



District of Columbia Sentencing Commission  
441 Fourth Street, NW, Suite 430 South, Washington, D.C. 20001  
(202) 727-8822 – Fax (202) 727-7929

Hon. Milton C. Lee  
Chairperson

Linden Fry  
Executive Director

**\*\*SENTENCING GUIDELINES ALERT\*\***

**DATE:** February 8, 2023  
**EFFECTIVE DATE:** Immediate  
**RULES AFFECTED:** Chapter 6 (VSG § 6.1 – 6.3)

---

At the January 16, 2024, meeting, the Sentencing Commission discussed and unanimously voted to update the language and examples contained in Chapter 6 of the D.C. Voluntary Sentencing Guidelines. Chapter Six addresses the rules for imposing consecutive and concurrent sentences. This update does not contain any substantive rule changes. The changes and updates were made to clarify the Chapter based on feedback from practitioners. Additionally, the Chapter’s examples were expanded to cover a multitude of questions that the Commission regularly receives, including the interplay of multiple rules within the Chapter. Because this is not a substantive rule change, the change goes into effect immediately.

The PDF of the Manual has been updated at: <https://scdc.dc.gov/page/2023-voluntary-sentencing-guidelines-manual>. Please note that physical copies of the 2023 Guidelines Manual contain the prior version of Chapter 6, however, the next Guidelines Manual will contain the updated language.

As with any modification to the Guidelines, practitioner feedback is always welcome. Feel free to forward any questions or comments to the Commission at [scdc@dc.gov](mailto:scdc@dc.gov) or (202) 727-8822.

Sincerely,

Linden Fry  
Executive Director

## Chapter 6: CONSECUTIVE AND CONCURRENT SENTENCES

When the Court is sentencing 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 Court.

### 6.1 Consecutive Sentences

- a. Counts sentenced on the same day **must** be sentenced **consecutively** where they comprise:
  1. Multiple crimes of violence<sup>1</sup> involving multiple victims in a single event;<sup>2</sup>
  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 crime of violence per victim per event **must** be sentenced consecutively to other counts. For all remaining counts, see Section 6.3 (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<sup>3</sup> 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.

**Note:** For multiple counts solely involving a single victim and a single event, *see* Section 6.3.

---

<sup>1</sup> The term “crime of violence” refers to offenses listed in D.C. Code § 23-1331(4). *See* § 7.5.

<sup>2</sup> The term “event” is defined in § 7.11.

<sup>3</sup> 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.

### Example 20

The defendant held up a cab at gunpoint and robbed the driver and the passenger.<sup>4</sup> 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
<b>Count A:</b> Armed Robbery (Driver 1)	<b>Count C:</b> Armed Robbery (Driver 1)
<b>Count B:</b> Armed Robbery (Passenger 1)	<b>Count D:</b> Armed Robbery (Passenger 2)

Armed Robbery is a crime of violence, there are multiple victims (Driver 1, Passenger 1, and Passenger 2) and multiple events (Event 1 and Event 2). Because there is only one crime of violence 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 crimes of violence 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 5. Assuming the defendant has no prior record, all counts fall in Box 5A, which is a prison only 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 a minimum of 60 months and a maximum of 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 21

The defendant in Example 20 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 Robbery case.

<sup>4</sup> In this example the defendant was not charged under Title 16 or sentenced under the Youth Rehabilitation Act.

## 6.2 Concurrent Sentences

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

- a. Multiple counts for offenses in a single event not defined as “crimes of violence” pursuant to D.C. Code § 23-1331(4); or
- b. Counts for which a concurrent sentence is required by statute.

**Note:** For multiple counts for offenses not defined as “crimes of violence” in multiple events see Section 6.3 (remaining counts may be imposed either consecutively or concurrently).

### Example 22

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 crime of violence, 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 Court has discretion whether to sentence any counts from different events concurrently or consecutively. See Section 6.3.

### Example 23

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 and 2) Carrying a Pistol Without a License.

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

### 6.3 Judicial Discretion

The Court has the discretion to sentence any remaining count(s), including those not covered by Sections 6.1. and 6.2, to run either consecutively or concurrently.

**Note:** If the Court does not state on the Judgment and Commitment Order how a sentence shall run, it shall run consecutively.<sup>5</sup>

**Note:** The departure principles permit the Court to deviate from the rules in Sections 6.1 and 6.2 if adhering to them would result in manifest injustice. *See* Sections 5.2.2(1), 5.2.3(9), 5.2.4.

#### Example 23

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

Event 1	Event 2
<b>Count A:</b> Assault with a Dangerous Weapon (Victim 1)	<b>Count D:</b> Attempted Robbery (Victim 2)
<b>Count B:</b> UPF-PF (Victim 1)	<b>Count E:</b> Theft 1 (Victim 2)
<b>Count C:</b> Theft 1 (Victim 1)	<b>Count F:</b> 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 court has the discretion whether to sentence the remaining counts consecutively or concurrently.

#### Example 24

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 crimes of violence; however, they were committed against the same victim in a single event. Therefore, the Court has the discretion to impose consecutive or concurrent sentences for the Armed Robbery and ADW convictions. CPWL is a non-crime of violence, therefore the Court has discretion whether to run any of the counts in this case consecutive or concurrent to the CPWL conviction based on Section 6.3.

<sup>5</sup> D.C. Code § 23-112 (“A sentence...shall, *unless the court...expressly provides otherwise*, run consecutively...”) (emphasis added).