The District of Columbia Sentencing Commission

Voluntary Sentencing Guidelines Manual
August 15, 2022

District of Columbia
Sentencing Commission

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Dear Voluntary Sentencing Guidelines Manual Users,

As Executive Director of the District of Columbia Sentencing Commission, on behalf of the Commission, I am pleased to provide the 2022 edition of the Voluntary Sentencing Guidelines Manual for the District of Columbia, which replaces the 2021 Manual. The 2022 Voluntary Sentencing Guidelines Manual goes into effect on August 15, 2022, and should be used for **all pleas or verdicts entered on or after that date, unless otherwise noted in the Manual**.

The biggest change to the 2022 Manual is Section 2.2.5, Scoring out-of-District Convictions/Adjudications. This section was updated and reorganized to better clarify the steps necessary to score out-of-District offenses. To improve fairness and useability, the Commission also made some very minor substantive changes to the rule regarding the use of criminal records to determine the scoring of attempt and drug offense convictions. Additional non-substantive changes to the 2022 Manual include minor formatting and grammatical corrections, the use of gender-neutral language, and updates to the dates in Chapter 9. Non-substantive clarifying changes were made based upon practitioner feedback and to ensure consistency.

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. 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.

The Commission's regularly updated website contains an electronic version of the 2022 Voluntary Sentencing Guidelines Manual along with a wealth of information regarding the Guidelines, sentencing in the District, D.C. Superior Court sentencing data, and other Commission activities. It is available at:
http://www.sentencing.dc.gov.

Sincerely,

Linden Fry
Executive Director

SENTENCING GUIDELINES AT A GLANCE

1. To determine the 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 (Appendix C-I). The third column of each chart provides the Offense Severity Group for that offense. Additionally, the Offense Ranking Chart (Appendix D), groups offenses by severity level. *See* § 2.1.

2. Calculate the defendant's criminal history score using the rules in § 2.2.

3. Using the Drug Grid (Appendix B) for felony drug offenses and the Master 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 options for this conviction.

4. Every box contains a prison sentence range. White boxes indicate that a prison or compliant long split sentence are the only Guidelines compliant options. Dark gray boxes indicate that either prison or a short split sentence (ESS all but six months or less, but not all of it) may be imposed. Light gray boxes indicate that prison, a short split sentence or straight probation (ESS all) may be imposed.
   a. If the judge wants to impose a sentence of probation (light gray boxes only), the judge should impose a term of incarceration in the appropriate range and the period of supervised release for that offense, suspend execution of all of it (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* § 3.3.
   b. If the judge wants to impose a short split sentence (the light gray or dark gray boxes), the judge should impose a term of incarceration in the appropriate range plus the period of supervised release for that offense, suspend execution of all but six months or less of the prison term, but not all of it (ESS all but . . .), suspend execution of the period of supervised release, and impose any amount of probation up to the five-year maximum with the same terms and conditions that are currently available. *See* § 3.4 and Appendix E.
   c. If the judge wants to impose a prison sentence (all boxes), the prison sentence must be within the range set forth in the box, unless one of the departure principles applies. For example, in Box 2B of the Drug Grid, a prison sentence should be no lower than 16 months nor higher than 36 months. *See* §§ 3.5, 7.7.
   d. If the judge wants to impose a compliant long split sentence (all boxes), the judge should impose a term of incarceration in the appropriate range plus the period of supervised release for that offense, suspend execution of part of the sentence, such that the time initially served (not suspended) is more than six months, but ensure the amount of time to be initially served is equal to or greater than the bottom of the sentencing range, suspend execution of the period of supervised release, and impose any amount of probation up to the five-year maximum. *See* § 3.5 and Appendix E.

5. Several factors may alter the options or take the conviction out of the box entirely:
   a. A sentence cannot be lower than the mandatory minimum. *See* § 3.6.
   b. Aggravating and mitigating circumstances may be used in unusual cases if the court determines there is a substantial and compelling reason to depart from the grid range. *See* § 5.2.
   c. If enhancement papers have been filed and/or statutory enhancements proven, the higher number in the prison range is raised by the statutory multiplier or amount. *See* Chapter 4.
   d. Rule 11(c)(1)(C) pleas control the sentence regardless of the otherwise applicable Guidelines range. *See* § 5.1.

6. If there are multiple convictions sentenced on one day:
   a. Calculate the sentence for each conviction; and
   b. Apply the concurrent/consecutive rules. *See* Chapter 6.

RECOMMENDED CITATION FORM

Full Citation Form:

District of Columbia Sentencing Commission, Voluntary Sentencing Guidelines Manual.

Abbreviated Citation Form:

DCVSG § 2.2.6 ¶5.a.

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Chapter 1. OVERVIEW

1.1 Statement of Purpose and Principles

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

Following the lead of other jurisdictions and an earlier effort in the District, the Commission developed two Grids to be used for sentencing in felony cases. The Drug Grid is used for sentencing in all felony drug cases and the Master Grid is used for all other felony cases. 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). At the intersection of these two factors on the Grids is a box containing the sentencing options and prison ranges for that particular combination of the crime of conviction and criminal history of the defendant. In general, as the seriousness of the offense and the criminal history of the offender increase, the length of the prison sentence increases as the alternatives to incarceration decreases.

The options and ranges in each box are based on historical data from the Superior Court for the eight years preceding the promulgation of the Voluntary Sentencing Guidelines for the District of Columbia ("the Guidelines"), with some adjustment for consistency and symmetry. *See* www.sentencing.dc.gov to access the Commission's historical data. In developing the Grids, the Commission attempted to move sentences toward the historical center, without shifting that center either up or down.

The Commission also established standards for departing from the recommended prison ranges 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.

Although the Guidelines are voluntary, there has been a high degree of compliance since the Guidelines were implemented in June 2004. *See* 7.3. Nevertheless, judges are free to impose any lawful sentence they choose. Sentences under the Guidelines, just like sentences before the Guidelines, are **not** appealable except when they are unlawful.[1] Judges are expected to acknowledge that they have followed the Guidelines, to provide the principle(s) upon which they relied for departure sentences that are "outside the box," or to 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 reasons for departure.[2]

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[1] "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 court misapplied the Guidelines. *Speaks v. United States*, 959 A.2d 712, 717-20 (D.C. 2008); *White v. United States*, 958 A.2d 259, 265-66 (D.C. 2008).

[2] Throughout the Manual, we use words such as "must" and "are required to." These should be read to mean that if a judge wants to impose a Guidelines compliant sentence, they "must" or "is required to," etc. However, judges are not legally obligated to follow the Guidelines in any case.

The Guidelines are intended to facilitate uniform application of this statutory mandate:

a. §24-403.01(a) of the Code of the District of Columbia provides that for any felony committed on or after August 5, 2000, the court shall impose a sentence that:

    1. Reflects the seriousness of the offense and the criminal history of the defendant;
    2. Provides for just punishment and affords adequate deterrence to potential criminal conduct of the defendant and others; and
    3. Provides the defendant with needed educational or vocational training, medical care, and other correctional treatment.

For further information on the development of the Guidelines, refer to the Commission's 2003 Report, which can be found at http://scdc.dc.gov.

1.2 Key Features of the Sentencing Guidelines

The key features of the Sentencing Guidelines are:

1.2.1 Voluntary Guidelines

The Guidelines are voluntary. This means that judges are not required to follow them. It also means that a lawful sentence cannot be appealed whether or not the judge complies with the Guidelines, or the procedures recommended in these instructions.[3]

1.2.2 Two Grids: The Master Grid and the Drug Grid

Each Grid contains groups of offenses, ranked by level of severity, along the vertical axis, Master Groups 1-9 on the Master Grid and Drug Groups 1-4 on the Drug Grid. Each Grid contains five groups of criminal history scores, along the horizontal axis, listed as Columns A-E. *See* § 7.5, Appendices A and B.

1.2.3 Ranking of Offenses

The Commission ranks all felonies in the D.C. Code in groups by level of severity. There are nine Master Groups of offenses on the Master Grid (ranging from First Degree Murder While Armed in Master Group 1 to Receiving Stolen Property in Master Group 9) and four Drug Groups on the Drug Grid (from Distribution While Armed in Drug Group 1 to Attempted Distribution of Marijuana in Drug Group 4). *See* Appendices C, C-I, and D.

The Offense Severity Group is based on the offense of conviction, *see* § 7.22, not on the underlying conduct. There is no discretion to decide in which group to place the offense of conviction. The Commission has attempted to assign every felony in the D.C. Code to an Offense Severity Group.

[3] *See* footnote 1.

If you encounter a D.C. Code felony that has not been assigned to an Offense Severity Group, please inform the Commission and it will rank the offense appropriately.

1.2.4 *Criminal History Scores*

There are a series of rules for computing a criminal history score that depend primarily on (1) the number and severity of prior convictions and 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* Chapter 2.

1.2.5 *Sentencing Options*

All boxes have a **prison or compliant long split** option. The numbers within the box indicate the range within which the initial prison sentence must fall, unless a departure principle applies. *See* Chapter 5 and Section 7.7.

Some boxes (white or unshaded) permit only a prison or compliant long split sentence, unless a departure principle applies. *See* Chapter 5.

Some boxes (dark gray) permit a **short split** sentence. To impose a short split, the court must impose a prison sentence that falls within the prison range in that box, suspend execution of all but six months or less of that sentence -- but not all of it -- and impose up to five years of probation. A straight prison sentence is also permissible in these boxes. *See* § 3.4.

Some boxes (light gray) permit a **probation** sentence. To impose probation, the court must impose a prison sentence that falls within the prison range in that box, suspend execution of all of it (ESS all) and impose up to five years of probation. A short split, described in the previous paragraph, or a straight prison sentence are also permissible in these boxes. *See* § 3.3.

1.2.6 *Statutory Enhancements*

The system 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* Chapter 4 and Appendix H.

1.2.7 *Departure Principles*

There are non-exclusive lists of aggravating and mitigating factors that permit the court to sentence outside of the box. If the court finds one of the enumerated factors or another substantial and compelling reason, comparable in gravity to the enumerated factors, the court is not bound by the Grid options and ranges. There are no limitations on the sentence the court can impose if it finds a substantial and compelling reason to depart.[4] Any legal sentence may be imposed. *See* Chapter 5.

[4] The only exceptions to this rule are Aggravating Factor #10 and Mitigating Factor #9, 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. The limitations are explained in Chapter 5.

1.2.8 Rules for Consecutive and Concurrent Sentences

There are rules for imposing consecutive or concurrent sentences in some cases. Judicial discretion applies in other cases. *See* Chapter 6. *See also* § 5.2.4.

1.2.9 Exceptions

a. Rule 11(c)(1)(C) pleas control the sentence or sentencing range regardless of the otherwise applicable Grid options, prison range, or Guidelines rules. See § 5.1.
b. The Guidelines do not change statutory or mandatory minimums and the court has no discretion to sentence below the mandatory minimum. *See* § 3.6.

1.3 Applicability

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

1.4 Use of Sentencing Guidelines Manual in Effect on the Date of Plea or Verdict

The sentencing court shall use the Sentencing 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.

1.5 The Commission's Role in Monitoring and Refining the Guidelines

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 this Manual to clarify the Guidelines or to create new policy rules where necessary. *See* the Commission's website for a list of all historical substantive amendments to the Guidelines.

1.6 Assistance Using or Applying the Guidelines

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

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.

Chapter 2: FINDING THE RIGHT BOX

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

a. Determining the Offense Severity Group for the offense of conviction; and then
b. Calculating the Criminal History score for the offender.

The place where these two factors intersect on the Master Grid or the Drug Grid, is the box that contains the Guidelines 'in the box' compliant sentencing options for that combination of offense and defendant. This must be done individually for each offense being sentenced (regardless of whether it is consecutive or concurrent to another compliant offense). Each of the elements is discussed in further detail in this Chapter. The following chapters will then discuss the options within a box, adjusting the box, sentencing outside of the box, and consider application of the Guidelines to cases with multiple counts.

2.1 Determining the Offense Severity Group (OSG)

2.1.1 *Offense(s) of Conviction*

The offense(s) of conviction will be determined by the plea agreement or the verdict. Once the offense(s) of conviction is/are set, the parties and the court need only refer to Appendix C, C-I, or D to determine offense severity. Appendix C lists all the ranked felonies that may be prosecuted in the District of Columbia in alphabetical order by common name. Appendix C-I lists all ranked felonies by D.C. Code citation. Column 3 of both charts provides the Offense Severity Group for each offense. Appendix D contains a table of the most common felonies that are prosecuted in the District of Columbia, arranged by Offense Severity Group.

The Offense Severity Group determines into which row on the Master Grid or Drug Grid a conviction falls for sentencing purposes.

Examples

1. Aggravated Assault (page 2 of Appendix C) is in Offense Severity Group 6 on the Master Grid (M6).

2. Distribution of Cocaine (page 9 of Appendix C) is in Offense Severity Group 2 on the Drug Grid (D2).

Over the course of time, the Commission may move offenses into different groups to accommodate these differences. In the meantime, judges and practitioners should not, except in circumstances that are controlled by a departure principle (*see* Chapter 5), use a group different from the one in which the offense of conviction falls. If a judge or practitioner finds that an offense or a common method of committing an offense should be ranked differently, it would be most helpful if they would pass that observation on to the Commission.

Note: The offense of conviction, not the real offense conduct, controls the Offense Severity Group, although real offense conduct can be considered in determining where a person should be sentenced within the prison range and in assessing whether a departure should apply. For example, if the defendant committed an armed Robbery with a knife but was found guilty of or pled guilty to unarmed Robbery, he would be in Master Group 6 and not in Master Group 5. Nevertheless, the judge could take the knife into account in considering where in Master Group 6 to sentence the defendant.

2.1.2 Offense Severity Groups and the Grids

The Offense Severity Groups on the Master Grid are arranged in order from the most serious offenses in Master Group 1 (e.g., First Degree Murder) to the least serious offenses in Master Group 9 (e.g., Receiving Stolen Property) and on the Drug Grid from Drug Group 1 (Distribution/PWID of a Controlled Substance While Armed) to Drug Group 4 (e.g., Felony Attempted Distribution/PWID of Marijuana).

2.1.3 Offense Severity for Accessory After the Fact Offenses

For a conviction of Accessory After the Fact, use the box applicable to the underlying offense and multiply the top and bottom numbers by ½. To determine whether the defendant is eligible for probation or a short split sentence, go to the Offense Severity Group immediately below that for the underlying offense and then to the appropriate column given the defendant's criminal history.

Example

A defendant with no criminal history who is convicted of Accessory After the Fact to a Robbery faces a prison range of 9 to 30 months (one-half of 18 to 60 months, the Guidelines range in Box 6A for Robbery). For the purposes of determining their eligibility for probation or a short split sentence, the same defendant will be placed in Box 7A (one box below Box 6A for Robbery). This is a light shaded box and, therefore, probation or a short split sentence is permissible for this defendant.

2.2 Calculating Criminal History (CH) Score

A defendant's criminal history determines into which column a conviction falls for sentencing purposes. There are five columns along the horizontal axis, starting with zero to one-half (0 - ½) criminal history points through six-plus (6+) criminal history points.

Scoring a defendant's criminal history depends on the following factors:

a. prior convictions/adjudications, *see* § 2.2.1;
b. whether the prior conviction/adjudication was a felony or misdemeanor, *see* §§ 2.2.2, 2.2.3, 2.2.4;
c. the Offense Severity Group of the prior felony convictions or adjudications, *see* § 2.2.2;[5]
d. the number of events encompassed in a single case, *see* § 2.2;

e. whether the prior offense was a criminal conviction or a juvenile adjudication, *see* §§ 2.2.2, 2.2.3, 2.2.4;
f. the date on which a sentence was completed relative to the commission of the crime in the instant case, *see* §§ 2.2.2, 2.2.3, 7.2.

Multiple Offenses from a Single Event

Only the most serious conviction arising out of a single event is scored for a defendant's criminal history. *See* § 7.10. This means, for example, that Robbery and CPWL convictions arising out of the Armed Robbery of one victim in a single event, *see* § 8.1, would be scored at two points, since only the more serious offense, the Robbery (Master Group 6), would be counted and not the less serious offense, CPWL (Master Group 8). However, a Robbery and a CPWL arising out of multiple events - even if they are both charged in a single case - would be scored at three points, two for the Robbery and one for the CPWL.

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 "Guideline's 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.

Note: The determination of whether offenses are related to the same event is a factual determination ultimately made by the Sentencing Judge. The Sentencing Commission does not opine on factual determinations. *See* 8.1 for additional information.

[5] Out-of-District convictions must be matched to D.C. Code offenses to determine their Offense Severity Group. *See* § 2.2.5.

[6] This includes convictions/adjudications where the unlawful conduct occurred after the instant offense but where a judgment was entered before the day of sentencing in this instant case. *See* § 2.2.3.

[7] E.g., probation before judgment (PBJ) or a deferred sentencing agreement (DSA).

2.2.1 What is a Prior Conviction or Adjudication?

A prior conviction or 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.[6]

Sentences or dispositions that are entered on the same day as the sentencing in the case at issue or that arise out of the same event are not **prior** convictions/adjudications. Therefore, they are not counted in computing the prior criminal history score or for purposes of reviving other convictions. *See* Section 7.10 for definition of "event."

Cases that are dismissed before a judgment of guilt or a sentence is imposed are not scored.[7] This includes cases that are disposed of by diversion, deferred sentencing, probation before judgment, post-and-forfeit, the stet docket, or juvenile consent decrees. If the defendant (or juvenile) is not successful in one of these programs and the case proceeds to sentencing, 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 conviction and is not scored.

A sentence based solely on the revocation of a defendant's supervision (e.g., 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 2.2.2.

2.2.2 Scoring Prior Convictions/Adjudications

The first step toward scoring a defendant's criminal history is identifying all prior criminal convictions and juvenile adjudications. Convictions and adjudications are scored based upon their type and age. The criminal history score for convictions and adjudications is based upon the Offense Severity Group for that offense (*e.g.*, a prior conviction for ADW is in Master Group 6, just as it is when the instant offense is ADW). Column 3 of Appendices C and C-I provides the Offense Severity Group for all felonies prosecuted under the D.C. Code. *See* Section 2.2.6 if the statute in question is not ranked or has been amended since the offense was committed.

Prior District of Columbia convictions and adjudications should be scored as indicated in the table on page 9.

Prior Out-of-District convictions and adjudications should be matched to a current D.C. Code offense according to the rules set forth in Section 2.2.5 and then scored as the most closely matching District offense using the table on page 9.

PRIOR CONVICTIONS AND ADJUDICATIONS OTHER THAN ACCESSORY			
	NOT LAPSED		LAPSED AND REVIVED
	Adult Conviction	Juvenile Adjudication	Adult Felony Conviction
Master Groups 1 – 5	3	1 ½	3
Master Groups 6 – 7 Drug Group 1	2	1	1
Master Groups 8 – 9 Drug Groups 2 – 3	1	½	½
Drug Group 4	¾	½	¼
Misdemeanors (90+ days)	¼	0	N/A
PRIOR ACCESSORY AFTER THE FACT CONVICTIONS AND ADJUDICATIONS			
	NOT LAPSED		LAPSED AND REVIVED
	Adult Conviction	Juvenile Adjudication	Adult Felony Conviction
Master Groups 1 – 3	3	1 ½	3
Master Groups 4 – 5	2	1	1
Master Groups 6 – 9 Drug Groups 1 – 3	1	½	½
Drug Group 4	¾	½	¼
Misdemeanors (90+ days)	¼	0	N/A

Notes:

1. *See* Section 2.2.12 for scoring Contempt convictions.
2. A lapsed conviction counts only if it was a felony and only if revived. Lapsed misdemeanor convictions and juvenile adjudications cannot be revived and therefore do not count. *See* Section 2.2.3 for rules on lapsing of convictions and reviving of felonies. *See* Section 2.2.4 for rules on lapsing of juvenile adjudications.
3. A prior misdemeanor conviction is scored according to the maximum penalty for the offense: ¼ point if 90 days or more.[8] Offenses with a maximum penalty of less than 90 days are not scored.
4. Prior misdemeanor convictions are capped at 1 point. That is, only four misdemeanor convictions will count towards the criminal history score.
5. Juvenile adjudications are capped at 1 ½ points, unless there is more than one adjudication for an offense that counts as 1 ½ points. In that event, each such adjudication is counted, and all other adjudications are not counted.
6. While a conviction or adjudication may not count in the criminal history score because it has lapsed or because a cap has been reached, a court may still consider unscored convictions and adjudications in choosing the appropriate sentence in the applicable Guidelines box.

[8] An offense with a maximum penalty of three months is greater than or equal to 90 days and, thus, is scored.

2.2.3 Which Prior Adult Convictions Count?

A prior 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.[9] In other words, if the amount of time between the completion of the sentence[10] for the prior conviction and the **commission** of the instant offense is 10 years or less, then the prior conviction counts for scoring purposes. For example, if the instant offense was **committed** on February 9, 2022, then a prior conviction for which parole was completed on February 10, 2012 (within the 10-year window) would count in an individual's criminal history score.

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 10 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 8, 2009 (beyond the 10-year window) would lapse and would not count for criminal history scoring purposes.

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 the table in Section 2.2.2 for scoring of revived felony convictions. A conviction that is not scored because of the Section 2.2.10 rules, however, cannot be used to revive another felony conviction.

Lapsed misdemeanor convictions cannot be revived and are never scored.

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 felony convictions are scored. If, however, 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.

For purposes of reviving other felony convictions and for purposes of being revived, an out-of-District conviction is deemed a felony if, using the rules in Section 2.2.5, the offense is comparable to a D.C. felony.

As stated above, a prior conviction or adjudication is any conviction or adjudication for conduct not part of the instant event, for which judgment (an adult conviction or juvenile disposition) was entered **before** the day of sentencing in the instant case. This means that such convictions or dispositions for acts committed after the commission of the instant offense but before sentencing of the instant offense are scored as long as judgment (an adult conviction or juvenile disposition) was entered prior to the day of sentencing in the instant case. The order in which the offenses were committed is irrelevant for scoring purposes. However, such a conviction cannot revive other 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* Section 7.31.

Prior convictions for misdemeanors lapse at the same rate as felonies (ten years), but misdemeanors can neither revive other convictions nor 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 counted, regardless of the number of felony convictions within the ten-year window.

Note: While lapsed convictions are not counted or scored for criminal history purposes, the court may still consider them when determining where a defendant should be sentenced within the applicable box. There is no bar to prosecutors using a lapsed conviction as the basis to indict or file papers for a statutory enhancement.

Example

Defendant committed an aggravated assault on 8/15/2020 and an armed carjacking on 2/9/2021. They were first sentenced in the armed carjacking case on 7/23/2021, and thereafter sentenced in the aggravated assault case on 8/29/2021. The armed carjacking would be a prior conviction (Master Group 3) for determining the defendant's criminal history score when they were later sentenced in the aggravated assault case since the sentence was entered **before** the day of sentencing in the aggravated assault case. However, the armed carjacking cannot be used to revive an earlier robbery conviction for which the sentence was completed on 8/1/2010, more than ten years before the commission of the aggravated assault, because the conviction for armed carjacking did not occur in the 10-year-window prior to the commission of the aggravated assault. If the order of sentencing was reversed, the aggravated assault cannot be used to revive the earlier robbery conviction because the conviction for aggravated assault did not occur in the 10-year window prior to the commission of the armed Carjacking. *See* § 9.12, Example 12, for a different result.

2.2.4 Which Prior Juvenile Adjudications Count?

Juvenile adjudications for offenses in Master Groups 6 - 9 and 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* § 7.21, whichever is latest, and the commission of the instant offense is five years or less. Juvenile adjudications for offenses in Master 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, or the date of release in that case from a locked residential facility, whichever is latest, and the commission of the instant offense is five years or less.[11]

[9] If the instant offense took place over several dates, calculate the ten-year window based on the date the criminal activity began.

[10] The Guidelines deem a sentence as complete at the end of a term 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.

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 transferred from the locked unit to a less secure unit and remained there until released from that facility.

Prior adjudications lapse, meaning they are not counted or scored if they are beyond the five-year window. *See* § 7.12. A juvenile adjudication that has lapsed can never be revived. If a defendant in any Group was either sentenced to or released from New Beginnings or its functional equivalent or, in Master 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 window.

Example 1

Take a juvenile with the following series of placements on a single adjudication:

(a) at initial disposition, placed on probation;
(b) probation revoked; committed to DYRS and sent to a group home;
(c) released to aftercare to reside with their family.

The initial disposition date at which they were placed on probation would control the calculation of the five year window. If the instant offense was committed more than five years after the date the defendant was placed on probation, this adjudication would lapse for scoring purposes.

Example 2

Take a juvenile with the following series of placements on a single adjudication:

(a) at initial disposition, committed to DYRS and sent to New Beginnings;
(b) transferred to a group home; and
(c) released to aftercare to reside with their family.

The date of their release from New Beginnings would control the calculation of the five-year window. If the instant offense was committed more than five years after the date of defendant's release from New Beginnings, this adjudication would lapse for scoring purposes.

[11] Note: 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 DYRS has over the juvenile but does not indicate the physical location of the juvenile during that custody. The five-year window is determined based on the physical location of the juvenile during their commitment. If a juvenile is committed to DYRS, the presentence report writer, in completing the PSI, 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 presentence report writer should note that fact and report the initial disposition date. However, if the juvenile has been placed at such a facility, the presentence report writer should ascertain from DYRS and note in the PSI 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 presentence report writer cannot ascertain the physical location of the juvenile while committed to DYRS, the presentence report writer should note that fact in a footnote in the PSI.

Example 3

Take a juvenile with the following series of placements on a single adjudication:

(a) at initial disposition, placed on probation;
(b) probation revoked; committed to DYRS and sent to a group home;
(c) aftercare revoked; sent to a staff secure residential facility;
(d) transferred to a locked residential facility;
(e) transferred to New Beginnings;
(f) transferred to a group home; and
(g) released to aftercare to reside with their family.

The date of their release from New Beginnings would control the calculation of the five-year window. If the instant offense was committed more than five years after the date of defendant's release from New Beginnings, this adjudication would lapse for scoring purposes.

Note: While a juvenile adjudication that has lapsed is not counted or scored for criminal history purposes, the court 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 the defendant's juvenile adjudications are scored. Since all orders of the Family Court 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 or release in the five-year window after a person's 26th birthday.

2.2.5 Scoring Out-of-District Convictions/Adjudications

a. General Rules for Scoring

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

1. look at 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);

2. look at the notated out-of-District offense as listed on the criminal records check or final order;

3. look at the title of the offense of the out-of-District offense; and

4. examine the elements of the offense of the out-of-District offense; if the statute/code does not define the elements of the offense, additional resources may be considered such as caselaw and/or jury instructions to determine the elements of the offense.

5. Consider whether there is more than one D.C. offense that "closely matches" the out-of-District offense and make note of all matches. Score the least severe D.C. statute that closely matches, whether that statute 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.

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

1. Apply 1 point for all convictions that are classified as felonies by the other jurisdiction.

2. Apply ¼ point for all convictions that are classified as misdemeanors by the other jurisdiction and have a maximum punishment of 90 days or more of incarceration.

3. Do not score convictions that are classified as misdemeanors by the other jurisdiction and have a maximum punishment of less than 90 days of incarceration.

4. Apply ½ point for all juvenile adjudications for offenses the other jurisdiction classifies as felonies if committed by an adult.

5. Do not score juvenile adjudications for offenses the other jurisdiction classifies as misdemeanors if committed by an adult.

6. Exceptions: If the conduct of conviction was once a crime in the District, but has since been de-criminalized, Section 2.2.10 applies and the conviction is not scored.

c. Process for Challenging out-of-District Scoring

If, after the presentence report writer has calculated the initial score for an out- of-District offense, a party contends that the criminal history score for the out-of-District conviction misrepresents the severity of the offense, then the party may seek a criminal history correction. This procedure applies only to out-of-District convictions. If the court concludes by a preponderance of evidence that the underlying conduct for the out-of-District conviction most closely matches a more or less severe D.C. offense, then the court 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. The court 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.

Example

In North Carolina, "breaking and entering" includes both a misdemeanor (simple breaking or entering) and a felony (intent to commit any felony or larceny). If the criminal history record indicates a prior conviction for "Breaking or Entering" in North Carolina, and the defendant received a five-year sentence for that conviction, the prior conviction must be a felony since the maximum penalty for the misdemeanor is 120 days for persons with an extensive criminal history.

Example

Defendant has an out-of-District conviction for Grand Larceny. In that state's statute, Grand Larceny requires a theft of $200.00 or more. The District's First Degree Theft statute requires that the value of the property taken be $1,000.00 or more, Second Degree Theft only requires that the property have some value but does not have any monetary threshold. In this example, there is a possibility that a conviction for grand larceny in the other state involved less than $1,000.00 (it could be between $200.00 and $1,000.00). The most comparable D.C. statute would thus be Second Degree Theft. At sentencing, however, the prosecution is permitted to present evidence that the out-of-District conviction was actually based on conduct involving property valued at $1,000.00 or more. If the Court finds that the government has proved this by a preponderance of the evidence, then the most comparable offense is First Degree Theft. The Court should adjust the score accordingly and should advise CSOSA and the Commission.

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

d. Special Rules for Out-of-District Offenses Committed Before a Defendant's 18th Birthday

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:

1. 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.

2. Except as set forth in (3), 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 court 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.[12]

3. 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.

[12] 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 eg.,* D.C. Code § 16-2307. 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 the case was transferred from juvenile court to adult court or kept in adult court.

e. Additional Guidance

1. For purposes of criminal history scoring, choose the most closely matched D.C. statute based only on the name and elements of the out-of-District offense, not on the underlying conduct.

Example

Defendant has the following prior out-of-District convictions from the same event that closely match the following DC offenses

- PWID
- CPWL

The offense should **not** be scored as PWID while armed. Instead, the offense would be scored to reflect the individual offenses matching PWID (the most serious offense of conviction where there are multiple offenses arising out of a single event).

2. The name of the out-of-District offense utilized in step 2 should be noted in the report for all parties to consider. *See* a.2.

3. A party who would like the court to consider information separate from the statute should follow the procedure set forth in rule 2.4.

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

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

6. The same lapse rules apply to out-of-District convictions as to D.C. convictions. Thus, a revived out-of-District felony should be scored as ½ point under these default rules, and misdemeanor convictions and juvenile adjudications would not be scored at all.

7. While the parties may not normally bargain over the criminal history score, the parties may agree that the court 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 criminal history score when it is contested. If agreed upon by the parties, CSOSA and the court should accept this score when calculating the criminal history. This exception to the general rule prohibiting bargaining over criminal history score applies only to out-of-District convictions and is the ONLY EXCEPTION to the general prohibition.

8. In rare cases, the sentence the court imposed may assist in determining the applicable statute of conviction in the foreign jurisdiction.

9. 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.

10. Ascertaining the exact number of criminal history points is not necessary if a defendant has six or more points (e.g., two prior violent felonies; three prior mid-level felonies; six prior low-level felonies or a combination of these and misdemeanors that add up to six or more points).

11. Under section d.3, 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.

    A. If the pre-sentence report writer cannot confirm the type of weapon used in the armed robbery, they should post an asterisk or otherwise highlight the scoring for this offense and note "presumed firearm otherwise unknown" in the pre-sentence report to alert the parties of this rebuttable presumption.

2.2.6 *Offense Severity Group and Scoring 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 it (comparing the offense penalty in the current District Code with the penalty indicated in Appendix C), the court should use the following rules to establish the offense severity group number and/or 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.

a. For a current District felony offense that does not appear in Appendix C, unless and until the Commission ranks it, use this table to find the offense severity group ranking:

If the maximum penalty is greater than one year and:	**Master**	**Drug**
Less than five years	9	3
Five years or more, but less than 10	8	3
10 years or more, but less than 15	7	2
15 years or more, but less than 20	6	2
20 years or more, but less than 30	5	1
30 years or more, but less than 40	4	1
40 years or more, but less than life	3	1
Life, but not life without release	2	1
Life without release	1	1

b. For a current felony offense that the Council has amended to change the penalty since the Commission ranked it and placed it in Appendix C, or for an amended misdemeanor offense:

1. If the penalty for the conduct of conviction has been increased, use the group number for the pre-amendment statute.

2. If the penalty for the conduct of conviction has been 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 group, in which case use the group number for the pre-amendment version of the statute.

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

4. If the offense was a misdemeanor when the prior 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 prior offense was committed but now has a maximum penalty of 90 days or more of incarceration, do not score the conviction.

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

Note: 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.

Example 1: The defendant pled guilty to violating a new statute not yet ranked by the Commission. The defendant had a prior out-of-District conviction under a statute that was comparable to the new statute. Notwithstanding Section 1.4, the Offense Severity Group for the instant offense is dictated by paragraph (a) of this Section, as is the scoring of the out-of-District conviction (*see* Section 2.2.5).

Example 2: A defendant has a prior D.C. conviction of Theft I in 2008. In August 2009, D.C.'s Theft statute was amended, changing the cutoff between Theft II and Theft I from $250.00 to $1,000.00. If the defendant can show that the conduct of conviction in the 2008 Theft I case involved property of value between $250.00 and $1,000.00, paragraph (b)(3) would apply, and the conviction would be scored as a misdemeanor.

Example 3: An unspecified attempt to commit a crime of violence was a misdemeanor before August 20, 1994, when it was reclassified as a 5-year felony.[13] Applying paragraph (b)(4), any unspecified attempt to commit a crime of violence offense committed before August 20, 1994, should be scored as a misdemeanor.[14]

[13] D.C. Code § 22-1803.

[14] A specified attempted robbery, however, has been classified as a 3-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.

2.2.7 *Scoring a Conviction/Adjudication for an Offense That Was Completely Repealed, Repealed and Completely Replaced, or Partially Repealed/Replaced*

Note: For a prior marijuana related conviction/adjudication, apply subparts a. and d., for a prior Assault on a Police Officer conviction/adjudication, apply subparts a. and e.

a. A conviction/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.
b. A conviction/adjudication under a statute that was repealed so that the conduct was fully de-criminalized 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.

c. A conviction/adjudication under a statute that was repealed and fully replaced, (i.e., all of the conduct criminalized under the old statute or statutes remains criminalized under the new statute or statutes), is counted in the same group as the closest comparable offense in the current 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 first degree sex abuse conviction and is ranked in Master Group 2.

d. Scoring Prior Marijuana Related Convictions

A Prior District of Columbia marijuana related conviction or adjudication that occurred before February 26, 2015, and all out-of-District marijuana convictions/adjudications are treated as follows:

A prior conviction for simple marijuana possession is not counted.

A prior conviction or adjudication for possession or PWID marijuana, or for attempt or conspiracy to commit such offenses, is not initially counted. If the government can prove to the court by a preponderance of the evidence that a prior unsealed conviction or adjudication for possession or PWID marijuana, or for attempt or conspiracy to commit such offenses, was the result of conduct that has not been decriminalized, the conviction/adjudication is counted.

A prior conviction or adjudication for distribution of marijuana, or for attempt or conspiracy to commit distribution of marijuana, is initially counted. If the defendant can prove to the court by a preponderance of the evidence that a prior unsealed conviction or adjudication for distribution of marijuana, or for attempt or conspiracy to commit distribution of marijuana, was the result of conduct that is now decriminalized, the conviction/adjudication is not counted.

e. Scoring Prior Assault on a Police Officer (APO) Convictions

Prior District of Columbia APO convictions or adjudications that occurred before June 30, 2016, are treated as follows:

A prior conviction or adjudication for APO committed before July 19, 2006, is initially counted as a misdemeanor. If the defendant can prove to the court by a preponderance of the evidence that a prior conviction/adjudication was the result of conduct that is now decriminalized, the conviction/adjudication is not counted. If the government can prove to

the court by a preponderance of the evidence that a prior conviction/adjudication was the result of conduct that matches what is now felony APO, the conviction is counted as a M8 felony.

A prior conviction or adjudication for felony APO committed between July 19, 2006, and June 29, 2016, is counted as a M8 felony.

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 court by a preponderance of the evidence that the prior conviction was the result of conduct that remains criminalized after June 30, 2016, the conduct is counted as the closet matching offense (e.g., misdemeanor APO or resisting arrest).

Prior out-of-District APO convictions are treated as the closest comparable offense under the current code following the procedure explained in section 2.2.5(a).

Note: A party who would like the court to consider information that could affect the scoring of a prior APO conviction should follow the procedure set forth in rule 2.4.

2.2.8 *Offense Severity Group and Scoring of Previously Unranked or Re-Ranked Statutes*

If after the commission of the offense, the Commission has (1) changed the offense severity group in Appendix C for that offense or (2) ranked that previously unranked offense in a different offense severity group than the default ranking rules in Section 2.2.6(a) would have required at the time of the commission of the offense:

a. If the offense severity group has been increased, use the offense severity group at the time of the offense.

b. If the offense severity group has been decreased, use the current offense severity group listed in Appendix C.

2.2.9 *Youth Act Convictions, Sealed or Expunged Convictions, Imposition of Sentence Suspended Convictions, Convictions Reversed on Appeal, Pardons, or Convictions Under Statutes Later Held to be Unconstitutional*

a. General Rules

Youth Rehabilitation Act and Federal Youth Corrections Act sentences are counted like any other conviction, without regard to whether the conviction has been set aside or not.

D.C. sealed or expunged convictions are counted like any other conviction.

D.C. sealed or expunged adjudications are counted like any other adjudication.

However, convictions or adjudications sealed or expunged on the grounds of actual innocence, whether in D.C. or in a foreign jurisdiction, shall not be counted, nor shall convictions or adjudications sealed or expunged in foreign jurisdictions if the effect of such sealing or expungement is that the conviction or 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 showing, by a preponderance of the evidence, that the foreign sealing or expungement exists and has such an effect.

Imposition of Sentence Suspended convictions are counted.

A conviction/adjudication that was reversed on appeal is **not** counted.

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

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

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

2.2.10 *Scoring Military and Foreign Convictions*

Convictions for military offenses are scored if imposed by a general or special court martial. Convictions imposed by a summary court martial, or Article 15 proceeding are not scored.

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. For instance, research of 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.

Convictions from foreign jurisdictions are not scored.

2.2.11 *Scoring Contempt Convictions*

Convictions for violations of conditions of release (D.C. Code § 23-1329) are misdemeanors and scored as ¼ point. All other contempt convictions, including those pursuant to D.C. Code §11-944, are also scored as ¼ point, unless the sentence actually imposed was longer than one year.[15] In that case, the contempt conviction would be a felony and scored as 1 point, if not lapsed; if lapsed and revived, it would be scored as ½ point. Therefore, it could revive other felonies or be revived.

2.2.12 *Defendant's Relationship to Criminal Justice System*

The defendant's status in the criminal justice system (i.e., incarcerated, or on pre-trial release, probation, parole, or supervised release) at the time the defendant committed the offense is **not** counted in the criminal history score, although this status may be considered by the judge in choosing the appropriate sentence from 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 6.

2.3 Calculating the Overall Score

Using the principles set forth above; determine the number of points for the most serious offense arising out of a single event. Add the points for all such offenses together.[16] This will yield the criminal history score that will dictate into which column the defendant falls:

Criminal History Points	Column
0 – ½ points	Column A
¾ - 1 ¾ points	Column B
2 – 3 ¾ points	Column C
4 – 5 ¾ points	Column D
6+ points	Column E

The box at the intersection of criminal history point column and Offense Severity Group row contains the sentencing options for that conviction.

2.4 Challenging the Criminal History Score

Sentencing hearings should be scheduled so that the presentence report 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 an initial criminal history score, that party should immediately notify the opposing party and CSOSA providing information on why the challenging party believes that a conviction or date is incorrect. *See* § 5.2.5, Departure Procedures.

If a party knows that it will challenge the criminal history score 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 challenging party should notify the opposing party and the judge as early as possible so that sentencing will not have to be continued.

If a judge believes that a defendant's criminal history score may be inaccurate or was incorrectly calculated, the judge should notify the parties and provide them with an opportunity to argue whether or not the score contained in the presentence report should be modified.

[15] Note, 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.

[16] In most cases, the same criminal history score 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 there are more than 10 years between the completion of an earlier sentence and the commission of one offense and less than 10 years between the completion of the earlier sentence and the commission of another offense. This would yield two different criminal history scores. *See* § 9.12.

Chapter 3: SENTENCING WITHIN THE BOX

There are 45 boxes on the Master Grid and 20 boxes on the Drug Grid.[17] The available sentencing types (described in detail in this Chapter) are determined based on the shading in each box:

Box Color	Available Sentencing Options
White	Prison only (including long split)
Dark gray (green in some versions)	Prison (including long split) or short split
Light gray (yellow in some versions)	Prison (including long split), short split, or probation

Compliant sentence options are defined as:

- Prison sentence: In a compliant prison sentence, the court sentences the defendant to a prison term within the applicable Grid box range. None of the time imposed is suspended. The prison term may be followed by a period of supervised release as governed by D.C. Code § 24-403.01(b). *See* 7.26; App. E.
- Long split sentence: In a compliant long split sentence, the court imposes a sentence within the applicable prison range, suspends execution of all but a term that also falls within the applicable prison range, such that the time initially served (not suspended) is more than six months, and places the defendant on probation for a period up to five years. *See* 7.17; App E. For statutorily required Supervised Release *See* App. C
- Short split sentence: In a compliant short split sentence, the court imposes a sentence within the applicable prison range, suspends execution of all but six months or less (but not all) of it, and places the defendant on probation up to five years. *See* 7.30; App. E. *See* 3.4.1 for modified short split.
- Probation sentence: In a compliant prison sentence, the court imposes a sentence within the applicable Guidelines prison range, suspends execution of the entire sentence, suspends the period of supervised release, and places the defendant on probation for up to five years. *See* 7.27.

3.1 What Factors 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. This restriction does not preclude reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding (e.g., sentencing enhancement, Bias-Related Crime (D.C. Official Code § 22-3700 et. seq.)).

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

[18] 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 imposition of sentence. *See Schwasta v. United States*, 392 A.2d 1071, 1077 (D.C. 1978)
(D.C. Official Code § 16-710 "permits the trial court to grant probation only after it has imposed a sentence and suspended its execution"). The Youth Rehabilitation Act does. D.C. Code § 24-903(a)(1) (the court "may suspend the imposition or execution of sentence and place the youth offender on probation"). Thus, in a Youth Act case, a sentence of ISS with supervised probation complies with the Guidelines in any box in which a suspended prison term [ESS] with probation would be a compliant sentence.

[19] 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

3.2 What May Be Considered

In determining an appropriate sentence within the box, the court may consider any appropriate factor other than those listed above, including any information that the court could have taken into consideration before the introduction of the Guidelines. The only bases for sentencing outside the box are found in the departure principles. *See* § 5.2 Departures; § 7.7 Departure Definition.

3.3 Probation Sentences (ESS All)

Probation is a compliant sentence only in the light gray boxes. To impose a compliant sentence of probation, the court must impose a prison sentence that falls within the prison range in the appropriate light gray box, suspend execution of all of it (ESS all) and impose up to 5 years' probation.[18] [19]

When imposing a probationary sentence, the court should (a) impose a prison term in the appropriate range and the supervised release term, (b) suspend execution of all of the prison term, (c) suspend **all** of the supervised release term, and (d) place the defendant on probation for a period not to exceed five years. *See* Appendix E.

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 5 years is compliant and the judge may impose any terms or conditions available prior to the Guidelines. *See* D.C. Code § 16-710(b).

3.4 Short Split Sentences (ESS All but Six Months or Less)

A short split sentence is a compliant sentence in the shaded (dark gray and light gray) boxes. To impose a short split, the court must impose a prison sentence that falls within the prison range in the appropriate dark gray or light gray box, suspend execution of all but six months or less -- but not all -- of that sentence, and impose up to 5 years' probation.[20] If the judge suspends all of the prison term, that would be considered to be a probation sentence (not a short split) and it would not be compliant in a dark gray box. *See* § 3.3, *supra*.

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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 to probation historically. The Commission recognizes that a portion of historic sentences to probation – like a portion of the most severe sentences imposed historically – 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 its recommended sentence ranges anomalously "high" sentences, it was not able 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. *See* Appendices E and F. 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 the expectation of the Commission that, just as the Guidelines should eliminate a portion of anomalously harsh sentences, so too should the Guidelines eliminate a portion of anomalously lenient sentences.

[20] The Sentencing Reform Act of 2000 allowed certain terms of incarceration or types of custody to be imposed as a **condition of probation**. Weekend sentences or sentences to a halfway house for felony convictions may be ordered only as a condition of probation. The U.S. Bureau of Prisons cannot carry out such intermediate sanctions and, therefore, they may only be imposed as a condition of probation. *See* D.C. Code §16-710(b-1).

When imposing a short split sentence, the court should (a) impose a prison term in the appropriate range and the supervised release term, (b) suspend execution of all but six months or less of the prison term, but not all of it, (c) suspend **all** of the supervised release term, and (d) place the defendant on probation for a period not to exceed five years. *See* Appendix E for further details and examples.

Note: If the court suspends imposition of a sentence (ISS), that is considered to be a probation sentence and not a split sentence. ISS sentences are not compliant in the white or dark gray boxes, unless a departure principle applies. If the court suspends execution of the entire prison term, the sentence is considered to be a probation and not a split sentence. "ESS all" sentences are not compliant in the white or dark gray boxes, unless a departure principle applies. If the court suspends all but time served, time served must be six months or less, unless compliant with a modified short split sentence. *See* § 3.4.1.

Note: Best practice is to document on the judgment and commitment form "time served" if all but time served was suspended and, if known, the amount of time served.

Example

Defendant is arrested on 2/9/2021 for PWID cocaine (Drug Group 2). They are immediately released after presentment. At sentencing on October 30, 2021, they have a Criminal History score of 0.75.

- The Guideline compliant sentencing range is 16-36 months (all sentencing options eligible)
- To impose a compliant short split sentence, as noted above the judge can sentence the defendant to: 16 months ESS all but time served with 12 months supervised probation, credit for time served. **The one day of time served makes this a compliant short split sentence**.

3.4.1 Modification to Guideline 3.4 Definition of a Compliant "Short Split Sentences"

In response to the impact of the COVID-19 pandemic on sentencing procedures, the definition of a compliant short split sentence has been modified under the following conditions. Whenever the court faces delays in connection with the invocation of D.C. Code § 11-947, or the circumstances that caused the invocation of Section 11-947, the court may impose a compliant "short split" sentence by (a) imposing a prison term in the appropriate range and the supervised release term, (b) suspending execution of any time up to and including time served (which may be more than 6 months), (c) suspending all of the supervised release term, and (d) placing the defendant on probation for a period not to exceed five years. This modification to the definition of a compliant short split sentence became effective June 25, 2021.

Note: This definitional change of "short split" is 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 of the District of Columbia 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 functioning 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 court from imposing a long split sentence in appropriate circumstances.

The Commission further recognizes that because of the effective date of this change, there may be some individuals already sentenced who wish to have the sentencing court consider this change in determining the appropriateness of the sentence previously imposed in light of the Chief Judge's order dated March 18, 2020, suspending, tolling, and extending statutory and rule-based time limits. The Commission believes that the Superior Court of the District of Columbia Criminal Rule 35 provides the court and parties with the authority to seek a reconsideration of the sentence.

Example 1

A defendant who was pending sentencing on March 25, 2020, for robbery and who was in offense Group 6 with a criminal history score in Box A, would be eligible to receive a short split sentence even if the individual was held 9 months prior to their sentencing date. The judge would be permitted to impose a compliant short split sentence by sentencing the individual to 18 months of incarceration, execution of sentence suspended as to all but 9 months (the time the individual has served) and placing the individual on 1 year of probation.

Example 2

This definitional change could also be applied to a defendant who is arrested during a period of invocation of § 11-947, is held pretrial and who pleads guilty to burglary after its revocation. When this individual appears for sentencing, they likely would have already served a period of incarceration greater than 6 months prior to sentencing. However, if the delay between arrest and sentencing was connected to the prior invocation of § 11-947 or the circumstances that led to its invocation, for example the impact of COVID-19 on the ability to convene grand juries, the Court may impose a compliant short split sentence in Group 7, Box A by imposing a sentence of 14 months, suspending the execution of all of the sentence except for 8 months (the time already served) and placing the individual on 1 year of probation.

3.5 Prison (Prison and Compliant Long Split Sentences)

Prison Sentences

In a compliant prison sentence, the court sentences the defendant to a prison term within the applicable Grid box range. None of the time imposed is suspended. The prison term may be followed by a period of supervised release as governed by D.C. Code § 24-403.01(b). *See* Appendixes C, E.

Prison is a compliant sentence in all boxes on both Grids. Each box has two numbers. The lower number represents the fewest number of months for a compliant prison sentence and the upper

number represents the greatest number of months for a compliant prison sentence.

The court may impose any prison sentence within the range specified in the box where the offense of conviction and criminal history score of the defendant intersect. For example, a person convicted of Armed Robbery who has previously been convicted of Attempted Robbery in the ten-year window and, therefore, has one criminal history point would be in Box 5B. In Box 5B, the prison range is between 48 months and 96 months. The defense can argue that a sentence in the lower part of the range is appropriate, and the prosecution can argue that a sentence in the higher part of the range is merited. Unless a principle applies that would expand the box or take the case "out of the box," to be compliant with the Guidelines, the court must sentence within the established range.

Note: The cells in column 6 of the Grids do not have upper numbers for the prison ranges, but rather plus signs. A defendant with a Criminal History score that places him or her in column 6 can be sentenced to any period or incarceration up to the statutory maximum (less, of course, the amount reserved for backup time for non-Class A felonies).

Long Split Sentences

The court may also impose a compliant long split sentence, that is, a sentence where the amount of time to be served after a portion of the entire prison term is suspended, still falls within the range for prison sentences in that box, such that the time initially served (not suspended) is more than six months. *See* § 7.17. 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 prison range in the applicable box. A long split sentence is a compliant sentence in the white and dark gray boxes.

Note: When imposing a compliant long split sentence, the court should (a) impose a prison term in the appropriate range and the supervised release term, (b) suspend execution of only a portion of the prison term so that the unsuspended portion is still in the appropriate range, (c) suspend all of the supervised release term, and (d) place the defendant on probation for a period not to exceed five years. *See* Appendix E for further details and examples.

Example

A person is convicted of Assault with a Deadly Weapon (ADW) (Master Grid Group 6) and has a Criminal History score of 1.75.

- The Guideline compliant sentencing range is a prison only box with a range of 24 to 66 months
- To impose a compliant long split sentence the judge could:
  - Impose a term of 60 months and suspend all but 24 months;
  - Suspend supervised release; and

  Place the defendant on probation for five years.

3.6 Mandatory Minimums and Statutory Minimums

This Manual refers to mandatory minimum and statutory minimum terms of imprisonment. A mandatory minimum term is a term of imprisonment that must be imposed by law and cannot be suspended. A statutory minimum term, in contrast, is one that must be imposed but can be suspended.

These minimums are the one exception to the amount of discretion the court has in imposing a Guidelines compliant sentence within a box. 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.

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:

Charge 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

In Appendices C and C-I, these are indicated in the "Minimum" column by the letter M before the number of years.

Additional Discretion for Offenders Under 18

In 2017, pursuant to D.C. Code § 24-403.03(a)(2), judges were given additional discretion when sentencing offenders who committed offenses before they reached the age of 25 years old, including the determination of whether to impose an otherwise applicable mandatory minimum sentence in certain cases. This does not affect the defendant's Guidelines compliant sentence range or type.

For offenders under the age of 25 years old at the time of offense, but for whom the Youth Rehabilitation Act ("YRA" D.C. Code § 24-901 et seq.) could be applied, there remained some question about whether the court could suspend all or part of a sentence involving a mandatory minimum. In other words, the extent of the flexibility the court had in imposing sentences with a prison term shorter than a mandatory minimum on individuals who were under 25 years old when the crime was committed.

In 2018, the Youth Rehabilitation Amendment Act provided clarification and provided for sentencing alternatives for individuals under the age of 25 years old at the time of the commission ofthe crime. Included is a provision that permits a judge who makes the determination to sentence an offender under the YRA, to impose a sentence that is below the mandatory minimum under

D.C. Code § 24-903(b)(2).

YRA sentences are considered a "status" rather than a disposition. Therefore, neither the Sentencing Guidelines nor the Commission take a position on whether a youth offender sentenced under the YRA should be sentenced to the mandatory minimum sentence.

Statutory Minimums

Some offenses have a minimum that is **not** a mandatory minimum. For these offenses, the court must impose at least the statutory minimum, but the sentence that is imposed may be suspended, in whole or in part in a shaded box. For these offenses, to impose a compliant sentence the judge must impose at least the statutory minimum sentence but may be able to 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 prison range in the lowest possible box for that offense and criminal history score, so that these statutory minimums do not conflict with Guidelines prison ranges. The same options are available for these offenses as for any other in the same Offense Severity Group (prison only, compliant long splits, short splits, or probation). 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 prison range. The judge has the option to suspend more, but absent a departure or enhancement, should not do less to result in a Guidelines compliant sentence.

In Appendices C and C-I, offenses with a statutory minimum are indicated in the "Minimum" column by "not <" before the number of years.

Example 1

The statutory minimum for First-Degree Burglary is 60 months. The Guidelines prison range for a person convicted of First-Degree Burglary with zero criminal history points in Box 5A is 36 to 84 months. It is a prison only box. The judge must impose the statutory minimum of 60 months (and could impose a Guidelines compliant sentence of up to 84 months). However, since the defendant is a first offender, the judge might decide to suspend execution of 24 months of the prison sentence (60 months ESS all but 36 months) and place the defendant on probation for five years. A compliant long split sentence such as this is compliant with the Guidelines and with the statute.

Example 2

The statutory minimum for Second-Degree Burglary is 24 months. The Guidelines prison range for a person convicted of Second-Degree Burglary with zero criminal history points in Box 7A is 12 to 36 months. Box 7A is a light gray box. It is a prison, short split, or probation permissible box. A sentence of 12 months would be a Guidelines compliant sentence, but would not be a legal sentence. The judge must impose the statutory minimum of 24 months (and could impose a Guidelines compliant sentence of up to 36 months). If the judge believes that a shorter prison sentence or no prison sentence is appropriate, they have the following Guidelines compliant options: (1) impose a sentence of 24 months and suspend execution of all but 12 months (a compliant long split); (2) impose a sentence of 24 months and suspend execution of all but 6 months or less (a short split); (3) impose a sentence of 24 months and suspend execution of all of it (probation). For each of these options, the judge could then place the defendant on probation for up to five years.

3.7 Statutory Maximums

Some offenses have a statutory maximum less back-up time that is less than the maximum sentence in the Guidelines compliant sentence box. For these offenses, the judge cannot impose a sentence greater than the statutory maximum less back-up time, even though such a sentence would technically comply with the Guidelines.

Example

The statutory maximum for Attempted Robbery is 3 years (36 months). D.C. Code § 22-2802. 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). Thus, the maximum sentence that can be imposed, absent an enhancement, is 24 months. Attempted Robbery is in Group 8. The higher number in the prison range in boxes 8B, 8C, and 8D is greater than 24 months. Therefore, the maximum sentence that can be imposed in each of these boxes for attempted Robbery is 24 months and not 28, 32, or 36 months respectively.

3.8 Revocation Sentences

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

If the court initially suspended part or all of a defendant's prison sentence (execution of sentence suspended - ESS) and subsequently revokes probation, the court can impose the original prison 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 Guideline range, it would not be compliant with the Guidelines.[21] For an ISS sentence, the court can impose any sentence permitted inside the original guideline box.

Section 3.4 describes how a probation sentence is imposed at the initial sentencing to be compliant with the Sentencing Guidelines. The court has four options:

a. In a light gray (yellow) box, the court must impose a prison sentence within the range in the box and can suspend all of it and place the defendant on a term of probation (ESS all -- probation).

b. In a light gray (yellow) or dark gray (green) box, the court must impose a prison 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).

c. In any box, the court must impose a sentence within the prison 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 -- compliant long split).

d. In a light gray (yellow) box, the court may suspend imposition of sentence (ISS).

In all four cases, the judge can place the defendant on probation for up to five years, but if the court suspends imposition of sentence, it may not place the defendant on supervised probation. If the court later revokes probation, for an ESS sentence, it can impose the original prison 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 court may not impose a prison sentence that is less than the bottom of the applicable range.

Example 1

At sentencing, the appropriate box for the defendant was 8B (10-28 months prison; split sentence or probation). The court imposed a sentence of 18 months imprisonment to be followed by three years of supervised release, suspended execution of the entire sentence and imposed a three-year term of probation. One year later, the court found the defendant had violated a condition of his probation and subsequently revoked probation. Following revocation, the court can order the defendant to serve the original sentence. Alternatively, the court may sentence the defendant to less than the original 18 months incarceration but cannot impose a **compliant** sentence of less than ten months incarceration.

Example 2

At sentencing, the appropriate box for the defendant was 8B (10-28 months prison; split sentence, or probation). The court imposed a sentence of 18 months imprisonment to be followed by three years of supervised release, suspended execution of all but three months imprisonment, to be followed by two years of probation. After three months imprisonment, the defendant was released and began probation. One year later, the court found the defendant had violated a condition of his probation and revoked the probation. The court can order the defendant to serve the remainder of the imposed sentence, meaning the defendant would go back to prison for 15 months (18 months imposed minus three months already served). The defendant's effective sentence of 18 months (three months served initially plus 15 months served after revocation) is within the 10 - 28 month applicable range and is compliant.

The court 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. A "new" sentence of ten months **with credit for time served** would mean the defendant would go back to prison for seven months. In such a case, the judge should expressly provide for "credit for time served" on the Judgment and Commitment Order; absent that notation, the defendant would serve 13 months (three months served initially plus 10 months after revocation). The effective ten-month sentence is still within the applicable range and is compliant. If the judge imposed a "new" sentence of ten months and was silent as to credit for time served, the defendant would go back to prison for ten months. The effective 13-month sentence (ten months imposed at resentencing plus three months served initially) is within the applicable Guidelines range and is compliant. If the judge imposed a "new" sentence of seven months **with credit for time served,** the defendant would go back to prison for four months (seven months imposed at resentencing minus three months already served). The seven month effective sentence is below the applicable range and is therefore not compliant with the Guidelines.

[21] Although not directly related to the Guidelines, if the court imposes a lesser sentence than it imposed originally and intends the defendant to receive credit for time served, the Judgment and Commitment Order must explicitly state the judge's intention. *See* example 2 on page 28. To remain compliant, the combination of time served, and the new sentence cannot be less than the minimum term of incarceration in that box.

Chapter 4: ADJUSTING THE BOX

There are statutory provisions that do not change the options in a box but do expand the prison range that is available in the box. These include enhancements based on the status of the victim (e.g., senior citizen victims and bias-related offenses), repeat offenders, third strike laws, statutory aggravating factors for murder and sex offenses, offenses committed in drug and gun free zones, selling drugs to minors and committing a felony while on release. *See* Appendix H.

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.[23] For example, if the statute states that the punishment may be 1 ½ times the maximum otherwise authorized for the offense, then the top of the Guidelines prison range is increased by 1 ½. However, if the statute increases the maximum term of imprisonment from 5 to 10 years, for example, the **top** of the prison range is doubled.[24] See Appendix H for a list of multiplier and cap enhancements. Note that the bottom of the range does not change, only the top.

The court should apply only one enhancement, even if two or more enhancements apply. In such a case, the court may, but need not, select the enhancement that raises the top of the range the most.

Sentencing enhancements, such as those listed in Appendix H, do not modify how a prior conviction is scored. For example, a prior conviction for assault with significant bodily injury is scored as a M8 conviction regardless of whether a sentencing enhancement was applied to that conviction.

Note: When deciding where within the expanded box to sentence the defendant, the court may consider that enhancements based on prior convictions (i.e., "repeat papers") may be based on the same convictions that have determined the criminal history score.[25] Thus, the same conviction that contributes to moving the defendant to the right on the sentencing Grid, exposing the defendant to a higher sentencing range, 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 court may consider the dual effect of the prior record.

Note: For guidance related to an Accessory After the Fact conviction, *see* §2.1.3.

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[23]The general rule governing enhancements does **not** apply to the Offenses Committed During Release ("OCDR") enhancement (D.C. Code § 23-1328). *See* Appendix H, § IV for an explanation of how OCDR should be scored.

[24]Several "special enhancements" do not follow this protocol. *See* Appendix H, § III.

[25]In some cases, repeat papers will be filed based on convictions that do not contribute to the Criminal History score. For example, if a prior conviction has lapsed according to the Guidelines rules, see Chapter 2, then the prior conviction will not be counted toward the defendant's Criminal History score, but that conviction may still be the basis for the filing of repeat papers. Similarly, if the defendant has six criminal history points, additional convictions will not be counted toward the defendant's Criminal History score but may form the basis of repeat papers.

Chapter 5: SENTENCING OUTSIDE OF THE BOX

There are three ways to sentence outside of the otherwise applicable box:

(1) Rule 11(c)(1)(C);
(2) A departure principle; or
(3) A decision by a judge not to use the sentencing Guidelines.

5.1 Superior Court Rule of Criminal Procedure 11(c)(1)(C)

A Rule 11(c)(1)(C) (formerly Rule 11(e)(1)(C)) plea agreement that is accepted by the court controls the applicable sentence. This means that if the parties and the court agree to a particular sentence or sentencing range, it need not fall "within the box" or comply with otherwise applicable Guidelines rules.

5.2 Departures

5.2.1 Departure Principles

One of the bedrock principles underlying the development of the Guidelines was that like offenses/offenders should be sentenced alike and different offenses/offenders should be sentenced differently. The Grids were designed with broad ranges with the typical conduct for the offenses in mind. Preserving the judge's discretion to take into account factors other than the offense of conviction and the criminal history of the offender in imposing a Guidelines compliant sentence. The Commission, therefore, anticipates that most defendants will be sentenced "within the box." However, there are atypical cases where such a sentence would not serve the ends of justice. Consequently, the Commission developed a non-exclusive list of aggravating and mitigating factors to permit sentencing outside of the Grid options or ranges. If the judge finds one of the enumerated factors to be substantial and compelling, the judge is not bound by the Grid options and ranges. Similarly, the judge may use the "catchall" departure (Aggravating Factor #11; Mitigating Factor #10) if the judge finds another substantial and compelling reason, comparable in gravity to the enumerated factors, that substantially aggravates/mitigates the seriousness of the offense or the defendant's culpability. Under such circumstances, the judge is not bound by the Grid options or ranges, and any legal sentence may be imposed.

If a judge determines a departure sentence is appropriate, the judge must state on the record the aggravating or mitigating factor upon which they rely in sentencing outside of the box. If the judge applies the "catchall" Aggravating Factor #11 or Mitigating Factor #10, then the judge must state on the record what substantial and compelling basis they found that was comparable in gravity to the enumerated aggravating and mitigating factors. In those 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.

5.2.2 New Approved Mitigating Departure Factor

The Commission has approved a new Mitigating Departure Factor in response to the impact of the COID-19 pandemic on sentencing procedures. When there is a substantial and compelling basis, as articulated by the sentencing judge, a mitigated departure may be imposed 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." The new mitigating departure factor became effective July 23, 2021.

Note: Although this mitigator was drafted in response to the COVID-19 pandemic, it is intended to apply to future situations of such gravity that D.C. Code § 11-947 is invoked. Many individuals who were involved in the criminal legal system during the COVID-19 pandemic and its aftermath may have experienced numerous negative circumstances related to the pandemic and the invocation of D.C. Code § 11-947 that differed from the typical experiences of individuals who are charged with offenses in D.C. Superior Court. The invocation of D.C. Code §11-947 resulted in the suspension of time limits that led to longer delays before indictment, trial, and sentencing. Individuals who were on pretrial release and under conditions such as home confinement also may have endured those conditions coupled with other harmful impacts related to the imposition of their pretrial release, for much longer than they would have during non-pandemic times.

This mitigation factor should be applied equally to individuals impacted by delays or negative circumstances that occurred before, during, and after the invocation of the statute where the delay or negative circumstance is due to the invocation of Section 11-947 or the circumstances warranting its invocation and where the court finds a substantial and compelling basis to reduce the individual's sentence. For example, individuals with cases pending at the time of the invocation may be able to benefit from the mitigation factor. Similarly, individuals impacted by delays following the termination of the exercise of emergency authority may be able to benefit from the mitigation factor where the delay is due to the invocation of Section 11-947 or the circumstances warranting its invocation.

5.2.3 Aggravating Factors

(1) 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.

(2) 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.

(3) A victim sustained a "devastating injury." Devastating injury is defined as a physical or mental injury that results in one or more of the following:

- (a) Permanent and substantial impairment of the person's employment opportunity and/or lifestyle;
- (b) Permanent, gross disfigurement; or
- (c) Medical confinement and/or immobilization for a period of more than three months.

(4) 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.

(5) 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.

(6) 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.

(7) The defendant threatened, bribed, attempted to bribe, induced, or attempted to induce a victim, a member of the victim's family, or a potential witness, or any other person to withhold truthful testimony or provide false testimony, or otherwise attempted to obstruct justice, unless the defendant is separately convicted of an offense that arises out of the same conduct.

(8) 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 their position of confidence or fiduciary responsibility to facilitate the commission of the offense(s).

(9) The offender, in attempting to gain or while holding public office by appointment or election, betrayed the public trust by his or her unlawful conduct.

(10) The consecutive/concurrent sentencing policy results in a Guidelines sentence so lenient in relation to the seriousness 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 sentences were consecutive.

(11) There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in 1 to 10 above, which aggravates substantially the seriousness of the offense or the defendant's culpability.

Note: Going to trial is not an aggravating factor and should **not** be used to go outside of the box.

5.2.4 Mitigating Factors

(1) 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.

(2) 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.

(3) The defendant participated under duress, coercion, threat, or compulsion insufficient to constitute a complete defense, but which significantly reduces the defendant's culpability.

(4) 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.

(5) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(6) 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.

(7) The defendant has provided substantial assistance to law enforcement in the detection or prosecution of other offenders, and departure for this reason does not demean the seriousness of the defendant's crime or create an unacceptable risk to the safety of the community.

(8) The Guidelines sentence calls for incarceration but, after consultation with corrections authorities, the court determines that the defendant, by reason of obvious and substantial mental or physical impairment or infirmity, cannot be adequately protected or treated in any available prison facility.

(9) The consecutive/concurrent sentencing policy results in a Guidelines sentence that is so excessive in relation to the seriousness 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 sentences were concurrent.

(10) There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in 1 to 9 above, which does not amount to a defense, but which substantially mitigates the seriousness of the offense or the defendant's culpability.

(11) There is a substantial and compelling basis, as articulated by the sentencing judge, to reduce the defendant's applicable guideline sentence due to the invocation of D.C. Code § 11-947 or the circumstances that warranted the invocation of D.C. Code § 11-947.

Note: The entry of a guilty plea is **not** a mitigating factor and should not be used to go outside of the box, but it may be used to determine what sentence to impose within the box.

5.2.5 Limits on the Kind and Duration of a Sentence if there is a Substantial and Compelling Reason to Depart

Except as provided below, if the judge finds a substantial and compelling basis to sentence outside of 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 these Guidelines incorporating the principle of proportionality into their sentences, to the extent possible. Maximum sentences should be reserved for the most serious offenses and most culpable offenders. Conversely, the minimum sentences should be imposed for the least serious offenses and least culpable offenders.

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: Aggravating Factor #10 and Mitigating Factor #9. 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 consecutively. Similarly, 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 concurrently.

5.2.6 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 court and CSOSA. 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.

Scheduling

Sentencing hearings should be scheduled so that the pre-sentence report 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.

Notice

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

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 court as early as possible so that sentencing will not have to be continued.

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

If the judge, *sua sponte*, intends to consider a departure principle 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.

The sentencing data form provides a place to enter the aggravating or mitigating factor(s) the judge relied upon in sentencing outside of 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 his or her own procedures is not a basis for appeal.[26]

5.3 Not Using 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.[27] As a consequence, a judge retains total discretion to impose 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 offender in the Grid options and ranges or will apply a departure principle when there are substantial and compelling reasons to do so.

The Superior Court's electronic case management system, known as Court View, 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.

[26] *See* footnote 1.
[27] *See* footnote 1.

Chapter 6: CONSECUTIVE AND CONCURRENT SENTENCES

The court should first determine the sentence for each conviction following a verdict or plea. The following are the rules for imposing these sentences concurrently or consecutively.

6.1 Consecutive Sentences

The following sentences must be imposed **consecutively**:

> Multiple crimes of violence: multiple victims in multiple events; multiple victims in one event; and one victim in multiple events for offenses sentenced on the same day.[28] *See* § 7.4.
>
> One imposed for a new offense(s) committed while the defendant was under sentence for another, must run consecutively to any sentence imposed as a result of revocation of probation, parole, or supervised release, or to the sentence being served at the time the new offense was committed.[29]
>
> Offenses for which a consecutive sentence is required by statute.

Note: Only one crime of violence per victim per event needs to be sentenced consecutively to the others. Everything else can be either consecutive or concurrent. *See* § 9.16.

Example

The defendant held up a cab at gunpoint and robbed the driver and the passenger. Several days later the defendant held up the same cab at gunpoint and robbed the driver and a different passenger. They were convicted of four counts of armed robbery and four counts of possession of a firearm during a crime of violence (PFCOV). This example has multiple victims (the cab driver and passengers) in multiple events (two armed robberies), and one victim (the cab driver) in multiple events (two armed robberies). Armed robbery and PFCOV are both in Group 5. Assuming defendant had no prior record, they will be sentenced in Box 5A, a prison only box with a range of 36 to 84 months. Each of these offenses, however, carries a mandatory minimum of 60 months. The sentences for each of the four armed robberies must be consecutive since one victim was robbed twice and there are two other victims. The two PFCOV's in each event should be sentenced concurrently since they will eventually merge. The PFCOV's for the first and second events can be sentenced either consecutively or concurrently to each other and to the armed robberies. Thus, the minimum sentence for these offenses is 240 months (four AR's times the mandatory minimum of 60 months); the maximum sentence for these offenses is 504 months (four AR's plus 2 PFCOV's times the maximum of 84 months). If the judge believes that the minimum sentence is so harsh that it is manifestly unjust, they may apply Mitigating Factor #9. Under such circumstances, the sentence cannot be lower than 60 months.

[28] The word "event" is defined in § 7.10, *infra*.

[29] A defendant who commits an offense while on post-conviction escape status or furlough is considered to be 'under sentence' at that time.

6.2 Concurrent Sentences

The following sentences must be imposed **concurrently**:

Offenses that are not crimes of violence (including misdemeanors): multiple offenses in a single event, such as passing several bad checks that are sentenced on the same day.

Offenses for which a concurrent sentence is required by statute.

6.3 Judicial Discretion

The court has discretion to sentence everything else either consecutively or concurrently, including offenses sentenced on different days.

Note: The departure principles permit deviating from these consecutive and concurrent sentencing rules if adhering to them would result in a manifest injustice. *See* §§ 5.2.2(10) and 5.2.3(9).

Example

The defendant sold heroin and cocaine to an undercover narcotics officer as part of a "buy – bust" operation. The defendant was not apprehended at the time of the transaction and a warrant was issued for their arrest. The defendant was arrested three days later. A search of the defendant's person at the time of their arrest uncovered liquid PCP. The defendant was convicted of distribution of heroin, distribution of cocaine, and possession of liquid PCP. The sentences imposed for distribution of heroin and distribution of cocaine should run concurrently because they are non-violent crimes that arose from the same event. The court has the discretion to impose a sentence for possession of liquid PCP that runs either concurrently or consecutively to the sentences imposed for the distribution of heroin and distribution of cocaine convictions because they are not part of the same event.

Chapter 7: GLOSSARY

7.1 **Box** -- A box is the place on the Master and Drug Grids where the criminal history score of the offender and the group of the offense of conviction intersect. There are 45 boxes on the Master Grid and 20 boxes on the Drug Grid, which indicate the sentencing options for each combination of offense and criminal history. Boxes are identified by using the number of the offense of conviction group (M1 – M9 or D1 – D4) and the letter of the criminal history column (A – E). Thus, Box 9A is in the lower left-hand corner of the Master Grid and contains the lowest possible sentencing options. Box 1E is in the upper right-hand corner of the Master Grid and contains the highest possible sentencing options.

7.2 **Completion of the Sentence** -- A criminal sentence is completed when a person is sentenced, is 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, *see* § 7.21, or, in Master Groups 1 - 5, from a locked residential facility or the locked section of a residential facility, whichever is latest.

7.3 **Compliant Sentence** -- A sentence is compliant if it is one of the options permitted in the appropriate box. For example, in Box 9A, which is light gray, probation, a short split sentence, or a prison sentence between 1 and 12 months would all be compliant. In Box 1E, which is white, the only compliant sentence would be a prison sentence of not less than the mandatory minimum of 360 months (30 years) nor more than the statutory maximum of 720 months (60 years). A sentence also is compliant if it is within the prison range that is expanded by a statutory enhancement. A sentence also is compliant if it is imposed under Rule 11(c)(1)(C). A sentence also is compliant if the judge departs from the options in the box by applying one of the enumerated aggravating or mitigating factors, including applying the catchall of another substantial and compelling basis comparable in gravity to the other enumerated mitigating and aggravating factors. Any sentence that is not a compliant sentence is deemed a "non-compliant" sentence.

A judge is not required to explain why they imposed a compliant sentence. If the judge departs (applies an aggravating or mitigating factor), however, the judge must indicate which factor(s) was found and if the catchall aggravating or mitigating factor is used, the judge must further indicate what the substantial and compelling basis of comparable gravity was. To summarize, the following sentences are compliant:

(a) a sentence in the appropriate box (including the mandatory minimum, if applicable);
(b) a sentence in the appropriate box as expanded by a statutory enhancement;
(c) a sentenced outside of the box where there is a substantial and compelling reason contained in one of the enumerated aggravating or mitigating factors or one of like gravity; and
(d) a sentence or sentencing range agreed to and accepted under Rule 11(c)(1)(C).

7.4 **Crime of Violence** -- The term "crime of violence" under the Guidelines is used to determine consecutive and concurrent sentencing (*See* Chapter 6). This definition is identical to the crime of violence definition provided in D.C. Code § 23-1331(4).

7.5 **Criminal History Score** -- The criminal history score is the total number of points a defendant accumulates for their prior convictions and prior adjudications, calculated according to the Guidelines' rules for scoring. *See* § 2.2. The 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 Grid.

7.6 **Dark Gray or Dark Shaded Boxes** -- These are boxes on the Master Grid and the Drug Grid where a short split sentence is a permissible option. A prison sentence within the indicated range would also be compliant. Any other option, including probation, would not be compliant, absent a departure. There are four dark gray boxes on the Master Grid and four dark gray boxes on the Drug Grid.

7.7 **Departure** -- A departure, as enumerated in Chapter 5, permits a sentence outside of the appropriate Grid box. A departure applied in accordance with Chapter 5 is a compliant sentence, based on one or more of the aggravating or mitigating factors. For example, a probation sentence or a short split in a prison-only box would be a departure if the judge based the sentence on one or more mitigating factors. A prison sentence longer than the higher number in the prison range for a particular box would be a departure if the judge based the longer sentence on one or more aggravating factors. To assist the Commission in data collection and analysis of the efficacy of the Guidelines, the judge must indicate upon which mitigating or aggravating factor they relied on to depart. If the judge uses the "catchall" (Aggravating Factor #11; Mitigating Factor #10), then the judge must more specifically state what factor they found that was substantial and compelling and of equal gravity to the enumerated aggravating and mitigating factors.

7.8 **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 4A, the least serious offense and the lowest criminal history score, to 1E, the most serious offense and the highest criminal history score.

7.9 **Enhancements or Statutory Enhancements** -- An enhancement or statutory enhancement is a statutory mechanism for increasing the maximum sentence if certain factors -- such as recidivism, the vulnerability of the victim, etc. -- are present. The Guidelines permit the upper number of the prison range in each box to be increased by the same proportion or ratio as the maximum sentence can be increased. *See* Appendix H, Statutory Enhancements.

7.10 **Event** -- For purposes of determining which offenses count for criminal history scoring or for reviving other convictions (see Chapter 2) and which offenses must be sentenced consecutively/concurrently (see Chapter 6) 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 the District), it may result in multiple cases. However, this should not change the analysis regarding whether the offense(s) constitutes a single or multiple events.

Examples

One event: Defendant robs a convenience store at gunpoint. As the defendant is leaving, but still inside the store, there is a gun battle with a police officer who has the store under surveillance.

Two events: Defendant robs a convenience store at gunpoint. The defendant speeds away from the scene, is stopped for a traffic violation, and then shoots at the police officer.

7.11 **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.

7.12 **Five-Year Window** -- The five-year window is the five years preceding the commission of the instant offense. If, during this period of time, a person had a juvenile disposition, or was released from New Beginnings or its functional equivalent, or for a Master Group 1 - 5 offense, was released from a locked residential facility or the locked section of a residential facility, that adjudication is counted toward the criminal history score (with a cap of 1½ points unless there are multiple offenses in Master Groups 1 - 5).

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

7.14 **Instant Case** -- The instant case is the case currently being sentenced.

7.15 **Lapsed Conviction/Adjudication** -- A lapsed conviction/adjudication is one that is not scored for criminal history because it is too old under the applicable rules. *See* § 2.2.3 for adult lapse period; § 2.2.4 for juvenile lapse period. *See also* § 2.2.3 for rules on reviving convictions.

7.16 **Light Gray or Light Shaded Boxes** -- These are the boxes on the Master Grid and the Drug Grid where probation, a short split sentence, and a prison sentence are all permissible and compliant options. There are five light gray boxes on the Master Grid and ten light gray boxes on the Drug Grid.

7.17 **Long Split Sentence, Compliant** -- A compliant long split sentence is one where the court imposes a sentence within the applicable prison range, suspends execution of all but a term that also falls within the applicable prison range, such that the time initially served (not suspended) is more than six months, and places the defendant on probation for a period up to five years. Because both the sentence imposed and the term to be served initially falls within the applicable prison range, this is a compliant sentence. Because each box on the Master Grid and the Drug Grid has a prison range recommendation, a compliant long split sentence is a compliant sentence in any box. If either the number of months that the court imposes or the number of months to be served immediately does not fall within the applicable prison range for that box, such a sentence would not be compliant unless some other principle applies. *See, e.g.*, § 7.7, Departure; § 7.9, Enhancement or Statutory Enhancement § 7.29, Short Split Sentences.

7.18 **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* Section 3.6.

7.19 **Master Grid** -- The Master 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 Master Grid, arranged in nine rows on the vertical axis and five columns on the horizontal axis. The boxes range from Box 9A, the least serious offense and the lowest criminal history score to 1E, the most serious offense and the highest criminal history score. Prison sentences increase and sentencing options decrease as one moves from the bottom to the top and from left to right on the chart.

7.20 **Misdemeanor Offense** -- A misdemeanor offense is any offense that is not a felony offense.

7.21 **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 be facilities such as the former Oak Hill facility, the detention facility on Mt. Olivet Road, and similar juvenile detention facilities in other jurisdictions such as Cheltenham or the Hickey School in Maryland, Beaumont in Virginia, or Spofford in New York.

7.22 **Offense of Conviction** -- The offense of conviction is that offense (charge) for which the defendant was convicted and is facing sentencing. The offense of conviction, not the real offense conduct, controls a defendant's placement in an Offense Severity Group. 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 guilty plea, the offense of conviction is Robbery in Master Group 6, not Armed Robbery in Master Group 5, even if strong evidence exists that the defendant actually committed the robbery while armed. While the offense of conviction controls where on the vertical axis (containing the Offense Severity Groups) this charge falls, the court may consider real offense conduct in accordance with Constitutional principles and general sentencing case law when deciding where within a box to sentence the defendant.

7.23 **Offense Severity Group** -- All felonies have been placed in a group with offenses of like seriousness as measured by the Commission's understanding of **typical** offenses and historical sentencing data. These groups are arranged along the vertical axis from Master Group 1 (First-Degree Murder) to Master Group 9 (Receiving Stolen Property, etc.) on the Master 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.

7.24 **Out-of-District Offense** -- Any state or local criminal offense outside of the District of Columbia, any federal offense or, subject to the special rules in § 2.2.11, any military or territorial offense.

7.25 **Prior Conviction, Prior Adjudication** -- For purposes of computing criminal history score, 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 prior convictions or adjudications for criminal history scoring purposes.

7.26 **Prison Sentence, Compliant** – In a compliant prison sentence, the court sentences the defendant to a prison term within the applicable Grid box range. None of the time imposed is suspended. The prison term may be followed by a period of supervised release as governed by D.C. Code § 24-403.01(b). *See* Appendixes C, E.

7.27 **Probation Sentence, Compliant --** A sentence where the court imposes a sentence within the applicable Guidelines prison range, suspends execution of the entire sentence, suspends the period of supervised release, and places the defendant on probation for up to five years. Absent a departure, a probation sentence can only be imposed in the light/yellow shaded boxes. Except for time already served, if the judge suspends part, but not all of a sentence, it becomes a split sentence (*see* 7.29 -- Short Split Sentence and 7.17 -- Long Split Sentence, Compliant), and is no longer considered a probation sentence.

7.28 **Real Offense Conduct** -- Real offense conduct is what the defendant actually did. A defendant's placement in an Offense Severity Group is based on the offense of conviction rather than real offense conduct. Real offense conduct can be taken into consideration in determining where within the appropriate box an offender should be sentenced, and in determining whether there is a departure principle that would take him/her out of the box.

7.29 **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 that would not be counted toward the criminal history score but for the existence of a sentence for another felony in the ten-year window. *See* § 2.2.3. Revived convictions for Master Groups 6 - 9 and all Drug Groups are scored differently than convictions within the ten-year window. *See* § 2.2.2. Juvenile adjudications and misdemeanors are never revived and cannot revive earlier felonies or adjudications.

7.30 **Short Split Sentence, Compliant** -- A sentence where the court imposes a sentence within the applicable prison range, suspends execution of all but six months or less (but not all) of it, and places the defendant on probation up to five years. Absent a departure, a short split can only be imposed in the shaded boxes. If the judge suspends execution of all but some period longer than six months, unless the new modified short split rule is applied, this is a split sentence, but not a **short split** sentence, and would not be Guidelines compliant unless it is a compliant long split sentence. *See* § 7.17, Long Split Sentence, Compliant.

7.31 **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, it can be suspended.

7.32 **Ten-Year Window** -- The ten-year window is the ten years preceding the **commission** of the instant offense. If, during this period of time, a person was sentenced, released from jail or prison, or finished probation, parole, or supervised release, that conviction is said to be "within the 10-year window" and is counted toward the criminal history score. Prior felony convictions that are within the 10-year window can revive lapsed felony convictions.

7.33 **Voluntary Guidelines** -- The Guidelines are voluntary. This means that judges have discretion to impose any lawful sentence. There are no sanctions for failing to follow the Guidelines, though the court is required to explain why it imposed a noncompliant sentence. Lawful sentences cannot be appealed regardless of whether they comply with the Guidelines.[30]

7.34 **White or Unshaded Boxes** -- These are the boxes on the Master Grid and the Drug Grid where prison or a compliant long split is the only permissible and compliant option, absent a mitigating factor. Altogether, there are 35 white boxes on the Master Grid and six white boxes on the Drug Grid.

[30] *See* footnote 1.

Chapter 8: FREQUENTLY ASKED QUESTIONS

8.1 How should a presentence report writer determine whether prior convictions are part of the same event?

Example: If a defendant has multiple prior convictions with the same offense date and different docket numbers and a previous presentence report provided two different scores – how should the current presentence report writer determine whether these offenses were part of the same event, especially where the defendant is now claiming that the offenses were committed at the same time and only one should be scored?

The determination of whether two prior convictions are part of the same event is factual. Therefore, the initial decision is CSOSA's to make based on review of all the information available. Once CSOSA provides a determination the attorneys can present their arguments to the court. For more information on this subject, see Question 8.2 below.

8.2 What should a presentence report writer do if they cannot determine whether multiple prior convictions arose out of a single event or multiple events?

It is sometimes difficult to ascertain whether offenses that were sentenced on the same day arose out of a single or multiple events. The pre-sentence report writer will make this determination based on available documentation. The report writer should indicate in the report the source of the information upon which they relied on to make this determination. If the pre-sentence report writer cannot make this determination, either because there is no supporting documentation or because the available documentation was not clear on the question of single or multiple events, the report writer should apply the rules as if the multiple prior convictions arose out of a single event, score only the most serious offense, *and* note in the presentence report that they have done so because they did not have sufficient information to determine whether there was more than one event. Upon request by the prosecution, the defense, or the court, the presentence report writer should either provide a copy of, or make available for copying, the supporting documentation they consulted on this question.

8.3 How should a presentence report writer score an out-of-District statute that closely matches multiple D.C. Code offenses?

If there is more than one possible D.C. statute that "closely matches" the out-of-District offense, the presentence report writer should always identify all of the matching offenses in a footnote and indicate that the least severe offense was scored.

8.4 How do you score an out-of-District offense for Possession of Implements of Crime or Possession of a Prohibited Weapon when the defendant has a prior felony conviction that, if charged here, would raise the offense from a misdemeanor to a felony?

Following the basic elements test articulated in Rule 2.2.5(a), PIC (D.C. Code § 22-2501) and PPW (D.C. Code § 22-4514) should be scored as misdemeanors unless the statute in the other jurisdiction, like ours, makes the offense a felony if the person previously has been convicted of that offense or of a felony.

8.5 Can you provide a summary of what counts in Criminal History scoring?

The following should be counted in calculating an offenders Criminal History score:

- Adult felony convictions that have not lapsed (*see* §2.2.3).
- Adult felony convictions that have lapsed and have been revived by a prior felony (*see* §2.2.3).
- Adult misdemeanor convictions that have not lapsed, where the sentence was 90 days or more (*see* §2.2.3).
- Juvenile adjudications that have not lapsed (*see* §2.2.4).

8.6 Are lapsed juvenile adjudications counted in the Criminal History score?

Lapsed juvenile adjudications are never revived and are therefore not counted.

8.7 Are lapsed misdemeanor convictions counted in the Criminal History score?

Lapsed misdemeanor convictions are never revived and are therefore not counted. A new misdemeanor cannot revive a prior felony.

8.8 When calculating criminal history, how do you score prior D.C. Superior Court convictions for "any other felony" or "attempted crime not listed"?

D.C. Superior Court convictions for "any other felony," an imprecise term sometimes found in computerized court records, should be scored as one point, unless the judgment and commitment order or other reliable evidence shows that the conviction was for a two or three point offense. The burden is on the government to produce such evidence. The normal lapsing rules apply.

D.C. Superior Court convictions for "attempted crime not listed" should be scored as a misdemeanor unless the sentence imposed is greater than a year or the judgment and commitment order, or other reliable evidence, shows that the conviction was for an attempt offense that constitutes a felony, in which case it would be scored as "any other felony." The burden is on the government to produce such other reliable evidence. The normal lapsing rules apply.

8.9 How are sentences based solely on revocation proceedings scored?

A sentenced based solely on the revocation of a defendant's supervision (e.g., revocation of probation, parole, or supervised release) in a prior case is not scored as a new conviction. Only the underlying conviction may be scored.

8.10 Do the Guidelines apply to indeterminate sentences? If yes, how does it work?

Yes and no. The Guidelines apply to *all* pleas and verdicts entered on or after June 14, 2004. While the Guidelines were designed primarily for the 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 because the offense was committed before August 5, 2000. (The District of Columbia changed from an indeterminate to a determinate system of sentencing on

August 5, 2000. *See* D.C. Code § 24-403.01 (sentencing, supervised release, and good time credit for felonies committed on or after August 5, 2000) (Formerly § 24-203.1)).

If a plea or verdict was entered on or after June 14, 2004, the Guidelines apply regardless of when the offense was committed – i.e., whether the offense was committed before or after August 5, 2000. 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 that was committed before August 5, 2000, the court should follow the same procedures as it would for an offense that occurred on or after August 5, 2000, to determine the appropriate box and whether any enhancements or departure principles apply. The court should locate the box on the Grid in which the offense/offender 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 court should then multiply the minimum term by three (or more). *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").

Assuming no enhancements or departure principles apply, a sentence for First-Degree Burglary while Armed in Box 3A could be as low as 90 to 270 months or as high 180 months to life. Prison or compliant long split are the only options. Similarly, a sentence for a second carrying a pistol conviction in Box 8C could be as low as 14 to 42 months or as high as 40 to 120 months. The reason for the latter sentence is that a second conviction for carrying a pistol 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 carrying a pistol conviction is 120 months and the minimum sentence cannot be more than 1/3 of the maximum. Thus, the maximum indeterminate sentence a person can receive for a second carrying a pistol is 40-120 months, even though box 8C would otherwise permit a longer indeterminate sentence for a second carrying a pistol conviction.

8.11 Do the Guidelines apply to sentences under the Youth Rehabilitation Act?

The Sentencing Guidelines apply to felony convictions under the Youth Rehabilitation Act, D.C. Code § 24-901, *et seq*., just as they would any other felony conviction. Similar to other factors, at sentencing the court may consider the Youth Rehabilitation Act when determining an appropriate sentence within the applicable box.

Prior convictions under the Youth Rehabilitation Act are counted like any other conviction without regard to whether the conviction has been set aside.

8.12 What is the Offense Severity Group for Distribution of or PWID Synthetic Marijuana or Synthetic Cannabinoid?

The term "Synthetic Marijuana" or "Synthetic Cannabinoid" alone does not provide enough information to determine the offense's Drug Group. Distribution of or PWID Synthetic Marijuana/Cannabinoid is ranked according to the drug schedule and classification of the underlying substance(s).

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. Similarly, an attempted Distribution or PWID conviction for the same substance falls into Drug Group 3 (as a general rule, a conviction for attempt or conspiracy to commit a D2 offense always falls into D3).

If the underlying substance(s) is not classified as a Narcotic or Abusive Drug and/or is not a Schedule I or II controlled substance, then a Distribution or PWID conviction falls into Drug Group 3. Similarly, an attempted Distribution or PWID conviction for the same substance falls into Drug Group 4 (as a general rule, a conviction for attempt or conspiracy to commit a D3 offense always falls into D4).

An indictment for Distribution of or PWID Synthetic Marijuana/Cannabinoid should specify if the substance is a Narcotic or Abusive Drug and the applicable drug schedule. Another way to determine the applicable Drug Group is to find the maximum statutory penalty for the offense. If the maximum statutory penalty is 30 years' incarceration, the offense falls in D2. If the maximum statutory penalty for the offense is less than 30 years incarceration, the offense falls in D3.

Chapter 9: EXAMPLES

9.1 Example 1 -- Prison Only

Defendant was found guilty of Burglary II (Master Group 7) for an offense committed on 02/09/2021.

Prior convictions (or Criminal history)	*Date of Sentence*	*Scored?*	*Points*
Assault with Intent to Kill (DC):	04/15/2014	Yes	3
PWID Heroin While Armed (DC):	05/20/2019	Yes	2
PWID Cocaine (DC):	09/05/2020	Yes	1
			6

Explanation of Scoring

The assault with intent to kill conviction (Master Group 5) is 3 points. The PWID Heroin While Armed (Drug Group 1) is a 2-point offense and the PWID Cocaine is 1 point. All three offenses were sentenced less than 10 years before the commission of the instant offense. Thus, they all count. This offender's criminal history score is 6, which puts the defendant in column E.

Sentence

Defendant's current offense and criminal history put him in Box 7E. Box 7E is a prison only box; in other words, the Guidelines recommend that the in/out decision be "in" (prison). The Guidelines Grid calls for a prison sentence of 36+ months. Thus, any sentence of 36 months or more would be a compliant sentence.[31]

A sentence of less than 36 months, a short split sentence, or a probation sentence would not be a compliant sentence unless the judge finds a departure principle. Without a departure principle, a sentence of less than 36 months is a noncompliant sentence, and the judge should explain why they are not following the Guidelines in this case.

9.2 Example 2 -- Probation Permissible

Defendant pled guilty to felony Carrying a Pistol (Master Group 8) for an offense committed on 02/09/2021.

Prior convictions	*Date of Sentence*	*Scored?*	*Points*
PWID Heroin (DC):	01/21/2013	Yes	1

[31] In order to keep these examples as simple as possible, we have not incorporated the supervised release portion of the sentence. The Guidelines do not change the statutory requirements for supervised release. If the court imposes a term of imprisonment greater than a year, the court must impose the term of supervised release fixed by the statute: 3 or 5 years depending on the maximum sentence for the offense. If the court imposes a prison term of one year or less, the court must choose the supervised release term, which may be up to 3 or 5 years depending on the maximum sentence for the offense. *See* D.C. Code §24-403.01(b).

Explanation of Scoring

PWID Heroin (Drug Group 2) is a 1 point offense, which puts the defendant in Column B.

Sentence

The defendant's current offense and criminal history put him in box 8B, in which probation, a short split sentence or a prison sentence is permissible. The judge may impose a prison sentence anywhere in the range of 10 to 28 months, suspend imposition of all of it (and the accompanying 3 years of supervised release) and place the defendant on probation for any period up to 5 years, the maximum allowed by statute. The judge may also sentence the defendant to a prison sentence between 10 and 28 months, suspend execution of all but six months or less to be followed by a period of probation up to 5 years. Or the judge can sentence the defendant to a prison sentence between 10 and 28 months. All of these options would be compliant.

A prison sentence of less than 10 months or greater than 28 months or a split other than a short split or a compliant long split would not be a compliant sentence unless there is (a) a statutory enhancement or (b) a departure principle. Without an enhancement or a departure principle, a prison-only sentence of less than ten months or more than 28 months is a noncompliant sentence, and the judge should explain why they are not following the Guidelines in this case.

9.3 Example 3 -- Short Split Sentence Permissible

Defendant was found guilty of Possession with Intent to Distribute of Marijuana While Armed (Drug Group 1) for an offense committed on 02/09/2021.

Prior convictions	*Date of Sentence*	*Scored?*	*Points*
Possession of Heroin (DC):	06/07/2019	Yes	.25
PWID Cocaine (DC):	04/05/2020	Yes	1
			1.25

Explanation of scoring

This offender's criminal history score is 1.25. The Possession of Heroin conviction is a misdemeanor worth .25 points. The PWID Cocaine conviction (Drug Group 2) is 1 point. The defendant is thus in column B.

Sentence

The defendant's current offense and criminal history put him in Drug Box 1B, which is a short split permissible box. The judge may impose a short split sentence. For a short split sentence to be compliant, the judge must impose an incarceration sentence that is within the prison range (36 – 78 months for Drug Box 1B) and suspend execution of all but six months or less. If, however, the judge decides to impose a straight incarceration sentence, the Guidelines Grid calls for a prison sentence of 36 to 78 months. Thus, any sentence to incarceration between 36 and 78 months (including a compliant long split) would be a compliant sentence, as would a short split sentence. A prison-only sentence greater than 78 months would not be compliant unless there is (a) a statutory enhancement or (b) a departure principle. Similarly, a prison-only sentence of less than

36 months or a probation sentence would not be compliant unless there is a departure principle. Without a departure principle, probation only or a prison-only sentence of less than 36 months or more than 78 months or a split other than a short split or a compliant long split is a noncompliant sentence, and the judge should explain why they are not following the Guidelines in this case.

9.4 Example 4 -- Criminal History Issues: Adult Lapse and Misdemeanor Caps

Defendant pled guilty to an Assault with a Dangerous Weapon (Master Group 6), for an offense committed on 02/09/2021.

Prior Convictions (all DC)	*Date of Sentence*	*Max. Sentence*	*Scored?*	*Points*
UUV:	08/17/1997, sentence ended 10/20/2001	5 Years	No	0
Burglary II:	05/03/2007, sentence ended 01/26/2009	5 Years	No	0
Possession of Heroin:	07/06/2009 ended 02/15/2010	180 Days	No	
Possession of Cocaine:	06/16/2016	180 Days	Yes	.25
Simple Assault:	04/29/2017	180 Days	Yes	.25
Failure to Register Dangerous Dog (DC § 8-1904)	09/09/2018	90 Days	Yes	.25
Theft II:	01/12/2018	180 Days	Yes	.25
Shoplifting:	08/10/2019	90 Days	Yes	.25
Disclosure of Juvenile Info (§ 16-2336)	10/30/2019	90 Days	Yes	.25
Possession of Cocaine:	12/17/2019	180 Days	Yes	.25
Possession of Drug Paraphernalia (§ 48-1103(a))	12/01/2020	30 Days	No	0
Failure to Appear for Jury Duty (§11-1907 (b))	01/06/2021	7 Days	No	0
Total Points				1

Explanation of Scoring

The first three convictions are beyond the 10-year window and have therefore lapsed. Lapsed felony convictions are only revived by subsequent felony convictions within the ten-year window. However, in this example, all of the convictions within the ten-year window are misdemeanors. As such, the lapsed felony convictions are not revived and thus do not count towards the defendant's criminal history score.

There are nine non-lapsed misdemeanor convictions. Misdemeanors with a maximum penalty of 90 days or more are scored as .25 points. Misdemeanors with a maximum penalty of less than 90 days are not scored. Thus, because the eighth and ninth misdemeanor convictions in this example are respectively punishable by up to 30 days and 7 days, they are not scored. Note that the maximum imprisonment term for a misdemeanor dictates its scoring, not how it is codified. Thus, Failure to Register a Dangerous Dog (in Title 8) and Shoplifting (in Title 22) are scored alike.

Finally, the total criminal history score from prior misdemeanor convictions can never exceed one point. As a result, only four of the defendant's seven scored prior misdemeanor convictions count toward the total criminal history score. The total score is therefore 1 point (4 x .25).

Sentence

The defendant's current offense and criminal history put him in Master Box 6B, which is a prison-only box. The prison range is between 24 and 66 months. A compliant sentence would be a prison sentence of no less than 24 months and no greater than 66 months. The lapsed criminal convictions did not count towards criminal history, but the judge may consider them when deciding where within the prison range to sentence the defendant. The lapsed convictions are not an aggravating factor that would allow a departure from the prison range but may raise the top of the box if enhancement papers have been filed.

A prison sentence of less than 24 months, probation, or a short split, or a prison sentence of more than 66 months would not be compliant unless the judge finds a departure principle. Without a departure, a sentence of less than 24 months or more than 66 months is a noncompliant sentence, and the judge should explain why they are not following the Guidelines in this case.

9.5 Example 5 -- Criminal History Issues: Adult Revival and Out-of-District Convictions

Defendant was found guilty of Distribution of Heroin (Drug Group 2) for an offense committed on 02/09/2021.

Prior Convictions	*Date of Sentence Completion*	*Scored?*	*Points*
Felony RSP (DC):	11/22/1992	Yes	.5
Possession of Heroin (DC):	02/05/1999	No	0
Attempted Murder (PA):	04/15/2014	Yes	3
			3.5

Explanation of Scoring

Attempted Murder in Pennsylvania most closely matches the District's AWIK offense; therefore, the conviction is scored as a Master Group 5 offense worth 3 criminal history points. The Felony RSP and Possession of Heroin convictions are beyond the 10-year window and have lapsed. The lapsed Possession of Heroin conviction can never be revived because it is a misdemeanor. The 2007 Attempted Murder conviction revives the lapsed Felony RSP conviction. The Felony RSP conviction is revived at .5 points. The final criminal history score is 3.5 points, putting this defendant in column C.

Sentence

The defendant's current offense and criminal history put him in Drug Box 2C, which is a short split permissible box. Thus, the judge may impose either a short split or a prison sentence (including a compliant long split). In either case, the judge must impose a prison sentence that is within the prison range (20-42 months for Drug Box 2C). For a short split sentence, the court

may then suspend execution of all but six months or less. Any sentence of incarceration between 20 and 42 months would be a compliant sentence, as would a short split sentence.

A prison sentence of less than 20 months or more than 42 months (including a compliant long split), or a prison sentence between 20 and 42 months ESS all and placing the defendant on probation would not be compliant unless the judge finds (a) a statutory enhancement, or (b) a departure principle. Without an enhancement or departure principle, a prison sentence of less than 20 months or more than 42 months or probation is a noncompliant sentence, in which case the judge should explain why they are not following the Guidelines.

9.6 Example 6 -- Criminal History Issues: Juvenile Adjudications

The defendant pled guilty to Aggravated Assault (Master Group 6) offense committed on 02/09/2021.

Prior Adjudication	*Date of Sentence*	*Scored?*	*Points*
Sex Abuse II (juv.)(DC):	01/02/2013		
Released from Oak Hill,	02/03/2015	No	0
Unregistered Firearm (juv)(DC):	05/06/2016	No	0
Armed Robbery (juv)(DC):	09/08/2016		
Released from New Beginnings	03/04/2018	Yes	1.5
PWID Cocaine (juv)(DC):	04/05/2018	Yes	.5
Carjacking (juv)(DC):	07/08/2018	Yes	
Released from New Beginnings	11/30/2020	Yes	1.5
			3

Explanation of Scoring

The Sex Abuse II adjudication was over 5 years ago. This adjudication has lapsed and cannot be revived. Unregistered firearm is a misdemeanor offense and juvenile misdemeanors are not counted towards criminal history regardless of when they were committed. The Armed Robbery adjudication is 1.5 points, PWID Cocaine is .5 points, and carjacking is 1.5 points. Juvenile adjudication criminal history points are normally caped at 1.5 points, except that the Armed Robbery and the Carjacking offenses are both Master Group 5 offenses and therefore not subject to the juvenile cap (any conviction for an offense in Master Group 1-5 is not subject to the cap). The PWID Cocaine offense is subject to the cap. Thus, the criminal history for this defendant is 3 points, 1.5 each from the Armed Robbery and the Carjacking, but, practically speaking, no points from the PWID Cocaine because of the cap. Three points puts the defendant in column C.

Sentence

The defendant's current offense and criminal history put him in Master Box 6C, which is a prison-only box. The prison sentence is 30 to 72 months.

A prison sentence of less than 30 months or more than 72 months, a short split sentence, or probation would not be compliant unless the judge finds (a) a statutory enhancement, or (b) a

departure principle. Without an enhancement or departure principle, a prison sentence of less than 30 months or more than 72 months or probation is a noncompliant sentence, and the judge should explain why they are not following the Guidelines in this case.

9.7 Example 7 -- Mitigating Factor

Defendant was found guilty of Armed Robbery (Master Group 5) for an offense committed on 02/09/2021.

Prior Convictions	*Date of Sentence*	*Scored?*	*Points*
Armed Robbery (DC):	09/03/2017	Yes	3

Explanation of Scoring

This offender's criminal history score is 3 for the prior Armed Robbery conviction. Three points puts the defendant in column C.

Sentence

The defendant's current offense and criminal history put him in Master Box 5C, which is a prison-only box. The Guidelines Grid calls for 60 to 108 months. Thus, any prison sentence between 60 and 108 months would be a compliant sentence. However, this defendant substantially assisted law enforcement in the apprehension of other offenders who, along with the defendant, were involved in a series of home invasions. As a result, the judge can sentence below the lower number of months in the sentencing range (60 months) by stating that they found a substantial and compelling mitigating factor (in this case, Mitigating Factor #7, providing substantial assistance to law enforcement) to depart downward. If the judge applies a Guidelines mitigating factor, this downward departure is a compliant sentence. The Guidelines make no recommendation as to how far downward the judge should depart but encourage judges to take into account proportionality to other defendants and other offenses in determining how far below the minimum sentence they should go.

9.8 Example 8 -- Aggravating Factor

Defendant pled guilty to Aggravated Assault (Master Group 6) for an offense committed on 02/09/2021, victim was a disabled person.

Prior Convictions	*Date of Sentence*	*Scored?*	*Points*
Simple Assault (DC):	04/02/2017	Yes	.25
Simple Assault (DC):	09/10/2018	Yes	.25
PWID Cocaine (DC):	12/03/2019	Yes	1
			1.5

Explanation of Scoring

This offender's criminal history score is 1.5. The only felony conviction is PWID Cocaine, which is a 1 point offense. The remaining two offenses are misdemeanors, which count for .25

points each. All of them are in the 10-year window. A score of 1.5 puts the defendant in Criminal History column B.

Sentence

The defendant's current offense and criminal history put him in Master Box 6B, which is a prison-only box with a sentencing prison range of 24 to 66 months. Thus, any prison sentence between 24 and 66 months would be a compliant sentence. However, the judge found Aggravating Factor #2, that the defendant assaulted a victim who was "…particularly vulnerable due to age or reduced physical or mental capacity." As a result, the judge can sentence above the higher number of months in the sentencing range (66 months) by stating that they found a substantial and compelling aggravating factor to depart upward. If the judge applies a Guidelines aggravating factor, this upward departure is a compliant sentence. The Guidelines make no recommendation as to how far upward the judge should depart but encourage judges to take into account proportionality to other defendants and other offenses in determining how far above the maximum sentence they should go.

9.9 Example 9 -- Enhancements

Defendant was found guilty of Distribution of Cocaine in a Drug Free Zone for an offense committed on 02/09/2021.

Prior Convictions	*Date of Sentence*	*Scored?*	*Points*
Distribution of Cocaine	08/24/2006		
Sentence Finished	01/09/2011	No	0

Explanation of Scoring

The sentence for defendant's only prior conviction was completed more than ten years before the commission of the instant offense. Therefore, for scoring purposes, it is not counted, and the defendant has zero criminal history points.

Sentence

Defendant's current offense and criminal history score put him in Drug Box 2A, in which the court may impose a prison-only sentence (including a compliant long split), a short split sentence, or straight probation. The prison range in Drug Box 2A is 12 to 30 months. In this case, there are two factors that can raise the upper number. First, the current offense is distribution of cocaine in a drug free zone. Under D.C. Code § 48-904.07a(b), the maximum sentence for this offense is twice that for simple distribution of cocaine. Therefore, the upper number in the prison range is raised to 60 months (2 x 30 months = 60 months). Second, if enhancement papers were filed in this case under D.C. Code § 48-904.08, the maximum sentence for a second drug offense is twice that of the first. The 8/24/89 conviction for distribution of cocaine that was not counted for scoring purposes can nonetheless be used for enhancement purposes. Therefore, the upper number in the prison range is raised to 60 months (2 x 30 months= 60 months). In this case, a prison sentence of 12 to 60 months, a short split sentence, or straight probation would be compliant.

Note: The fact that there are two enhancements in this example does not mean that the upper number is raised twice. In situations where one enhancement is greater than the other, the court would have the option of applying the higher of the two.

9.10 Example 10 -- Concurrent Sentences

Defendant was found guilty of two offenses: Unauthorized Use of a Vehicle (Master Group 8) and Possession of a Prohibited Weapon (Master Group 9). Both offenses were committed on 02/09/2021.

Prior Convictions	*Date of Sentence*	*Scored?*	*Points*
Bail Reform Act (felony)	06/17/2015	Yes	1

Explanation of scoring

Defendant has one prior conviction for a 1-point offense. A score of 1 point puts the defendant in Criminal History column B.

Sentence

The defendant's current offenses and criminal history put him in Master Box 9B and Box 8B. These light gray boxes indicate that probation is a permissible sentence, as is a short split or a straight prison sentence. First, the judge should make the prison/probation decision. If the judge decides not to impose a term of probation but to sentence the defendant to a term of incarceration, the prison range for the PPW is 3 to 16 months and for the UUV is 10 to 28 months. The judge should impose a sentence for EACH offense that is within the prison range for that offense. Because these are nonviolent crimes, multiple offenses, one transaction (a search of the car incident to the arrest for the UUV found a prohibited weapon), the Guidelines rule is that these sentences should be run concurrently. Unless the judge finds that the resulting sentence would be too lenient (Aggravating Factor #10), these sentences must be imposed concurrently. It also would be a compliant sentence to give a term of probation or a short split sentence for each offense run concurrently.

9.11 Example 11 -- Consecutive Sentences

Defendant pled guilty to two counts of Armed Robbery (Master Group 5) for separate offenses that were committed on 02/09/21.

Prior Convictions

No prior convictions. This offender's criminal history score is zero, which puts the defendant in Criminal History column A.

Sentence

The defendant's current offenses and criminal history put him in Master Box 5A, which is a prison-only box. The prison range is 36 to 84 months. The judge should impose a sentence for EACH offense that is within the prison range for that offense. The defendant was convicted of

two crimes of violence, multiple victims, multiple transactions (wielding a knife, the defendant had robbed one pedestrian and then a few minutes later robbed another pedestrian.) The Guidelines rules call for consecutive sentences in such cases. Unless the judge finds that the resulting sentence would be too harsh (excessive) (Mitigating Factor #9), these sentences must be imposed consecutively.

9.12 Example 12 -- Criminal History Counts for One Offense, Not for Another

Defendant was found guilty of one count of Armed Robbery (Master Group 5) for an offense committed on 02/09/2021, and one count of Burglary I While Armed [Burglary I W/A] (Master Group 3) for an offense that was committed on 03/17/2020. Both counts were sentenced on the same day.

		Instant Offense Armed Robbery 2/9/2021		*Instant Offense* Burglary I While Armed 3/17/2020	
Prior Conviction	*Date of Sentence*	*Scored/Points*		*Scored*	*Points*
Armed Robbery	08/23/1991	No	0	Yes	3
Sentence Finished	10/01/1992				
Attempted Robbery	04/07/1996	No	0	Yes	.5
Sentence Finished	04/07/1997				
Robbery	11/23/2001				
Sentence Finished	07/29/2010	No	0	Yes	2
			0		5.5

Explanation of scoring

In the 02/9/2021 Armed Robbery case, all of the defendant's prior convictions were completed outside of the 10-year window. Therefore, they have lapsed and are not revived. The defendant's criminal history score is zero points for the Armed Robbery, which puts the defendant in criminal history column A.

The scoring for the 03/17/2020 Burglary I W/A is different because the 11/23/2000 Robbery was not completed until 07/29/2010, less than ten years prior to the commission of the 03/17/20 Burglary I W/A. Therefore, it has not lapsed and is worth 2 points (Master Group 6). This conviction also revives the older felony convictions in the 03/17/20 Burglary I W/A case. The lapsed and revived Attempted Robbery conviction (Master Group 8) is scored at half a point and a lapsed and revived Armed Robbery (Master Group 5) conviction is scored at 3 points. The offender's criminal history score is 5.5 points for the Burglary I W/A conviction, which puts the defendant in Criminal History column D.

Sentence

The defendant's current offenses and criminal history put him in Master Box 5A for the armed robbery and Master Box 3D for the first-degree burglary while armed. Both of these boxes are prison-only boxes. The prison range for Box 5A is between 36 and 84 months. The prison range for box 3D is between 126 and 216 months. Because these are crimes of violence that were committed on separate occasions, they must be sentenced consecutively. Thus, the minimum

possible aggregate sentence would be 162 months (36+126) and the maximum possible aggregate sentence would be 300 months (84+216).

A prison sentence of less than 162 months (13½ years) or more than 300 months (25 years), a short split sentence, or probation would not be compliant unless the judge finds (a) a statutory enhancement, or (b) a departure principle. Without an enhancement or departure principle, a prison sentence of less than 162 months or more than 300 months or probation is a noncompliant sentence, and the judge should explain why they are not following the Guidelines in this case.

If enhancement papers had been filed in this case, the offenses that did not count for the criminal history score in the armed robbery case could, nonetheless, count as two prior crimes of violence that would subject the defendant to a maximum sentence of life without release under D.C. Code § 22-1804a(a)(2). Under these circumstances, any aggregate sentence between 162 months and LWOR would be compliant.

9.13 Example 13 -- Order of Sentencing

A co-defendant of the offender in Example 12 was found guilty of one count of Armed Robbery (Master Group 5), for an offense committed on 02/09/21, and one count of Burglary I W/A (Master Group 3) for an offense that was committed on 3/17/20. Sentencing in the Armed Robbery case was the day before sentencing in the Burglary I W/A case.

Prior convictions

Armed Robbery -- no prior convictions
Burglary I W/A -- the AR is a prior conviction, 3 points

Explanation of scoring

At the time the Armed Robbery was sentenced, the defendant had no prior convictions. The Burglary I W/A was still pending sentencing even though the Burglary I W/A was committed before the Armed Robbery. Because the Armed Robbery was sentenced before (on a different day) the Burglary I W/A, it is a prior conviction for the Burglary I W/A and counts for 3 points.

The defendant's criminal history score is zero points for the Armed Robbery, which puts him/her in Criminal History column A. This defendant's criminal history score is 3 points for the Burglary I W/A, which puts him/her in Criminal History column C.

Sentence

The defendant's current offenses and criminal histories put him in Master Box 5A for the Armed Robbery and Master Box 3C for the Burglary I W/A. Both of these boxes are prison-only boxes. The prison range for Box 5A is between 36 and 84 months. The prison range for box 3C is between 114 and 204 months. The rule requiring consecutive sentences applies only to offenses sentenced on the same day. *See* § 6.1. These cases were sentenced on different days. Similarly, the rule requiring consecutive sentences applies to offenses that were **committed** while the defendant was under sentence in another case. *Id.* Therefore, in sentencing the Burglary I W/A, the court has discretion to determine whether it should run consecutively to or concurrent with the Armed Robbery.

9.14 Example 14 -- Rule 11(c)(1)(C) Plea

Defendant pled guilty to ADW (Master Group 6) for an offense committed on 02/09/2021.

Prior convictions (or Criminal History): None.

Sentence

The government and the defendant agreed to a Rule 11(c)(1)(C) plea. They agreed that if the defendant pled guilty to ADW, the sentence would be 24 months, ESS all, and 3 years probation. The parties also agreed that the defendant would spend the first six months in a halfway house as a condition of probation. *See* D.C. Code § 16-710(b-1). The defendant's case falls in box 6A (dark gray), which permits a short split sentence. However, if a short split sentence instead of a probation sentence were imposed, the initial period of incarceration of six months or less would be controlled by the Bureau of Prisons, which cannot send a person to a halfway house at the beginning of a sentence. By agreeing to six months in a halfway house as a condition of probation, the parties could ensure that the defendant would be sent to a halfway house in the District of Columbia so that they could maintain their employment. Box 6A does not permit an entirely suspended sentence with probation (absent a departure based on a mitigating factor). However, if the court accepts the Rule 11(c)(1)(C) plea, the court may (in fact, must) impose the agreed-upon sentence of 24 months, ESS all, three years probation with the first six months in a halfway house. This is a compliant sentence. The judge need explain only that the sentence was imposed pursuant to a Rule 11(c)(1)(C) plea. The judge, of course, does not have to accept an 11(c)(1)(C) plea agreement.

9.15 Example 15 -- Compliant Long Split

Defendant pled guilty to ADW (Master Group 6) for an offense committed on 02/09/2021.

Prior convictions	*Date of Sentence*	*Scored?*	*Points*
Possession of Heroin (DC):	03/08/2015	Yes	.25
Possession Drug Paraphernalia: (Under D.C. Code § 48-904.10)	06/11/2017	Yes	.25
Possession of Cocaine (DC):	01/10/2018	Yes	.25
Uttering (DC)	09/20/2019	Yes	1
			1.75

Explanation of scoring

The possession charges are all misdemeanors and are counted .25 points each. The Uttering (Master Group 9) is 1 point.

Sentence

The defendant's current offense and criminal history put him in Master Box 6B. Box 6B is a prison-only box. For any number of reasons, the judge might find that a split sentence is appropriate in the instant case, perhaps "to have more time hanging over the defendant's head" than if the judge imposed a straight prison sentence followed by supervised release. The judge could impose a

“compliant long split.” In a compliant long split, both the sentence the judge imposes and the time to be served initially must fall within the prison range in the appropriate box. The prison range for Box 6B is 24 to 66 months. Thus, the judge could impose a sentence of 60 months and 3 years of supervised release and suspend all but 24 months of the prison term and the period of supervised release and place the defendant on probation for five years. Because both prison terms fall within the range, it is a compliant sentence, even in a prison-only box.

Note: It would not be permissible for the judge to impose a sentence of 60 months and suspend execution of all but 12 months since, in a compliant long split, both sides have to be in the box and 12 months is below the prison range in Box 6B. It would also not be permissible for the judge to impose a sentence of 72 months and suspend execution of all but 24 months since 72 months is above the prison range in Box 6B

Note: Because prison is an option in every box on both grids, a "compliant long split" is also a compliant option in every box as well, as long as the sentence imposed and the time to be served initially (the time left unsuspended) fall within the box’s prison range.

9.16 Example 16 -- Multiple Counts; Merger; Mandatory Minimums

Defendant was found guilty of armed robbery (operable firearm) (Master Group 5); 2 counts of APO with a dangerous weapon (Master Group 6), two counts of ADW (Master Group 6), 3 counts of PFCOV (Master Group 5), and CPWL (Master Group 8) in a case where he robbed a store clerk at gunpoint and shot at two plain clothes police officers who spotted the defendant identified themselves and ordered him to stop on 2/9/2021.

Prior convictions	*Date of Sentence*	*Scored?*	*Points*
Distribution of Cocaine (DC):	07/23/2015	Yes	1

Explanation of scoring

Distribution of Cocaine is a Drug Grid 2 offense which carries 1 point. This would put defendant in column B.

Sentence

Both Master Box 5B and Master Box 6B are prison only boxes. Master Box 8B is a prison, short split, or probation permissible box. There are three victims (store clerk and two police officers) regardless of whether this is considered to be one event or two events (armed robbery as one; shooting of police as two). Armed robbery, APO w/ dangerous weapon, and ADW are violent crimes. Therefore, one of these offenses for each victim must be sentenced consecutively to one offense for each of the others. Master Box 8B is a prison, short split, or probation permissible box. Armed robbery (operable firearm), APO while armed, and PFCOV are in Master Box 5B which has a prison range of 48 to 96 months. However, all these offenses have a mandatory minimum of 60 months. CPWL is not a crime of violence.

The Court of Appeals instructs that a sentence should be given for each offense even though ultimately some of the above offenses will likely merge: ADW into APO w/ dangerous weapon and at least the two of the three counts of PFCOV for the shooting of the police officers. The possible sentencing options are as follows:

Armed robbery (operable pistol)	60 -- 96 months	MM
APO w/ dangerous weapon (officer 1)	60 -- 96 months	MM
ADW (officer 1)	24 -- 66 months	
APO w/ dangerous weapon (officer 2)	60 -- 96 months	MM
ADW (officer 2)	24 -- 66 months	
3 counts PFCOV (one for each of the above)	60 -- 96 months	MM
CPWL	6 -- 24 months	(or probation or short split)

Applying the consecutive/concurrent rules, the lowest possible aggregate sentence that could be given in this case is:

(1)(a)	Victim 1: Armed robbery (operable pistol)	60 months
(1)(b)	Victim 2: APO while armed for first officer concurrent with ADW and ADW (which will merge)	60 months
(1)(c)	Victim 3: APO while armed for second officer concurrent with ADW (which will merge)	60 months
(2)	(1)(a), (b), and (c) consecutive to each other	180 months
(3)	PFCOV for APO while armed of second officer (60 months) concurrent with PFCOV for APO w/ dangerous weapon of first officer (60 months) which will merge, concurrent with PFCOV for AR (60 months), which will not merge if different events, and concurrent with (2)	--
(4)	CPWL (6 months) concurrent with (2)	--

Applying the consecutive/concurrent rules, the highest possible aggregate sentence that could be given in this case is:

(1)	Armed robbery	96 months
(2)	APO w/ dangerous weapon merges w/ADW	96 months
(3)	APO w/ dangerous weapon merges with ADW	96 months
(4)	PFCOV for armed robbery	96 months
(5)	PFCOV for APO while armed of second officer (96 months) concurrent with PFCOV for APO w/ dangerous weapon of first officer ((96 months) which will merge	96 months
6)	CPWL	28 months
(7)	(1) through (6) consecutive to each other	508 months

9.17 Example 17 -- Indeterminate Sentences for Pleas and Verdicts Entered After June 14, 2004

Defendant's 1999 convictions were reversed on appeal. In a retrial, he was found guilty on August 3, 2014, of one count of Armed Robbery (operable pistol) and one count of PFCOV.

Prior convictions	*Date of Sentence*	*Scored?*	*Points*
Distribution of Heroin	04/23/2005	Yes	1
Theft I	11/08/2007	Yes	1

Explanation of scoring

Distribution of Heroin is a Drug Group 2 offense that carries one point. Theft I is a Master Group 8 offense that carries 1 point. These offenses are scored because each sentence was imposed before sentencing in the instant case.

Sentence

With two criminal history points, both of defendant's convictions fall into Master Box 5C. Master Box 5C is a prison only box. The PFCOV conviction can be sentenced either consecutively or concurrently to the armed robbery. There is a mandatory minimum of 60 months for each of the offenses. The prison range in box 5C is 60 to 108 months.

Because this is an "old law" case, the court must impose an indeterminate prison sentence in which the minimum is no greater than one-third of the maximum. The Commission used the minimum sentences imposed in the old system (as the amount a person was required to serve) to construct the Guideline prison ranges. For an indeterminate sentence to be Guidelines compliant, the minimum prison term must fall with the box and the maximum should be computed by multiplying by 3 or more (not to exceed the statutory maximum).

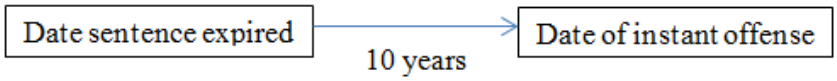
The lowest possible aggregate sentence that the court could impose in this case is 60 to 180 months (5 to 15 years), by imposing 60-180 months for each offense and running them concurrently. Sixty months is both the mandatory minimum and the minimum prison sentence in Box 5C. The maximum is calculated by multiplying 60 months by 3, so the sentence will be 60 to 180 months, with a mandatory minimum of 60 months.

The highest possible aggregate sentence that the court could impose in this case is 168 months to 504 months (14 to 42 years). The maximum Guideline sentence for the armed robbery is 108 to 324 months (9 to 27 years). The maximum statutory sentence for PFCOV is 60 to 180 months (5 to 15 years). Sentencing them consecutively would yield an aggregate maximum sentence of 168 to 504 months (14 to 42 years). It does not matter that Box 5C would permit a sentence of 108 to 324 for the PFCOV since the offense is statutorily capped at 60 to 180 months (5 to 15 years).

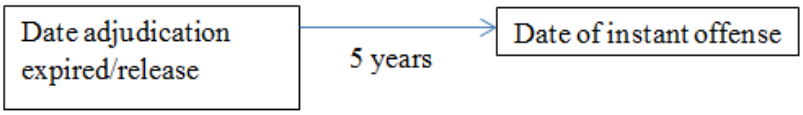
Note*:* The Guidelines apply only to pleas and verdicts entered on or after June 14, 2004. If a defendant is sentenced or resentenced after this date for a crime committed before August 5, 2000, and the plea or verdict was entered *before* June 14, 2004, the Guidelines do not apply. The court may, however, take them into consideration.

9.18 Example 18 – Visual Aids: Lapse

The lapsing of adult convictions:



The lapsing of juvenile adjudications:



9.19 Example 19 – Lapse and Revival

Which of these will count towards the Criminal History Score?

A defendant is before you for sentencing. The offense in the instant case was committed on June 1, 2021. The defendant has the following criminal history:

1. A juvenile adjudication for Theft II where supervision ended on March 16, 2002.
   - *No. Prior juvenile adjudications lapse if they are beyond the five-year window. A juvenile adjudication that has lapsed can never be revived.*

2.An adult conviction for Robbery where supervision ended on March 16, 2007.
   - *Yes. This conviction has lapsed, but all lapsed felony convictions are revived if any prior felony conviction/part of its sentence occurred within the ten-year window preceding the commission of the instant offense. In this case, both items 4 and 5 serve to revive this conviction.*

3. An adult misdemeanor conviction where supervision ended on March 16, 2007.
   - *No. This conviction has lapsed. Lapsed misdemeanor convictions cannot be revived and are never scored*

4. An adult conviction for Assault II where supervision ended on March 16, 2012.
   - *Yes. This conviction or part of its sentence occurred within the ten-year window preceding the commission of the instant offense.*

5. An adult conviction for Carjacking where supervision ended on March 16, 2017.
   - *Yes. This conviction or part of its sentence occurred within the ten-year window preceding the commission of the instant offense. It also serves to revive all lapsed felony convictions.*

APPENDIX A -- MASTER GRID

August 2022

Sentencing Ranges Listed In Months

		Criminal History Score				
	Ranking Group Most Common Offenses	0 to ½ **A**	¾ to 1¾ **B**	2 to 3¾ **C**	4 to 5¾ **D**	6 + **E**
3 Points*	**Group 1** 1st degree murder w/armed 1st degree murder	**360 - 720**	**360 - 720**	**360 - 720**	**360 - 720**	**360 +**
3 Points*	**Group 2** 2nd degree murder w/armed 2nd degree murder 1st degree sex abuse 1st degree sex abuse w/armed	**144 - 288**	**156 - 300**	**168 - 312**	**180 - 324**	**192 +**
3 Points*	**Group 3** Voluntary manslaughter w/armed 1st degree child sex abuse Carjacking while armed Assault with intent to kill w/armed Armed burglary I	**90 - 180**	**102 - 192**	**114 - 204**	**126 - 216**	**138 +**
3 Points*	**Group 4** Aggravated assault w/armed Voluntary manslaughter	**48 - 120**	**60 - 132**	**72 - 144**	**84 - 156**	**96 +**
3 Points*	**Group 5** PFCOV Armed robbery Burglary I Obstruction of justice Assault with intent to kill	**36 - 84**	**48 - 96**	**60 - 108**	**72 - 120**	**84 +**
2 Points*	**Group 6** ADW Robbery Aggravated assault 2nd degree child sex abuse Assault with intent to rob	**18 - 60**	**24 - 66**	**30 - 72**	**36 - 78**	**42 +**
2 Points*	**Group 7** Burglary II 3rd degree sex abuse UPF-PCOV Negligent homicide Attempt 2nd degree sex abuse	**12 - 36**	**18 - 42**	**24 - 48**	**30 - 54**	**36 +**
1 Point*	**Group 8** Carrying a pistol w/o License (CPWL) UUV Attempt robbery/burglary UPF[32] 1st degree theft Assault w/significant bodily injury	**6 - 24**	**10 - 28**	**14 - 32**	**18 - 36**	**22 +**
1 Point*	**Group 9** Escape/prison breach BRA Receiving stolen property Forgery/uttering Fraud	**1 - 12**	**3 - 16**	**5 - 20**	**7 - 24**	**9 +**

*Criminal History Points for prior convictions in these groups.

White/unshaded boxes – prison or compliant long split only.

Dark shaded boxes – prison, compliant long split, or short split permissible.

Light shaded boxes – prison, compliant long split, short split, or probation permissible.

[32] D.C. Code § 22-4503 provides that the offense of Unlawful Possession of a Firearm penalizes (UPF) possession by a convicted felon, as well as possession by a person who has in the last five years been convicted of an intra-family offense, among other offenses.

APPENDIX B -- DRUG GRID

August 2022

Sentencing Ranges Listed In Months

		Criminal History Score				
	Ranking Group Most common offenses	0 to ½ **A**	¾ to 1¾ **B**	2 to 3¾ **C**	4 to 5¾ **D**	6 + **E**
2 Points*	**Group 1** Distribution w/a (any drug) PWID w/a (any drug)	**30-72**	**36-78**	**42-84**	**48-90**	**54+**
1 Point*	**Group 2** Distribution or PWID (schedule I or II narcotic/ abusive drugs)	**12-30**	**16-36**	**20-42**	**24-48**	**28+**
	Group 3 Distribution or PWID (except schedule I or II narcotic or abusive drugs) Attempt distribution or attempt PWID (schedule I or II narcotic/ abusive drugs) Possession of Liquid PCP	**6-18**	**10-24**	**14-30**	**18-36**	**22+**
3/4 Point*	**Group 4** Attempt distribution or attempt PWID (except schedule I or II narcotic or abusive drugs) Attempt possession of liquid PCP	**3-12**	**5-16**	**7-20**	**9-24**	**11+**

*Criminal History Points for prior convictions in these groups.

White/unshaded boxes – prison or compliant long split only.

Dark shaded boxes – prison, compliant long split, or short split permissible.

Light shaded boxes – prison, compliant long split, short split, or probation permissible.

† The previous version of the Drug Grid can be found in on the Commission's website.

APPENDIX C

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 prison sentence and amount of supervised release the judge may/must impose initially under the pursuant to D.C. Code 13-406. In some cases, the maximum sentence will depend on factors set forth in the statute. Please refer to the statute. Appendix C-I contains the same information in Code Section number order. The offense severity is blank for enhanced versions of offenses. Those have the same offense severity score as the unenhanced offense. *See* Chapter 4 (Adjusting the Box).

ABBREVIATIONS:

"*"	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 Guidelines range. *See* Chapter 4 and Appendix H.
"M"	in the minimum column means mandatory minimum, a minimum that generally cannot be suspended. *See* Section 3.6.
"or SOR"	in the Supervised Release column means that the offense is necessarily a registration offense under D.C. Code § 22- 4001[33] 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). *See* 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.
"(30/40/60)"	that appears under "LWOR" [life without release] for several offenses and under "40" for carjacking 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.
"same term/fine"	means the same term or fine as the underlying 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 means a crime of violence pursuant to D.C. Code § 23-1331(4) or a dangerous crime pursuant to D.C. Code § 22-4501(2).
"w/a"	means an offense subject to D.C. Code § 22-4502 imposing additional penalties for committing a crime of violence while armed. *See Hager v. United States*, 791 A.2d 911 (D.C. 2002).

[33] Other offenses are registration offenses if the victim was a minor or if they involve a sexual act or sexual contact without consent or with a minor or 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. *See* D.C. Code § 22-4001(8)(C) - (F). Those do not have "or SOR" in the Supervised Release column.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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	[34]	½ the term						½ the fine
Aiding & Abetting	22-1805		Same as principal						Same as principal
Aggravated Assault w/a*	22-404.01(b) 22-4502	M 4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
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
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	7-2507.06(3)	M 7	10	2	8	3	M 1		25,000
Arson	22-301	M 6	10	2	8	3	not < 1	V	25,000
Arson -- Own property w/ intent to defraud	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	M8	5	2	3	3		V	12,500
Assault on Police Officer (APO) w/a*	22-405(c) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Assault on Police Officer (APO)	22-405(c)	M 7	10	2	8	3		V	25,000

[34] *See* §§ 2.1 and 2.2.2 for the severity level and scoring of accessory convictions.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Assault on Police Officer (APO) w/ deadly weapon -- 2nd+ offense or prior felony	22-405(c) 24-403.01(f)(1)	M 7e	10	2	8	3	not < 1	V	25,000
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 M5 2nd other	V	75,000
Assault with Intent to Kill or Poison	22-401	M 5	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 M5 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 1º or 2º Sexual Abuse or Child Sex Abuse w/a*	22-401 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Assault with Intent to 1º or 2º Sexual Abuse or Child Sex Abuse	22-401 24-403.01(e)	M 6	15	2	13	3 or SOR	not < 2	V	37,500
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 M5 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 Mayhem w/a*	22-402 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Assault with Intent to Commit Mayhem	22-402	M 7	10	2	8	3		V	25,000
Assault with Significant Bodily Injury	22-404(a)(2)	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 prison term 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 Significant Bodily Injury w/a*	22-404(a)(2) 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Attempt Crime of Violence w/a* (Unless otherwise specified)	22-1803 22-4502	[35]	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Attempt Crime of Violence unarmed (Unless otherwise specified)	22-1803	M 8	5	2	3	3		V	12,500
Bad Checks $1000+	22-1510	M 9	3	1	2	3	not < 1		12,500
Bail Reform Act (BRA) violation	23-1327(a)(1)	M 9	5	2	3	3	not < 1		12,500
Bias-Related Crime	22-3703		1½ x the term						1 ½ x the fine
Bigamy	22-501	M 8	7	2	5	3	not < 2		25,000
Blackmail with threats of violence w/a*	22-3252 22-4502	M 8	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Blackmail	22-3252	M 9	5	2	3	3		V[36]	12,500
Breaking and Entering -- Vending Machines	22-601	M 9	3	1	2	3			12,500
Bribery -- Public Servant	22-712	M 8	10	2	8	3			25,000 or 2x the value
Bribery -- Witness	22-713	M 8	5	2	3	3			12,500

[35] Same group as unarmed completed offense.
[36] D.C. Code § 23-1331(4) provides that a crime of violence includes "extortion or blackmail accompanied by threats of violence."

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Burglary I w/a*	22-801(a) 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Burglary I	22-801(a)	M 5	30	3	27	5	not < 5	V	75,000
Burglary II w/a*	22-801(b) 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Burglary II	22-801(b)	M 7	15	2	13	3	not < 2	V	37,500
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)
Carjacking	22-2803(a)	M 5	21	2	19	3	M7	V	75,000
Carrying a Pistol – Felony (CPWL) Carrying Dangerous Weapon – Felony (CDW) 1st offense	22-4504(a)(1)	M 8	5	2	3	3			12,500
Carrying a Pistol – Felony (CPWL) Carrying Dangerous Weapon – Felony (CDW) 2nd+ offense or after felony conviction	22-4504(a)(2)	M 8[e]	10	2	8	3			25,000
Child Prostitution – Abducting/Enticing	22-2704	M 5	20	2	18	3 or SOR	not < 2		50,000
Child Prostitution -- Harboring	22-2704	M 5	20	2	18	3 or SOR	not < 2		50,000
Child Sex Abuse -- Aggravated 1º*	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 -- 1º 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 M5 2nd other	V	125,000 (75,000)

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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* -- 1º	22-3008 24-403.01(e) 24-403.01(b-2)	M 3	LWOR (30)	5	LWOR (30)	5 or SOR	not < 7 if prior COV	V	125,000 (75,000)
Child Sex Abuse -- Attempt 1º w/a*	22-3008 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Child Sex Abuse -- Attempt 1º	22-3008 22-3018	M 6	15	2	13	3 or SOR		V	37,500
Child Sex Abuse, Assault with Intent to Commit -- 1º or 2º	22-401 24-403.01(e)	M 6	15	2	13	3 or SOR	not < 2	V	37,500
Child Sex Abuse -- 2º w/a*	22-3009 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Child Sex Abuse -- 2º	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 -- Attempt 2º w/a*	22-3009 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Child Sex Abuse -- Attempt 2º	22-3009 22-3018	M 8	5	2	3	3 or SOR		V	12,500
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	2½	1	1½	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	2½	1	1½	3 or SOR			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Citizen Patrol Victim	22-3602		1 ½ x the term						1½ x the fine
Conspiracy in general	22-1805a(a)(1)	M 9	5	2	3	3			12,500
Conspiracy in general If underlying offense < 5 years	22-1805a(a)(1)	M 9	Same term	1	x minus 1	3			Same fine
Conspiracy to Commit Murder or an Armed COV	22-1805a(a)(2)	M 5[37]	15	2	13	3		V	Not > 37,500 or maximum for underlying off
Conspiracy to Commit COV	22-1805a(a)(2)	M 7[38]	15[39]	2	x minus 2	3		V	Not > 37,500 or maximum for underlying off
Contempt for violating conditions of release, if felony	11-944	M 9[40]	Life	5	Life	5			
Contempt, if any other felony	11-944	[41]							
Contraband -- Introducing into prison and possession by inmate: Class A material	22-2603	M 8	10	2	8	3			25,000
Contraband -- Introducing into prison and possession by inmate: Class B material	22-2603	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

[37] If underlying offense is in M 6 or M 7, the conspiracy is in the same offense severity group.
[38] If underlying offense is in M 8 or M 9, the conspiracy is in the same offense severity group.
[39] The maximum statutory penalty may not exceed 15 years, or the maximum penalty prescribed for the underlying offense, whichever is lower.
[40] This ranking only applies to the instant conviction. The scoring of a prior contempt conviction is discussed in § 2.2.12 (Scoring Contempt Convictions).
[41] Proportionate, not a guidelines offense. *See* § 2.2.12 (Scoring Contempt Convictions).

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Contributing to the Delinquency of a Minor: Death	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)	M 9	5	2	3	3	not < 1		12,500
Counterfeiting -- 2nd offense or value $1,000 to 10,000 or 100 - 1,000 items	22-902(b)(2)	M 9	3	1	2	3			12,500
Counterfeiting -- 3+ 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)(1)	M 9	10	2	8	3			25,000
Crime of Violence Against Minors	22-3611		1½ x the term						1 ½ 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
Criminal Abuse or Neglect of a Vulnerable Adult -- Serious bodily injury/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 -- 1º w/a*	22-1101(a), (c)(1) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Cruelty to Children -- 1º	22-1101(a), (c)(1)	M 6	15	2	13	3		V	37,500
Cruelty to Children -- 2º	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

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
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
Drugs -- Distribution, or PWID w/a* (any drug)	48-904.01(a), (b) 22-4502	D 1	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	D	75,000
Drugs -- Distribution, or PWID: I, II Narcotic and abusive drugs (heroin, cocaine, PCP, methamphetamine, etc.)	48-904.01(a)(2)(A), (b)	D 2	30	3	27	5		D	75,000
Drugs -- Distribution, or PWID: I, II, III Non-narcotic and non-abusive drugs (including marijuana -- 2nd offense or > ½ pound)	48-904.01(a)(2)(B), (b)	D 3	5	2	3	3		D	12,500
Drugs -- Distribution, or PWID: IV	48-904.01(a)(2)(C), (b)	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 a while armed offense in Drug Group 1	48-904.09	D 2	same term as compl-eted offense						same fine
Drugs -- Attempt or Conspiracy of an offense in Drug Group 2	48-904.09	D 3	same term as compl-eted offense						same fine
Drugs -- Attempt or Conspiracy of an offense in Drug Group 3	48-904.09	D 4	same term as compl-eted offense						same fine

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Drugs -- Distribution to Minors	48-904.06		2 x the term						same fine
Drugs -- Enlisting Minors -- 1st offense	48-904.07(b)(1) [42]		10	2	8	3			25,000
Drugs -- Enlisting Minors -- 2nd + offense	48-904.07(b)(2)[41]		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						2x the fine
Drugs -- Maintaining place for	48-904.03a	D 2	25	3	22	3	not < 5		75,000
Drugs -- 2nd+ offense	48-904.08		2 x the term						2 x the fine
Drug Paraphernalia, 2nd + offense	48-1103(e)(4)	M 9	2	1	1	3			12,500
Drug Paraphernalia -- Distributing to a Minor	48-1103(c)	D 3	8	2	6	3			25,000
Escape, and Attempt Escape	22-2601	M 9	5	2	3	3			12,500
Extortion with threats of violence w/a*	22-3251 22-4502	M 8	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V[43]	75,000
Extortion	22-3251	M 8	10	2	8	3		V[44]	25,000
False Personation	22-1403	M 9	5	2	3	3	not < 1		12,500

[42] 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."
[43] D.C. Code § 23-1331(4) provides that a crime of violence includes "extortion or blackmail accompanied by threats of violence."
[44] D.C. Code § 23-1331(4) provides that a crime of violence includes "extortion or blackmail accompanied by threats of violence."

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
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
Felony Assault	22-404(a)(2)	M 8	3	1	2	3		V	12,500
Felony Assault w/a*	22-404(a)(2) 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Financial Exploitation of a Vulnerable Adult or Elderly Person -- $1000 or More	22-933.01 22-936.01(a)(1)	M8	10	2	8	3			25,000
Financial Exploitation of a Vulnerable Adult or Elderly Person -- 2+ Prior Convictions	22-933.01 22-936.01(b)	M8	15	2	13	3			37,500
Firearm, Unlawful Possession of by a person with a prior conviction > 1 yr	22-4503(a)(1)	M 8[45]	10	2	8	3	M1		25,000
Firearm, Unlawful Possession of by a person with a prior conviction > 1 yr and COV other than Conspiracy	22-4503(a)(1)	M 7	15	2	13	3	M3		37,500
Firearm, Unlawful Possession of by others	22-4503(a)(2) – (a)(6)	M 8	10	2	8	3	not < 2		25,000
Fleeing Law Enforcement	50-2201.05b(b)(2)	M 8	5	2	3	3			12,500
Forgery and Uttering: Legal tender	22-3241 22-3242(a)	M 9	10	2	8	3			25,000
Forgery and Uttering: Token	22-3241 22-3242(b)	M 9	5	2	3	3			12,500

[45] Defendants convicted of Firearm, Unlawful Possession of by a person with a prior conviction > 1 year with a criminal history score of 2 to 3.75 fall into Master Grid box 8:C with a sentencing range of 14 to 32 months incarceration, prison or short split permissible. However, because of the mandatory minimum 12-month sentence, a short split sentence is not permissible under the Guidelines. The court must sentence the defendant to at least 14 months to impose a Guidelines compliant sentence. If the court 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 court 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 prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Forgery and Uttering: Other	22-3241 22-3242(c)	M 9	3	1	2	3			12,500
Fraud -- 1º -- $1,000+	22-3221(a) 22-3222(a)(1)	M 9	10	2	8	3			25,000/ 2x the value
Fraud -- 2º -- $1,000+	22-3221(b) 22-3222(b)(1)	M 9	3	1	2	3			12,500/ 2x the value
Gaming	22-1704	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 M5 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		2 x the term						2x the fine
Human Trafficking -- Forced Labor	22-1832 22-1837	M 5	20	2	18	3			50,000
Human Trafficking -- Forced Labor -- Attempt	22-1832 22-1837	M 7	10	2	8	3			25,000
Human Trafficking -- Labor or Commercial Sex Acts	22-1833 22-1837	M 5	20	2	18	3			50,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 -- Attempt	22-1833 22-1837	M 7	10	2	8	3			25,000
Human Trafficking -- Sex Trafficking of Children	22-1834 22-1837	M 5	20	2	18	3			50,000
Human Trafficking -- Sex Trafficking of Children -- Attempt	22-1834 22-1837	M 7	10	2	8	3			25,000
Human Trafficking -- Documents	22-1835 22-1837	M 8	5	2	3	3			12,500
Human Trafficking -- Documents -- Attempt	22-1835 22-1837	M 9	2½	1	1½	3			12,500
Human Trafficking -- Benefitting Financially	22-1836 22-1837		Same as principal						Same as principal
Human Trafficking -- Benefitting Financially -- Attempt	22-1836 22-1837		Same as principal attempt						Same as principal attempt
Human Trafficking -- Victim held/services provided >180 days	22-1837		1 ½ x the term						1 ½ x the fine
Identity Theft -- 1º	22-3227.02 22-3227.03(a)	M 8	10	2	8	3			25,000 or 2x the value/injury
Identity Theft -- 1º against senior citizen	22-3227.02 22-3227.03(c)	M 8[e]	15	2	13	3			1 ½ x the fine
Illegal Dumping (commercial)	8-902(b)(2)	M 9	5	2	3	3			12,500
Illegal Lottery	22-1701	M 9	3	1	2	3			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
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/Obstruct a Police Animal - Significant Bodily Injury/Death	22-861(b)(2)	M8	10	2	8	3			25,000
Insurance Fraud -- 1º -- $1,000+	22-3225.02 22-3225.04(a)	M 9	15	2	13	3			37,500
Insurance Fraud -- 2º -- $1,000+ 1st offense	22-3225.03 22-3225.04(b)(1)	M 9	5	2	3	3			12,500
Insurance Fraud -- 2º -- $1,000+ 2nd offense	22-3225.03 22-3225.04(b)(2)	M 9[e]	10	2	8	3			25,000
Interception, Disclosure, and Use of Wire or Oral Communications	23-542	M9	5	2	3	3			12,500
Kidnapping w/a*	22-2001 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Kidnapping*	22-2001	M 5	30	5	30	5		V	75,000
Malicious Disfigurement w/a*	22-406 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Malicious Disfigurement	22-406	M 6	10	2	8	3		V	25,000
Manslaughter -- Voluntary -- w/a*	22-2105 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000
Manslaughter -- Voluntary	22-2105	M 4	30	3	27	5		V	250,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Manslaughter -- Involuntary -- w/a*	22-2105 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000
Manslaughter -- Involuntary	22-2105	M 5	30	3	27	5		V	250,000
Mayhem w/a*	22-406 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Mayhem	22-406	M 6	10	2	8	3		V	25,000
Molotov Cocktails -- 1st offense	22-4515a	M 9	5	2	3	3	not < 1		12,500
Molotov Cocktails -- 2nd offense	22-4515a	M 9e	15	2	13	3	not < 3		37,500
Molotov Cocktails -- 3rd* offense*	22-4515a	M 9e	30	5	30	5	not < 5		75,000
Money Transmission Without a License	26-1023(c)	M 9	5	2	3	3			12,500
Aggravated Murder I*	22-2104 22-2104.01 24-403.01(b-2)	M 1e	LWOR	5	LWOR	5		V	250,000
Murder I w/a*	22-2101 22-2104 22-4502	M 1	LWOR (60)	5	LWOR	5	M30	V	250,000
Murder I*	22-2101 22-2104 24-403.01(b-2)	M 1	LWOR (60)	5	LWOR	5	M30	V	250,000
Murder I -- Obstruction of Railway*	22-2102 22-2104 24-403.01(b-2)	M 1	LWOR (60)	5	LWOR	5	M30	V	250,000
Murder II w/a*	22-2103 22-2104 22-4502	M 2	Life (40)	5	Life	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Murder II*	22-2103 22-2104 24-403.01(b-2)	M 2	Life (40)	5	Life	5		V	250,000
Murder of P.O.*	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)	M 9	2	1	1	3			12,500
Offenses Committed During Release (felony)[46]	23-1328(a)(1)	M 9[47]	5				Not < 1		12,500
Offenses not covered by D.C. Code	22-1807	M 9	5	2	3	3			12,500
Possession of Drug Paraphernalia (PDP) w/ Intent -- 2nd+ offense	48-1103(b)	M 9	2	1	1	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 after felony	22-2501 24-403.01(f)(3)	M 9	5	2	3	3	not < 1		12,500

[46] 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.
[47] 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 criminal history score.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
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 after felony	22-4514	M 9	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
Prostitution, Engaging In or Soliciting -- 3+ 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 -- Against Will	22-2706(b)(1)	M 6	15	2	13	3			37,500
Prostitution -- Against Will a Minor	22-2706(b)(2)	M 5	20	2	18	3 or SOR			50,000
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, 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, 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
Prostitution, Operating House of	22-2712	M 9	5	2	3	3			12,500
Prostitution -- Keeping Bawdy or Disorderly House	22-2722	M 9	5	2	3	3			12,500
Receiving Stolen Property (RSP) -- $1,000+	22-3232(c)(1)	M 9	7	2	5	3			25,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Repeats -- 1 prior	22-1804		1½ x the term						1½ x the fine
Repeats -- 2+ priors	22-1804		3 x the term						3 x the fine
Riot, Inciting (felony)	22-1322(d)	M 7	10	2	8	3			25,000
Robbery -- w/a*	22-2801 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other not < 2[48]	V	75,000
Robbery	22-2801	M 6	15	2	13	3	not < 2	V	37,500
Robbery -- Attempt w/a*	22-2802 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Robbery -- Attempt	22-2802	M 8	3	1	2	3		V	12,500
Sell, Transport, Distribute a Firearm, Destructive Device or Ammunition to Persons Under 18	7-2507.06(1)	M 7	10	2	8	3			25,000
Senior Citizen Victim	22-3601		1½ x the term						1 ½ x the fine
Sex Abuse -- Aggravated 1º*	22-3002 22-3020	M 2e	LWOR	5	LWOR	5 or SOR		V	125,000
Sex Abuse -- 1º w/a*	22-3002 22-4502	M 2	LWOR (30)	5	LWOR (30)	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	125,000 (75,000)

[48] 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 prison term 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 -- 1º*	22-3002 24-403.01(e)	M 2	LWOR (30)	5	LWOR (30)	5 or SOR	not < 7 if prior COV	V	125,000 (75,000)
Sex Abuse -- Attempt 1º w/a*	22-3002 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Sex Abuse -- Attempt 1º	22-3002 22-3018	M 6	15	2	13	3 or SOR		V	37,500
Sex Abuse -- Aggravated other than 1º	22-3020		1½ x the term						1½ x the fine
Sex Abuse -- 2º w/a*	22-3003 22-4502	M 4	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Sex Abuse -- 2º	22-3003 24-403.01(e)	M 5	20	2	18	3 or SOR	not < 7 if prior COV	V	50,000
Sex Abuse -- Attempt 2º w/a*	22-3003 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Sex Abuse -- Attempt 2º	22-3003 22-3018	M 7	10	2	8	3 or SOR		V	25,000
Sex Abuse -- 3º w/a*	22-3004 22-4502	M5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Sex Abuse -- 3º	22-3004	M 7	10	2	8	3 or SOR		V	25,000
Sex Abuse -- Attempt 3º	22-3004 22-3018	M 8	5	2	3	3 or SOR		V	12,500
Sex Abuse -- 4º	22-3005	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 prison term 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 -- Attempt 4º	22-3005 22-3018	M 9	2½	1	1½	3 or SOR			12,500
Sex Abuse of a Minor -- 1º	22-3009.01	M 6	15	2	13	3 or SOR			37,500
Sex Abuse of a Minor -- Attempt 1º	22-3009.01 22-3018	M 7	7½	2	5½	3 or SOR			25,000
Sex Abuse of a Minor -- 2º	22-3009.02	M 7	7½	2	5½	3 or SOR			25,000
Sex Abuse of a Minor -- Attempt 2º	22-3009.02 22-3018	M 9	3¾	1	2¾	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	2½	1	1½	3 or SOR			12,500
Sex Abuse of a Student -- 1º	22-3009.03	M 7	10	2	8	3 or SOR			25,000
Sex Abuse of a Student -- Attempt 1º	22-3009.03 22-3018	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Student -- 2º	22-3009.04	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Student -- Attempt 2º	22-3009.04 22-3018	M 9	2½	1	1½	3 or SOR			12,500
Sex Abuse -- Patient 1º	22-3015	M 7	10	2	8	3 or SOR			25,000
Sex Abuse -- Patient -- Attempt 1º	22-3015 22-3018	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Patient -- 2º	22-3016	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Patient -- Attempt 2º	22-3016 22-3018	M 9	2½	1	1½	3 or SOR			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 -- Ward -- 1º	22-3013	M 7	10	2	8	3 or SOR			25,000
Sex Abuse -- Ward -- Attempt 1º	22-3013 22-3018	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Ward -- 2º	22-3014	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Ward -- Attempt 2º	22-3014 22-3018	M 9	2½	1	1½	3 or SOR			12,500
Sex Offender -- Failure to Register -- 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 Other Crime of Violence	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 - Felony: if two or more qualifying convictions	22-3133 22-3134(c)	M 9[e]	10	2	8	3			25,000
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)	M9	10	2	8	3			25,000 or 2x amount evaded + cost of prosecution

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Taxicab Driver, Offenses Against	22-3751		1½ x the term						1 ½ the fine
Telephone Solicitation Fraud -- $20,000+	22-3226.06(a) 22-3226.10	M 9	4	1	3	3			12,500
Telephone Solicitation Fraud -- > $5,000 to < 20,000	22-3226.06(a) 22-3226.10	M 9	3	1	3	3			12,500
Terrorism - Weapon of Mass Destruction, Manufacture/Poss.	22-3154(a)	M3	life	5	life	5		V	125,000
Terrorism - Weapon of Mass Destruction, Manufacture/ Poss. -- Attempt/Conspire	22-3154(b)	M5	30	3	27	5		V	75,000
Terrorism - Weapon of Mass Destruction, Use, Disseminate, or Detonate	22-3155(a)	M2	life	5	life	5		V	125,000
Terrorism - Weapon of Mass Destruction, Use, Disseminate, or Detonate -- Attempt/Conspire	22-3155(b)	M3	30	3	27	5		V	75,000
Terrorism – Murder I*	22-3153(a)	M1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism – Murder I w/a*	22-3153(a) 22-4502	M1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism – Murder I -- Attempt/Conspire	22-3153(j)	M4	30	3	27	5		V	75,000
Terrorism – Murder I w/a -- Attempt/Conspire*	22-3153(j) 22-4502	M3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Murder I – LEO*	22-3153(b)	M1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism – Murder I w/a – LEO*	22-3153(b) 22-4502	M1	LWOR	5	LWOR	5	LWOR	V	250,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 I – LEO -- Attempt/Conspire	22-3153(j)	M3	30	3	27	5		V	75,000
Terrorism – Murder I w/a – LEO -- Attempt/Conspire*	22-3153(j) 22-4502	M2	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Murder II*	22-3153(c)	M2	Life	5	Life	5		V	250,000
Terrorism – Murder II w/a*	22-3153(c) 22-4502	M2	Life	5	Life	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000
Terrorism – Manslaughter	22-3153(d)	M4	Life	5	Life	5		V	250,000
Terrorism – Manslaughter w/a*	22-3153(d) 22-4502	M3	Life	5	Life	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000
Terrorism – Kidnapping*	22-3153(e)	M4	Life	5	Life	5		V	125,000
Terrorism – Kidnapping w/a*	22-3153(e) 22-4502	M3	Life	5	Life	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	125,000
Terrorism – Kidnapping -- Attempt/Conspire	22-3153(j)	M5	30	3	27	5		V	75,000
Terrorism – Kidnapping w/a -- Attempt/Conspire*	22-3153(j) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – AWIK	22-3153(f)	M4	30	3	27	5		V	75,000
Terrorism – AWIK w/a*	22-3153(f) 22-4502	M3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Mayhem/Malicious Disfig.	22-3153(g)	M5	20	2	18	3		V	50,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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. w/a*	22-3153(g) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Mayhem/Malicious Disfig. Attempt/Conspire	22-3153(l)	M6	15	2	13	3		V	37,500
Terrorism – Mayhem/Malicious Disfig. w/a* Attempt/Conspire*	22-3153(l) 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Arson	22-3153(h)	M5	20	2	18	3		V	50,000
Terrorism – Arson w/a*	22-3153(h) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Arson -- Attempt/Conspire	22-3153(l)	M6	15	2	13	3		V	37,500
Terrorism – Arson w/a -- Attempt/Conspire*	22-3153(l) 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Destruction of Prop.	22-3153(i)	M5	20	2	18	3		V	50,000
Terrorism – Destruction of Prop. w/a*	22-3153(i) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Destruction of Prop. -- Attempt/Conspire	22-3153(l)	M6	15	2	13	3		V	37,500
Terrorism – Destruction of Prop. w/a -- Attempt/Conspire*	22-3153(l) 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Material Support	22-3153(m)	M5	20	2	18	3		V	50,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Terrorism – Material Support w/a*	22-3153(m) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Soliciting	22-3153(n)	M6	20	2	18	3		V	50,000
Terrorism – Soliciting w/a*	22-3153(n) 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Theft -- 1º	22-3211 22-3212(a)	M 8	10	2	8	3			25,000
Theft -- 1º if two or more theft convictions	22-3211 22-3212(c)	M 8	10	2	8	3	M1		25,000
Theft -- 2º if two or more theft convictions	22-3211 22-3212(c)	M 9	10	2	8	3	M1		25,000
Threats -- Felony	22-1810	M 8	20	2	18	3			50,000
Three Strikes for Felonies*	22-1804a(a)(1)		30	5	30	5			75,000
Three Strikes for Violent Felonies*	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
Unlawful Possession of a Firearm: prior convictions > 1 yr and COV other than Conspiracy	22-4503(a)(1)	M 7	15	2	13	3	M3		37,500
Unlawful Possession of a Firearm: prior conviction > 1 yr	22-4503(a)(1)	M 8[49]	10	2	8	3	M1		25,000

[49] Defendants convicted of Firearm, Unlawful Possession of by a person with a prior conviction > 1 year with a criminal history score of 2 to 3.75 fall into Master Grid box 8:C with a sentencing range of 14 to 32 months incarceration, prison or short split permissible. However, because of the mandatory minimum 12-month sentence, a short split sentence is not permissible under the Guidelines. The court must sentence the defendant to at least 14 months to impose a Guidelines compliant sentence. If the court 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 court 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 prison term 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: others	22-4503(a)(2) – (a)(6)	M 8	10	2	8	3	not < 2		25,000
Unlawful Publication -- 1º (Revenge Pornography)	22-3053	M9	3	1	2	3			12,500
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 Two or more UUV or Theft 1º convictions	22-3215(d)(3)	M 8[e]	15	2	13	3	not < 2½		5,000 – 37,500
Unauthorized Use of a Motor Vehicle (UUV) -- Private During or to facilitate COV	22-3215(d)(2)	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)	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
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 C-I

SENTENCING CHART FOR FELONIES COMMITTED ON OR AFTER 5:00 p.m., AUGUST 11, 2000 ARRANGED IN ORDER BY D.C. CODE CITATION (2001)

Use this Appendix to find the offense severity group, the maximum prison sentence and amount of supervised release the judge may/must impose initially pursuant to D.C. Code 13-406. In some cases, the maximum sentence will depend on factors set forth in the statute. Please refer to the statute. Appendix C contains the same information in alphabetical order by common name. The offense severity is blank for enhanced versions of offenses. Those have the same offense severity score as the unenhanced offense. *See* Chapter 4 (Adjusting the Box).

ABBREVIATIONS:

"*"	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 Guidelines range. *See* Chapter 4 and Appendix H.
"M"	in the minimum column means mandatory minimum, a minimum that generally cannot be suspended. *See* Section 3.6.
"or SOR"	in the Supervised Release column means that the offense is necessarily a registration offense under D.C. Code § 22- 4001[50] 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). *See* 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.
"(30/40/60)"	that appears under "LWOR" [life without release] for several offenses and under "40" for carjacking 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.
"same term/fine"	means the same term or fine as the underlying 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 means a crime of violence pursuant to D.C. Code 23-1331(4) or a dangerous crime pursuant to D.C. Code § 22-4501(2).
"w/a"	means an offense subject to D.C. Code § 22-4502 imposing additional penalties for committing a crime of violence while armed. *See Hager v. United States*, 791 A.2d 911 (D.C. 2002).

[50] Other offenses are registration offenses if the victim was a minor or if they involve a sexual act or sexual contact without consent or with a minor, or 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. *See* D.C. Code § 22-4001(8)(C) - (F). Those do not have "or SOR" in the Supervised Release column.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Possession of Unregistered Weapon -- 2nd offense	7-2502.01 7-2507.06(a)(2)(A)	M 9	5	2	3	3			12,500
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
Armor Piercing Ammunition	7-2507.06(a)(3)	M 7	10	2	8	3	M 1		25,000
Possession of a Large Capacity Ammunition Feeding Device	7-2507.06(a)(4)	M 9	3	1	2	3			12,500
Illegal Dumping (commercial)	8-902(b)(2)	M 9	5	2	3	3			12,500
Contempt for violating conditions of release, if felony	11-944	M 9[51]	Life	5	Life	5			
Contempt, if any other felony	11-944	[52]							
Arson	22-301	M 6	10	2	8	3	not < 1	V	25,000
Arson -- Own property w/ intent to defraud	22-302	M 6	15	2	13	3		V	37,500
Destruction of Property (DP) -- $1,000+	22-303	M 8	10	2	8	3			25,000
Assault with Intent to Kill or Poison w/a*	22-401 22-4502	M3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000

[51] This ranking only applies to the instant conviction. The scoring of a prior contempt conviction is discussed in § 2.2.12 (Scoring Contempt Convictions).
[52] Proportionate, not a Guidelines offense. *See* § 2.2.12 (Scoring Contempt Convictions).

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 Rob w/a*	22-401 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Assault with Intent to 1º or 2 º Sexual Abuse or Child Sex Abuse w/a*	22-401 22-4502	M5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Assault with Intent to Kill or Poison	22-401	M 5	15	2	13	3	not < 2	V	37,500
Assault with Intent to Rob	22-401	M 6	15	2	13	3	not < 2	V	37,500
Assault with Intent to 1º or 2 º Sexual Abuse or Child Sex Abuse	22-401 24-403.01(e)	M6	15	2	13	3 or SOR	not < 2	V	37,500
Child Sex Abuse, Assault with Intent to Commit -- 1º or 2º	22-401 24-403.01(e)	M 6	15	2	13	3 or SOR	not < 2	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	M8	5	2	3	3		V	12,500
Assault with Intent to Commit Mayhem w/a*	22-402 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 Commit Mayhem	22-402	M 7	10	2	8	3		V	25,000
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 M5 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 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 M5 2nd other	V	75,000
Aggravated Assault w/a*	22-404.01(b) 22-4502	M 4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
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
Assault on Police Officer (APO) w/a*	22-405(c) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Assault on Police Officer (APO)	22-405(c)	M 7	10	2	8	3		V	25,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Assault on Police Officer (APO) w/ deadly weapon -- 2nd+ offense or prior felony	22-405(c) 24-403.01(f)(1)	M 7e	10	2	8	3	not < 1	V	25,000
Malicious Disfigurement w/a*	22-406 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Malicious Disfigurement	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 M5 2nd other	V	75,000
Mayhem	22-406	M 6	10	2	8	3		V	25,000
Bigamy	22-501	M 8	7	2	5	3	not < 2		$25,000
Breaking and Entering -- Vending Machines	22-601	M 9	3	1	2	3			12,500
Corrupt Influence	22-704	M 9	5	2	3	3	not < 6 months		12,500
Bribery -- Public Servant	22-712	M 8	10	2	8	3			25,000 or 2x the value
Bribery -- Witness	22-713	M 8	5	2	3	3			12,500
Obstructing Justice*	22-722	M 5	30	5	30	5	not < 3		75,000
Tampering with Physical Evidence	22-723	M 9	3	1	2	3			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Burglary I w/a*	22-801(a) 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Burglary I	22-801(a)	M 5	30	3	27	5	not < 5	V	75,000
Burglary II w/a*	22-801(b) 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Burglary II	22-801(b)	M 7	15	2	13	3	not < 2	V	37,500
Contributing to the Delinquency of a Minor: Death	22-811(b)(5)	M 6	10	2	8	3			25,000
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: 2nd+ offense	22-811(b)(2)	M 9	3	1	2	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
Injure/Obstruct a Police Animal - Significant Bodily Injury/Death	22-861(b)(2)	M8	10	2	8	3			25,000
Counterfeiting -- 2nd offense or value $1,000 to 10,000 or 100 - 1,000 items	22-902(b)(2)	M 9	3	1	2	3			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Counterfeiting -- 3+ offense or value > $10,000 or 1,000 items	22-902(b)(3)	M 9	10	2	8	3			25,000
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	22-933 22-936(c)	M 6	20	2	18	3			50,000
Criminal Abuse or Neglect of a Vulnerable Adult -- Serious bodily injury/severe mental distress	22-933 22-936(b)	M 7	10	2	8	3			25,000
Financial Exploitation of a Vulnerable Adult or Elderly Person -- $1000 or More	22-933.01 22-936.01(a)(1)	M8	10	2	8	3			25,000
Financial Exploitation of a Vulnerable Adult or Elderly Person -- 2+ Prior Convictions	22-933.01 22-936.01(b)	M8	15	2	13	3			37,500
Gang Recruitment w/a*	22-951(c) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 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
Cruelty to Animals	22-1001(d)	M 9	5	2	3	3			12,500
Animal Fighting, Engaging in	22-1006.01	M 9	5	2	3	3			12,500
Cruelty to Children -- 1º w/a*	22-1101(a), (c)(1) 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Cruelty to Children -- 1º	22-1101(a), (c)(1)	M 6	15	2	13	3		V	37,500
Cruelty to Children -- 2º	22-1101(b), (c)(2)	M 8	10	2	8	3			25,000
Riot, Inciting (felony)	22-1322(d)	M 7	10	2	8	3			25,000
False Personation	22-1403	M 9	5	2	3	3	not < 1		12,500
Impersonating a Public Official	22-1404	M 9	3	1	2	3	not < 1		12,500
Bad Checks $1000+	22-1510	M 9	3	1	2	3	not < 1		12,500
Illegal Lottery	22-1701	M 9	3	1	2	3			12,500
Gaming	22-1704	M 9	5	2	3	3			12,500
Corrupt Influence -- Athletics	22-1713(a)	M 9	5	2	3	3	not < 1		12,500
Attempt Crime of Violence w/a* (Unless otherwise specified)	22-1803 22-4502	[53]	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Attempt Crime of Violence unarmed (Unless otherwise specified)	22-1803	M 8	5	2	3	3		V	12,500
Repeats --1 prior	22-1804		1½ x the term						1½ x the fine
Repeats -- 2+ priors	22-1804		3 x the term						3 x the fine
Three Strikes for Felonies*	22-1804a(a)(1)		30	5	30	5			75,000

[53] Same group as unarmed completed offense.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Three Strikes for Violent Felonies*	22-1804a (a)(2)		LWOR	5	LWOR	5	not < 15		125,000
Aiding & Abetting	22-1805		Same as principal						Same as principal
Conspiracy in general	22-1805a(a)(1)	M 9	5	2	3	3			12,500
Conspiracy in general If underlying offense < 5 years	22-1805a(a)(1)	M 9	Same term	1	x minus 1	3			Same fine
Conspiracy to Commit Murder or an Armed COV	22-1805a(a)(2)	M 5[54]	15	2	13	3		V	Not > 37,500 or maximum for underlying off
Conspiracy to Commit COV	22-1805a(a)(2)	M 7[55]	15[56]	2	x minus 2	3		V	Not > 37,500 or maximum for underlying off
Accessory After the Fact	22-1806	[57]	½ the term						½ the fine
Offenses not covered by D.C. Code	22-1807	M 9	5	2	3	3			12,500
Threats -- Felony	22-1810	M 8	20	2	18	3			50,000
Human Trafficking -- Forced Labor	22-1832 22-1837	M 5	20	2	18	3			50,000
Human Trafficking -- Forced Labor -- Attempt	22-1832 22-1837	M 7	10	2	8	3			25,000

[54] If underlying offense is in M 6 or M 7, the conspiracy is in the same offense severity group.
[55] If underlying offense is in M 8 or M 9, the conspiracy is in the same offense severity group.
[56] The maximum statutory penalty may not exceed 15 years or the maximum penalty prescribed for the underlying offense, whichever is lower.
[57] *See* §§ 2.1 and 2.2.2 for the severity level and scoring of accessory convictions.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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	M 5	20	2	18	3			50,000
Human Trafficking -- Labor or Commercial Sex Acts -- Attempt	22-1833 22-1837	M 7	10	2	8	3			25,000
Human Trafficking -- Sex Trafficking of Children	22-1834 22-1837	M 5	20	2	18	3			50,000
Human Trafficking -- Sex Trafficking of Children -- Attempt	22-1834 22-1837	M 7	10	2	8	3			25,000
Human Trafficking -- Documents	22-1835 22-1837	M 8	5	2	3	3			12,500
Human Trafficking -- Documents -- Attempt	22-1835 22-1837	M 9	2½	1	1½	3			12,500
Human Trafficking -- Benefitting Financially	22-1836 22-1837		Same as principal						Same as principal
Human Trafficking -- Benefitting Financially -- Attempt	22-1836 22-1837		Same as principal attempt						Same as principal attempt
Human Trafficking -- Victim held/services provided >180 days	22-1837		1½ x the term						1 ½ x the fine
Incest	22-1901	M 7	12	2	10	3			37,500
Kidnapping w/a*	22-2001 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Kidnapping*	22-2001	M 5	30	5	30	5		V	75,000
Murder I w/a*	22-2101 22-2104 22-4502	M 1	LWOR (60)	5	LWOR	5	M30	V	250,000
Murder I*	22-2101 22-2104 24-403.01(b-2)	M 1	LWOR (60)	5	LWOR	5	M30	V	250,000
Murder I -- Obstruction of Railway*	22-2102 22-2104 24-403.01(b-2)	M 1	LWOR (60)	5	LWOR	5	M30	V	250,000
Murder II w/a*	22-2103 22-2104 22-4502	M 2	Life (40)	5	Life	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000
Murder II*	22-2103 22-2104 24-403.01(b-2)	M 2	Life (40)	5	Life	5		V	250,000
Aggravated Murder I*	22-2104 22-2104.01 24-403.01(b-2)	M 1[e]	LWOR	5	LWOR	5		V	250,000
Solicitation of Murder	22-2107(a)	M 4	20	2	18	3			50,000
Solicitation of Other Crime of Violence	22-2107(b)	M 6	10	2	8	3			25,000
Manslaughter -- Voluntary -- w/a*	22-2105 22-4502	M 3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Manslaughter -- Voluntary	22-2105	M 4	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 M5 2nd other	V	250,000
Manslaughter -- Involuntary	22-2105	M 5	30	3	27	5		V	250,000
Murder of P.O.*	22-2106	M 1	LWOR		LWOR		M-LWOR	V	250,000
Obscenity -- 2nd+ offense	22-2201(e)	M 9	3	1	2	3	not < 6 months		1,000 - 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
False Swearing	22-2404	M 9	3	1	2	3			12,500
Possession of Implements of Crime -- 2nd+ offense or after felony	22-2501 24-403.01(f)(3)	M 9	5	2	3	3	not < 1		12,500
Escape, and Attempt Escape	22-2601	M 9	5	2	3	3			12,500
Contraband -- Introducing into prison and possession by inmate: Class A material	22-2603	M 8	10	2	8	3			25,000
Contraband -- Introducing into prison and possession by inmate: Class B material	22-2603	M 9	2	1	1	3			12,500
Prostitution, Engaging In or Soliciting -- 3+ offense	22-2701	M 9	2	1	1	3			12,500
Child Prostitution – Abducting/Enticing	22-2704	M 5	20	2	18	3 or SOR	not < 2		50,000
Child Prostitution -- Harboring	22-2704	M 5	20	2	18	3 or SOR	not < 2		50,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
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 -- Against Will	22-2706(b)(1)	M 6	15	2	13	3			37,500
Prostitution -- Against Will a Minor	22-2706(b)(2)	M 5	20	2	18	3 or SOR			50,000
Prostitution -- Procuring	22-2707(b)(1)	M 9	5	2	3	3			12,500
Prostitution -- Procuring a Minor	22-2707(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, 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
Prostitution, Operating House of	22-2712	M 9	5	2	3	3			12,500
Prostitution -- Keeping Bawdy or Disorderly House	22-2722	M 9	5	2	3	3			12,500
Robbery -- w/a*	22-2801 22-4502	M 5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other not < 2[58]	V	75,000
Robbery	22-2801	M 6	15	2	13	3	not < 2	V	37,500

[58] 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 prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Robbery -- Attempt w/a*	22-2802 22-4502	M 6	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Robbery -- Attempt	22-2802	M 8	3	1	2	3		V	12,500
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)
Carjacking	22-2803(a)	M 5	21	2	19	3	M7	V	75,000
Sex Abuse -- Aggravated 1º*	22-3002 22-3020	M 2[e]	LWOR	5	LWOR	5 or SOR		V	125,000
Sex Abuse -- 1º w/a*	22-3002 22-4502	M 2	LWOR (30)	5	LWOR (30)	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	125,000 (75,000)
Sex Abuse -- 1º*	22-3002 24-403.01(e)	M 2	LWOR (30)	5	LWOR (30)	5 or SOR	not < 7 if prior COV	V	125,000 (75,000)
Sex Abuse -- Attempt 1º w/a*	22-3002 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Sex Abuse -- Attempt 1º	22-3002 22-3018	M 6	15	2	13	3 or SOR		V	37,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 -- 2º w/a*	22-3003 22-4502	M 4	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Sex Abuse -- 2º	22-3003 24-403.01(e)	M 5	20	2	18	3 or SOR	not < 7 if prior COV	V	50,000
Sex Abuse -- Attempt 2º w/a*	22-3003 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Sex Abuse -- Attempt 2º	22-3003 22-3018	M 7	10	2	8	3 or SOR		V	25,000
Sex Abuse -- 3º w/a*	22-3004 22-4502	M5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Sex Abuse -- 3º	22-3004	M 7	10	2	8	3 or SOR		V	25,000
Sex Abuse -- Attempt 3º	22-3004 22-3018	M 8	5	2	3	3 or SOR		V	12,500
Sex Abuse -- 4º	22-3005	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Attempt 4º	22-3005 22-3018	M 9	2½	1	1½	3 or SOR			12,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 -- Aggravated 1º*	22-3008 22-3020 24-403.01(b-2)	M 3[e]	LWOR	5	LWOR	5 or SOR		V	125,000
Child Sex Abuse -- 1º 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 M5 2nd other	V	125,000 (75,000)
Child Sex Abuse* -- 1º	22-3008 24-403.01(e) 24-403.01(b-2)	M 3	LWOR (30)	5	LWOR (30)	5 or SOR	not < 7 if prior COV	V	125,000 (75,000)
Child Sex Abuse -- Attempt 1º w/a*	22-3008 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Child Sex Abuse -- Attempt 1º	22-3008 22-3018	M 6	15	2	13	3 or SOR		V	37,500
Child Sex Abuse -- 2º w/a*	22-3009 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Child Sex Abuse -- 2º	22-3009 24-403.01(e)	M 6	10	2	8	3 or SOR	not < 7 if prior COV	V	25,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 -- Attempt 2º w/a*	22-3009 22-3018 22-4502	M 5	30	5	30	5 or SOR	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Child Sex Abuse -- Attempt 2º	22-3009 22-3018	M 8	5	2	3	3 or SOR		V	12,500
Sex Abuse of a Minor -- 1º	22-3009.01	M 6	15	2	13	3 or SOR			37,500
Sex Abuse of a Minor -- Attempt 1º	22-3009.01 22-3018	M 7	7½	2	5½	3 or SOR			25,000
Sex Abuse of a Minor -- 2º	22-3009.02	M 7	7½	2	5½	3 or SOR			25,000
Sex Abuse of a Minor -- Attempt 2º	22-3009.02 22-3018	M 9	3¾	1	2¾	3 or SOR			12,500
Sex Abuse of a Student -- 1º	22-3009.03	M 7	10	2	8	3 or SOR			25,000
Sex Abuse of a Student -- Attempt 1º	22-3009.03 22-3018	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Student -- 2º	22-3009.04	M 8	5	2	3	3 or SOR			12,500
Sex Abuse of a Student -- Attempt 2º	22-3009.04 22-3018	M 9	2½	1	1½	3 or SOR			12,500
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	2½	1	1½	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

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 -- Arranging for Sexual Contact -- Attempt	22-3010.02 22-3018	M 9	2½	1	1½	3 or SOR			12,500
Sex Abuse -- Ward -- 1º	22-3013	M 7	10	2	8	3 or SOR			25,000
Sex Abuse -- Ward -- Attempt 1º	22-3013 22-3018	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Ward -- 2º	22-3014	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Ward -- Attempt 2º	22-3014 22-3018	M 9	2½	1	1½	3 or SOR			12,500
Sex Abuse -- Patient 1º	22-3015	M 7	10	2	8	3 or SOR			25,000
Sex Abuse -- Patient -- Attempt 1º	22-3015 22-3018	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Patient -- 2º	22-3016	M 8	5	2	3	3 or SOR			12,500
Sex Abuse -- Patient -- Attempt 2º	22-3016 22-3018	M 9	2½	1	1½	3 or SOR			12,500
Sex Abuse -- Aggravated other than 1º	22-3020		1½ x the term						1½ x the fine
Unlawful Publication -- 1º (Revenge Pornography)	22-3053	M9	3	1	2	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
Stalking - Felony	22-3133 22-3134(b)	M 9	5	2	3	3			12,500
Stalking - Felony: if two or more qualifying convictions	22-3133 22-3134(c)	M 9[e]	10	2	8	3			25,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 I*	22-3153(a)	M1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism – Murder I w/a*	22-3153(a) 22-4502	M1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism – Murder I – LEO*	22-3153(b)	M1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism – Murder I w/a – LEO*	22-3153(b) 22-4502	M1	LWOR	5	LWOR	5	LWOR	V	250,000
Terrorism – Murder II*	22-3153(c)	M2	Life	5	Life	5		V	250,000
Terrorism – Murder II w/a*	22-3153(c) 22-4502	M2	Life	5	Life	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000
Terrorism – Manslaughter	22-3153(d)	M4	Life	5	Life	5		V	250,000
Terrorism – Manslaughter w/a*	22-3153(d) 22-4502	M3	Life	5	Life	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	250,000
Terrorism – Kidnapping*	22-3153(e)	M4	Life	5	Life	5		V	125,000
Terrorism – Kidnapping w/a*	22-3153(e) 22-4502	M3	Life	5	Life	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	125,000
Terrorism – AWIK	22-3153(f)	M4	30	3	27	5		V	75,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Terrorism – AWIK w/a*	22-3153(f) 22-4502	M3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Mayhem/Malicious Disfig.	22-3153(g)	M5	20	2	18	3		V	50,000
Terrorism – Mayhem/Malicious Disfig. w/a*	22-3153(g) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Arson	22-3153(h)	M5	20	2	18	3		V	50,000
Terrorism – Arson w/a*	22-3153(h) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Destruction of Prop.	22-3153(i)	M5	20	2	18	3		V	50,000
Terrorism – Destruction of Prop. w/a*	22-3153(i) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Murder I -- Attempt/Conspire	22-3153(j)	M4	30	3	27	5		V	75,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 I w/a -- Attempt/Conspire*	22-3153(j) 22-4502	M3	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Murder I – LEO -- Attempt/Conspire	22-3153(j)	M3	30	3	27	5		V	75,000
Terrorism – Murder I w/a – LEO -- Attempt/Conspire*	22-3153(j) 22-4502	M2	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Kidnapping -- Attempt/Conspire	22-3153(j)	M5	30	3	27	5		V	75,000
Terrorism – Kidnapping w/a -- Attempt/Conspire*	22-3153(j) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Mayhem/Malicious Disfig. Attempt/Conspire	22-3153(l)	M6	15	2	13	3		V	37,500
Terrorism – Mayhem/Malicious Disfig. w/a* Attempt/Conspire*	22-3153(l) 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Arson -- Attempt/Conspire	22-3153(l)	M6	15	2	13	3		V	37,500

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Terrorism – Arson w/a -- Attempt/Conspire*	22-3153(l) 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Destruction of Prop. -- Attempt/Conspire	22-3153(l)	M6	15	2	13	3		V	37,500
Terrorism – Destruction of Prop. w/a -- Attempt/Conspire*	22-3153(l) 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Material Support	22-3153(m)	M5	20	2	18	3		V	50,000
Terrorism – Material Support w/a*	22-3153(m) 22-4502	M4	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism – Soliciting	22-3153(n)	M6	20	2	18	3		V	50,000
Terrorism – Soliciting w/a*	22-3153(n) 22-4502	M5	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V	75,000
Terrorism - Weapon of Mass Destruction, Manufacture/Poss.	22-3154(a)	M3	life	5	life	5		V	125,000
Terrorism - Weapon of Mass Destruction, Manufacture/ Poss. -- Attempt/Conspire	22-3154(b)	M5	30	3	27	5		V	75,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Terrorism - Weapon of Mass Destruction, Use, Disseminate, or Detonate	22-3155(a)	M2	life	5	life	5		V	125,000
Terrorism - Weapon of Mass Destruction, Use, Disseminate, or Detonate -- Attempt/Conspire	22-3155(b)	M3	30	3	27	5		V	75,000
Theft -- 1º	22-3211 22-3212(a)	M 8	10	2	8	3			25,000
Theft -- 1º if two or more theft convictions	22-3211 22-3212(c)	M 8	10	2	8	3	M1		25,000
Theft -- 2º if two or more theft convictions	22-3211 22-3212(c)	M 9	10	2	8	3	M1		25,000
Deceptive Labeling	22-3214.01(d)(2)	M 9	5	2	3	3			12,500
Unauthorized Use of a Motor Vehicle (UUV) -- Rental	22-3215(d)(4)	M 8	3	1	2	3			12,500
Unauthorized Use of a Motor Vehicle (UUV) -- Private Two or more UUV or Theft 1º convictions	22-3215(d)(3)	M 8[e]	15	2	13	3	not < 2 ½		5,000 – 37,500
Unauthorized Use of a Motor Vehicle (UUV) -- Private During or to facilitate COV	22-3215(d)(2)	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)	M 7	10	2	8	3	not < 5		25,000
Unauthorized Use of a Motor Vehicle (UUV) -- Private	22-3215(d)(1)	M 8	5	2	3	3			12,500
Fraud -- 1º -- $1,000+	22-3221(a) 22-3222(a)(1)	M 9	10	2	8	3			25,000/ 2x the value
Fraud -- 2º -- $1,000+	22-3221(b) 22-3222(b)(1)	M 9	3	1	2	3			12,500/ 2x the value
Credit Card Fraud -- $1,000+	22-3223(d)(1)	M 9	10	2	8	3			25,000

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term 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 -- 1º -- $1,000+	22-3225.02 22-3225.04(a)	M 9	15	2	13	3			37,500
Insurance Fraud -- 2º -- $1,000+ 1st offense	22-3225.03 22-3225.04(b)(1)	M 9	5	2	3	3			12,500
Insurance Fraud -- 2º -- $1,000+ 2nd offense	22-3225.03 22-3225.04(b)(2)	M 9[e]	10	2	8	3			25,000
Telephone Solicitation Fraud -- $20,000+	22-3226.06(a) 22-3226.10	M 9	4	1	3	3			12,500
Telephone Solicitation Fraud -- > $5,000 to < 20,000	22-3226.06(a) 22-3226.10	M 9	3	1	3	3			12,500
Identity Theft -- 1º	22-3227.02 22-3227.03(a)	M 8	10	2	8	3			25,000 or 2x the financial injury
Identity Theft -- 1º against senior citizen	22-3227.02 22-3227.03(c)	M 8[e]	15	2	13	3			1 ½ x the fine
Trafficking in Stolen Property	22-3231	M 8	10	2	8	3			25,000
Receiving Stolen Property (RSP) -- $1,000+	22-3232(c)(1)	M 9	7	2	5	3			25,000
Tampering with a VIN -- $1,000+	22-3233(b)(2)	M 9	5	2	3	3			12,500
Forgery and Uttering: Legal tender	22-3241 22-3242 (a)	M 9	10	2	8	3			25,000
Forgery and Uttering: Token	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

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Extortion with threats of violence w/a*	22-3251 22-4502	M 8	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V[59]	75,000
Extortion	22-3251	M 8	10	2	8	3		V[60]	25,000
Blackmail with threats of violence -- w/a*	22-3252 22-4502	M 8	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	V[61]	75,000
Blackmail	22-3252	M 9	5	2	3	3		V[62]	12,500
Grave Robbing	22-3303	M 9	3	1	2	3	not < 1		12,500
Destruction of Property (DP) -- explosives	22-3305	M 8	10	2	8	3	not < 2		25,000
Water Pollution -- Malicious	22-3318	M 9	3	1	2	3	not < 1		500 – 12,500
Obstructing Railways	22-3319	M 9	10	2	8	3			25,000
Voyeurism -- Distribution	22-3531(f)(2)	M 8	5	2	3	3			12,500
Senior Citizen Victim	22-3601		1½ x the term						1 ½ x the fine

[59] D.C. Code § 23-1331(4) provides that a crime of violence includes “extortion or blackmail accompanied by threats of violence.”
[60] D.C. Code § 23-1331(4) provides that a crime of violence includes “extortion or blackmail accompanied by threats of violence.”
[61] D.C. Code § 23-1331(4) provides that a crime of violence includes “extortion or blackmail accompanied by threats of violence.”
[62] D.C. Code § 23-1331(4) provides that a crime of violence includes “extortion or blackmail accompanied by threats of violence.”

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Citizen Patrol Victim	22-3602		1½ x the term						1½ x the fine
Crime of Violence Against Minors	22-3611		1½ x the term						1 ½ x the fine
Bias-Related Crime	22-3703		1½ x the term						1 ½ x the fine
Taxicab Driver, Offenses Against	22-3751		1 ½ x the term						1 ½ the fine
Sex Offender -- Failure to Register -- 2nd offense	22-4015(a)	M 9	5	2	3	3			12,500
Gun-Free Zone	22-4502.01		2 x the term						2x the fine
Unlawful Possession of a Firearm: prior convictions > 1 yr and COV other than Conspiracy	22-4503(a)(1)	M 7	15	2	13	3	M3		37,500
Unlawful Possession of a Firearm: prior conviction > 1 yr	22-4503(a)(1)	M 8[63]	10	2	8	3	M1		25,000
Unlawful Possession of a Firearm: others	22-4503(a)(2) – (a)(6)	M 8	10	2	8	3	not < 2		25,000
Carrying a Pistol – Felony (CPWL) Carrying Dangerous Weapon – Felony (CDW) 1st offense	22-4504(a)(1)	M 8	5	2	3	3			12,500

[63] Defendants convicted of Firearm, Unlawful Possession of by a person with a prior conviction > 1 year with a criminal history score of 2 to 3.75 fall into Master Grid box 8:C with a sentencing range of 14 to 32 months incarceration, prison or short split permissible. However, because of the mandatory minimum 12-month sentence, a short split sentence is not permissible under the Guidelines. The court must sentence the defendant to at least 14 months to impose a Guidelines compliant sentence. If the court 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 court 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 prison term 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 – Felony (CPWL) Carrying Dangerous Weapon – Felony (CDW) 2nd+ offense or after felony conviction	22-4504(a)(2)	M 8e	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 Prohibited Weapon (PPW) -- 2nd+ offense or after felony	22-4514	M 9	10	2	8	3			25,000
Molotov Cocktails -- 1st offense	22-4515a	M 9	5	2	3	3	not < 1		12,500
Molotov Cocktails -- 2nd offense	22-4515a	M 9e	15	2	13	3	not < 3		37,500
Molotov Cocktails -- 3rd* offense*	22-4515a	M 9e	30	5	30	5	not < 5		75,000
Interception, Disclosure, and Use of Wire or Oral Communications	23-542	M9	5	2	3	3			12,500
Bail Reform Act (BRA) violation	23-1327(a)(1)	M 9	5	2	3	3	not < 1		12,500
Offenses Committed During Release (felony)[64]	23-1328(a)(1)	M 9[65]	5				not < 1		12,500
Assault on Police Officer (APO) w/ deadly weapon -- 2nd+ offense or prior felony	24-403.01(f)(1)	M 7e	10	2	8	3	not < 1	V	25,000
Aggravating Circumstances	24-403.01(b-2)		LWOR	5	LWOR	5			125,000
False Statement (Money Transmissions)	26-1023(b)	M 9	3	1	2	3			12,500
Money Transmission Without a License	26-1023(c)	M 9	5	2	3	3			12,500

[64] 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.
[65] 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 criminal history score.

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Tax – Attempt to Evade or Defeat -- $10,000+	47-4101(a)	M9	10	2	8	3			25,000 or 2x amount evaded + cost of prosecution
Drugs -- Distribution, or PWID: I, II Narcotics and abusive drugs (heroin, cocaine, PCP, methamphetamine, etc.)	48-904.01(a)(2)(A), (b)	D 2	30	3	27	5		D	75,000
Drugs -- Distribution, or PWID: I, II, III Non-narcotic and non-abusive drugs (including marijuana -- 2nd offense or > ½ pound)	48-904.01(a)(2)(B), (b)	D 3	5	2	3	3		D	12,500
Drugs -- Distribution, or PWID: IV	48-904.01(a)(2)(C), (b)	D 3	3	1	2	3		D	12,500
Drugs -- Distribution, or PWID w/a* (any drug)	48-904.01(a), (b) 22-4502	D 1	30	5	30	5	M5 1st firearm M10 2nd firearm M5 2nd other	D	75,000
Drugs -- Possession of Liquid PCP	48-904.01(d)(2)	D 3	3	1	2	3			12,500
Drugs -- Fraud	48-904.03	D 3	4	1	3	3			12,500
Drugs -- Maintaining place for	48-904.03a	D 2	25	3	22	3	not < 5		75,000
Drugs -- Distribution to Minors	48-904.06		2 x the term						same fine
Drugs -- Enlisting Minors -- 1st offense	48-904.07(b)(1) [66]		10	2	8	3			25,000

[66] 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."

Offense	D.C. Code (2001)	Offense Severity Group	Maximum Statutory Penalty (Years)	Backup Time (Years)	Maximum prison term that can be imposed (Years)	Supervised Release If > 1 year, years If ≤ 1 year, up to years	Minimum (Years)	Violent/Dangerous	Fine (Dollars)
Drugs -- Enlisting Minors -- 2nd + offense	48-904.07(b)(2)[65]		20	2	18	3			50,000
Drug-Free Zones	48-904.07a		2 x the term						2x the fine
Drugs -- 2nd+ offense	48-904.08		2 x the term						2 x the fine
Drugs -- Attempt or Conspiracy of a while armed offense in Drug Group 1	48-904.09	D 2	same term as compl-eted offense						same fine
Drugs -- Attempt or Conspiracy of an offense in Drug Group 2	48-904.09	D 3	same term as compl-eted offense						same fine
Drugs -- Attempt or Conspiracy of an offense in Drug Group 3	48-904.09	D 4	same term as compl-eted offense						same fine
Obstructing Service of a Drug Search Warrant	48-921.02(n)	M 9	2	1	1	3			12,500
Drug Paraphernalia	48-1103(e)(4)	M 9	2	1	1	3			12,500
Drug Paraphernalia -- Distributing to a Minor	48-1103(c)	D 3	8	2	6	3			25,000
Possession of Drug Paraphernalia (PDP) w/ Intent -- 2nd+ offense	48-1103(b)	M 9	2	1	1	3			12,500
Fleeing Law Enforcement	50-2201.05b(b)(2)	M 8	5	2	3	3			12,500
Negligent Homicide (Vehicular)	50-2203.01	M 7	5	2	3	3			250,000

APPENDIX D – RANKING CHART (Most Common Offenses)

Revised July 2020

Most Common Offenses by Master Group		
1	Murder 1º w/a Murder 1 º	Murder of a law enforcement officer 1º
2	Murder 2º w/a Murder 2º Sexual abuse 1º	Child sexual abuse 1º w/a Sexual abuse 1ºw/a
3	AWIK w/a Burglary 1º w/a Carjacking w/a	Child sexual abuse 1º Kidnapping w/a Voluntary manslaughter w/a
4	Aggravated assault w/a	Voluntary manslaughter
5	Armed robbery Current APO w/a (30-year statutory maximum) AWI commit any offense w/a AWI commit robbery w/a AWIK Burglary 1º Carjacking Involuntary Manslaughter w/a Involuntary Manslaughter Kidnapping Malicious disfigurement w/a Mayhem w/a Obstruction of justice PFCOV	Child sexual abuse 2º w/a Sexual abuse 2º w/a Sexual abuse 2º AWI commit 1º child sexual abuse w/a AWI commit 2º child sexual abuse w/a AWI commit 1º sexual abuse w/a AWI commit 2º sexual abuse w/a Child sexual abuse, attempt 1º w/a Child sexual abuse, attempt 2º w/a Sexual abuse, attempt 1º w/a Sexual abuse, attempt 2º w/a
6	Aggravated assault Arson Former APO with a dangerous weapon* ADW AWI commit robbery Attempt robbery w/a Burglary 2º w/a Cruelty to children 1º Malicious disfigurement	Mayhem Robbery AWI commit 1º child sexual abuse AWI commit 2º child sexual abuse AWI commit 1º sexual abuse AWI commit 2º sexual abuse Child sexual abuse, attempt 1º Child sexual abuse 2º Sexual abuse, attempt 1º
7	AWI commit mayhem Current APO (10-year statutory maximum) Burglary 2º Negligent homicide Felon in possession of firearm (prior COV not conspiracy)†	Sexual abuse, attempt 2º Sexual abuse of a patient 1º Sexual abuse of a ward 1º Sexual abuse 3º UUV (during or to facilitate a crime of violence)
8	AWI commit any offense Aggravated assault, attempt Assault with Significant Injury Burglary, attempt CPWL/CDW Cruelty to children 2º DP (f) Extortion UPF (felon in possession of a firearm) Introducing contraband into penal institution: Class A Materials Kidnapping, attempt Perjury Robbery, attempt	Theft 1º Threats Trafficking in stolen property UUV Child sexual abuse, attempt 2º Enticing a child Sexual abuse of a patient, attempt 1º Sexual abuse of a ward, attempt 1º Sexual abuse, attempt 3º Sexual abuse 4º Sexual abuse of a patient 2º Sexual abuse of a ward 2º Unlawful possession of a firearm
9	Bad check Bail reform act (BRA) Blackmail Credit card fraud Escape False personation of a police officer Forgery Fraud 1º Fraud 2º Impersonating a public official	Introducing contraband into penal institution: Class B Materials PPW -- second + offense RSP Breaking and Entering (vending machine) Uttering Enticing a child. attempt Sexual abuse 4º, attempt Sexual abuse of a patient 2º, attempt Sexual abuse of a ward 2º, attempt Theft 2 º, if two or more Theft convictions

Most Common Offenses by Drug Group		
1	Distribution w/a (any drug)	PWID w/a (any drug)
2	Distribution and PWID of Schedule I and II narcotic/abusive drugs (Heroin, Cocaine, PCP, Methamphetamine)	Enlisting minors Maintaining place for drugs
3	Distribution and PWID of marijuana or any drug in Schedule III or IV, or a non-narcotic or non-abusive drug in Schedule I or II Possession of Liquid PCP Drug Paraphernalia – Distributing to a minor	Attempt Distribution and Attempt PWID of Schedule I and II narcotic/abusive drugs (Heroin, Cocaine, PCP, Methamphetamine) Drugs – fraud
4	Attempt Distribution and Attempt PWID of marijuana or any drug in Schedule III or IV, or a non-narcotic or non-abusive drug in Schedule I or II	Attempt Possession of Liquid PCP

APPENDIX E -- GUIDE TO SPLIT SENTENCES

Recently the Sentencing Commission has received questions about how to properly impose Guidelines compliant split sentences. This document reviews how to impose a compliant sentence in a box where a short and/or long split sentence is permissible. Pages E-3 to E-5 include six hypothetical sentences and explains why each is or is not Guidelines compliant.

Imposing a Legal Split Sentence

To impose a legal split sentence, the court should impose the sentence it wants the defendant to serve if probation is later revoked **and** impose the amount of supervised release required by statute. The court should then suspend the amount of prison time it does not want the defendant to initially serve **and** suspend all the supervised release time. The court may then set a term of probation. The court must impose a term of supervised release because the law says that every felony sentence must be followed by an adequate period of supervised release. The court should suspend the imposed term of supervised release when it is imposing a split sentence because the felony sentence will not be completely served and the supervised release will not begin unless, and until, probation is revoked and the defendant serves the unsuspended portion of the original prison sentence (or some lesser sentence, if the judge chooses to reduce it upon revocation). If the supervised release were not suspended, it would run concurrently with the probation and the court and the United States Parole Commission would both have jurisdiction in the same case at the same time. If the defendant violated probation, for example by testing positive for drugs, an anomalous result could occur with the judge deciding not to revoke probation but to order the defendant into an inpatient treatment program and the United States Parole Commission deciding to revoke supervised release and to send the defendant to prison.

Guidelines Compliant Split Sentences

There are two types of Guidelines compliant split sentences:

1. Short split sentence. A short split sentence is one where the court imposes a sentence within the applicable prison range, suspends execution of all but six months or less but not all) of it, and places the defendant on probation up to five years. Absent a departure, it can be used only in the shaded boxes. If the judge suspends execution of all but some period longer than six months, this is a split sentence, but not a short split sentence, and, unless it is a compliant long split sentence (see below), it is not Guidelines compliant.

2. Compliant long split sentence. A compliant long split sentence is one where the court imposes a sentence within the applicable prison range, suspends execution of all but a term that also falls within the applicable prison range, such that the time initially served (not suspended) is more than six months, and places the defendant on probation for a period up to five years following release. The sentence imposed and the term to be initially served both fall within the applicable prison range, therefore this is a compliant sentence in every

box on the Master Grid and the Drug Grid. If either the number of months that the court imposes or the number of months to be immediately served does not fall within the applicable prison range for that box, the sentence is not Guidelines compliant.

How to Impose a Guidelines Compliant Split Sentence

Imposing a compliant split sentence is a Two Step Process:

Step 1: Impose a total sentence (Time Served + Time Suspended) within Sentencing Range and the required term of supervised release.

Step 2: Suspend an amount of time that leaves a Guidelines compliant amount of time to be served and suspend the required term of supervise release in its entirety.

To be compliant with the Guidelines, a sentence must comply with both steps.

The graphics below show how to impose a compliant split sentence in Master Grid Box 7:B (18-42 Months, Prison or Short Split eligible). Note, sentences that exactly match the top or bottom of the Grid box are compliant (i.e. if it's on the line, it counts). If part of a sentence falls into a red area, it is not compliant with the Guidelines.

Step 1
Total Sentence Imposed (Including Time Suspended)

Step 2
Time Served

Hypothetical Sentences[67]

Offense of Conviction: Burglary II
Defendant's Criminal History Score:
1.5 Guidelines Box: Master Grid 7:B
Compliant Sentence: 18-42 Months, Prison or Short Split

Sentence 1:
20 Months Straight Time

Total Sentence Imposed (Including Time Suspended)

Time Served

Passes Step 1: Total Sentence (20 months) is within the Guidelines range
Passes Step 2: Time Served (20 months) is within the Guidelines range - this is a prison only sentence
Note: A compliant prison only sentence is available in every box.

Sentence 2:
5 Months Straight Time

Total Sentence Imposed (Including Time Suspended)

Fails Step 1: Total Sentence Imposed is Below Sentencing Range – this is a <u>non-compliant sentence</u>
Note: If a sentence fails step 1, it is non-compliant regardless of the time served or time suspended.

[67] Note: The hypothetical sentences do not include terms of probation or supervised release.

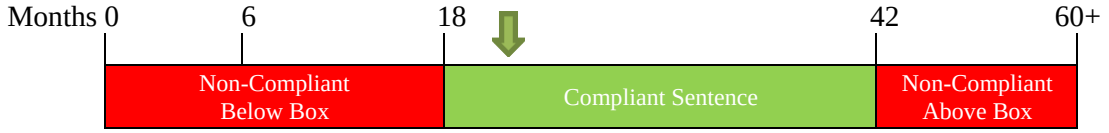
Sentence 3:
50 Months, Execution of Sentence Suspended as to All But 40 Months

Total Sentence Imposed (Including Time Suspended)

Fails Step 1: Total Sentence is above the Guidelines range, regardless of time suspended – this is a non-compliant sentence
Note: If a sentence fails step 1, it is non-compliant regardless of the time served or time suspended.

Sentence 4:
20 Months, Execution of Sentence Suspended as to All But 12 Months

Total Sentence Imposed (Including Time Suspended)

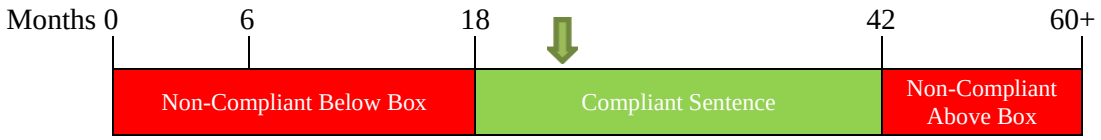


Time Served

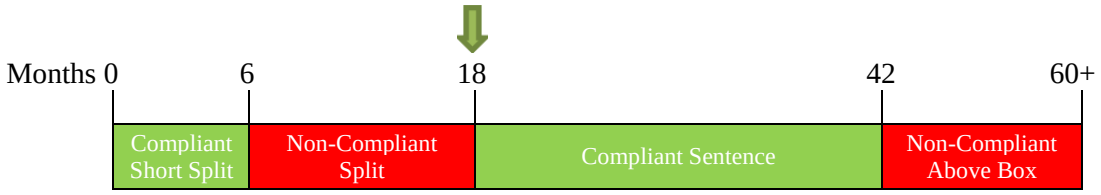
Passes Step 1: Total Sentence (20 months) is within the Guidelines range
Fails Step 2: Time Served is below the Guidelines range but greater than six months – this is a non-compliant split sentence
Note 1: A compliant Short Split Sentence is one where time served is one day to six months.

Sentence 5:
24 Months, Execution of Sentence Suspended as to All But 18 Months

Total Sentence Imposed (Including Time Suspended)



Time Served



Passes Step 1: Total Sentence (24 months) is within the Guidelines range
Passes Step 2: Time Served (18 months) is within the Guidelines range - this is a compliant long split sentence because time served equals the bottom of the Guidelines range
Note: A compliant long split sentence is available in every box (just like a prison only sentence).

Sentence 6:
24 Months, Execution of Sentence Suspended as to All But 4 Months

Total Sentence Imposed (Including Time Suspended)

Time Served

Passes Step 1: Total Sentence (24 months) is within the Guidelines range
Passes Step 2: Time Served (4 months) is less than six months - this is a compliant short split sentence

APPENDIX F – PROBATION AND SUPERVISED RELEASE QUICK REFERENCE

1. Probation:

A term of probation under D.C. Code § 16-710, along with any extension thereof, may not exceed 5 years. The Guidelines apply to a sentence following revocation of probation, however the term of probation imposed is not covered by the Guidelines.

2. Term of Supervised Release:

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

Term of Incarceration Imposed by Court	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 court may impose a longer term of supervised release that is not more than 10 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.

3. Back-up 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 "back up time" must be subtracted from the statutory maximum sentence that can be imposed. "Back up time" is the maximum additional penalty that may be applied following revocation of an offender's supervised release. Note: Supervised release does not apply to misdemeanors.

Statutory Maximum	"Back-up Time"	Maximum Penalty Imposed at Sentencing
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 G – FINE AMOUNTS

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

Offense Maximum	Max 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

Offense Maximum	Max Fine
> 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 max fine is $250,000.

APPENDIX H -- STATUTORY ENHANCEMENTS

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 ½ times the maximum otherwise authorized for the offense, then the top of the Guidelines prison range is increased by 1 ½. However, if the statute increases the maximum term of imprisonment from 5 to 10 years, for example, the **top** of the prison range is doubled. Note that the bottom of the range does not change, only the top. *See* Chapter 4.

I. Enhancements With Multipliers

Status of Victim 4

Bias related crime	1 ½ times the upper number	D.C. Code § 22-3703
Citizen patrol victim	1 ½ times the upper number	D.C. Code § 22-3602
Crimes of violence against minors	1 ½ times the upper number	D.C. Code § 22-3611
Mass transit operator victim	1 ½ times the upper number	D.C. Code § 22-3751.01
Senior citizen victim	1 ½ times the upper number	D.C. Code § 22-3601
Senior citizen identity theft	1 ½ times the upper number	D.C. Code § 22-3227.03(c)
Taxicab driver victim	1 ½ 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.

Drugs and Guns

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 § 904.06
Gun-free zone	2 times the upper number	D.C. Code § 22-4502.01

Human Trafficking

Victim held or provided services for > 180 days	1 ½ times the upper number	D.C. Code § 22-1837

Repeat Offender Provisions

1 or more drug offenses	2 times the upper number	D.C. Code § 48-904.04
1 prior like offense	1 ½ times the upper number	D.C. Code § 22-1804(a)
2 or more prior like offenses	3 times the upper number	D.C. Code § 22-1804(a)
2 or more prior felonies	Up to 30 years	D.C. Code § 22-1804(a)(1)
2 or more prior violent felonies	Up to life w/o release	D.C. Code § 22-1804(a)(2)

II. Enhancements Without Multipliers

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

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 = 2 x the upper number

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

First offense: 5 years
Second offense: 10 years
Ratio 2:1 = 2 x 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 = 3 x the upper number and 6:1 = 6 x the upper number

(5) Sex performance using minors (D.C. Code §§ 22-3102, 3103)

First offense: 10 years
Second offense: 20 years

[68] If this enhancement applies, multiply 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.
[69] This enhancement does not contain a multiplier, however the **top** of the Guidelines range is increased to 30 years.
[70] This enhancement does not contain a multiplier, however the **top** of the Guidelines range is increased to life without release.

Ratio 2:1 = 2 x the upper number

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

First felony: 5 years
After two or more qualifying convictions: 10 years
Ratio: 2:1 = 2 x 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 = 3 x the upper number

III. Special Enhancements

Crimes of violence -- Aggravating Circumstances

Murder I	Up to life without release	D.C. Code § 22-2104; D.C. Code § 24-403.01(b-2)
Murder II	Up to life without release	D.C. Code § 24-403.01(b-2)
1st ° Sex offenses	Up to life without release	D.C. Code § 22-3020; 24-403.01(b-2)
Other sex offenses	1 ½ times the upper number	D.C. Code § 22-3020
Armed carjacking	Up to 40 years	D.C. Code § 24.403.01(b-2)

IV. Offenses Committed During Release - Felony

Offense committed during release	M9 felony	D.C. Code § 23-1328(a)(1)

Note: While the Court of Appeals has determined that Offenses Committed During Release (OCDR) should be treated as a sentencing enhancement, *Tansimore v. United States*, 355 A.2d 799, 803 (D.C. 1973), it operates more like a separate offense and not like other enhancements covered by Chapter 4 and Appendix H of the Guidelines Manual. Unlike those enhancements, which operate to increase the top of the underlying Guidelines range, the Guidelines treat the OCDR (felony) enhancement as a separate offense with a minimum sentence of 1 year and a maximum sentence of 5 years and rank it in Master Group 9. Additionally, and also unlike other enhancements, OCDR (felony) is exempt from the Guidelines rule that only one enhancement may apply to a count. OCDR (felony) may be applied in conjunction with one other applicable enhancement. A sentence imposed for OCDR must run consecutive to the underlying offense. D.C. Code § 23-1328(c).

Note: The Guidelines do not cover Offenses Committed During Release (misdemeanor).

[71] If this enhancement applies, expand the box to the statutory maximum.

APPENDIX I – 2022 AMENDMENTS TO THE GUIDELINES MANUAL

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

2022 Amendments to the Guidelines Manual

The following substantive amendments to the Guidelines were effective on August 1, 2022, unless otherwise noted in the Guideline Manual. Stylistic and non-substantive revisions are not described in this appendix. Important revisions are synopsized below.

Chapter 2:

Section 2.2 – Calculating Criminal History (CH) Score

- A note was added to Multiple Offenses from a Single Event section clarifying the process for determining whether offenses are related to the same event.

Section 2.2.5 – Scoring Out-Of-District Conviction/Adjudications

- General Rules for Scoring were expanded upon to provide additional guidance on how to score Out-Of-District Convictions.
- Restructured the section for clarity and consistency with the Manual.

Chapter 3:

Section 3.1 – What Factors May Not Be Considered

- Updated to add additional language due to factors that may be considered when sentencing a defendant for hate crimes or crimes where the victim or defendant was targeted in a potentially discriminatory manner.

Chapter 7:

Section 7.26 – Prison Sentence, Compliant

- The definitional language of a compliant prison sentence was added for consistency, as each type of sentence is defined.

The remainder of the section was renumbered due to the addition.