



District of Columbia Sentencing Commission

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MINUTES OF VIRTUAL COMMISSION MEETING

September 20, 2022

Via WebEx

Voting Members in Attendance:

Hon. Milton Lee	Renata Cooper
Hon. Marisa Demeo	Katerina Semyonova
Hon. Juliet McKenna	Molly Gill
Dave Rosenthal	

Non-Voting Members in Attendance:

Steve Husk	Cristina Hillyer for Sonya Thompson
Leslie Parsons	Kevin Whitfield for Charles Allen
Eric Glover	

Staff in Attendance:

Linden Fry	Basil Evans	Maeghan Buckley	Emily Blume
Mia Hebb	Brittany Bunch		

Chairman Monthly Meeting Introduction – Action Item, Judge Lee, Chairman

Judge Lee called the September monthly meeting to order at 5:05 p.m. A roll call was completed. Judge Lee acknowledged that a few members were running late, therefore a quorum could not be established.. The meeting proceeded with non-voting discussions. Judge Demeo and Judge McKenna joined the meeting shortly after it began.

Director's Report - Information Item, Linden Fry, Executive Director

Linden Fry greeted the Commission members and staff. He proceeded to give a brief overview of the Commission's projects since the last Commission meeting.

The first matter discussed was an update on the onboarding process for two new staff positions to assist with the potential passage of the proposed Revised Criminal Code Act of 2021 (RCCA). With the assistance of Councilmember Charles Allen and Kevin Whitfield, the Commission was able to secure funding for an Attorney Advisor as well as a Policy Analyst. Mr. Fry is working with District of Columbia Human Resources (DCHR) to finalize the positions so that they can be advertised.

- The Attorney Advisor will lead the RCCA project for the Commission.
The Policy Analyst advertisement will seek an individual with either a Juris Doctorate (J.D.) and/or relevant background experience in research and/or policy creation.

Once finalized, Mr. Fry and Chairman Lee encouraged Commission members to circulate the position announcement to individuals who have the appropriate qualifications. Mr. Fry will keep members abreast of updates for these positions.

--- These minutes were amended by unanimous vote during the Commission's November 15, 2022 meeting. ---

Next, a status update was given regarding the Superior Court's case management system upgrade from CourtView to Odyssey. The upgrade remains delayed without an updated implementation date. The delay impacts the Commission's contract with its vendor. The Commission staff was able to work with its vendor to complete as many deliverables as possible during fiscal year 2022 (ending September 30, 2022). The vendor will continue to work on the project in fiscal year 2023. Staff members continue to work with the Court, partners, and vendors to ensure that the Commission will continue to receive the required data. My Fry acknowledged the efforts of the staff, the Commission's vendor, Mindcubed, and the Court.

Mr. Fry informed the Commission that the majority of Commission staff recently attended the annual National Association of Sentencing Commission's Conference in Portland, Oregon. The conference was hosted by the Oregon Sentencing Commission and included updates on the recent activities of various Sentencing Commissions from across the country, different ways to utilize and present sentencing and criminal justice data to the public, and how different Commissions are addressing common issues. Mr. Fry highlighted that the Pennsylvania Sentencing Commission presented on their recent efforts to evaluate their sentencing guidelines. Staff members also noticed that some sentencing commissions are broadening their membership to include representation from victims as well as individuals who are or were justice-involved. Mr. Fry noted that not all Commission's across the country were as fortunate as the D.C. Commission to have adequate funding, access to criminal justice data, as well as a strong relationship with the judiciary.

Lastly, Mr. Fry discussed the Commission's recent and upcoming publications. Earlier this month, the Commission released a new Issue Paper focused on Compliant Departures which provides a comprehensive analysis of the type of cases and/or defendants that received a compliant departure from the Guidelines above the recommended sentencing range (associated with aggravating factors) or below the recommended sentencing range (associated with mitigating factors). It was also announced that the Commission will be releasing a new Issue Paper focused on analyzing the impact of the 2021 Guideline Manual changes on felony sentencing in the District. These changes included the addition of a new mitigating factor (M11) as well as a modified definition of a Short-Split. These Guideline updates address the impact of COVID-19 on the criminal justice system. The Director's report concluded with a discussion of the reemergence of the Commission's "Fast Facts" publications. The Commission staff is working to ensure that the upcoming Fast Fact one sheeters are focused on felony sentencing information the community is interested in.

Commission Trainings, Office Hours, and Videos, Linden Fry and Maeghan Buckley, Attorney Advisor.

Maeghan Buckley gave a brief overview of the Commission's summer community and criminal justice partner engagement and training activities. Ms. Buckley highlighted the Commission's focus on increasing comprehension of the Guidelines through:

- Hosting presentations and trainings for community groups and Guidelines users;
- Forging partnerships with local colleges to host presentations focused on the District's felony sentencing system and the Guidelines;
- Prerecording trainings discussing the recent changes in the 2022 Voluntary Sentencing Guidelines Manual;
- New monthly "Commission Office Hours" for:
 - Court Services and Offender Supervision's (CSOSA) Diagnostic Team (Wednesday, September 28th at 11 AM)
 - Practicing D.C. Attorney's (Wednesday, September 28th at 1 PM)
 - D.C. Superior Court Judges (Friday, September 30th at 1 PM)
 - D.C. Superior Court Law Clerks (Friday, October 14th at 11 AM)

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During these “Commission Office Hours”, attendees will have the opportunity to ask questions “face to face” in a relaxed virtual setting. Starting in the month of October these events will be held every second Wednesday (CSOSA staff and Practitioners) and Friday (Law Clerks and Judges) of the month.

The Commission will also host two training sessions for D.C. Superior Court Law Clerks over a two-week period. Mr. Fry extended the invitation to host trainings for agencies such as the United States Attorney’s Office of the District of Columbia (USAO DC), Office of the Attorney General of the District of Columbia (OAG), the Metropolitan Police Department (MPD), and other groups. Both Judge Lee and Mr. Fry commended the staff for their hard work.

Issue Paper: Compliant Departures – Information Item, Emily Blume, Research Analyst

Emily Blume presented the Commission’s newest Issue Paper focused on Compliant Departures in the District. The paper analyzes judicial utilization of aggravating or mitigating sentencing factor from 2013 to 2021. However, due to the small sample size, conclusions were limited.

- Between 2013 and 2021, there were 12,985 felony cases sentenced in Superior Court(2% represent compliant departures), 17,208 counts were sentenced (2% represent compliant departures), and 11,330 individuals were sentenced (3% represent compliant departures).
- Compliant departures were most common among young black males.
- Aggravating factors represented 12% of compliant departures.
- Mitigating factors represented 88% of compliant departures.
- The “catchall” departure factors (M10 and A11) represented the greatest percentage of each departure type.
- Most compliant departure offenses were in the Violent offense category.
- Most compliant departure sentences were the result of a plea agreements. However, compared to the overall statistics, a greater percentage of cases that received compliant departures were disposed via a jury trial.

Judge Lee asked if it would be possible to analyze why or when judges utilize the “catchall” departures (M11 or A10). Mr. Fry noted that the Commission has very little data on this because the comment response field is optional. However, the Commission staff will explore the response data available and determine if there are better ways to collect this information from the Court.

First Steps in Preparing for the Revised Criminal Code Act of 2021 – Discussion Item, Judge Lee

With the RCCA heading towards a Council vote, Mr. Fry and Judge Lee opened the discussion of the next steps the Commission should take in preparing for a potential new criminal code by asking the members their thoughts on what the first steps should be. Aside from the new staff members and creating a committee dedicated to evaluating the Guidelines and the scope of changes that the passage will require, additional suggestions from members were encouraged. Commission members were asked to give some thought to assignments the new staff members should work on.

Review and approval of the minutes from June 20, 2022, Commission meeting – Action Item, Judge Lee, Chairman.

The Commission was sent the draft June meeting minutes for final review prior to the September meeting. Before a vote was made Katerina Semyonova, of the Public Defenders Service of the District of Columbia, questioned the language used when describing one of the 2022 Guidelines changes on the second page of the minutes. Judge Lee asked that if she would like the language changed, she should propose new language prior to the next Commission meeting. A voting quorum was established, and the Commission voted by

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roll call to approve the minutes (six votes in favor and one vote in favor pending a possible revision request submitted before the next Commission meeting).

Before the meeting adjourned Mr. Fry announced that all Commission Members would each receive a copy of the American Law Institutes' (ALI) new book "Model Penal Code: Sentencing."

Meeting Adjourned 6:10 pm.

NEXT MEETING:
October 18, 2022
Via WebEx