

--These minutes were amended by vote during the Commission's April 30, 2024, meeting--



District of Columbia Sentencing Commission

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March 19, 2024
Hybrid Meeting Held at 441 4th St. NW, Suite 430S,
Washington, DC and via WebEx

Voting Members in Attendance:

Hon. Milton Lee
Fred Cooke
Nazgol Ghandnoosh
Dave Rosenthal

Hon. Rainey Brandt
Renata Cooper
Cedric Hendricks
Katerina Semyonova

Hon. Marisa Demeo
William Martin
Leslie Parsons

Non-Voting Members in Attendance:

Cristina Hillyer *for Sonya Thompson*
Stephen Husk

Erika McJimpsey
Eloy Rodriguez La Brada
*for Councilmember Brooke
Pinto*

Deputy Mayor Lindsey
Appiah

Staff in Attendance:

Linden Fry
Maeghan Buckley
Brittany Bunch

Basil Evans
Taylor Tarnalicki
Mia Hebb

Keelin Herbst
Nicholas McGuire
Emily Blume

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

Judge Lee called the March monthly meeting to order at 5:03 p.m. A roll call was completed, and a quorum was established. Judge Lee welcomed Metropolitan Police Department's Assistant Chief, Leslie Parsons, back to the Commission as a voting member and introduced the Deputy Mayor of Public Safety, Lindsey Appiah, who is a new non-voting Commission member. Deputy Mayor Appiah gave brief remarks conveying her excitement to join the Commission and welcomed Judge Lee to the Criminal Justice Coordinating Council.

1. Review and Approval of the Minutes from the February 20, 2024, Commission Meeting – Action Item, Judge Lee, Chairman.

The Commission reviewed the draft minutes from the February 2024 meeting. A roll call vote was taken, resulting in approval of the minutes (ten votes in favor, zero opposed, zero abstentions).¹

¹ Only ten members were present for the vote to approve the meeting minutes. Mr. Cooke joined the meeting after the vote.

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2. Updated Quorum and Voting Rules – Information Item, Maeghan Buckley, Attorney Advisor

Attorney Advisor Maeghan Buckley explained the changes to the Commission's quorum and voting requirements following the passage of the Secure DC Omnibus Emergency Amendment Act of 2024 ("Emergency Act"). The Commission's quorum rule now only requires for a majority of appointed members to be present for a quorum to exist. This change clarifies that unfilled/open positions on the Commission are no longer considered when establishing a quorum. Additionally, the Commission's voting requirements were updated so that the Commission can act on a majority vote of voting members present, following the establishment of a quorum.

3. Director's Report – Information Item, Linden Fry, Executive Director

a. Secure DC Emergency Act – Guidelines Modification Schedule

On March 11, 2024, Mayor Bowser signed the Secure DC Omnibus Amendment Act of 2024 ("Secure DC") and the Emergency Act. The Emergency Act contains a portion of Secure DC legislation. The Emergency Act went into effect when Mayor Bowser signed the bill. The Emergency Act contains the portion of Secure DC that created new offenses and modified offenses and penalties. The passage of the Emergency Act has accelerated the timeline for the Commission to adapt the Guidelines to the new legislation by ranking new offenses and making other necessary adjustments.

Commission staff has distributed a memorandum on potential rankings and Guidelines changes to members who expressed interest in participating in the Secure DC/Emergency Act Guidelines Implementation Committee (GIC) meetings. Any other Commission members interested in participating in the GIC meetings related to Secure DC/Emergency Act should reach out to the Commission's Attorney Advisor, Maeghan Buckley. The GIC meetings are tentatively scheduled for March 27, 2024 at 3:00 p.m. and April 5, 2024 at 9:00 a.m. The Commission will discuss and vote on the changes at the Commission's monthly meeting on Tuesday, April 30, 2024. If the Commission cannot complete discussion and voting during the April meeting, the discussion will be continued to the May 21, 2024 meeting.

b. Increased Commission Data Requests and Workload

The Commission has seen a significant increase in data requests as more people inside and outside of the District's criminal justice environment learn about the agency's data capabilities. In 2021, the Commission received 13 data requests which took 360 hours to complete. In 2022, the Commission received 12 data requests which took 651 hours to complete. In 2023, the Commission's data requests nearly doubled to 19 requests taking 1,018 hours to complete. The time required to complete these data requests amounts to more than half of a full-time staff member's workload. To date in 2024, the Commission has received 8 requests, five of which have been completed.

The Commission relies on two research team members to handle all incoming data requests, in addition to their other job duties. The heightened demand, combined with the limited internal resources, has resulted in an extended response time for fulfilling data requests. Therefore, the Commission is evaluating its current approach to responding to data requests to see if changes

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need to be made. The Commission is working on solutions to respond to as many requests as possible while keeping staff members' workload manageable and ensuring a high-quality work product.

c. Commission FY25 Budget Requests

The Commission runs a lean operation.² The Commission anticipates a tough FY 2025 budget, with expected agency cuts in the mayor's soon-to-be-released proposed budget. In the agency's current FY 2024 budget, over 68% of the Commission's funding is allocated for personnel service expenses (staff salaries and benefits). An additional 26% of the agency's budget is used to upgrade, maintain, and operate the Commission's GRID data system. Data system-related costs represent approximately 85% of the Commission's total non-personnel service budget. Therefore, the Commission does not have many places where it can reduce expenditures. The Commission has and will continue to request additional funding for two employee promotions, employee performance-based raises (not given since 2018), an additional data analyst position, continued funding relating to the Court's transition to a new case management system, and funding to translate the Guidelines manual into Spanish. However, given the District's budget situation, all or many of these requests may go unfunded.

d. GRID System Data Archiving

The GRID system is taking up more space than ever, which presents system cost and performance issues. As a result, Commission staff, OCTO, and the agency's contractor are looking into ways that to archive older data so that it does not take up as much space in the agency's databases and servers, and to maintain or improve performance with as little cost increase as possible.

e. CJCC Membership

Secure DC and the Emergency Act added the Commission's Chairperson, Judge Lee, as a CJCC principal voting member.

f. Guidelines Correction – Section 2.2.5(b)

Commission staff found a typographical error in Section 2.2.5(b)(3) of the Guidelines Manual. This error was fixed in the online PDF version of the Guidelines Manual. The subsection read: "Do not score convictions that are classified as misdemeanors by the other jurisdiction and have a maximum punishment of *90 days or more* of incarceration." The corrected language now reads: "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."

g. Fixing Remote Meeting Connection Issues

To address connectivity issues the Commission has experienced during recent remote meetings, the agency is implementing a new policy where all staff must be present in the office if

² In fiscal year 2024, the Commission local funds budget was \$1,611,787.

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speaking or giving a presentation during a Commission meeting. Additionally, new cameras and microphones are being tested for staff members whose in-office technology is not working. Staff members are also testing the use of Zoom for virtual meetings to see if connection issues can be resolved with new software. Members were asked to contact Mr. Fry if they had an opinion on using Zoom or WebEx for future Commission meetings.

4. 2023 Annual Report Presentation – Information and Discussion Item, Judge Lee, Taylor Tarnalicki, Statistician.

The Commission staff have completed a draft of the 2023 Annual Report, which was sent to Commission members last week. Comments and edits from Commission members are due Wednesday, March 20, 2024. Ms. Tarnalicki presented an overview of the information contained in Chapter 4 of the 2023 Annual Report. This presentation included discussion of sentencing data by case disposition type, sentence type, offense, and Offense Severity Group (OSG).

Of note, the number of felony cases sentenced per year appears to have returned to pre-pandemic levels. In 2023, the number of cases resolved by jury trial also increased to pre-pandemic levels. Additionally, the percentage of felony counts resulting in a prison sentence increased, with 69% of all sentences resulting in a prison sentence. This is the highest rate of prison sentences and lowest rate of probation sentences observed since 2014. The 2023 Annual Report includes a new analysis which looks at sentence type by grid box options. A count level analysis shows the majority of cases sentenced in yellow or light-shaded boxes (probation, short split eligible) were sentenced to some period of incarceration. Additionally, 80% of cases sentenced in green or dark shaded boxes (prison, long split, and short split eligible) resulted in a prison sentence.

Ms. Tarnalicki also discussed judicial compliance with the Guidelines. Judicial compliance with the Guidelines remains high. The 2023 overall compliance rate was 98.6% which continues the trend of compliance over 97% since 2016. The in-the-box compliance rate in 2023 was 94.4%. The in-the-box compliance rate excludes sentences that are compliant out-of-the-box, entered pursuant to a Rule 11(c)(1)(C) plea agreement, or a compliant departure.

Finally, Ms. Tarnalicki explained the Commission's arrest-to-sentencing analysis, including a breakdown of the methodology. Notably, the Commission's analysis is limited to data received from the Metropolitan Police Department and the D.C. Superior Court. The arrest-to-sentencing analysis matches arrest numbers received from the MPD data feed with arrest numbers linked to cases from the D.C. Superior Court data feed. The analysis is limited in that it does not show cases that were transferred to U.S. District Court or cases that were initially dismissed but return as a grand jury original.

5. Issue Paper Presentation Follow-Up Data – Variance in Criminal History Scores and Sentencing Decisions – Information Item, Emily Blume, Data Analyst.

At the last Commission meeting Ms. Blume presented the Commission's Variance in Criminal History Scores and Sentencing Decisions Issue Paper. This Issue Paper focused on the relationship between defendants' total Criminal History (CH) scores and sentence length for non-drug adult felony offenses between 2013 and 2022. In most Offense Severity Groups, the average sentence length increases as the total CH score increases; however, this is not the case for offenses categorized in groups M1, M2, or M9. During the presentation, Ms. Blume was asked whether the

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analysis included data from cases resolved via an 11(c)(1)(C) plea. Commission members requested an updated analysis excluding cases resolved via an 11(c)(1)(C) plea.

Ms. Blume conducted the analysis again excluding cases resolved via a Rule 11(c)(1)(C) plea. In addition, Ms. Blume examined whether the disposition type (jury trials versus plea agreements) impacted the analysis. Upon filtering out cases resolved via a Rule 11(c)(1)(C) plea, the pattern remained the same with offenses categorized in groups M1, M2, or M9 not receiving longer sentences on average as their CH score increased. Moreover, the same pattern exists when the analysis is conducted only for cases resolved via a jury trial. Ms. Blume provided possible explanations for this discrepancy; however, the Commission cannot provide a definitive answer as to why this occurs in Offense Severity Groups M1, M2, and M9.

6. Next Scheduled Meeting – April 30, 2024.

Due to the Emancipation Day holiday, the Commission's next meeting has been moved to April 30, 2024 at 5pm. Judge Lee highlighted the importance that Commission members attend the April Commission meeting to ensure the Commission can move forward on implementing necessary changes resulting from the Secure DC and Emergency Acts.

* * *

Meeting adjourned at 6:05 p.m.

NEXT MEETING:

April 30, 2024

Via WebEx

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