendant with a CHS that places them in Criminal History Column E can be sentenced to any period of incarceration up to the statutory maximum (less the amount reserved for backup time for non-Class A felonies).*

Example 21: Sentence Types - Prison Sentences



A defendant was convicted of Assault with Intent to Kill (M5).
Their PSR determined their CHS to be 2.5 points (column C).

Compliant Prison Sentence: 80 months of incarceration to be served (no time suspended), 3 years supervised release.



Non-Compliant Below-the-Box Sentence: 54 months of incarceration to be served (no time suspended), 3 years supervised release.

6.1.2 Long Split Sentence

The sentencing judge may also impose a Compliant Long Split sentence, where the amount of time to be served after a portion of the entire term of incarceration is suspended still falls within the GRSR in that box, such that the time initially served (not suspended) is more than six months (see Section 10.24). Thus, in order to be a Compliant Long Split sentence, both the amount of time imposed and the portion to be served initially must fall within the range in the applicable box. A Long Split sentence is Compliant in all boxes.

When imposing a Compliant Long Split sentence, the sentencing judge should:

a. Impose a term of incarceration in the appropriate range and the supervised release term;

b. Suspend execution of only a portion of the term of incarceration so that the unsuspended portion is still in the appropriate range and greater than six months;

c. Suspend **all** of the supervised release term; and

d. Place the defendant on probation upon release for a period not to exceed five years.

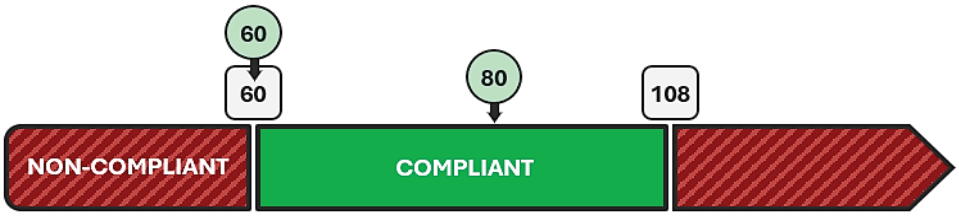
Example 22: Sentence Types - Long Split Sentences

Box M5C

60 - 108

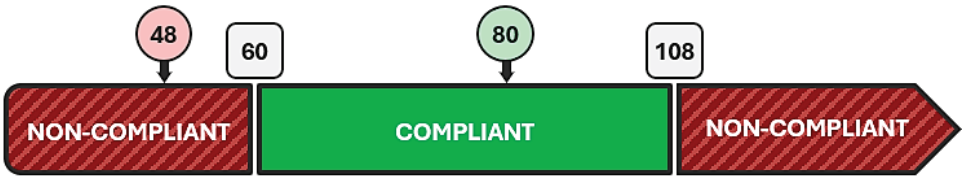
A defendant was convicted of Assault with Intent to Kill (M5).
Their PSR calculated their CHS to be 2.5 points (C).

Compliant Long Split Sentence: 80 months ESS all but 60 months (60 months to be served), 5 years supervised release suspended, and 3 years probation imposed. [62]

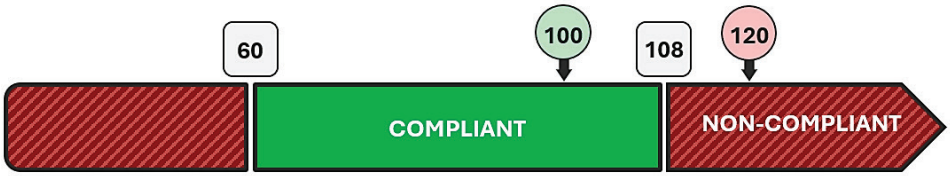


[62] This language ("ESS all but") was chosen for ease of understanding as this is the language that is commonly used in the Superior Court. More formal language for imposition of a split sentence would be "execution of sentence suspended except for" to indicate the (initially) served/executed incarceration portion of a sentence.

Non-Compliant Split Sentence: 80 months ESS all but 48 months (48 months to be served), 5 years supervised release suspended, and 3 years probation imposed.



Non-Compliant Above-the-Box Sentence: 120 months ESS all but 100 months (100 months to be served), 5 years supervised release suspended, and 3 years probation imposed.



6.1.3 Short Split Sentence Types

a. Short Split Sentence

A Short Split sentence is a Compliant sentence in the shaded (dark blue and light blue) boxes. To impose a Short Split sentence, the sentencing judge must: impose a term of incarceration that falls within the GRSR range in the appropriate blue/dark-shaded or light blue/light-shaded box, suspend execution of all but six months or less – but not all – of the incarceration component of the sentence (specifying the period of incarceration that is *not* suspended, if known), and impose up to 5 years' probation.[63] If the judge suspends all of the term of incarceration, then they are imposing a Probation sentence (not a Short Split sentence), which is not a Compliant sentence type in a dark blue box. See Section 6.1.4.

When imposing a Short Split sentence, the sentencing judge should:

1. Impose a term of incarceration in the GRSR and the supervised release term;

2. Suspend execution of all but six months or less of the term of incarceration, but not all of the incarceration component of the sentence (specifying the period of incarceration that is *not* suspended, if known);

3. Suspend **all** of the supervised release term; and

4. Place the defendant on probation upon release for a period not to exceed five years.

[63] The Court may suspend imposition of a sentence (ISS) and impose whatever terms it deems best as long as it does not place the defendant on supervised probation. D.C. Code § 16-710 does not authorize supervised probation following suspension of ISS. *See Schwasta v. United States*, 392 A.2d 1071, 1077 (D.C. 1978).

Note: *If the sentencing judge suspends imposition of a sentence (ISS), that is considered to be a Probation sentence, not a split sentence. ISS sentences are not Compliant in the white or dark blue/dark-shaded boxes of the Grids unless a Departure Factor applies. If the sentencing judge suspends execution of the entire term of incarceration, the Departure Factor sentence is considered to be a Probation sentence, not a split sentence. "ESS all" sentences are not Compliant in the white or dark blue/dark-shaded boxes, unless a Departure Factor applies. If the sentencing judge suspends all but time served, time served must be six months or less to be a Compliant Short Split sentence, unless Compliant with a Modified Short Split sentence, see Section 6.1.3(b).*

Best Practice: *The sentencing judge should document "time served" on the Judgment and Commitment Order if all but time served was suspended and, if known, the amount of time served.*

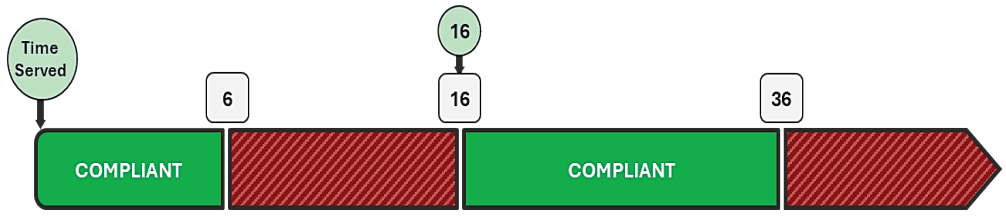
Example 23: Sentence Types - Short Split Sentences

Box D2B

16 - 36

The defendant is arrested for PWID Cocaine (D2) and immediately released after presentment. At sentencing, their PSR was calculated to be 0.75 points (column B).

Compliant Short Split Sentence: 16 months ESS all but time served (the one day of time served at arrest is the only day to be served), 1 year supervised release suspended, and 1 year probation, credit for time served. **The one day of time served makes this a Compliant Short Split sentence.**[64]



Note: *The Commission recommends that the sentencing judge document "time served" on the Judgment and Commitment Order if all but time served was suspended and, if known, specify the amount of time served.*

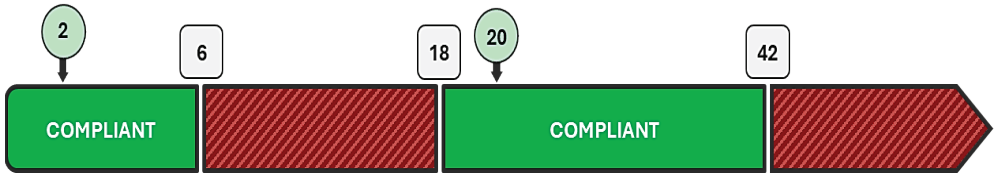
Example 24: Sentence Types - Short Split Sentences

Box M7B

18 - 42

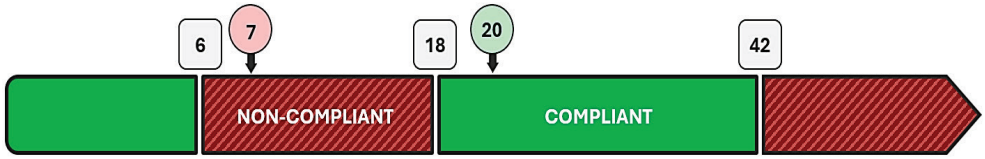
A defendant was convicted of Burglary II (M7).
Their PSR calculated their CHS to be 1 point (column B).

Compliant Short Split Sentence: 20 months ESS all but 2 months (2 months to be served), 3 years supervised release suspended, and 3 years probation.

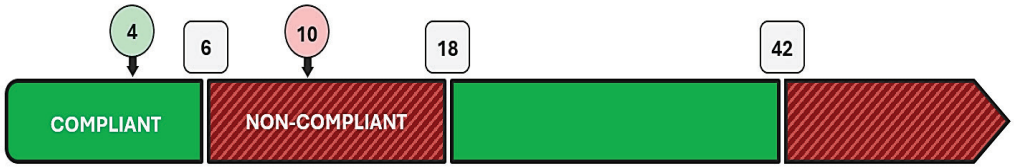


[64] The defendant's one day of time served, their day of arrest, and immediate release after presentment makes this a Compliant Short Split sentence.

Non-Compliant Split Sentence: 20 months ESS all but 7 months (7 months to be served), 3 years supervised release suspended, and 3 years probation.



Non-Compliant Below-the-Box Sentence: 10 months ESS all but 4 months (4 months to be served), 3 years supervised release suspended, and 3 years probation.



b. Modified Short Split Sentence[65]

A Compliant Short Split sentence may also be given under the following conditions: 1) whenever the sentencing judge faces delays in connection with the invocation of D.C. Code § 11-947, or 2) the circumstances that caused the invocation of § 11-947 during the COVID-19 pandemic,[66] the sentencing judge may impose a Compliant Short Split sentence (in blue/dark-shaded or light blue/light-shaded boxes only) by:

1. Imposing a term of incarceration in the appropriate GRSR and a supervised release term;

2. Suspending execution of any time, up to and including time served (which may be more than 6 months);

3. Suspending **all** of the supervised release term; and

4. Placing the defendant on probation for a period not to exceed five years.

[65] This modification to the definition of a Compliant Short Split sentence became effective on June 25, 2021.

[66] This definitional change of "Short Split" was written with a broad interpretation in mind. The modified definition may be applied to any person that can demonstrate that they have been impacted by delays in court or criminal legal system operations connected to the use of the statutory authority that permits the Chief Judge to toll or suspend proceedings in the Superior Court, or the circumstances that warranted the invocation of this authority. The modified definition applies equally to individuals impacted by delays related to the invocation of the statute regardless of whether the case was filed before or after the statute's invocation. For example, individuals with cases pending at the time of the invocation would be able to invoke the modified definition with an appropriate showing. Similarly, individuals impacted by delays following the termination of the invocation would also have the ability to invoke the modified definition with an appropriate showing. The Commission recognizes that the definitional change expands the current definition of a Short Split sentence when there are delays connected to the closure of the court; or tolling or suspension of proceedings; or the function of the government and defense counsel, including the ability to convene grand juries or to instigate cases. This change is not intended to preclude the sentencing judge from imposing a Long Split sentence in appropriate circumstances.

6.1.4 Probation Sentence

Probation is a Compliant sentence only in the light blue boxes. To impose a Compliant Probation sentence, the sentencing judge must impose a sentence that falls within the GRSR in the appropriate light-shaded (light blue) box, suspend execution of all of it (ESS all), and impose up to five years' probation.[67] [68]

When imposing a Probation sentence, the sentencing judge should:

a. Impose a term of incarceration in the GRSR and the supervised release term;

b. Suspend execution of the entire term of incarceration;

c. Suspend **all** of the supervised release term; and

d. Place the defendant on probation for a period not to exceed five years.

Note: *The Guidelines make no recommendation as to the length or terms and conditions of probation. Any period of probation up to the statutory maximum of five years is Compliant, and the judge may impose any terms or conditions available prior to the Guidelines. See D.C. Code § 16-710(b).*

[67] The sentencing judge may suspend imposition of a sentence (ISS) and impose whatever terms it deems best as long as it does not place the defendant on supervised probation. D.C. Code § 16-710 does not authorize supervised probation following suspension of imposition of sentence. *See Schwasta v. United States*, 392 A.2d 1071, 1077 (D.C. 1978).

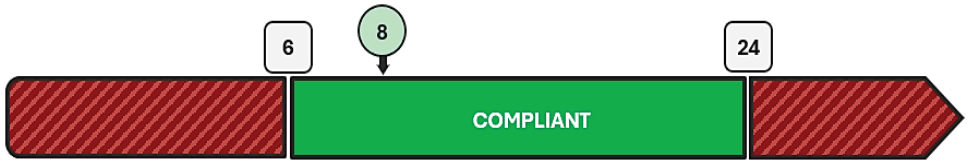
[68] Two principles that the Commission adopted are to some extent in conflict in cells where Probation is a permissible sentence: the principle that the Guidelines should try to eliminate the top and bottom 25 percent of sentences (except where a departure principle applies), and the principle that Probation should be a permissible sentence in any cell where 25 percent or more of the sentences were sentenced to probation historically. The Commission acknowledges that a portion of historical Probation sentences, like a portion of the most severe sentences imposed, were outliers, that is, they were outside the norm given the offense and the criminal history of the defendant. However, unlike exceptionally harsh sentences, which were more easily identified when compared against other sentences, exceptionally lenient sentences were statistically indistinguishable from sentences where Probation was indeed appropriate. For this reason, while the Commission was able to exclude from the recommended sentence ranges anomalously "high" sentences, it was unable to impose a comparable bright-line limitation on anomalously "low" Probation sentences in every cell. It is therefore incumbent on individual judges to consider the historical percentage of Probationary sentences in a given cell when determining whether Probation is appropriate in a given case. In making this determination, judges should be guided by the principle that it was the intent of the Commission to eliminate both the top 25 percent and the bottom 25 percent of sentences. It is accordingly the intention and expectation of the Commission that, just as the Guidelines should eliminate a portion of anomalously harsh sentences, they should also eliminate a portion of anomalously lenient sentences.

Example 25: Sentence Types - Probation Sentences

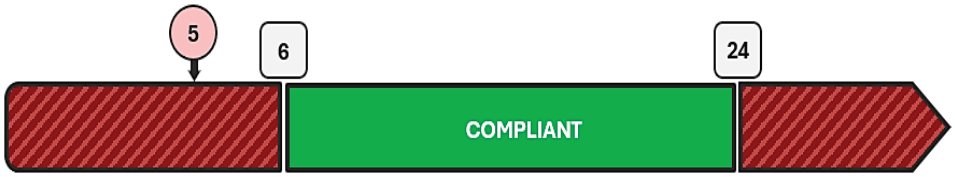
Box M8A

A defendant was convicted of Carrying a Pistol Without a License (M8).
Their PSR determined their CHS to be 0.5 points (column A).

Compliant Probation Sentence: 8 months ESS all (all time suspended), 1 year supervised release suspended, and 1 year probation.



Non-Compliant Below the Box Sentence: 5 months ESS all (all time suspended), 1 year supervised release suspended, and one year probation.



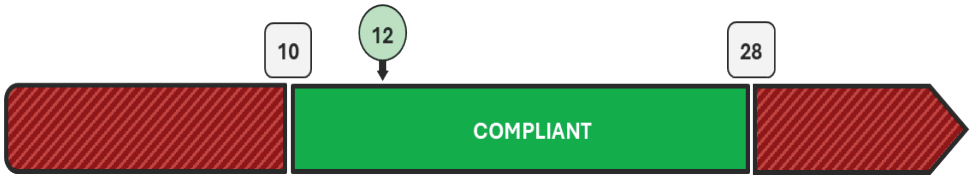
Example 26: Sentence Types - Compliant Sentences

Box M8B

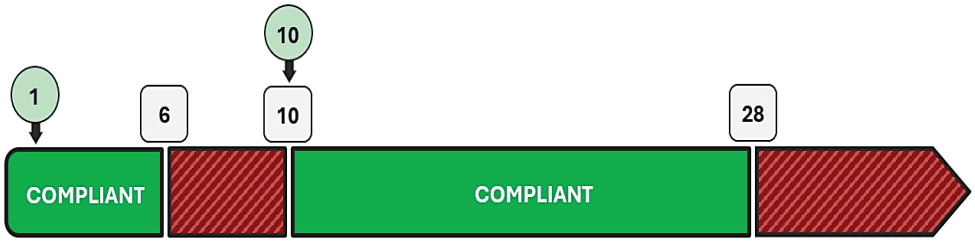
A defendant was convicted of Attempted Robbery (M8).
Their PSR calculated their CHS to be 1.25 points (column B).

Below are examples of all Compliant sentence types:

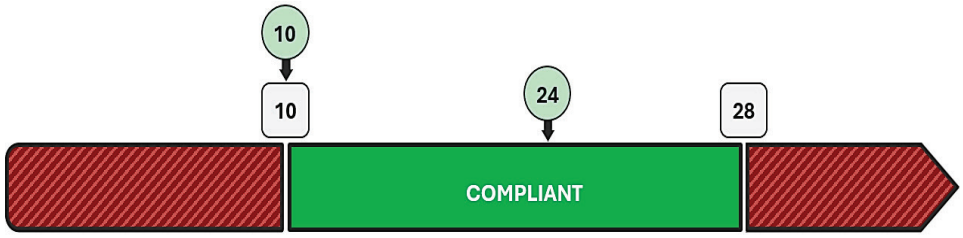
Compliant Probation sentence: 12 months ESS all (all time suspended), 1 year supervised release suspended, and 1 year probation.



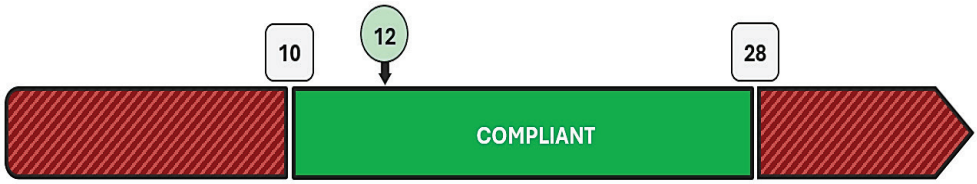
Compliant Short Split sentence: 10 months ESS all but 1 month (1 month to be served), 1 year supervised release suspended, and 1 year probation.



Compliant Long Split sentence: 24 months ESS all but 10 months (10 months to be served), 2 years supervised release suspended, and 2 years probation.



Compliant Prison sentence: 12 months executed (no time suspended), and 1 year supervised release.



6.2 Mandatory and Statutory Minimums

The Guidelines refer to mandatory minimum and statutory minimum terms of imprisonment. A mandatory minimum term is a term of incarceration that must be imposed by law and *cannot* be suspended. See Section 10.26. A statutory minimum term, in contrast, is a term of incarceration that must be imposed, but *can* be suspended. See Section 10.39.

These minimums are an exception to the amount of discretion the sentencing judge has in imposing a Guidelines Compliant sentence within a GRSR. The Guidelines do not change these minimums. An imposed sentence cannot be lower than the minimum, even if lower sentences are otherwise available in the appropriate box.

6.2.1 Offenses with Mandatory Minimums

Offenses with a mandatory minimum sentence that *cannot* be suspended for a person sentenced as an adult (except persons sentenced under the YRA or who are under the age of 18 at the time of the commission of the offense) are: [69]

[69] In Appendix C, these are indicated in the "Minimum" column by the letter "M" before the number of years.

Table 6: Offenses With Mandatory Minimums

OFFENSES WITH MANDATORY MINIMUMS	
Offense of Conviction	**Mandatory Minimum**
First Degree Murder of a Police Officer	LWOR
First Degree Murder	30 years
Armed Carjacking	15 years
Carjacking	7 years
Crimes of Violence (COV) While Armed with a Firearm – 1st Offense	5 years
Dangerous Crimes While Armed with a Firearm – 1st Offense	5 years
COV While Armed with a Firearm – 2nd and Subsequent Offense	10 years
Dangerous Crimes While Armed with a Firearm – 2nd and Subsequent Offense	10 years
Possession of a Firearm During a COV or Dangerous Crime	5 years
Unlawful Possession of a Firearm by a Person with a Conviction for a COV	3 years
Unlawful Possession of a Firearm by a Person with a Conviction > 1 Year	1 year
Theft I or II if Two or More Theft Convictions	1 year
Armor Piercing Ammunition	1 year

Example 27: Mandatory Minimums

After a jury trial, a defendant was convicted of Unlawful Possession of a Firearm – Prior Conviction (FIP-1), an offense ranked in OSG M8.[70] The PSR writer determined the defendant's CHS was 3 points, placing them in box M8C with a recommended sentence of 14 – 32 months (Short Split, Long Split, or Prison sentence types permissible). However, FIP-1 has a mandatory minimum sentence of one year (12 months), making a Compliant Short Split sentence unavailable because the mandatory minimum takes precedence over the otherwise available Guidelines sentencing options (a Compliant Short Split sentence requires the defendant to initially serve no more than six months incarceration). For a sentence in these circumstances to be consistent with the mandatory minimum and Compliant with the Guidelines, the sentencing judge must impose an executed sentence of at least 14 months.

While a sentence of 14 months ESS all but 12 months would be a legal sentence, it would not be a Compliant In-the-Box sentence because the executed portion of the sentence is below the bottom of the box, but greater than six months. The following are examples of Compliant and legal In-the-Box sentences in this situation:

Long Split: 18 months ESS all but 14 months, 3 years supervised release suspended, and 2 years supervised probation.

Prison: 14 months incarceration, 3 years supervised release.

[70] In this example, the defendant was not charged under Title 16 nor sentenced under the Youth Rehabilitation Act.

6.2.2 Offenses with Statutory Minimums

Some offenses have a minimum that is **not** a mandatory minimum, but rather a statutory minimum.[71] For these offenses, the sentencing judge must impose a term of incarceration of at least the statutory minimum, but the sentence imposed may be suspended, in whole or in part, in a shaded (dark blue or light blue) box. For these offenses, to impose a Compliant sentence, the judge must impose at least the statutory minimum sentence, but may suspend all or part of it depending on the applicable sentencing box and where the statutory minimum fits within that box, if at all.

Most statutory minimums are either below or within the GRSR in the lowest possible box for that offense and CHS, complying with the GRSR. The same options are available for these offenses as for any other in the same OSG (Prison, Long Split, Short Split, or Probation sentences). However, several statutory minimums are higher than the Guidelines ranges in Columns A through D. For these offenses, the judge should impose the statutory minimum and then should suspend at least the portion of the sentence that exceeds the higher number in the recommended range. Any less, absent a Departure or enhancement, would result in a Non-Compliant sentence.

Example 28: Statutory Minimums

A defendant with no criminal record was convicted of First Degree Burglary (M5), placing them in Box M5A, which has a GRSR of 36 – 84 months, Prison or Long Split sentence types permissible. First Degree Burglary has a statutory minimum of 60 months. In order to impose a legal and Guidelines Compliant sentence, the sentencing judge must impose the statutory minimum of 60 months. However, because this is a statutory minimum rather than a mandatory minimum, the sentencing judge may legally suspend a portion of, or the entire sentence. To comply with the Guidelines, the defendant must initially serve at least 36 months of incarceration. The following are examples of Compliant and legal In-the-Box sentences in this situation:

Long Split:	60 months ESS all but 36 months, 3 years supervised release suspended, 5 years supervised probation.
Prison:	60 months incarceration, 3 years supervised release.

6.3 Statutory Maximums

Every offense, except Contempt pursuant to D.C. Code § 11-944, has a maximum penalty set by statute. To impose a legal sentence, the maximum penalty may not be exceeded, regardless of the applicable GRSR. Additionally, non-class A felony offenses have a period of backup time that must be subtracted from the statutory maximum sentence (see Appendix D for more information on how the statutory maximum is calculated). For these offenses, the judge cannot impose a sentence greater than the statutory maximum, less the required backup time, even though such a sentence would otherwise appear to comply with the Guidelines.

[71] In Appendix C, offenses with a statutory minimum are indicated in the "Minimum" column by "not <" before the number of years.

Example 29: Statutory Maximums

Attempted Robbery (M8) has a statutory maximum of 36 months. The amount reserved for incarceration following revocation of release (back-up time) for this offense is one year. D.C. Code § 24-403.1(b)(7). See Appendix C-16 and Appendix D, Section III. Because Attempted Robbery is not statutorily defined as a Class A felony, the 12 months of backup time must be subtracted from the statutory maximum. Therefore, the maximum Prison sentence that can be initially imposed for this offense, absent an enhancement, is 24 months incarceration. This reduces the available In-the-Box sentencing ranges. For this offense, the In-the-Box sentencing ranges are modified as follows to accommodate the maximum term of incarceration that can be initially imposed (red numbers indicate a change from the normal GRSR):

8	Attempt Robbery/Burglary	6 - 24 6 - 24	10 - 24 10 - ~~28~~	14 - 24 14 - ~~32~~	18 - 24 18 - ~~36~~	22 - 24 22 +

6.4 YRA Sentences

The Youth Rehabilitation Act (YRA), D.C. Code § 24-901 *et seq*., provides judges with additional discretion when sentencing a defendant who was under the age of 25 at the time of the commission of an offense other than Murder, First Degree Murder that Constitutes an Act of Terrorism, Second Degree Murder that Constitutes an Act of Terrorism, First Degree Sexual Abuse, Second Degree Sexual Abuse, and First Degree Child Abuse. The YRA permits sentencing to what it refers to as "youth offenders" to terms below any otherwise applicable mandatory minimum.[72] It is entirely within the sentencing judge's discretion to determine whether the YRA is appropriate in a case. The Commission will never opine on such a determination.

Sentencing a defendant pursuant to the YRA does not affect the defendant's GRSR. If the sentencing judge imposes a sentence outside of the In-the-Box sentencing options based upon the YRA, they should indicate the appropriate Departure Factor or exception; otherwise, note that they are not utilizing the Guidelines in determining the appropriate sentence. Prior offenses set aside under the YRA are scored in accordance with the Guidelines scoring rules outlined in Sections 3.2.1 and 3.3.

6.5 Enhancements

Several statutory provisions do not change the sentencing options in the applicable box, but expand the upper limit of the GRSR. These provisions include, but are not limited to: enhancements based on the status of the victim (*e.g.*, senior citizen victims and bias-related offenses), repeat offenses, third strike laws, statutory aggravating factors for Murder and Sex offenses, offenses committed in drug-free and gun-free zones, selling drugs to minors, and committing a felony while

[72] A "'Youth offender' means a person 24 years of age or younger at the time that the person committed a crime other than murder, first degree murder that constitutes an act of terrorism, second degree murder that constitutes an act of terrorism, first degree sexual abuse, second degree sexual abuse, and first degree child sexual abuse." D.C. Code § 24-901(6).

on release. All statutory enhancements are listed in Appendix C. Appendix F contains examples of how to apply such enhancements.

With few exceptions,[73] when an enhancement provision applies, the **upper limit** of the Guidelines range is increased by the same percentage or amount as the statutory multiplier or cap. For example, if the statute states that the punishment may be 1.5 times the maximum otherwise authorized for the offense, then the top of the Guidelines recommended range is increased by a factor of 1.5. However, if the statute increases the maximum term of imprisonment from five to ten years, for example, the **top** of the GRSR is doubled.[74] See Appendix F for the list of multiplier and cap enhancements. It is important to note that only the upper limit of the range is modified, while the lower limit remains unchanged.

In cases where multiple enhancements might apply, the sentencing judge should generally apply only one enhancement per count. However, OCDR is exempt from the Guidelines rule that only one sentencing enhancement may apply to each count. Instead, OCDR (felony) may be applied along with one other applicable enhancement. Under D.C. Code 23-1238(c), a sentence imposed for OCDR shall run consecutively to any other sentence. See Chapter 7 for more information on consecutive sentencing.

Sentencing enhancements do not modify how a prior conviction is scored. For example, a prior conviction for Assault with Significant Bodily Injury (ASBI) is scored in Offense Severity Group (OSG) M8, regardless of whether a sentencing enhancement was applied to that conviction.

Note: *When deciding where within the expanded box to sentence the defendant, the sentencing judge may consider that enhancements based on prior convictions (i.e., "repeat papers") may be based on the same convictions that have determined the defendant's CHS.*[75] *Thus, the same conviction that contributes to moving the defendant to the right on the Grid, exposing the defendant to a higher GRSR, may also increase the top of the range through the operation of the enhancement rule. In determining where within the expanded box to sentence the defendant in such a situation, the sentencing judge may consider the dual effect of the prior record.*

Note: *For guidance related to an Accessory After the Fact conviction, see Sections 2.4, 3.4.*

[73] The general rule governing enhancements does not apply to the OCDR enhancement (D.C. Code § 23-1328). Additional exceptions include: Carrying a Pistol Without a License and Insurance Fraud. For an explanation of how OCDR should be scored, refer to Section 2.5.3. For additional exceptions, see Appendix F, Section II.

[74] Several "special enhancements" do not adhere to this protocol. Consult Appendix F for more information.

[75] In some cases, repeat papers will be filed based on convictions that do not contribute to the CHS. For example, if a prior conviction has lapsed according to the Guidelines rules under Chapter 4, then the prior conviction will not be counted toward the defendant's CHS; however, that conviction may still serve as the basis for the filing of repeat papers. See Section 3.3.4. Similarly, if the defendant has six Criminal History Points, additional convictions will not count toward the defendant's CHS but may form the basis of repeat papers.

6.6 Defendant's Relationship with the Criminal Justice System at the Time the Instant Offense is Committed

The defendant's status in the criminal justice system (*i.e.,* incarcerated or on pretrial release, probation, parole, or supervised release) at the time the defendant committed the instant offense is **not** considered in calculating the CHS; however, this status may be considered by the judge in choosing the appropriate sentence within the applicable box. Moreover, the sentence in the new case must be imposed consecutively to any sentence that the defendant was serving at the time the defendant committed the offense. See Chapter 7 for more information on consecutive sentencing.

6.7 Compliance with the Sentencing Guidelines

In order to impose a Guidelines Compliant 'In-the-Box' sentence, the sentence must fall within the GRSR and be consistent with the recommended sentence type based on the defendant's offense of conviction and CHS. A sentence within a sentencing range that is expanded due to a statutory enhancement is a Compliant 'In-the-Box' sentence. See Section 6.5 for more information on statutory enhancements.

A sentence outside of the In-the-Box GRSR or sentence types is still Compliant with the Guidelines under the following scenarios:

a. A sentence resulting from a Rule 11(c)(1)(C) plea agreement accepted by the sentencing judge;

b. A sentence where the offense's statutory maximum or minimum requires a sentence outside of the In-the-Box sentencing range/types;[76]

c. A Compliant Departure; and

d. A sentence that runs concurrent with a Compliant greater or equal sentence for an offense with an equal or more severe OSG when the sentences are eligible to be served concurrently.

Note: *While the offense of conviction determines the OSG, the alleged offense conduct can be considered in determining where a defendant should be sentenced within the GRSR and in assessing whether a Departure Factor should apply. See Sections 2.2, 10.2 (Offense of Conviction), and Chapter 8 for more information.*

[76] This is not applicable to the common issue of sentencing for Unlawful Possession of a Firearm – Prior Conviction (FIP-1) in Box M8C as the sentencing judge may still give a Guidelines Compliant sentence that is greater than the mandatory minimum of 12 months.

CHAPTER 7: CONSECUTIVE AND CONCURRENT SENTENCES

When the sentencing judge sentences a defendant for multiple counts on the same day, such as in a multi-count case or following a plea encompassing multiple cases, the following rules shall be applied. These rules also apply following a probation revocation.

Note: *More than one rule in this chapter may apply simultaneously.*

Note: *The determination of whether offenses shall be sentenced consecutively or concurrently is a determination ultimately made by the sentencing judge.*

7.1 Consecutive Sentences

a. Counts sentenced on the same day **must** be sentenced **consecutively** where they comprise:

    1. Multiple Crimes of Violence (COV)[77] involving multiple victims in a single event; [78]

    2. Multiple Crimes of Violence involving one victim in multiple events; or

    3. Multiple Crimes of Violence involving multiple victims in multiple events.

Note: *Only one COV per victim per event must be sentenced consecutively to other counts. For all remaining counts, see Section 7.3 (remaining counts may be imposed either consecutively or concurrently).*

b. Counts sentenced for one or more new offenses committed while the defendant was under sentence[79] for another **must** be sentenced **consecutively** to:

    1. Any sentence imposed as a result of revocation of probation, parole, or supervised release; or

    2. The sentence being served at the time the new offense was committed.

c. Counts for which a consecutive sentence is required by statute.[80]

Note: *For multiple counts solely involving a single victim and a single event, see Section 7.3.*

[77] The term "Crime of Violence" refers to offenses listed in D.C. Code § 23-1331(4). See Section 10.9.
[78] The term "event" is defined in Section 10.15.
[79] A defendant is "under a sentence" if they are incarcerated, on supervision (including any level of probation, parole, or supervised release), on post-conviction escape status, or on furlough.
[80] For example, D.C. Code § 22-2603.03.

Example 30: Consecutive Sentencing

The defendant held up a cab at gunpoint and robbed the driver and the passenger.[81] Several days later, the defendant held up the same cab at gunpoint and robbed the same driver and a different passenger. The defendant was convicted of the following offenses on the same day:

Event 1	Event 2
Count A: Armed Robbery (Driver 1)	**Count C:** Armed Robbery (Driver 1)
Count B: Armed Robbery (Passenger 1)	**Count D:** Armed Robbery (Passenger 2)

Armed Robbery is a Crime of Violence. In this scenario, there are multiple victims (Driver 1, Passenger 1, and Passenger 2) and multiple events (Event 1 and Event 2). Because there is only one COV charged per victim and event, each count must run consecutively to all other counts. Counts A and B run consecutively to one another since they are both COVs committed against different victims (Driver 1 and Passenger 1) in a single event. Counts A and C must also run consecutively to one another because they involve a single victim (Driver 1) in multiple events. Finally, Counts A and D as well as Counts B, C, and D, must run consecutively to one another because they involve multiple victims (Counts A and D: Driver 1 and Passenger 2; Counts B, C, and D: Passenger 1, Driver 1, and Passenger 2) in multiple events.

Armed Robbery falls in OSG M5. Assuming the defendant has no prior record, all counts fall in Box M5A, which is a Prison (including Long Split) box with a range of 36 to 84 months. However, each count has a mandatory minimum of 60 months; therefore, the Guideline range for each count is 60- 84 months.

Thus, the minimum aggregate sentence for these offenses is 240 months (where each count is sentenced to the mandatory minimum of 60 months and runs consecutively), and the maximum sentence for these offenses is 336 months (where each count is sentenced to the top of the Guidelines range of 84 months and runs consecutively).

If the sentencing judge finds that the minimum total sentence is so excessive that it is manifestly unjust, they may apply Mitigating Factor #9 and sentence one or more of the counts concurrently instead of consecutively. If sentencing using Mitigating Factor #9, the total sentence cannot be below 60 months.

Example 31: Consecutive Sentencing - Revocation Sentences

The defendant in Example 30 was under a sentence imposed for a prior conviction at the time of the new offenses. Upon conviction for the new Armed Robberies, the defendant's probation was revoked, and they were sentenced to six months incarceration. The revocation sentence must run consecutively to the sentence imposed in the Armed Robberies case.

7.2 Concurrent Sentences

a. Counts sentenced on the same day **must** be sentenced **concurrently** where they comprise:

   1. Multiple counts for offenses in a single event not defined as "Crimes of Violence" pursuant to D.C. Code § 23-1331(4); or

   2. Counts for which a concurrent sentence is required by statute.[82]

Note: *For multiple counts of offenses not defined as "Crimes of Violence" in multiple events, refer to Section 7.3 (remaining counts may be imposed either consecutively or concurrently).*

[81] In this example the defendant was not charged under Title 16 nor sentenced under the Youth Rehabilitation Act.
[82] For example, D.C. Code § 22-3212.

Example 32: Concurrent Sentencing - Multiple Events

The defendant fraudulently submitted D.C. tax forms over multiple years. The defendant was convicted of three counts of Fraud for three events, resulting in a total of nine convictions for fraud, sentenced on the same day.

Event 1	Event 2	Event 3
Count 1: Fraud	**Count 4:** Fraud	**Count 7:** Fraud
Count 2: Fraud	**Count 5:** Fraud	**Count 8:** Fraud
Count 3: Fraud	**Count 6:** Fraud	**Count 9:** Fraud

Fraud is not a COV, and the case involves three separate events. Therefore, all counts from the same events must be sentenced concurrently. However, because this matter involves multiple events, the sentencing judge has discretion whether to sentence any counts from different events concurrently or consecutively. See Section 7.3.

Example 33: Concurrent Sentencing

The defendant was pulled over for speeding. A routine check of the plates showed that the car had been stolen hours prior. During the search incident to arrest, the defendant was found to have a pistol on their person. The defendant pled guilty to two counts: 1) Unauthorized Use of a Motor Vehicle (UUV) and 2) Carrying a Pistol Without a License (CPWL).

Because none of the convictions are for offenses defined as COVs, Count 1 must be sentenced concurrently to Count 2.

7.3 Judicial Discretion

The sentencing judge has the discretion to sentence any remaining count(s), including those not covered by Sections 7.1 and 7.2, to run either consecutively or concurrently.

Note: *If the sentencing judge does not state on the Judgment and Commitment Order how a sentence shall run, it shall run consecutively.* [83]

Note: *The Departure Factors permit the sentencing judge to deviate from the rules in Sections 7.1 and 7.2 if adhering to them would result in manifest injustice. Refer to Sections 8.3(A10), 8.4(M9), and 8.5.2 for more information.*

[83] D.C. Code § 23-112 ("A sentence…shall, *unless the sentencing judge…expressly provides otherwise*, run consecutively…") (emphasis added).

Example 34: Judicial Discretion

As part of a global plea, the defendant pleaded guilty to the following counts all on the same day:

Event 1	Event 2
Count A: Assault with a Dangerous Weapon (Victim 1)	**Count D:** Attempted Robbery (Victim 2)
Count B: FIP-1 (Victim 1)	**Count E:** Theft 1 (Victim 2)
Count C: Theft 1 (Victim 1)	**Count F:** Theft 1 (Victim 2)

Assault with a Dangerous Weapon (ADW) and Attempted Robbery are Crimes of Violence; however, the remaining counts are non-Crimes of Violence. Count A must run consecutively to Count D as they are both Crimes of Violence committed against different victims (Victim 1 and Victim 2) in different events. From Event 1, Counts B and C must run concurrently to each other because they are non-Crimes of Violence from the same event. Similarly, from Event 2, Counts E and F must run concurrently to each other because they are also non-Crimes of Violence from the same event. However, Counts B and C do not have to run concurrently with Counts E and F because they are part of different events. The sentencing judge has discretion whether to sentence the remaining counts consecutively or concurrently.

Example 35: Judicial Discretion

The defendant approached a stranger on the street and robbed them at gunpoint. During the robbery, a fight ensued between the defendant and the victim. The defendant was convicted of Armed Robbery, Assault with a Dangerous Weapon (ADW), and Carrying a Pistol without a License (CPWL). Both Armed Robbery and ADW offenses are COVs; however, they were committed against the same victim in a single event. Therefore, the sentencing judge has the discretion to impose consecutive or concurrent sentences for the Armed Robbery and ADW convictions. CPWL is a non-COV, therefore the sentencing judge has discretion whether to run any of the counts in this case consecutive or concurrent to the CPWL conviction based on Section 7.3.

CHAPTER 8: SENTENCING OUTSIDE-THE-BOX

There are three ways to sentence outside of the otherwise applicable box. The first two below are considered Guidelines Compliant; the third is not.

1. Applying a Departure Factor;

2. Accepting a Superior Court Rule of Criminal Procedure 11(c)(1)(C) plea agreement; [84] or

3. A judge's election not to comply with the Guidelines.

8.1 Departure Factors

One of the bedrock factors underlying the development of the Guidelines was the notion that similar offenses and defendants should receive similar sentences. The Grids were designed with broad ranges, considering the typical conduct associated with the offenses, and preserving the judge's discretion to account for factors beyond the offense of conviction and the defendant's criminal history when imposing a Guidelines Compliant sentence. The Commission anticipates that most defendants will be sentenced "within the box."

However, in atypical cases where such a sentence would not serve the interests of justice, the Commission has developed a non-exclusive list of Aggravating and Mitigating Factors to allow for sentencing outside the Grid sentence types or ranges. If a judge finds one of the enumerated factors to be substantial and compelling, they are not bound by the Grid sentence types and ranges. Similarly, the judge may apply a "catchall" departure (Aggravating Factor #11, Mitigating Factor #11) if they find another substantial and compelling reason, comparable in gravity to the enumerated factors, that substantially aggravates or mitigates the severity of the offense or the defendant's culpability. Under such circumstances, the judge is not bound by the Grid sentence types or ranges and may impose any legal sentence.

If a judge determines a Departure sentence is appropriate, they must state on the record the Aggravating or Mitigating Factor upon which they rely in sentencing Outside-the-Box. If the judge applies the "catchall" Aggravating Factor #11 or Mitigating Factor #11, then they must state on the record the substantial and compelling basis they found to be comparable in gravity to the enumerated Aggravating and Mitigating Factors. The reasoning for any departure must also be communicated to the Commission. In cases where a judge finds both Aggravating and Mitigating Factors, the balance should weigh more heavily on one side or the other before a Departure sentence is imposed.

[84] D.C. Super. Ct. Crim. Proc. R.11(c)(1)(C) (formerly D.C. Super. Ct. Crim. Proc. R.11(e)(1)(C)).

8.2 Departure Procedures

While judges are free to develop their own sentencing procedures, the Guidelines system requires a high level of coordination between the parties, the sentencing judge, and Presentence Investigation Report (PSR) writers. The Commission recommends procedures and practices to give all parties sufficient notice to prepare for the sentencing hearing.

The Commission encourages judges and the parties to follow these procedures (or those adopted by the judge to the extent they differ). However, failure to follow such procedures should not bar either party from arguing a departure. Constitutional demands of due process and effective assistance of counsel require that the parties be allowed to argue all potentially applicable factors at the sentencing hearing. On balance, continuing the sentencing hearing is a better use of resources than litigating post-conviction claims on the issue.

8.2.1 *Scheduling*

Sentencing hearings should be scheduled so that the PSR is completed and provided to both parties at least two weeks prior to the hearing to give the parties the opportunity to determine whether they will seek a departure.

8.2.2 *Notice*

a. If a party intends to rely on a Departure Factor at sentencing, that party should provide notice in writing to the other party and the sentencing judge at least one week prior to sentencing. The notice should include a statement of reasons why the GRSR is inappropriate, the evidence or information to be relied upon, and the substantial and compelling reason that necessitates or justifies the departure.

b. If a party knows that it will seek a departure and that it will submit evidence or information not introduced at trial or a pretrial hearing that the other party might want to contest, the moving party should notify the other party and the sentencing judge as early as possible so that sentencing will not have to be continued.

c. It should be the rare case where witnesses would be sworn, or evidence taken in open court during the sentencing hearing.

d. If the judge, *sua sponte,* intends to consider a Departure Factor not raised by the parties, the judge should provide notice in writing to the parties at least one week prior to sentencing. The notice should set forth the basis on which the judge will consider such a sentence.

8.2.3 *Sentencing Data Form*

The sentencing data form provides a place to enter the Aggravating or Mitigating Factor(s) the judge relied upon in sentencing Outside-the-Box. If the judge uses one of the "catchall" provisions, they must state the basis upon which they relied and why it is a substantial and compelling reason of comparable gravity with the enumerated factors.

Note: *A judge's failure to follow the procedures set forth above or to follow their own procedures is not a basis for appeal.*[85]

8.3 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 defendant, 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 resulted 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.

[85] See footnote 6.

A7. The defendant threatened, bribed, attempted to bribe, induced, or attempted to induce a victim, a member of the victim's family, 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. 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 the position of confidence or fiduciary responsibility to facilitate the commission of the offense(s).

A9. The defendant, in attempting to gain or while holding public office by appointment or election, betrayed the public trust by their unlawful conduct.

A10. The consecutive/concurrent sentencing policy results in a Guidelines sentence that is so lenient in relation to the severity of the offense and the history of the defendant that imposition of the Guidelines 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 Guidelines Compliant counts were run consecutively.

A11. There is another substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in A1 to A10 above, which aggravates substantially the severity of the offense or the defendant's culpability.

8.4 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 their conduct or to conform their 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 defendants, and departure for this reason does not demean the severity of the defendant's crime or create an unacceptable risk to the safety of the community.

M8. The Guidelines sentence calls for incarceration but, after consultation with corrections authorities, the sentencing judge 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 Guidelines sentence that is so excessive in relation to the severity of the offense and history of the defendant that imposition of the Guidelines 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 another 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.[86]

M11. There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in M1 to M9 above, which does not amount to a defense, but which substantially mitigates the severity of the offense or the defendant's culpability.

Note: *The entry of a guilty plea is **not** a Mitigating Factor and should not be used to go Outside-the-Box, but it may be used to determine what sentence to impose within the box.*

[86] Although Mitigating Factor #10 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. For more information, visit the D.C. Sentencing Commission's website at www.sentencing.dc.gov.

8.5 Substantial and Compelling Reason to Depart

8.5.1 *General Principle*

Except as provided below, if the judge finds a substantial and compelling basis to sentence Outside-the-Box, there are no constraints (other than statutory limits) on the exercise of the judge's discretion. Any legal sentence may be imposed. Judges should consider the purposes of the Guidelines, incorporating the principle of proportionality into their sentences, to the extent possible. Maximum sentences should be reserved for the most severe offenses and most culpable defendants. Conversely, minimum sentences should be imposed for the least severe offenses and least culpable defendants.

8.5.2 *Exceptions to the General Principle*

There are two exceptions to the principle that a sentence of any legal length may be imposed if the judge finds a substantial and compelling reason to depart from the otherwise applicable box:

1. Aggravating Factor #10: If the judge decides that the application of the concurrent rules in a case would result in a sentence that is too lenient, the judge may depart on the basis of Aggravating Factor #10. The sentence resulting from a departure based solely on Aggravating Factor #10 cannot be higher than the sentence the judge could impose if they ran all of the sentences for each count consecutively.

2. Mitigating Factor #9: If the judge decides that the application of the consecutive rules in a case would result in a sentence that is too harsh, the judge may depart on the basis of Mitigating Factor #9. The sentence resulting from a departure based solely on Mitigating Factor #9 cannot be lower than the sentence the judge could impose if they ran all of the sentences for each count concurrently.

8.6 Rule 11(c)(1)(C) Pleas

A Rule 11(c)(1)(C) plea agreement, once accepted by the sentencing judge, controls the applicable sentence. In such cases, if the parties and the sentencing judge agree to a particular sentence or sentencing range, it need not fall within the box or comply with otherwise applicable Guidelines for it to be a Guidelines Compliant sentence.

8.7 Election Not to Comply with the Guidelines

The Guidelines are voluntary. The Commission compiles statistical data regarding cases in which judges do not follow the Guidelines, but does not identify judges by name. There are no sanctions for failing to follow the Guidelines, and any lawful sentence is not appealable based on whether or not it complies with the Guidelines.[87] As a consequence, a judge retains total discretion to impose

[87] *See* footnote 6.

any lawful sentence. Because of the principles and procedures used in developing the Guidelines, the Commission hopes and expects that judges will find a sentence that fits both the offense and the defendant in the Grid sentence types and ranges or will apply a Departure Factor when there are substantial and compelling reasons to do so.

The Superior Court's electronic case management system provides a place for the judge to indicate that they are not using the Guidelines and to explain their reasoning for the decision. This information is automatically transmitted to the Commission. It is critically important for judges to document why they decided not to apply the Guidelines.

CHAPTER 9: SPECIAL RULES

9.1 Applying the Guidelines to Indeterminate Sentences

The Guidelines apply to all pleas and verdicts entered on or after June 14, 2004. Although the Guidelines were designed primarily for D.C.'s current determinate sentencing system, a small number of pleas or verdicts entered after June 14, 2004, are cases in which an indeterminate sentence must be imposed. This is because the offense was committed before August 5, 2000, when D.C. changed from an indeterminate to a determinate system of sentencing. See Sentencing, Supervised Release, and Good Time Credit for Felonies Committed on or After August 5, 2000, D.C. Code § 24-403.01 (formerly D.C. Code § 24-203.1 (1981 ed.)).

If a plea or verdict was entered on or after June 14, 2004, the Guidelines apply regardless of when the offense was committed, whether before or after August 5, 2000. Conversely, if the plea or verdict was entered before June 14, 2004, the Guidelines do not apply, even if the offense was committed after August 5, 2000. In such cases, the sentencing judge may nonetheless take the Guideline recommendations into consideration.

To apply the Guidelines to an offense committed before August 5, 2000, the sentencing judge should follow the same procedures as it would for an offense that occurred on or after August 5, 2000. This involves determining the appropriate box and whether any enhancements or Departure Factors apply. The sentencing judge should locate the box on the Grid in which the offense/defendant falls and then use any sentence within the prescribed range to set the minimum term of the indeterminate sentence. To set the maximum term, the sentencing judge should multiply the minimum term by three (or more).[88]

For example, assuming no enhancements or Departure Factors apply, an indeterminate sentence for First Degree Burglary w/a in Box M3A could be as low as 90 – 270 months or as high as 180 months to life. The only sentencing types are Prison or Long Split sentences.

Similarly, an indeterminate sentence for a second Carrying a Pistol Without a License (CPWL) conviction in Box M8C could be as low as 14 – 42 months or as high as 40 – 120 months. The reason for the latter sentence is that a second conviction for CPWL is an enhancement that doubles the top of the box. This means that the minimum term of an indeterminate sentence could theoretically go as high as 64 months. However, the maximum statutory sentence for a second CPWL conviction is 120 months, and the minimum sentence cannot be more than one-third of the maximum. Thus, the maximum indeterminate sentence a person can receive for a second CPWL conviction is 40 – 120 months, even though Box M8C would otherwise permit a longer indeterminate sentence for this offense.

[88] See D.C. Code § 24-403 ("the court imposing such sentence shall sentence the person for a maximum period not exceeding the maximum fixed by law, and for a minimum period not exceeding one-third of the maximum sentence imposed").

9.2 Revocation of Original Sentence

9.2.1 *Applicability of the Guidelines*

If the Voluntary Sentencing Guidelines applied to the defendant's initial sentence, then they also apply to the defendant's sentence following revocation of their probation or suspended sentence. At resentencing, the sentencing judge should use the defendant's original In-the-Box sentencing range and sentence types. However, the Guidelines do not address and, therefore, offer no guidance to the sentencing judge on whether to revoke a defendant's probation following an alleged probation violation.

9.2.2 *Revocation of Suspended Sentences (ESS) and (ISS)*

If the sentencing judge initially suspended part of or all of a defendant's sentence (Execution of Sentence Suspended – ESS) and subsequently revokes probation, the sentencing judge can impose the original sentence, or any lesser sentence permitted inside the original Guideline box. If the sentence imposed, including any credit for time served, is less than the bottom of the original Guidelines range, it would not be Compliant with the Guidelines.[89] If the sentencing judge initially suspends imposition of a sentence (Imposition of Sentence Suspended – ISS) and subsequently revokes probation, the sentencing judge can impose any sentence permitted inside the original Guideline box.

9.2.3 *Imposing and Revoking Probation*

Section 6.1.4 describes how probation supervision is imposed at the initial sentencing to be Compliant with the Guidelines. The sentencing judge has four options:

1. In a light blue box, the sentencing judge must impose a Guidelines recommended sentence within the range in the box and can suspend all of it and place the defendant on a term of probation.

2. In a light blue or dark blue box, the sentencing judge must impose a Guidelines recommended sentence within the range in the box and can suspend all but 6 months or less of it, followed by a term of probation (ESS some – Short Split).

3. In any box, the sentencing judge must impose a Guidelines recommended sentence within the range in the box and can suspend a portion of it so that the time to be served initially is not less than the lower number in the box, followed by a term of probation (ESS some – Long Split).

[89] Although not directly related to the Guidelines, if the sentencing judge imposes a lesser sentence than it imposed originally and intends for the defendant to receive credit for time served, the Judgment and Commitment Order must explicitly state the judge's intention. See Example 23 at page 53. To remain Compliant, the combination of time served and the new sentence cannot be less than the minimum GRSR in that box.

4. In a light blue/light shaded box, the sentencing judge must suspend imposition of sentence (ISS).

In all four cases, the maximum term of probation that the sentencing judge can impose is five years.

If the sentencing judge later revokes probation for an ESS sentence, it can impose the original sentence or any lesser sentence permitted in that Box; for an ISS sentence, it can impose any sentence that is permitted in that Box. To be Compliant with the Guidelines, the sentencing judge may not impose a term of incarceration that is less than the bottom of the applicable range.

The sentencing judge can resentence the defendant and impose a lower sentence. However, the "new" sentence, when it is combined with time already served, must also be Compliant with the Guidelines.

CHAPTER 10: GLOSSARY

10.1 Aggravating Factor

An Aggravating Factor refers to a factor that would necessitate a more severe sentence than the Guidelines recommended sentence. An Aggravating Factor is one of the 11 listed Factors in Section 8.3 that must be applied when the sentence imposed by the judge is greater than the In-the-Box sentence recommended by the Guidelines. When one of the Aggravating Factors is cited by a judge as a reason for departing from the applicable Guidelines recommendation, the sentence is considered a Compliant Departure.

10.2 Alleged Offense Conduct

Alleged offense conduct refers to the alleged actions of the defendant. A defendant's placement in an OSG is based on the offense of conviction rather than the alleged offense conduct.

10.3 Box

A Box is the place on the Main and Drug Grids where the Criminal History Score of the defendant and the Offense Severity Group intersect. The Main Grid contains 45 boxes, while the Drug Grid has 20 boxes, each indicating the sentencing options for each combination of offense severity and criminal history. Boxes are identified by using the number of the OSG (M1 – M9 or D1 – D4) and the letter of the CHS Column (A – E). For example, Box M9A, located in the lower-left corner of the Main Grid and contains the lowest possible sentencing options.

10.4 Completed Sentence

A criminal sentence is considered complete when a person is sentenced, released from jail or prison, or finishes probation, parole, or supervised release, whichever is latest. A juvenile adjudication is completed when the disposition is entered, or when the person is released from New Beginnings or its functional equivalent, whichever is latest or, in Main Groups 1 – 5, from a locked residential facility or the locked section of a residential facility, whichever is latest. See Section 10.29.

10.5 Compliant Departure

A Compliant Departure refers to a sentence that falls outside of the Guidelines Recommended Sentencing Range (GRSR), where the judge utilizes one of the 22 enumerated Aggravating or Mitigating Departure Factors.[90]

[90] In order to address atypical cases or individuals, the Guidelines allow the sentencing judge to depart from the recommended sentencing range and/or types. Departures are classified as either Aggravating or Mitigating depending on whether they depart higher or lower than the sentencing options called for by the Grid box. There are 11 Aggravating

10.6 Compliant In-the-Box Sentences

A Compliant In-the-Box Sentence refers to a sentence that falls within the Guidelines recommended sentence type (Prison, Long Split, Short Split, or Probation) and range based on the defendant's offense of conviction and CHS.

10.7 Compliant Outside-the-Box Sentences

A Compliant Outside-the-Box Sentence refers to a sentence that falls outside of the GRSR but is otherwise deemed Compliant with the Guidelines due to other Guidelines rules. The following are deemed Compliant Outside-the-Box sentences:

a. A sentence resulting from a Rule 11(c)(1)(C) plea agreement accepted by the court;

b. A sentence where the offense's statutory maximum or minimum requires a sentence outside of the In-the-Box sentencing range/types;[91]

c. Compliant Departure; and

d. A sentence that runs concurrent with a Compliant greater or equal sentence for an offense with an equal or more severe OSG when the sentences are eligible to be served concurrently.

10.8 Compliant Sentence

A sentence is Compliant if it is one of the options permitted in the appropriate box. For example, in Box M9A (light blue), a Probation, Short Split, Long Split, or Prison sentence between 1 and 12 months would all be Compliant. In Box M1E (white), the only Compliant sentence would be a Prison or Long Split sentence of not less than the mandatory minimum of 360 months (30 years) and not more than the statutory maximum of 720 months (60 years). A sentence is also Compliant if it falls within the recommended range expanded by a statutory enhancement.

A judge is not required to explain why they imposed a Compliant sentence. However, if a judge departs by applying an Aggravating or Mitigating Factor, they must indicate which factor(s) were found. If the catchall Aggravating or Mitigating Factor is used, the judge must further indicate the substantial and compelling basis of comparable gravity. The following sentences are considered

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Factors that may be used when the sentence imposed by the judge is more severe than the sentence options recommended by the Guidelines and 11 Mitigating Factors that may be applied when the sentence imposed by the judge is less severe than the Guidelines recommended sentence options. When one of the 22 Departure Factors is cited by the sentencing judge as a reason for departing from the applicable Guidelines sentence options, the sentence is considered a "Compliant Departure."

[91] This is not applicable to the common issue of sentencing for Unlawful Possession of a Firearm – Prior Conviction (FIP-1) in Box M8C as the court may still give a Guidelines Compliant sentence that is greater than the mandatory minimum of 12 months.

Compliant:

a. A sentence within the appropriate box;[92]

b. A sentence within the appropriate box as expanded by a statutory enhancement;

c. A sentence that runs concurrently with a Compliant greater or equal sentence for an offense with an equal or more severe OSG when the sentences are eligible to be served concurrently;

d. A Compliant Departure; and

e. A sentence or sentence range agreed to and accepted under a Rule 11(c)(1)(C) plea agreement.

10.9 Crime of Violence

The term "Crime of Violence" (COV) under the Guidelines is used to determine consecutive and concurrent sentencing, see Chapter 7 and Appendix C. This definition is identical to the COV definition provided in D.C. Code § 23-1331(4).

10.10 Criminal History Score

The Criminal History Score (CHS) is the total number of points a defendant accumulates for their prior convictions and prior juvenile adjudications, calculated according to the Guidelines' rules for scoring, see Chapters 3 – 5 and Section 3.9. Criminal History Scores range from zero to six or more points and determine where to place the defendant in the five columns, lettered A through E, on the horizontal axis of the Grids.

10.11 Dark Blue or Dark-Shaded Boxes

These are boxes on the Main Grid and the Drug Grid where a Short Split sentence is a permissible sentence type. A Prison sentence within the indicated range would also be Compliant. Any other sentence type, including Probation, would not be Compliant, absent a Departure. There are four dark blue/dark-shaded boxes on the Main Grid and four dark blue/dark-shaded boxes on the Drug Grid.

[92] A judge sentencing based upon a mandatory minimum may choose to sentence outside of the GRSR. For example, if a defendant convicted of Unlawful Possession of a Firearm - Prior Conviction falls within Box M8C, and the sentencing judge determines that a split sentence of 12 months (the mandatory minimum) or more, but less than 14 months of incarceration, is appropriate, the sentencing judge may sentence the defendant accordingly. However, the judge should note the reason for the Departure on the docket.

10.12 Departure

A Departure refers to the imposition of a sentence outside of the applicable Guidelines recommendation. Departures include variations from the recommended sentence length and/or type. A "Downward Departure" refers to a sentence that is less than the recommended sentence and where one of the 11 listed Mitigating Factors in Section 8.4 is applied. An "Upward Departure" refers to a sentence that is greater than the recommended sentence and where one of the 11 listed Aggravating Factors in Section 8.3 is applied.

10.13 Drug Grid

The Drug Grid is a chart that contains the sentencing options for all Drug offenses. There are 20 boxes on the Drug Grid, arranged in four rows on the vertical axis and five columns on the horizontal axis. The boxes range from Box D4A, representing the least severe offense and the lowest CHS, to Box D1E, representing the most severe offense and the highest CHS.

10.14 Enhancements or Statutory Enhancements

An enhancement or statutory enhancement is a statutory mechanism for increasing the maximum sentence if certain factors, such as recidivism or vulnerability of the victim, are present. The Guidelines permit the upper number of the recommended range in each box to be increased by the same proportion or ratio as the maximum sentence can be increased. For more information, see Appendix F, Statutory Enhancements.

10.15 Event

For purposes of determining which offenses count for Criminal History scoring or for reviving other convictions, and which counts must be sentenced consecutively/concurrently, see Chapter 7. Offenses are part of a single event if they were committed at the same time and place or have the same nucleus of facts. Offenses are part of multiple events if they were committed at different times and places or have a different nucleus of facts. When an offense(s) crosses jurisdictional lines (*e.g.*, from Maryland into D.C.), it may result in multiple cases. However, this should not change the analysis regarding whether the offense(s) constitutes a single or multiple events.

10.16 Felony Offense

A felony offense is any offense specified by the applicable code as a felony or, if undefined, an offense that is punishable by a term of imprisonment that exceeds one year.

10.17 Five-Year Juvenile Window

The Five-Year Juvenile Adjudication Window is the five years preceding the commission of the instant offense. If, during this period, a person had a juvenile disposition, or was released from New Beginnings or its functional equivalent, or for a Main Group 1 – 5 offense, was released from a

locked residential facility or the locked section of a residential facility, that juvenile adjudication is counted toward the CHS (with a cap of 1.5 points unless there are multiple offenses in Main Groups 1 – 5). See Sections 3.3.3, 4.3.2.

10.18 Foreign Conviction

A foreign conviction refers to any criminal conviction from outside of the United States and its territories.

10.19 Guidelines

The Guidelines are the combination of Grids, standards, rules, adjustments, and exceptions that provide guidance to the sentencing judge in imposing a sentence that meets the objective of sentencing like defendants/offenses alike and different defendants/offenses differently.

10.20 Guidelines Recommended Sentencing Range (GRSR)

The Guidelines Recommended Sentencing Range (GRSR) refers to the Guidelines recommended numerical range within the applicable Grid box. For example, in Box M6C, the GRSR is 30 – 72 months.

10.21 Instant Case

The instant case is the case currently being sentenced.

10.22 Lapsed Conviction or Juvenile Adjudication

A lapsed conviction or juvenile adjudication is one that is not scored for criminal history purposes because it is too old under the applicable rules. See Sections 4.1.1, 10.40 for the adult lapse period and Sections 4.3.2, 10.17 for the juvenile lapse period. For rules on reviving convictions, see Section 4.1.2.

10.23 Light Blue or Light-Shaded Boxes

These are the boxes on the Main Grid and the Drug Grid where a Probation, Short Split, Long Split, and Prison sentence are all permissible and Compliant sentence types. There are five light blue/light-shaded boxes on the Main Grid and ten light blue/light-shaded boxes on the Drug Grid.

10.24 Long Split Sentence, Compliant

In a Long Split sentence, the sentencing judge imposes a sentence within the applicable range, suspends execution of all but a term that also falls within the applicable GRSR, such that the time initially served (not suspended) is more than six months, and places the defendant on probation for a period up to five years. Because both the sentence imposed and the term to be served initially

fall within the applicable GRSR, this is a Compliant sentence. Because each box on the Main Grid and the Drug Grid has a term of incarceration recommendation, a Compliant Long Split sentence is a Compliant sentence in any box. If either the number of months that the sentencing judge imposes or the number of months to be served immediately does not fall within the applicable range for that box, such a sentence would not be Compliant unless another principle applies. See Sections 10.12, 10.14, 10.38.

10.25 Main Grid

The Main Grid is a chart that contains the sentencing options for all offenses except Drug offenses, which are on the Drug Grid. There are 45 boxes on the Main Grid, arranged in nine rows on the vertical axis and five columns on the horizontal axis. The boxes range from Box M9A, representing the least severe offense and the lowest CHS, to M1E, representing the most severe offense and the highest CHS. Terms of incarceration increase and sentencing options decrease as one moves from the bottom to the top and from left to right on the chart.

10.26 Mandatory Minimum

A mandatory minimum is a minimum sentence prescribed by statute. It is a term of imprisonment that must be imposed and cannot be suspended except for certain offenses where the judge elects to sentence under the Youth Rehabilitation Act. See Sections 6.2.1, 6.4.

10.27 Misdemeanor Offense

A misdemeanor offense is any offense that is not a felony offense. In D.C., a misdemeanor is an offense that is punishable by a term of imprisonment that is one year or less and is not specified by the D.C. Code as a felony.

10.28 Mitigating Factor

A Mitigating Factor refers to a factor that would necessitate a less severe sentence than the Guidelines recommended sentence. A Mitigating Factor is one of the 11 listed Factors in Section 8.4 that must be applied when the sentence imposed by the judge is less than the 'In-the-Box' sentence recommended by the Guidelines in order for a sentence to be deemed Compliant. When any Mitigating Factor is cited by a judge as a reason for departing from the applicable Guidelines recommendation, the sentence is considered a 'Compliant Departure.'

10.29 New Beginnings or its Functional Equivalent

New Beginnings Youth Development Center is the current locked facility for juvenile offenders located in Laurel, Maryland. Its functional equivalent would include facilities such as the former Oak Hill facility, the Youth Services Center (YSC), and similar juvenile locked facilities in other jurisdictions, such as Cheltenham or the Hickey School in Maryland, Beaumont in Virginia, or Spofford in New York.

10.30 Non-Compliant Departure

A Non-Compliant Departure refers to a sentence that falls outside of the Guidelines recommended sentence type or range based on the individual's offense of conviction and CHS, where the judge does not cite an Aggravating or Mitigating Departure Factor, it was not a Rule 11(c)(1)(C) plea, and no other Guidelines rule makes the sentence Guidelines Compliant. The Guidelines are voluntary. Therefore, a judge can impose any legal sentence, whether or not it is Compliant with the Guidelines. A Non-Compliant departure means the judge elected not to follow the Guidelines recommendation when imposing a felony sentence.

10.31 Offense of Conviction

The offense of conviction is the offense (charge) for which the defendant was convicted and is facing sentencing. The offense of conviction, not the alleged offense conduct, controls a defendant's placement in an OSG. This means that if the indictment charged the defendant with Armed Robbery, but the defendant was convicted of Robbery (either at trial or by way of a guilty plea), the offense of conviction is Robbery in Main Group 6, not Armed Robbery in Main Group 5 (even if strong evidence exists that the defendant committed the Robbery while armed).

10.32 Offense Severity Group

All felonies have been placed in a group with offenses of like severity as measured by the Commission's understanding of typical offenses and historical sentencing data. These groups are arranged along the vertical axis, descending in severity from Main Group 1 (First Degree Murder) to Main Group 9 (Receiving Stolen Property) on the Main Grid and from Drug Group 1 (Distribution of a Controlled Substance While Armed) to Drug Group 4 (Attempt Distribution of Marijuana and certain other Drugs) on the Drug Grid.

10.33 Out-of-District Offense

An out-of-District offense is any state, federal, or local criminal offense, which led to a conviction or juvenile adjudication outside of the Superior Court, or, subject to the special rules in Section 5.4 any military, tribal, or territorial offense.

10.34 Prior Conviction, Prior Juvenile Adjudication

For purposes of computing the CHS, a prior conviction or prior juvenile adjudication is any conviction or juvenile adjudication for which a sentence or disposition was imposed on a day prior to the day of sentencing in the instant case, regardless of the order in which the offenses were committed. Sentences or dispositions imposed on the same day as the sentence in the instant case are not considered prior convictions or juvenile adjudications for Criminal History Scoring purposes.

10.35 Prison Sentence, Compliant

In a Compliant Prison sentence, the sentencing judge sentences the defendant to a term of incarceration within the applicable Guidelines range. None of the time imposed is suspended. The term of incarceration may be followed by a period of supervised release as governed by D.C. Code § 24-403.01(b). See Appendices C and D for more information.

10.36 Probation Sentence, Compliant

In a Compliant Probation sentence, the sentencing judge imposes a sentence within the applicable GRSR, suspends execution of the entire sentence, suspends the period of supervised release, and places the defendant on probation for up to five years. Absent a departure, a Probation sentence can only be imposed in the light blue/light-shaded boxes. If the judge suspends part (but not all) of a sentence, it becomes a split sentence and is no longer considered a Probation sentence. See Sections 10.38,10.24 for information on Short or Long Split sentences.

10.37 Revived Conviction

A revived conviction is a felony conviction for which the sentence was completed more than ten years before the commission of the instant offense, but is counted by the existence of another felony conviction within the Ten-Year Window, see Section 4.1.2. Revived convictions for Main Groups 6 - 9 and all Drug Groups are scored differently than convictions within the Ten-Year Window, see Sections 3.3, 4.2. Juvenile adjudications and misdemeanors are never revived and cannot revive earlier felonies or juvenile adjudications.

10.38 Short Split Sentence, Compliant

In a Compliant Short Split sentence, the sentencing judge imposes a sentence within the applicable recommended range, suspends execution of all but six months or less (but not all) of the incarceration component of the sentence, and places the defendant on probation for a period up to five years. A Short Split can only be imposed in the shaded (dark blue and light blue) boxes. A judge should specify the period of incarceration that is *not* suspended, if known. If the judge suspends execution of all but some period longer than six months, unless the new Modified Short Split rule is applicable, this is considered a split sentence, but not a Short Split sentence, and would not be Guidelines Compliant unless it is a Compliant Long Split sentence, see Section 10.24.

10.39 Statutory Minimum

A statutory minimum is a minimum sentence prescribed by statute that is not a mandatory minimum. It is a minimum term of imprisonment that must be imposed, but, in contrast to a mandatory minimum, can be suspended.

10.40 Ten-Year Window

The Ten-Year Window refers to the ten years preceding the commission of the instant offense. If, during this period, a person was sentenced, released from jail or prison, or finished probation, parole, or supervised release, that conviction is considered to be "within the Ten-Year Window" and is counted toward the CHS. Prior felony convictions that are within the Ten-Year Window can revive lapsed felony convictions.

10.41 Voluntary Guidelines

The Guidelines are voluntary, meaning that judges have discretion to impose any lawful sentence. There are no sanctions for failing to follow the Guidelines, though the sentencing judge is required to explain why it imposed a Non-Compliant sentence. Lawful sentences cannot be appealed regardless of whether they comply with the Guidelines.[93]

10.42 White or Unshaded Boxes

White or unshaded boxes on the Main Grid and the Drug Grid are boxes where a Prison or a Long Split sentence is the only permissible and Compliant sentence type, absent a Mitigating Factor. Altogether, there are 35 white or unshaded boxes on the Main Grid and six white or unshaded boxes on the Drug Grid.

[93] See footnote 6, at 2.

APPENDICES

APPENDIX A – MAIN GRID

January 2026 -- Sentencing Ranges Listed in Months

CH Points	OSG	Most Common Offenses	Criminal History Score 0–0.5 A	0.75–1.75 B	2–3.75 C	4–5.75 D	6 + E
3 Points*	1	1st Degree Murder w/a 1st Degree Murder	360 - 720	360 - 720	360 - 720	360 - 720	360 +
	2	2nd Degree Murder w/a 2nd Degree Murder 1st Degree Sex Abuse w/a 1st Degree Sex Abuse	144 - 288	156 - 300	168 - 312	180 - 324	192 +
	3	Voluntary Manslaughter w/a 1st Degree Child Sex Abuse Carjacking w/ Armed Assault With Intent to Kill w/a Burglary I w/ Armed	90 - 180	102 - 192	114 - 204	126 - 216	138 +
	4	Aggravated Assault w/a Voluntary Manslaughter	48 - 120	60 - 132	72 - 144	84 - 156	96 +
	5	PFCOV Robbery w/a Burglary I Obstruction of Justice Assault With Intent to Kill	36 - 84	48 - 96	60 - 108	72 - 120	84 +
2 Points*	6	ADW Robbery Aggravated Assault 2nd Degree Child Sex Abuse Assault with Intent to Rob	18 - 60	24 - 66	30 - 72	36 - 78	42 +
	7	Burglary II 3rd Degree Sex Abuse FIP-3 Negligent Homicide Attempt 2nd Degree Sex Abuse	12 - 36	18 - 42	24 - 48	30 - 54	36 +
1 Point*	8	Carrying a Pistol (CPWL) UUV Attempt Robbery/Burglary FIP-1 1st Degree Theft Assault w/ Sig. Bodily Injury	6 - 24	10 - 28	14 - 32	18 - 36	22 +
	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 Long Split only.

Dark-shaded boxes – Prison, Long Split, or Short Split permissible.

Light-shaded boxes – Prison, Long Split, Short Split, or Probation permissible.

APPENDIX B – DRUG GRID

January 2026 -- Sentencing Ranges Listed in Months

CH Points	OSG	Most Common Offenses	Criminal History Score				
			0–0.5 **A**	0.75–1.75 **B**	2–3.75 **C**	4–5.75 **D**	6 + **E**
2 Points*	1	Distribution w/a (Any Drug) PWID w/a (Any Drug)	**30 - 72**	**36 - 78**	**42 - 84**	**48 - 90**	**54 +**
1 Point*	2	Distribution or PWID (Schedule I or II Narcotic/Abusive Drugs)	**12 - 30**	**16 - 36**	**20 - 42**	**24 - 48**	**28 +**
	3	Distribution or PWID (Except Schedule I or II Narcotic/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 +**
0.75 Points*	4	Attempt Distribution or Attempt PWID (Except Schedule I or II Narcotic/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 Long Split only.

Dark-shaded boxes – Prison, Long Split, or Short Split permissible.

Light-shaded boxes – Prison, Long Split, Short Split, or Probation permissible.

APPENDIX C – OFFENSE LISTINGS

SENTENCING CHART FOR FELONIES COMMITTED ON OR AFTER 5:00 p.m., AUGUST 11, 2000
ARRANGED IN ALPHABETICAL ORDER

Use this Appendix to find the Offense Severity Group, the maximum sentence, and supervised release term the judge may/must impose initially pursuant to D.C. Code § 24-403.01. In some cases, the maximum sentence will depend on factors set forth in the statute. Please refer to the statute. Supplement I contains the same information in Code Section number order. The OSG is blank for enhanced versions of offenses, which have the same OSG as the unenhanced offense. See Section 6.5 (Enhancements) and Appendix F.

KEY:

"*"	means that an offense is a Class A felony. A person convicted of such an offense may be imprisoned not more than 5 years upon revocation of supervised release. *See* D.C. Code § 24-403.01(b)(7)(A).
"e"	means that the offense is subject to a statutory enhancement specific to the offense that raises the top of the GRSR. See Section 6.5, Appendix F.
"M"	in the minimum column means mandatory minimum, a minimum that generally cannot be suspended. See Section 6.2.1.
"or SOR"	in the supervised release column means that the offense is defined as a "lifetime registration offense" or "registration offense" under D.C. Code § 22-4001(6), (8)[94] and that the judge may impose a greater term of supervised release up to the maximum period of sex offender registration to which the defendant is subject (ten years or life). D.C. Code §§ 22-4001(6), (8), 24-403.01(b)(4).
"not < X"	in the minimum column means that if the judge imposes a sentence of imprisonment, they cannot impose a sentence of less than X. The judge may impose a sentence of X (or more) and MAY suspend execution of part or all of it. See Section 6.2.2.
"(30/40/60)"	that appears under "LWOR" [Life Without Release] for several offenses, "Life" for Murder 2° and Murder 2° w/a, and under "40" for Carjacking w/a means that the judge cannot impose a sentence in excess of the number in parentheses unless the jury finds an aggravating circumstance beyond a reasonable doubt pursuant to D.C. Code § 24-403.01(b-2).
"same term/fine"	means the same term or fine as the underlying, completed, principal, or predicate offense.
"x the term/fine"	means the preceding number times the term or fine for the underlying offense.
"V" or "D"	in the Violent/Dangerous column, "V" means a Crime of Violence as defined in D.C. Code § 23-1331(4) and "D" means a Dangerous Crime as defined in D.C. Code § 22-4501(2).
"w/a"	means an offense subject to additional penalties for committing a COV While Armed under D.C. Code § 22-4502. *See Hager v. United States*, 791 A.2d 911 (D.C. 2002).

[94] Offenses *may* be subject to registration where the offense involves: a minor victim; a sexual act or sexual contact without consent or with a minor; assaulting or threatening another with intent to commit a sexual act or sexual contact; or causing the death of another before, during or after such an act. D.C. Code § 22-4001(8)(C)–(F). Since these involve offenses that are not always subject to the registration requirements, "or SOR" was not noted in the Supervised Release column.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Accessory After the Fact	22-1806	[95]	0.5 x the term						0.5 x the fine
Aiding & Abetting	22-1805		same term						same fine
Aggravated Assault	22-404.01(b)	M 6	10	2	8	3		V	25,000
Aggravated Assault, Attempt	22-404.01(c)	M 8	5	2	3	3		V	12,500
Aggravated Assault w/a*	22-404.01(b) 22-4502	M 4	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Aggravating Circumstances	24-403.01(b-2)		LWOR	5	LWOR	5			125,000
Animal Fighting, Engaging in	22-1006.01	M 9	5	2	3	3			12,500
Armor Piercing Ammunition / Possession of 1+ Restricted Pistol Bullet	7-2506.01(a)(3) 7-2507.06(a)(3)(A)	M 7	10	2	8	3	M1		25,000
Arson	22-301	M 6	10	2	8	3	not < 1	V	25,000
Arson of Own Property w/ Intent to Defraud or Injure Another	22-302	M 6	15	2	13	3		V	37,500
Assault with a Dangerous Weapon (ADW)	22-402	M 6	10	2	8	3		V	25,000
Assault with a Dangerous Weapon (ADW), Attempt	22-402 22-1803	M 8	5	2	3	3		V	12,500
Assault on Police Officer (APO)	22-405(c)	M 7	10	2	8	3		V	25,000
Assault on Police Officer (APO) w/a*	22-405(c) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Assault on Police Officer (APO) w/ Dangerous Weapon - 2nd+ Offense or Prior Felony	22-405(c) 24-403.01(f)(1)	M 7[e]	10	2	8	3	not < 1	V	25,000
Assault with Intent to Kill or Poison	22-401	M 5	15	2	13	3	not < 2	V	37,500

[95] See Sections 2.4 and 3.4 for the Offense Severity Group and Criminal History Scoring for Accessory convictions.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Assault with Intent to Kill or Poison w/a*	22-401 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Assault with Intent to Rob	22-401	M 6	15	2	13	3	not < 2	V	37,500
Assault with Intent to Rob w/a*	22-401 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Assault with Intent to Commit Sexual Abuse 1° or 2° or Child Sex Abuse 1° or 2°	22-401 24-403.01(e)	M 6	15	2	13	3 or SOR	not < 2 if prior COV	V	37,500
Assault with Intent to Commit Sexual Abuse 1° or 2° or Child Sex Abuse 1° or 2° w/a*	22-401 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Assault with Intent to Commit any Other Felony	22-403	M 8	5	2	3	3		V	12,500
Assault with Intent to Commit any Other Felony w/a*	22-403 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Assault with Intent to Commit Mayhem	22-402	M 7	10	2	8	3		V	25,000
Assault with Intent to Commit Mayhem w/a*	22-402 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Assault with Significant Bodily Injury	22-404(a)(2)	M 8	3	1	2	3		V	12,500
Assault with Significant Bodily Injury w/a*	22-404(a)(2) 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Attempt Crime of Violence Unarmed (Unless Otherwise Specified)	22-1803	M 8	5	2	3	3		V	12,500
Attempt Crime of Violence w/a* (Unless Otherwise Specified)	22-1803 22-4502	[96]	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000

[96] Same OSG as unarmed completed offense.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Bad Checks - ≥ $1,000	22-1510	M 9	3	1	2	3	not < 1		12,500
Bail Reform Act (BRA) Violation - Felony Offense	23-1327(a)(1)	M 9	5	2	3	3	not < 1		12,500
Bias-Related Crime	22-3703		1.5 x the term						1.5 x the fine
Bigamy	22-501	M 8	7	2	5	3	not < 2		25,000
Blackmail	22-3252	M 9	5	2	3	3		V[97]	12,500
Blackmail Accompanied by Threats of Violence w/a*	22-3252 22-4502	M 8	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Breaking and Entering - Vending Machines or Similar Devices	22-601	M 9	3	1	2	3			12,500
Bribery of Public Servant(s)	22-712	M 8	10	2	8	3			25,000 or 2 x the value
Bribery of Witness(es)	22-713	M 8	5	2	3	3			12,500
Burglary 1°	22-801(a)	M 5	30	3	27	5	not < 5	V	75,000
Burglary 1° w/a*	22-801(a) 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Burglary 2°	22-801(b)	M 7	15	2	13	3	not < 2	V	37,500
Burglary 2° w/a*	22-801(b) 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Carjacking	22-2803(a)	M 5	21	2	19	3	M7	V	75,000
Carjacking w/a*	22-2803(b) 22-4502 24-403.01(b-2)	M 3	40 (30)	5	40 (30)	5	M15	V	125,000 (75,000)

[97] D.C. Code § 23-1331(4) includes "extortion or blackmail accompanied by threats of violence" in the definition of Crime of Violence.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Carrying a Pistol Without a License (CPWL) or Carrying Deadly or Dangerous Weapon (CDW), Felony 1st Offense	22-4504(a)(1)	M 8	5	2	3	3			12,500
Carrying a Pistol Without a License (CPWL) or Carrying Deadly or Dangerous Weapon (CDW), Felony 2nd+ Offense or Prior Felony	22-4504(a)(2)	M 8[e]	10	2	8	3			25,000
Carrying a Rifle or Shotgun - 1st Offense	22-4504(a-1) 22-4504(a)(1)	M 8	5	2	3	3			12,500
Child Prostitution - Abducting/Enticing	22-2704(a)(1)	M 5	20	2	18	3 or SOR			50,000
Child Prostitution - Harboring	22-2704(a)(2)	M 5	20	2	18	3 or SOR			50,000
Child Sex Abuse 1°*	22-3008 24-403.01(b-2) 24-403.01(e)	M 3	30	5	30	5 or SOR	not < 7 if prior COV	V	75,000
Child Sex Abuse 1°*, Aggravated	22-3008 22-3020 24-403.01(b-2)	M 3[e]	LWOR	5	LWOR	5 or SOR	not < 7 if prior COV	V	125,000
Child Sex Abuse 1°, Attempt	22-3008 22-3018	M 6	15	2	13	3 or SOR		V	37,500
Child Sex Abuse 1° w/a*	22-3008 22-4502 24-403.01(b-2)	M 2	LWOR (30)	5	LWOR (30)	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other not < 7, if prior COV	V	125,000 (75,000)
Child Sex Abuse 1° w/a*, Attempt	22-3008 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Child Sex Abuse 2°	22-3009 24-403.01(e)	M 6	10	2	8	3 or SOR	not < 7 if prior COV	V	25,000
Child Sex Abuse 2°, Attempt	22-3009 22-3018	M 8	5	2	3	3 or SOR		V	12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Child Sex Abuse 2° w/a*	22-3009 22-4502 24-403.01(e)	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other not < 7, if prior COV	V	75,000
Child Sex Abuse 2° w/a*, Attempt	22-3009 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Child Sex Abuse - Enticing	22-3010(a), (b) 24-403.01(e)	M 8	5	2	3	3 or SOR	not < 7 if prior COV		12,500
Child Sex Abuse - Enticing, Attempt	22-3010 22-3018	M 9	2.5	1	1.5	3 or SOR			12,500
Child Sex Abuse - Arranging for Sexual Contact	22-3010.02	M 8	5	2	3	3 or SOR			12,500
Child Sex Abuse - Arranging for Sexual Contact, Attempt	22-3010.02 22-3018	M 9	2.5	1	1.5	3 or SOR			12,500
Child Sex Abuse - Misdemeanor 4th+ Offense	22-3010.01(a-1)(1)	M 8	3	1	2	3 or SOR		V	12,500
Citizen Patrol Victim	22-3602		1.5 x the term						1.5 x the fine
Conspiracy (In General)	22-1805a(a)(1)	M 9	5	2	3	3			12,500
Conspiracy (In General) - Underlying Offense Penalty < 5 years	22-1805a(a)(1)	M 9	same term	1	x minus 1	3			same fine
Conspiracy to Commit Murder or Crime of Violence w/a	22-1805a(a)(2)	M 5[98]	15	2	13	3		V	not > 37,500 or same fine
Conspiracy to Commit a Crime of Violence	22-1805a(a)(2)	M 7[99]	15[100]	2	x minus 2	3		V	not > 37,500 or same fine
Contempt - Violating Conditions of Release (If Felony)	11-944	M 9[101]	Life	5	Life	5			

[98] If underlying offense is in M6, M7, or M8 the Conspiracy is in the same OSG.

[99] If underlying offense is in M8 or M9, the Conspiracy is in the same OSG.

[100] The maximum statutory penalty may not exceed 15 years, or the maximum penalty prescribed for the underlying offense, whichever is lower.

[101] The ranking only applies to the instant conviction. The scoring of a prior Contempt conviction is discussed in Section 3.7.2.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Contempt (If Any Other Felony)	11-944	[102]							
Contraband: Class A Material - Introducing into Prison and Possession by Inmate	22-2603.03(a)	M 8	10	2	8	3			25,000
Contraband: Class B Material - Introducing into Prison and Possession by Inmate	22-2603.03(b)	M 9	2	1	1	3			12,500
Contributing to the Delinquency of a Minor - 2nd+ Offense	22-811(b)(2)	M 9	3	1	2	3			12,500
Contributing to the Delinquency of a Minor - Commission of Felony, Serious Bodily Injury	22-811(b)(3), (4)	M 8	5	2	3	3			12,500
Contributing to the Delinquency of a Minor - Death of Minor or Any other Person	22-811(b)(5)	M 6	10	2	8	3			25,000
Corrupt Influence	22-704	M 9	5	2	3	3	not < 6 months		12,500
Corrupt Influence - Athletics	22-1713(a), (c)	M 9	5	2	3	3	not < 1		12,500
Counterfeiting - 2nd Offense; or Value $1,000 – <$10,000; or 100 – <1,000 Items	22-902(b)(2)	M 9	3	1	2	3			12,500
Counterfeiting - 3rd+ Offense; or Value ≥ $10,000; or 1,000+ Items	22-902(b)(3)	M 9	10	2	8	3			25,000
Credit Card Fraud - ≥ $1,000	22-3223(d)(2)	M 9	10	2	8	3			25,000
Crime of Violence Against Minors	22-3611		1.5 x the term						1.5 x the fine
Crime of Violence Against Another Person While on Dept. of Parks and Recreation Property	22-3603		1.5 x the term						1.5 x the fine
Crime of Violence Against Vulnerable Adult	22-3604		1.5 x the term						1.5 x the fine
Criminal Abuse or Neglect of a Vulnerable Adult - Death	22-936(c)	M 5	20	2	18	3			50,000
Criminal Abuse or Neglect of a Vulnerable Adult - Permanent Bodily Harm	22-936(c)	M 6	20	2	18	3			50,000

[102] Proportionate, not a Guidelines offense. See Section 3.7.2.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Criminal Abuse or Neglect of a Vulnerable Adult - Serious Bodily Injury or Severe Mental Distress	22-936(b)	M 7	10	2	8	3			25,000
Cruelty to Animals	22-1001(d)	M 9	5	2	3	3			12,500
Cruelty to Children 1°	22-1101(a), (c)(1)	M 6	15	2	13	3		V	37,500
Cruelty to Children 1° w/a*	22-1101(a), (c)(1) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Cruelty to Children 2°	22-1101(b), (c)(2)	M 8	10	2	8	3			25,000
Deceptive Labeling	22-3214.01(d)(2)	M 9	5	2	3	3			12,500
Destruction of Property (DP) ≥ $1,000	22-303	M 8	10	2	8	3			25,000
Destruction of Property (DP) - Explosives	22-3305	M 8	10	2	8	3	not < 2		25,000
Directing Organized Retail Theft	22-3211.01	M 8	15	2	13	3			37,500
Drugs: Distribution or PWID w/a* - Any Controlled Substance	48-904.01(a), (b) 22-4502	D 1	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	D	75,000
Drugs: Distribution or PWID - Schedule I & II Narcotic and Abusive Drugs (*e.g.*, Heroin, Cocaine, PCP, Methamphetamine)	48-904.01(a)(2)(A), (b)(2)(A)	D 2	30	3	27	5		D	75,000
Drugs: Distribution or PWID - Schedule I, II, III Non-Narcotic and Non-Abusive Drugs (Including Marijuana - 2nd Offense or > 0.5 pounds)	48-904.01(a)(2)(B), (b)(2)(B)	D 3	5	2	3	3		D	12,500
Drugs: Distribution or PWID - Schedule IV	48-904.01(a)(2)(C), (b)(2)(C)	D 3	3	1	2	3		D	12,500
Drugs: Possession of Liquid PCP	48-904.01(d)(2)	D 3	3	1	2	3			12,500
Drugs: Attempt or Conspiracy of w/a Offense in Drug Group 1	48-904.09	D 2	same term						same fine
Drugs: Attempt or Conspiracy of an Offense in Drug Group 2	48-904.09	D 3	same term						same fine

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Drugs: Attempt or Conspiracy of an Offense in Drug Group 3	48-904.09	D 4	same term						same fine
Drugs: Distribution to Minors	48-904.06		2 x the term						same fine
Drugs: Enlisting Minors - 1st Offense	48-904.07(b)(1)	[103]	10	2	8	3			25,000
Drugs: Enlisting Minors - 2nd+ Offense	48-904.07(b)(2)	[104]	20	2	18	3			50,000
Drugs: Fraud	48-904.03	D 3	4	1	3	3			12,500
Drug-Free Zones	48-904.07a		2 x the term						2 x the fine
Drugs: Maintaining Place to Manufacture, Distribute, Store Narcotic or Abusive Drug	48-904.03a	D 2	25	3	22	5	not < 5		75,000
Drugs: 2nd+ Offense	48-904.08		2 x the term						2 x the fine
Drug Paraphernalia - 2nd+ Offense	48-1103(b)(2), (e)(4)	D 4	2	1	1	3			12,500
Drug Paraphernalia - Distributing to a Minor	48-1103(c)	D 3	8	2	6	3			25,000
Drug Paraphernalia w/ Intent, Possession (PDP) - 2nd+ Offense	48-1103(b)	D 4	2	1	1	3			12,500
Endangerment with a Firearm	22-4503.03(b)	M 8	5	2	3	3			12,500
Endangerment with a Firearm - 5+ Projectiles or Prior Felony	22-4503.03(c)	M 8[e]	10	2	8	3			25,000
Escape / Attempt Escape	22-2601	M 9	5	2	3	3			12,500
Extortion	22-3251	M 8	10	2	8	3		V[105]	25,000

[103] D.C. Code § 48-904.07 provides that a person who, for profit or benefit, enlists a minor to sell or distribute drugs in violation of D.C. Code § 48-904.01(a), "shall be punished in the same manner as if that person directly sold or distributed the controlled substance" and that the penalties indicated here are "additional."

[104] D.C. Code § 48-904.07 provides that a person who, for profit or benefit, enlists a minor to sell or distribute drugs in violation of D.C. Code § 48-904.01(a), "shall be punished in the same manner as if that person directly sold or distributed the controlled substance" and that the penalties indicated here are "additional."

[105] D.C. Code § 23-1331(4) includes "extortion or blackmail accompanied by threats of violence" in the definition of Crime of Violence.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Extortion Accompanied by Threats of Violence w/a*	22-3251 22-4502	M 8	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V[106]	75,000
False Personation	22-1403	M 9	5	2	3	3	not < 1		12,500
False Statement - Money Transmissions	26-1023(b)	M 9	3	1	2	3			12,500
False Swearing	22-2404	M 9	3	1	2	3			12,500
False/Fictitious Threats of Weapon of Mass Destruction	22-1319(c)	M 8	5	2	3	3			12,500
False/Fictitious Threats of Weapon of Mass Destruction During State of Emergency	22-1319(d)	M 8	10	2	8	3			25,000
Felony Assault	22-404(a)(2)	M 8	3	1	2	3		V	12,500
Female Genital Mutilation (FGM)	22-1431	M 6	10	2	8	3			25,000
Financial Exploitation of a Vulnerable Adult or Elderly Person - Value ≥ $1,000	22-933.01 22-936.01(a)(1)	M 8	10	2	8	3			25,000
Financial Exploitation of a Vulnerable Adult or Elderly Person - 2nd+ Offense	22-933.01 22-936.01(b)	M 8	15	2	13	3			37,500
Firearm: Unlawful Possession of Firearm - Prior Conviction > 1 Year (a.k.a. Felon in Possession or FIP-1)	22-4503(a)(1)	M 8[107]	10	2	8	3	M1		25,000
Firearm: Unlawful Possession of a Firearm - Prior Conviction > 1 Year for COV other than Conspiracy (a.k.a. Felon in Possession - Prior COV or FIP-3)	22-4503(a)(1)	M 7	15	2	13	3	M3		37,500
Firearm: Unlawful Possession of Firearm - Other	22-4503(a)(2)-(6)	M 8	10	2	8	3	not < 2		25,000

[106] D.C. Code § 23-1331(4) includes "extortion or blackmail accompanied by threats of violence" in the definition of Crime of Violence.

[107] Defendants convicted of Firearm, Unlawful Possession of Firearm - Prior Conviction > 1 Year with a CHS of 2 – 3.75 fall into Main Grid Box M8C with a GRSR of 14 – 32 months incarceration, Prison, Long Split, or Short Split sentence types permissible. However, because of the mandatory minimum 12-month sentence, a Short Split sentence is not permissible under the Guidelines. The sentencing judge must sentence the defendant to at least 14 months to impose a Guidelines Compliant sentence. If the sentencing judge determines that a split sentence of 12 months incarceration or more, but less than 14 months, is appropriate, it may sentence the defendant accordingly, but this would constitute a departure from the Guidelines. The sentencing judge should note the reason for the departure on the docket.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Fleeing Law Enforcement	50-2201.05b(b)(2)	M 8	5	2	3	3			12,500
Forgery and Uttering - Legal Tender, Public Record, Written Instrument ≥ $10,000, etc.	22-3241 22-3242(a)	M 9	10	2	8	3			25,000
Forgery and Uttering - Token, License, Written Instrument ≥ $1,000, etc.	22-3241 22-3242(b)	M 9	5	2	3	3			12,500
Forgery and Uttering - Other	22-3241 22-3242(c)	M 9	3	1	2	3			12,500
Fraud 1° - ≥ $1,000	22-3221(a) 22-3222(a)(1)	M 9	10	2	8	3			25,000 or 2 x the value
Fraud 2° - ≥ $1,000	22-3221(b) 22-3222(b)(1)	M 9	3	1	2	3			12,500 or 2 x the value
Gaming	22-1704(a)	M 9	5	2	3	3			12,500
Gang Recruitment w/a*	22-951(c) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Gang Recruitment - Retaliation or Participation	22-951(c)	M 7	10	2	8	3		V	25,000
Gang Participation	22-951(b)	M 8	5	2	3	3			12,500
Government Officials - Intimidating, Impeding, Interfering, Retaliating	22-851(b)	M 8	5	2	3	3			12,500
Government Officials/Family - Stalking, Threatening, Assaulting, Kidnapping, Injuring; or Vandalizing, Damaging, Destroying or Taking Property of	22-851(c), (d)	M 9	3	1	2	3			12,500
Grave Robbing	22-3303	M 9	3	1	2	3	not < 1		12,500
Gun-Free Zone	22-4502.01(b)		2 x the term						2 x the fine
Human Trafficking - Forced Labor	22-1832 22-1837(a)	M 5	20	2	18	3			50,000
Human Trafficking - Forced Labor, Attempt	22-1832 22-1837(d)	M 7	10	2	8	3			25,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Human Trafficking - Labor or Commercial Sex Acts	22-1833 22-1837(a)	M 5	20	2	18	3			50,000
Human Trafficking - Labor or Commercial Sex Acts, Attempt	22-1833 22-1837(d)	M 7	10	2	8	3			25,000
Human Trafficking - Sex Trafficking of Children	22-1834 22-1837(a)	M 5	20	2	18	3			50,000
Human Trafficking - Sex Trafficking of Children, Attempt	22-1834 22-1837(d)	M 7	10	2	8	3			25,000
Human Trafficking - Documents	22-1835 22-1837(b)	M 8	5	2	3	3			12,500
Human Trafficking - Documents, Attempt	22-1835 22-1837(d)	M 9	2.5	1	1.5	3			12,500
Human Trafficking - Benefitting Financially	22-1836 22-1837(c)		same term						same fine
Human Trafficking - Benefitting Financially, Attempt	22-1836 22-1837(d)		same term						same fine
Human Trafficking - Victim Held or Services Provided >180 days	22-1837(a)(2)		1.5 x the term						1.5 x the fine
Identity Theft 1°	22-3227.02 22-3227.03(a)	M 8	10	2	8	3			25,000 or 2 x value / injury
Illegal Dumping - Commercial Purpose, Hazardous Waste, or Medical Waste	8-902(b)(2), (3), (4)	M 9	5	2	3	3			12,500
Illegal Lottery	22-1701	M 9	3	1	2	3			12,500
Impersonating a Public Official	22-1404	M 9	3	1	2	3	not < 1		12,500
Incest	22-1901	M 7	12	2	10	3			37,500
Injure or Obstruct a Police Animal - Significant Bodily Injury or Death	22-861(b)(2)	M 8	10	2	8	3			25,000
Insurance Fraud 1° - ≥ $1,000	22-3225.02 22-3225.04(a)	M 9	15	2	13	3			37,500
Insurance Fraud 2° - ≥ $1,000 1st Offense	22-3225.03 22-3225.04(b)(1)	M 9	5	2	3	3			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Insurance Fraud 2° - ≥ $1,000 2nd Offense	22-3225.03 22-3225.04(b)(2)	M 9e	10	2	8	3			25,000
Interception, Disclosure, and Use of Wire or Oral Communications	23-542	M 9	5	2	3	3			12,500
Kidnapping*	22-2001	M 5	30	5	30	5		V	75,000
Kidnapping w/a*	22-2001 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Malicious Disfigurement	22-406	M 6	10	2	8	3		V	25,000
Malicious Disfigurement w/a*	22-406 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Manslaughter, Voluntary	22-2105	M 4	30	3	27	5		V	250,000
Manslaughter, Voluntary w/a*	22-2105 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	250,000
Manslaughter, Involuntary	22-2105	M 5	30	3	27	5		V	250,000
Manslaughter, Involuntary w/a*	22-2105 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	250,000
Mayhem	22-406	M 6	10	2	8	3		V	25,000
Mayhem w/a*	22-406 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Mass Transit Passenger, Offenses Against	22-3751.01(a-1)		1.5 x the term						1.5 x the fine
Molotov Cocktails - 1st Offense	22-4515a(d)(1)	M 9	5	2	3	3	not < 1		12,500
Molotov Cocktails - 2nd Offense	22-4515a(d)(2)	M 9e	15	2	13	3	not < 3		37,500
Molotov Cocktails - 3rd+ Offense*	22-4515a(d)(3)	M 9e	30	5	30	5	not < 5		75,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Money Transmission Without a License	26-1023(c)	M 9	5	2	3	3			12,500
Murder 1°*	22-2101 22-2104 24-403.01(b-2)	M 1	60	5	60	5	M30	V	250,000
Murder 1° - Obstruction of Railway*	22-2102 22-2104 24-403.01(b-2)	M 1	60	5	60	5	M30	V	250,000
Murder 1°, Aggravated*	22-2104 22-2104.01 24-403.01(b-2)	M 1[e]	LWOR	5	LWOR	5		V	250,000
Murder 1° w/a*	22-2101 22-2104 22-4502	M 1	LWOR (60)	5	LWOR (60)	5	M30	V	250,000
Murder 2°*	22-2103 22-2104 24-403.01(b-2)	M 2	Life (40)	5	Life (40)	5		V	250,000
Murder 2° w/a*	22-2103 22-2104 22-4502 24-403.01(b-2)	M 2	Life (40)	5	Life (40)	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	250,000
Murder of Law Enforcement Officer*	22-2106	M 1	LWOR		LWOR		M-LWOR	V	250,000
Negligent Homicide - Vehicular	50-2203.01	M 7	5	2	3	3			250,000
Obscenity - 2nd+ Offense	22-2201(e)	M 9	3	1	2	3	not < 6 months		1,000 – 12,500
Obstructing Justice*	22-722	M 5	30	5	30	5	not < 3		75,000
Obstructing Railways	22-3319	M 9	10	2	8	3			25,000
Obstructing Service of a Drug Search Warrant	48-921.02(n)	D 4	2	1	1	3			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Offenses Committed During Release (OCDR) - Felony Offense[108]	23-1328(a)(1)	M 9[109]	5		5		not < 1		12,500
Offenses Not Covered by D.C. Code	22-1807	M 9	5	2	3	3			12,500
Perjury	22-2402	M 8	10	2	8	3			25,000
Perjury, Subornation of	22-2403	M 8	10	2	8	3			25,000
Possession of a Firearm During a Crime of Violence or Dangerous Crime (PFCOV)	22-4504(b)	M 5	15	2	13	3	M5		37,500
Possession of Implements of Crime - 2nd+ Offense or Prior Felony	22-2501 24-403.01(f)(3)	M 9	5	2	3	3	not < 1		12,500
Possession of a Firearm with Intent to Sell, Offer for Sale, or Make Available for Sale	7-2507.06(a)(5)	M 8	10	2	8	3	not < 2		25,000
Possession of a Firearm with the Importer's or Manufacturer's Serial Number Removed, Obliterated, or Altered	22-4503(c-1)	M 8	5	2	3	3	not < 2		12,500
Possession of a Large Capacity Ammunition Feeding Device	7-2507.06(a)(4)	M 9	3	1	2	3			12,500
Possession of Prohibited Weapon (PPW) - 2nd+ Offense or Prior Felony	22-4514(c)(3)	M 9	10	2	8	3			25,000
Possession of a Sawed-off Shotgun or Ghost Gun	22-4514(c)(1)	M 8	5	2	3	3			12,500
Possession of Machine Gun	22-4514(c)(2)	M 8	5	2	3	3			12,500
Possession of a Sawed-off Shotgun, Ghost Gun, or Machine Gun - 2nd+ Offense or Prior Felony	22-4514(c)(3)	M 8	10	2	8	3			25,000
Possession of Unregistered Weapon - 2nd Offense	7-2502.01 7-2507.06(a)(2)(A)	M 9	5	2	3	3			12,500

[108] OCDR (felony) is an enhancement, not a separate offense. However, it operates similarly to a separate offense. Therefore, the Guidelines treat it as if it were a separate offense when determining a defendant's applicable sentencing range in the instant case for which it was charged. Backup time and supervised release are not provided since it is technically an enhancement.

[109] OCDR (felony) is classified as a M9 offense only when it is a charge in the instant case. Because it is technically an enhancement, not a distinct separate offense, it should not be scored as part of a defendant's prior CHS.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Prostitution: Against Will	22-2706(b)(1)	M 6	15	2	13	3			37,500
Prostitution: Against Will Involving a Minor	22-2706(b)(2)	M 5	20	2	18	3 or SOR			50,000
Prostitution: Causing Spouse to Live In	22-2708	M 8	10	2	8	3	not < 1		25,000
Prostitution: Detaining In Disorderly House for Debt	22-2709	M 9	5	2	3	3	not < 1		12,500
Prostitution: Engaging In or Soliciting - 3rd+ Offense	22-2701	M 9	2	1	1	3			12,500
Prostitution: Inducing or Compelling	22-2705(c)(1)	M 9	5	2	3	3			12,500
Prostitution: Inducing or Compelling a Minor	22-2705(c)(2)	M 5	20	2	18	3 or SOR			50,000
Prostitution: Keeping Bawdy or Disorderly House	22-2722	M 9	5	2	3	3			12,500
Prostitution: Operating House of	22-2712	M 9	5	2	3	3			12,500
Prostitution: Procuring (Pandering)	22-2707(b)(1)	M 9	5	2	3	3			12,500
Prostitution: Procuring (Pandering) a Minor	22-2707(b)(2)	M 5	20	2	18	3 or SOR			50,000
Prostitution: Procuring for House of	22-2710	M 9	5	2	3	3			12,500
Prostitution: Procuring for 3rd Persons	22-2711	M 9	5	2	3	3			12,500
Receive, Possess, Conceal, Store, Barter, Sell, or Dispose of Any Stolen Firearm or Stolen Ammunition	22-4503(c-2)	M 8	5	2	3	3	not < 2		12,500
Receiving Stolen Property (RSP) - ≥ $1,000	22-3232(c)(1)	M 9	7	2	5	3			25,000
Repeats - 1 Prior	22-1804		1.5 x the term						1.5 x the fine
Repeats - 2+ Priors	22-1804		3 x the term						3 x the fine
Riot, Inciting - Serious Bodily Harm or Property Damage > $5,000	22-1322(d)	M 7	10	2	8	3			25,000
Robbery	22-2801	M 6	15	2	13	3	not < 2	V	37,500
Robbery, Attempt	22-2802	M 8	3	1	2	3		V	12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Robbery w/a*	22-2801 22-4502 24-403.01(e)	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other not < 2 if prior COV[110]	V	75,000
Robbery w/a*, Attempt	22-2802 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Sell, Transport, Distribute a Firearm, Destructive Device or Ammunition to Persons Under 18	7-2507.06(a)(1)	M 7	10	2	8	3			25,000
Senior Citizen Victim	22-3601		1.5 x the term						1.5 x the fine
Sex Abuse 1°*	22-3002 24-403.01(e)	M 2	30	5	30	5 or SOR	not < 7 if prior COV	V	75,000
Sex Abuse 1°*, Aggravated	22-3002 22-3020 24-403.01(b-2)	M 2[e]	LWOR	5	LWOR	5 or SOR		V	125,000
Sex Abuse 1°, Attempt	22-3002 22-3018	M 6	15	2	13	3 or SOR		V	37,500
Sex Abuse 1° w/a*	22-3002 22-4502	M 2	LWOR (30)	5	LWOR (30)	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	125,000 (75,000)
Sex Abuse 1° w/a*, Attempt	22-3002 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Sex Abuse other than 1° / Child Sex Abuse other than 1°, Aggravated	22-3020		1.5 x the term						1.5 x the fine
Sex Abuse 2°	22-3003 24-403.01(e)	M 5	20	2	18	3 or SOR	not < 7 if prior COV	V	50,000
Sex Abuse 2°, Attempt	22-3003 22-3018	M 7	10	2	8	3 or SOR		V	25,000

[110] Two year statutory minimum if no mandatory minimum applies.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Sex Abuse 2° w/a*	22-3003 22-4502	M 4	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Sex Abuse 2° w/a, Attempt*	22-3003 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Sex Abuse 3°	22-3004	M 7	10	2	8	3 or SOR		V	25,000
Sex Abuse 3°, Attempt	22-3004 22-3018	M 8	5	2	3	3 or SOR		V	12,500
Sex Abuse 3° w/a*	22-3004 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Sex Abuse 4°	22-3005	M 8	5	2	3	3 or SOR			12,500
Sex Abuse 4°, Attempt	22-3005 22-3018	M 9	2.5	1	1.5	3 or SOR			12,500
Sex Abuse - Misdemeanor 4th+ Offense	22-3006(b)(1)	M 8	3	1	2	3 or SOR		V	12,500
Sex Abuse of a Minor 1°	22-3009.01	M 6	15	2	13	3 or SOR			37,500
Sex Abuse of a Minor 1°, Attempt	22-3009.01 22-3018	M 7	7.5	2	5.5	3 or SOR			25,000
Sex Abuse of a Minor 2°	22-3009.02	M 7	7.5	2	5.5	3 or SOR			25,000
Sex Abuse of a Minor 2°, Attempt	22-3009.02 22-3018	M 9	3.75	1	2.75	3 or SOR			12,500
Sex Abuse of a Minor - Enticing	22-3010(a), (b) 24-403.01(e)	M 8	5	2	3	3 or SOR	not < 7 if prior COV		12,500
Sex Abuse of a Minor - Enticing, Attempt	22-3010 22-3018	M 9	2.5	1	1.5	3 or SOR			12,500
Sex Abuse of a Student 1°	22-3009.03	M 7	10	2	8	3 or SOR			25,000
Sex Abuse of a Student 1°, Attempt	22-3009.03 22-3018	M 8	5	2	3	3 or SOR			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Sex Abuse of a Student 2°	22-3009.04	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Student 2°, Attempt	22-3009.04 22-3018	M 9	2.5	1	1.5	3 or SOR			12,500
Sex Abuse of a Patient 1°	22-3015	M 7	10	2	8	3 or SOR			25,000
Sex Abuse of a Patient 1°, Attempt	22-3015 22-3018	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Patient 2°	22-3016	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Patient 2°, Attempt	22-3016 22-3018	M 9	2.5	1	1.5	3 or SOR			12,500
Sex Abuse of a Ward 1°	22-3013	M 7	10	2	8	3 or SOR			25,000
Sex Abuse of a Ward 1°, Attempt	22-3013 22-3018	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Ward 2°	22-3014	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Ward 2°, Attempt	22-3014 22-3018	M 9	2.5	1	1.5	3 or SOR			12,500
Sex Offender, Failure to Register as - 2nd+ Offense	22-4015(a)	M 9	5	2	3	3			12,500
Sex Performance w/ Minors - 1st Offense	22-3102 22-3103(1)	M 8	10	2	8	3 or SOR			25,000
Sex Performance w/ Minors - 2nd+ Offense	22-3102 22-3103(2)	M 8[e]	20	2	18	3 or SOR			50,000
Solicitation of Murder	22-2107(a)	M 4	20	2	18	3			50,000
Solicitation of Crime of Violence other than Murder	22-2107(b)	M 6	10	2	8	3			25,000
Stalking, Felony	22-3133 22-3134(b)	M 9	5	2	3	3			12,500
Stalking - 3rd+ Offense	22-3133 22-3134(c)	M 9[e]	10	2	8	3			25,000
Strangulation	22-404.04	M 8[e]	5	2	3	3		V	12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Strangulation w/a*	22-404.04 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Strangulation - Serious Bodily Injury, Stay Away, or Prior Intrafamily Offense	22-404.04(c)		1.5 x the term						1.5 x the fine
Tampering with Physical Evidence	22-723	M 9	3	1	2	3			12,500
Tampering with a VIN - ≥ $1,000	22-3233(b)(2)	M 9	5	2	3	3			12,500
Tax, Attempt to Evade or Defeat - > $10,000	47-4101(a)	M 9	10	2	8	3			25,000 or 2x amount evaded + cost of prosecution
Telephone Solicitation Fraud - ≥ $20,000	22-3226.06 22-3226.10(1)	M 9	4	1	3	3			12,500
Telephone Solicitation Fraud - > $5,000 – < $20,000	22-3226.06 22-3226.10(2)	M 9	3	1	2	3			12,500
Terrorism: Manufacture or Poss. Weapon of Mass Destruction	22-3154(a)	M 3	Life	5	Life	5		V	125,000
Terrorism: Manufacture or Poss. Weapon of Mass Destruction, Attempt/Conspire	22-3154(b)	M 5	30	3	27	5		V	75,000
Terrorism: Use, Disseminate, or Detonate Weapon of Mass Destruction	22-3155(a)	M 2	Life	5	Life	5		V	125,000
Terrorism: Use, Disseminate, or Detonate Weapon of Mass Destruction, Attempt/Conspire	22-3155(b)	M 3	30	3	27	5		V	75,000
Terrorism: Murder 1°*	22-3153(a)	M 1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism: Murder 1°, Attempt/Conspire	22-3153(j)	M 4	30	3	27	5		V	75,000
Terrorism: Murder 1° w/a*	22-3153(a) 22-4502	M 1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism: Murder 1° w/a, Attempt/Conspire*	22-3153(j) 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Terrorism: Murder 1° of LEO*	22-3153(b)	M 1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism: Murder 1° of LEO, Attempt/Conspire	22-3153(j)	M 3	30	3	27	5		V	75,000
Terrorism: Murder 1° of LEO w/a*	22-3153(b) 22-4502	M 1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism: Murder 1° of LEO w/a, Attempt/Conspire*	22-3153(j) 22-4502	M 2	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Murder 2°*	22-3153(c)	M 2	Life	5	Life	5		V	250,000
Terrorism: Murder 2° w/a*	22-3153(c) 22-4502	M 2	Life	5	Life	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	250,000
Terrorism: Manslaughter	22-3153(d)	M 4	Life	5	Life	5		V	250,000
Terrorism: Manslaughter w/a*	22-3153(d) 22-4502	M 3	Life	5	Life	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	250,000
Terrorism: Kidnapping*	22-3153(e)	M 4	Life	5	Life	5		V	125,000
Terrorism: Kidnapping, Attempt/Conspire	22-3153(j)	M 5	30	3	27	5		V	75,000
Terrorism: Kidnapping w/a*	22-3153(e) 22-4502	M 3	Life	5	Life	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	125,000
Terrorism: Kidnapping w/a, Attempt/Conspire*	22-3153(j) 22-4502	M 4	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: AWIK	22-3153(f)	M 4	30	3	27	5		V	75,000
Terrorism: AWIK w/a*	22-3153(f) 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Mayhem/Malicious Disfig.	22-3153(g)	M 5	20	2	18	3		V	50,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Terrorism: Mayhem/Malicious Disfig. Attempt/Conspire	22-3153(l)	M 6	15	2	13	3		V	37,500
Terrorism: Mayhem/Malicious Disfig. w/a*	22-3153(g) 22-4502	M 4	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Mayhem/Malicious Disfig. w/a, Attempt/Conspire*	22-3153(l) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Arson	22-3153(h)	M 5	20	2	18	3		V	50,000
Terrorism: Arson, Attempt/Conspire	22-3153(l)	M 6	15	2	13	3		V	37,500
Terrorism: Arson w/a*	22-3153(h) 22-4502	M 4	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Arson w/a*, Attempt/Conspire	22-3153(l) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Destruction of Prop.	22-3153(i)	M 5	20	2	18	3		V	50,000
Terrorism: Destruction of Prop., Attempt/Conspire	22-3153(l)	M 6	15	2	13	3		V	37,500
Terrorism: Destruction of Prop. w/a*	22-3153(i) 22-4502	M 4	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Destruction of Prop. w/a*, Attempt/Conspire	22-3153(l) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Material Support	22-3153(m)	M 5	20	2	18	3		V	50,000
Terrorism: Material Support w/a*	22-3153(m) 22-4502	M 4	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Terrorism: Soliciting	22-3153(n)	M 6	20	2	18	3		V	50,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Terrorism: Soliciting w/a*	22-3153(n) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm not < 5 2nd other	V	75,000
Theft 1°	22-3211 22-3212(a), (a)(1)	M 8	10	2	8	3			25,000
Theft 1° - 2nd+ Offense	22-3211 22-3212(c)	M 8	15	2	13	3	M1		37,500
Theft 2° - 2nd+ Offense	22-3211 22-3212(c)	M 9	15	2	13	3	M1		37,500
Threats, Felony	22-1810	M 8	20	2	18	3			50,000
Three Strikes - Felonies*	22-1804a(a)(1)		30	5	30	5			75,000
Three Strikes - Crimes of Violence*	22-1804a(a)(2)		LWOR	5	LWOR	5	not < 15		125,000
Trafficking in Stolen Property	22-3231	M 8	10	2	8	3			25,000
Transit Operator, Offenses Against	22-3751.01(a)		1.5 x the term						1.5 x the fine
Transportation Provider, Offenses Against	22-3751		1.5 x the term						1.5 x the fine
Unauthorized Use of a Motor Vehicle (UUV) - Private	22-3215(d)(1)	M 8	5	2	3	3			12,500
Unauthorized Use of a Motor Vehicle (UUV) - Private 3rd+ Offense	22-3215(d)(3)	M 8[e]	15	2	13	3	not < 2.5		5,000 – 37,500
Unauthorized Use of a Motor Vehicle (UUV) - Private During or to Facilitate COV	22-3215(d)(2)(A)(i)	M 7	10	2	8	3			25,000
Unauthorized Use of a Motor Vehicle (UUV) - Private During or to Facilitate COV w/ Serious Bodily Injury	22-3215(d)(2)(A)(ii)	M 7	10	2	8	3	not < 5		25,000
Unauthorized Use of a Motor Vehicle (UUV) - Rental	22-3215(d)(4)	M 8	3	1	2	3			12,500
Unlawful Discharge of a Firearm	22-4503.01	M 9	2	1	1	3			12,500
Unlawful Discarding of Firearms and Ammunition	22-4503.04	M 8	5	2	3	3			12,500
Unlawful Discarding of Firearms and Ammunition - Prior Felony	22-4503.04(d)(1)	M 8[e]	10	2	8	3			25,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum term of incarceration that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Unlawful Possession of a Firearm - Prior Conviction > 1 year (see C-10 Firearm: UPF - Prior Conviction/FIP-1)	22-4503(a)(1)								
Unlawful Possession of a Firearm - Prior Conviction > 1 year for COV other than Conspiracy (see C-10 Firearm: UPF - PCOV/FIP-3)	22-4503(a)(1)								
Unlawful Possession of a Firearm – Other (see C-10 Firearm: Other)	22-4503(a)(2)-(6)								
Unlawful Publication 1° (Revenge Pornography)	22-3053	M 9	3	1	2	3			12,500
Unsafe Storage of a Firearm: Injury or Death	7-2507.05(c)(2)	M 8	5	2	3	3			12,500
Voyeurism - Distribution	22-3531(f)(2)	M 8	5	2	3	3			12,500
Water Pollution - Malicious	22-3318	M 9	3	1	2	3	not < 1		500 – 12,500

APPENDIX D – PROBATION AND SUPERVISED RELEASE

I. Probation:

A term of probation under D.C. Code § 16-710, along with any extension thereof, may not exceed five years. The Guidelines apply to a sentence following revocation of probation, however, the term of probation imposed is not covered by the Guidelines.

II. Term of Supervised Release:

Under D.C. Code § 24-403.01(b), the following terms of supervised release must be given. Supervised release can be suspended if any portion of the sentence is suspended.

Table D-1: Term of Supervised Release

Term of Incarceration	Statutory Maximum	Supervised Release Term
More than 1 Year	25 Years or More	5 Years
More than 1 Year	More than 1 Year, but Less than 25 Years	3 Years
1 Year or Less	25 Years or More	1 Day to 5 Years
1 Year or Less	More than 1 Year, but Less than 25 Years	1 Day to 3 Years

Note: *If the defendant is sentenced for an offense for which sex registration is required, the sentencing judge may impose a longer term of supervised release of not more than ten years unless the defendant is required to register for life, in which case the supervised release may not exceed a term of life.*

Note: *Supervised release does not apply to misdemeanors.*

III. Backup Time:

Pursuant to D.C. Code § 24-403.01(b)(7) and (b-1) the following periods of "back up time" apply if a defendant's supervised release is revoked. Except for Class A and life term felonies, the "backup time" must be subtracted from the statutory maximum sentence that can be imposed. "Backup time" is the maximum additional penalty that may be applied following revocation of a defendant's supervised release.

Table D-2: Backup Time

Statutory Maximum	Backup Time	Maximum
Life	Not More than 5 Years	Life
Class A Felony	Not More than 5 Years	Statutory Maximum
25 Years or More	Not More than 3 Years	Statutory Maximum Minus 3 Years
5 Years or More, Less than 25 Years	Not More than 2 Years	Statutory Maximum Minus 2 Years
Less than 5 Years	Not More than 1 Year	Statutory Maximum Minus 1 Year

APPENDIX E – FINE AMOUNTS

Unless otherwise noted, a judge may impose the following fines under D.C. Code § 22-3571.01:

Table E-1: Fine Amounts

Offense Maximum	Maximum Fine
10 days or less	$100
10-30 days (1 month)	$250
31-90 days (1-3 months)	$500
91-180 days (4-6 months)	$1,000
181 days -1 year (7-12 months)	$2,500
>1 year - 5 years	$12,500
>5 years - 10 years	$25,000
>10 years - 15 years	$37,500
>15 years - 20 years	$50,000
>20 years - 30 years	$75,000
>30 years	$125,000

Note: *If the offense resulted in death, the maximum fine is $250,000.*

APPENDIX F – STATUTORY ENHANCEMENT EXAMPLES

If an enhancement provision applies, the top of the Guidelines range is increased by the same percentage or amount as the statutory multiplier or cap. For example, if the statute states that the punishment may be 1.5 times the maximum otherwise authorized for the offense, then the top of the Guidelines Recommended Sentencing Range (GRSR) is increased by 1.5. However, if the statute increases the maximum term of imprisonment from five to ten years, for example, the top of the recommended range is doubled. Note that the bottom of the range does not change, only the top. See Section 6.5.

I. Enhancements With Multipliers

Table F-1: Status of the Victim Enhancements

Status of the Victim Enhancements		
Status of Victim	**Enhancement**	**Statutory Provision**
Bias-Related Crime	1.5 Times the Upper Number	D.C. Code § 22-3703
Citizen Patrol Victim	1.5 Times the Upper Number	D.C. Code § 22-3602
Crime of Violence Against Another Person While on Department of Parks and Recreation Property	1.5 Times the Upper Number	D.C. Code § 22-3603
Crime of Violence Against Minors	1.5 Times the Upper Number	D.C. Code § 22-3611
Crime of Violence Against Vulnerable Adult	1.5 Times the Upper Number	D.C. Code § 22-3604
Mass Transit Passenger Victim	1.5 Times the Upper Number	D.C. Code § 22-3751.01(a-1)
Senior Citizen Victim	1.5 Times the Upper Number	D.C. Code § 22-3601
Transit Operator Enhancement	1.5 Times the Upper Number	D.C. Code § 22-3751.01(a)
Transportation Provider Enhancement	1.5 Times the Upper Number	D.C. Code § 22-3751

Note: *These enhancements are limited to enumerated crimes which are not consistent from section to section.*

Table F-2: Drugs and Guns Enhancements

Drugs and Guns Enhancements		
Status	**Enhancement**	**Statutory Provision**
Drug-Free Zone	2 Times the Upper Number	D.C. Code § 48-904.07a(b)
Drugs to Minors	2 Times the Upper Number	D.C. Code § 48-904.06
Gun-Free Zone	2 Times the Upper Number	D.C. Code § 22-4502.01

Table F-3: Human Trafficking Enhancements

Human Trafficking Enhancements		
Requirement	**Enhancement**	**Statutory Provision**
Victim Held or Provided Services for > 180 days	1.5 Times the Upper Number	D.C. Code § 22-1837

Table F-4: Repeat Offender Provisions Enhancements

Repeat Offender Provisions Enhancements		
Provision	**Enhancement**	**Statutory Provision**
1 or More Drug Offenses	2 Times the Upper Number	D.C. Code § 48-904.08
1 Prior Like Offense	1.5 Times the Upper Number	D.C. Code § 22-1804
2 or More Prior Like Offenses	3 Times the Upper Number[111]	D.C. Code § 22-1804
2 or More Prior Felonies	Up to 30 Years[112]	D.C. Code § 22-1804a(a)(1)
2 or More Prior Violent Felonies	Up to Life w/o Release[113]	D.C. Code § 22-1804a(a)(2)

Table F-5: Human Trafficking Enhancements

Human Trafficking Enhancements		
Requirement	**Enhancement**	**Statutory Provision**
Strangulation - Serious Bodily Injury, Stay Away, or Prior Intrafamily Offense	1.5 Times the Upper Number	D.C. Code § 22-404.04(c)

II. Enhancements Without Multipliers

(1) Carrying a Pistol - Felony (D.C. Code § 22-4504(a)(2))

First offense: 5 years
Second offense or after felony: 10 years
Ratio 2:1 = 2x the upper number

(2) Enlisting Minors to Distribute Drugs (D.C. Code § 48-904.07)

First offense: 10 years
Second offense: 20 years
Ratio 2:1 = 2x the upper number

[111] If this enhancement applies, multiple the **top** of the Guidelines range by 3, subject to the statutory maximum of 30 years. If multiplying the upper number by 3 yields a number greater than 30 years, then the **top** of the Guidelines range becomes 30 years.
[112] This enhancement does not contain a multiplier; however, the **top** of the Guidelines range is increased to 30 years.
[113] This enhancement does not contain a multiplier; however, the **top** of the Guidelines range is increased to Life Without Release.

(3) Insurance Fraud (D.C. Code §§ 22-3225.03, 22-3225.04(b))

First offense: 5 years
Second offense: 10 years
Ratio 2:1 = 2x the upper number

(4) Molotov Cocktails (D.C. Code § 22-4515a)

First offense: 5 years
Second offense: 15 years
Third offense: 30 years
Ratios: 3:1 = 3x the upper number and 6:1 = 6x the upper number

(5) Sex Performance Using Minors (D.C. Code §§ 22-3102, 22-3103)

First offense: 10 years
Second offense: 20 years
Ratio 2:1 = 2x the upper number

(6) Stalking - Felony (D.C. Code §§ 22-3133, 22-3134)

First felony: 5 years
After two or more qualifying convictions: 10 years
Ratio: 2:1 = 2x the upper number

(7) UUV – Two or More UUV or Theft – 1° Convictions – (D.C. Code § 22-3215(d)(3))

Less than 2 prior UUV or Theft - 1° convictions: 5 years
2 prior UUV or Theft - 1° convictions: 15 years
Ratio 3:1 = 3x the upper number

III. Special Enhancements

Table F-6: Crimes of Violence – Aggravating Circumstances Enhancements

Crimes of Violence – Aggravating Circumstances Enhancements		
Provision	**Enhancement**	**Statutory Provision**
Murder 1°	Up to Life w/o Release	D.C. Code § 22-2104; D.C. Code § 24-403.01(b-2)
Murder 2°	Up to Life w/o Release	D.C. Code § 24-403.01(b-2)
1° Sex Offenses	Up to Life w/o Release[114]	D.C. Code § 22-3020; D.C. Code § 24-403.01(b-2)
Other Sex Offenses	1.5 Times the Upper Number	D.C. Code § 22-3020
Armed Carjacking	Up to 40 Years	D.C. Code § 24-403.01(b-2)

[114] If this enhancement applies, expand the top of the box to the statutory maximum.

Table F-7: Offense Committed During Release Enhancement

OCDR – Felony Enhancement		
Requirement	**Enhancement**	**Statutory Provision**
Offense Committed During Release	M9 felony	D.C. Code § 23-1328(a)(1)

APPENDIX G – 2026 GUIDELINES UPDATES

Please note that the Guidelines Manual only contains a list of the most recent amendments to the Guidelines Manual. A complete list of amendments to the Guidelines Manual is available on the Commission's website, at www.sentencing.dc.gov.

2026 Amendments to the Guidelines Manual

The 2026 Guidelines were effective on January 1, 2026. The Manual contained minor substantive changes regarding the ranking of offenses. For more information, please refer to the Guidelines Alert, located at: https://scdc.dc.gov/node/1803721. However, the majority of changes were solely stylistic and non-substantive revisions. Important revisions are synopsized below.

Any changes to the Manual made after the publication of the 2027 Manual will be noted on the Commission's website at: https://scdc.dc.gov/page/latest-sentencing-guidelines. To stay up to date regarding any changes, please subscribe to the Commission's newsletter.

Chapter 1:

Section 1.1.6 – Translated Manuals

- This section was added to provide clarity regarding the translated manual.

Section 1.3.11 – Challenging the Information Contained in the Presentence Report

- This section was shifted from Chapter 3 and updated for clarity regarding challenging the Criminal History Score not in relation to out-of-District offenses.

Chapter 3:

Section 3.2.1(g) – Pardons and Commutations

- The section was updated to include commutations.

Section 3.7.1 – Scoring Prior Marijuana-Related Convictions

- The section was updated for clarity and to include the scoring of Manufacturing offenses.

Chapter 6:

Section 6.7 – Compliance

- The section was updated for clarity and to amend the language regarding Compliant Greater than or equal to sentences for accuracy.

Note: Some chapters and appendices from the 2023 Manual have been placed online.

- Chapter 8: Frequently Asked Questions
- Chapter 9: Hypotheticals
- Appendix C-I: Offense Listings Arranged in Order by D.C. Code Provision
- Appendix D: Ranking Chart (Most Common Offense)
- Appendix E: Guide to Split Sentences

These supplements can be found at: https://scdc.dc.gov/page/latest-sentencing-guidelines. Additionally, a chart highlighting where topics from the 2023 Manual are in the 2025 Manual, along with other resources, can be found at: https://scdc.dc.gov/page/guidelines-resource-page.

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