

--These minutes were amended by vote during the Commission’s March 19, 2024, meeting--



## District of Columbia Sentencing Commission

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February 20, 2024  
Via WebEx

### **Voting Members in Attendance:**

Hon. Milton Lee  
Fred Cooke  
Nazgol Ghandnoosh  
Dave Rosenthal

Hon. Rainey Brandt  
Renata Cooper  
Cedric Hendricks  
Katerina Semyonova

Joel Castón  
Hon. Marisa Demeo  
William Martin

### **Non-Voting Members in Attendance:**

Cristina Hillyer *for Sonya Thompson*  
Carlos Heraud

Stephen Husk  
Erika McJimpsey

Eloy Rodriguez La Brada *for  
Councilmember Brooke  
Pinto*

### **Staff in Attendance:**

Linden Fry  
Maeghan Buckley  
Brittany Bunch

Basil Evans  
Taylor Tarnalicki  
Mia Hebb

Keelin Herbst  
Nicholas McGuire  
Emily Blume

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

Judge Lee called the February monthly meeting to order at 5:00 p.m. A roll call was completed, and a quorum was established. Judge Lee introduced the newest member of the Commission, Mr. Castón, who gave brief remarks conveying his excitement and gratitude to be part of the Commission.

### **1. Review and Approval of the Minutes from the January 16, 2024, Commission Meeting - Action Item, Judge Lee, Chairman**

The Commission reviewed the draft minutes from the January 2024 meeting. Ms. Semyonova asked that the Commission consider using the term “resident” rather than “inmate” when referring to individuals housed in the D.C. Department of Corrections. A roll call vote was taken, resulting in approval of the minutes (ten votes in favor, zero opposed, one abstention). All those voting for the approval of the minutes supported Ms. Semyonova’s proposed amendment of the language. Mr. Castón suggested that the term “incarcerated person” could be used as an alternative as well.

### **2. Director’s Report - Information Item, Linden Fry, Executive Director**

#### *a. Guidelines Alerts*

The Guidelines Alert addressing the Commission’s modifications to Chapter 6 of the Voluntary Sentencing Guidelines was published and distributed earlier in the day (February 20,

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2024). The Commission's September 2023 Guidelines alert was updated so that it referenced the correct D.C. Code offense citations.

*b. Council Breakfast Presentation (January 23, 2024)*

The Commission was invited to the January 23, 2024, Council Breakfast meeting. During the meeting, Judge Lee and Mr. Fry provided an overview of the Guidelines and agency operations to Council members and discussed the agency's role, priorities, capabilities, and needs. The presentation quickly turned into a robust discussion on the Guidelines themselves. Judge Lee's and Mr. Fry indicated that the presentation significantly enhanced the Council's understanding of the Commission's functions.

*c. Agency Performance Hearing (January 24, 2024)*

Chaired by Councilmember Brooke Pinto, the Judiciary and Public Safety Committee held the Commission's annual Performance Oversight Hearing. Judge Lee and Mr. Fry represented the agency at the hearing. The hearing allowed the Commission to showcase the quality of the agency's work and its future plans. The focus was on agency operations and Guidelines, and also featured questions about the ranking of weapon offenses.

*d. Obtaining Access to Presentence Report Criminal History Data*

A recurrent theme in recent meetings has been the Commission's need for access to criminal history data in presentence reports. There was substantial support from several council members to assist in securing this information so that Commission staff can analyze criminal history calculations. Director Fry emphasized that securing such access is one of his priorities.

*e. D.C. DOC Data Sharing*

Efforts are underway, with assistance from Ms. McJimpsey, to facilitate data sharing with the D.C. Department of Corrections (DOC). This partnership aims to enhance our data-driven approach despite current limitations in data access. Currently, the Commission does not get direct data from DOC.

*f. Providing CJCC with JSAT Sentencing Data*

Commission staff are continuing to work with the Criminal Justice Coordinating Council (CJCC) to provide them with JSAT sentencing data, a critical component for fulfilling CJCC's statutory mandates. The Commission is in the process of amending its Memorandum of Understanding (MOU) with CJCC to ensure that identifiable data is protected and not shared

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outside of CJCC. The Commission will not share identifiable data with CJCC until the revised MOU is in place.

*g. Tentative Schedule for the 2024 Guidelines Manual*

Preparations for the 2024 Guidelines Manual are on schedule, with a new planned effective date of January 1, 2025. This timeline involves milestones, including the introduction of hypothetical examples in September, a presentation and discussion on proposed changes in October, and final printing in December.

**3. Elements of the Secure D.C. Omnibus Crime Bill that May Require Commission Action – Information and Discussion Item, Judge Lee, Maeghan Buckley, Attorney Advisor, and Keelin Herbst, Policy Advisor.**

Ms. Buckley and Ms. Herbst presented on the relevant aspects of the Secure DC Omnibus Amendment Act of 2024, including the introduction of new or amended criminal offenses, adjustments in penalties, implementation of mandatory minimums, and new sentencing enhancements. A memo sent to Commission member prior to the meeting emphasized the need for the Commission to review these changes thoroughly and integrate them into the D.C. Voluntary Guidelines rules.

The presentation also provided an overview of the legislative process, noting that if the Council passes the bill, the legislation will proceed to the Mayor's office for signing, vetoing, or no action. In the event of a veto, a two-thirds majority vote from the Council would be necessary to override it. Moreover, as a criminal bill, parts of Secure DC will undergo a sixty-day review period by Congress. The Commission staff is tasked with monitoring these developments closely to ensure the Guidelines remain up to date.

Judge Lee noted that the Commission should be thinking about working on making decisions regarding this legislation during the Spring. Director Fry said there is time tentatively scheduled in May or June for the Commission to discuss possible changes to the Guidelines. However, the Guidelines Implementation Committee will need to start discussing the changes before then.

**4. Issue Paper Presentation – Variance in Criminal History Scores and Sentencing Decisions – Information Item, Emily Blume, Data Analyst.**

Ms. Blume's presentation on the Issue Paper delved into the variation of sentences imposed by Superior Court judges in the District of Columbia, focusing on the relationship between defendants' total Criminal History (CH) scores and their sentencing outcomes for non-drug adult felony offenses between 2013 and 2022. The analysis provided a comprehensive overview of sentencing data, including average and median CH scores across different CH columns on the Guidelines Grids, a breakdown of sentence types by CH score, and how sentences vary within each offense severity group (OSG) across CH columns. The paper highlighted a general correlation between higher CH columns and more severe sentences, with defendants in CH columns D and E receiving a higher proportion of prison sentences and the most severe sentences across OSGs.

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The presentation further emphasized the complexity of sentencing patterns, showing that while there is a clear correlation between CH score severity and sentence severity, the relationship is not perfectly linear within individual Grid boxes. This indicates a nuanced approach to sentencing, where average sentences fluctuate dynamically within CH columns, suggesting that other factors may also influence sentencing decisions beyond the CH score alone.

Judge Brandt asked if this analysis included Rule 11(c)(1)(c) pleas, and Ms. Blume confirmed that it does. Judge Lee asked about why the trend does not follow for sentences in Master Grid rows M1, M2, and M9, and if that was the product of 11(c)(1)(C) sentences. A discussion about the trend limitations followed. Director Fry suggested that the 30-Year minimum may help explain the M1 deviation. Ms. Tarnalicki mentioned that the sample sizes for the two categories are very different, i.e., fewer M1 offenses lead to greater fluctuation in the trends. During the Commission's next meeting, the Commission staff will revisit this topic and provide more details on the sentences following a Rule 11(c)(1)(C) plea bargain.

#### **5. Sarah Comeau (Senior Counsel, OAG)**

Dave Rosenthal introduced Sarah Comeau who is working at OAG. She is the Senior Counsel to the Attorney General and is sitting in as part of a rotation of OAG representatives who will be attending meetings to prepare for Mr. Rosenthal's retirement.

#### **6. Next Scheduled Meeting – March 19, 2024.**

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Meeting adjourned at 6:05 p.m.

NEXT MEETING:  
March 19, 2024  
Via WebEx

To view the video recording of the full discussion, visit <https://sdc.dc.gov/page/commission-meetings>.