

---These minutes were amended by vote during the Commission’s June 20, 2023, meeting---



District of Columbia Sentencing Commission

441 4th St, NW, Suite 430 South, Washington, DC 20001
Telephone (202) 727-8822 Fax (202) 727-7929

MINUTES OF VIRTUAL COMMISSION MEETING

May 16, 2023
Via WebEx

Voting Members in Attendance:

Hon. Milton Lee	William Martin
Hon. Marisa Demeo	Katerina Semyonova
Frederick Cooke	Molly Gill
Nazgol Ghandnoosh	Cedric Hendrick
Rosalyn Calbert Groce for Dave Rosenthal	

Non-Voting Members in Attendance:

Cristina Hillyer for Sonya Thompson	Leslie Parson
Michael Porcello for Councilwoman Brooke Pinto	Eric Glover
Stephen J. Husk	

Staff in Attendance:

Linden Fry	Basil Evans	Maeghan Buckley	Emily Blume
Brittany Bunch	Taylor Tarnalicki	Mia Hebb	Keelin Herbst
Nicholas McGuire			

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

Judge Lee called the May monthly meeting to order at 5:05 p.m. A roll call was completed, and the initial quorum was not established. Later in the meeting the required quorum was met.

Review and approval of the minutes from April 18, 2023, Commission meeting – Action Item, Judge Lee, Chairman.

The Commission received the draft April meeting minutes for final review prior to the May meeting. Due to the meeting not initially starting with a quorum, the minutes vote was halted until the quorum was established. Once the quorum was established, members voted by roll call to approve the minutes (eight votes in favor, zero opposed, and one abstained).

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

The meeting began with an update on the Commission’s recent activities.

The Commission’s new Attorney Advisor, Nicholas McGuire, and Policy Advisor, Keelin Herbst, introduced themselves to the Commission. Judge Lee and other members welcomed the new staff members.

Funds associated with the Commission’s work to update its data system, Guidelines Reporting Information Data (GRID), to align with D.C. Superior Court’s new case management system, Odyssey, are potentially secured in the Council’s pending FY 2024 capital budget. With the help of Councilmember Brooke Pinto’s representative, Michael Porcello, potential funds were found to cover the cost. He was thanked for his help.

---These minutes were amended by vote during the Commission's June 20, 2023, meeting---

The staff is currently working with the Commission's vendor, MindCube, to negotiate a new contract for the upcoming updates to the GRID system. The first proposal from the vendor has already been sent. Staff members look to get the proposal finalized so that updates to the system can start later in May 2023 and/or early June 2023. This is to ensure that the Commission is on track with D.C. Superior Courts Odyssey transition timeline.

The Commission continues to work with its partners, United States Attorney's Office of the District of Columbia (USAO DC) and the Office of the Attorney General of the District of Columbia (OAG), to gain access to the IJIS 8.1 data feed. Access to this data feed will enable staff members to cross-check papering rates that the Commission collects. Though no updates are available at this time, the Commission is having great conversation with its partners and thanked them for their continued help.

Access to Pre-Sentence Reports (PSRs) are still top priority to the Commission. In previous years, the Commission has sought access to these important documents, but was held back due to legal hurdles. The Commission is taking a different route and looks to potentially gain access to these reports via D.C. Superior Courts. Working with Commission members, the Honorable Rainey Brandt and the Honorable Marisa Demeo of D.C. Superior Courts, the request has been moved from the Courts' Strategic Management Division to its General Counsel. Access to these reports will expand the Commission's data capabilities as well as help to guide the discussion on changes to the Guidelines and their effect on people who were previously sentenced. Judge Lee further reiterated the importance of these reports as it concerns the Commission's conversation on Lapse and Revival. His focus is on ensuring all decisions that the Commission makes are data driven. Judge Demeo was asked if she had any updates. She noted that she was aware of the request and is working on her end to see what could be done by the Courts.

A second reminder was given to encourage interested Commission members to reach out to join the 2023 Guidelines Implementation Committee (GIC). Members were asked to contact the Commission's Attorney Advisor, Maeghan Buckley, to join the committee. The 2023 D.C. Voluntary Sentencing Guidelines Manual is not set for any major changes. The staff looks to submit a memo in relation to the potential changes to the GIC by June 16, 2023. The 2023 D.C. Voluntary Sentencing Guidelines Manual is projected to be released August 15, 2023.

Before ending the report, members were made aware that the Commission's new intern, Mary Zenger, will be joining the staff on May 22, 2023. She will be assisting with the 2023 Guidelines Manual editing as well as offering support during community outreach events scheduled this summer.

Data Response Presentation – CPWL and Felon in Possession Offense Data – Information Item, Taylor Tarnalicki, Statistician

Members were presented with a high-level overview of information collected in a data request response for Criminal Justice Coordinating Council (CJCC). The response focused on 2018 to 2022 arrest-to-sentencing trends for gun possession offenses, Carrying a Pistol Without a License (CPWL) and Unlawful Possession of a Firearm (UPF).

During the presentation, the below clarifications were offered:

- UPF data will include arrest and convictions for Unlawful Possession of a Firearm Prior Felony (UPF – PF) and Unlawful Possession of a Firearm Prior Crime of Violence (UPF- PCOV); and
 - UPF-PF has a mandatory minimum of one year.
- The papering rates reported do not take into consideration charges that were not papered initially and are charged later, nor cases that are moved from D.C. Superior Court (which causes it to be no papered) to the United States District Court for the District of Columbia.

---These minutes were amended by vote during the Commission's June 20, 2023, meeting---

A few data points discussed included, but were not limited to:

- 66% of CPWL charges were filed in D.C. Superior Court;
- 39% of CPWL convictions resulted in a finding of guilt;
- 12% of CPWL convictions resulted in a prison sentence;
- 61% of UPF charges were filed in D.C. Superior Court;
- 48% of UPF convictions resulted in a finding of guilt; and
- 94% of UPF convictions resulted in a prison sentence.

Following the presentation, the floor was opened for members to ask questions and voice concerns. Judge Demeo asked for a copy of the PowerPoint, in which Judge Lee confirmed that it would be sent to all members. She also asked for clarification regarding UPF papering rates not including charges that come after indictment. Taylor Tarnalicki confirmed that charges that come after indictment were not a part of the data presented. Judge Lee offered his insight regarding the data and noted that, from his lens, CPWL charges are often filed in conjunction with other charges,

The Commission publishes data request responses, like the one presented, for public access. The staff looks to release the CPWL and Felon in Possession Offense Data Response that was presented. Commission members who had any feedback and edits to the data response were asked to contact the staff.

Criminal Rule 11(c)(1)(C) Quarterly Report – Information Item, Emily Blume, Research Analyst

A summary of the Commission's Quarter Two (January 1, 2023 – March 31, 2023) Rule 11(c)(1)(C) Quarterly Report was given. Before the presentation started, Judge Lee provided clarity regarding what a Rule 11(c)(1)(C) plea encompassed. A Rule 11(c)(1)(C) plea is an agreement between the defense attorney and the prosecution regarding a specific sentence or sentence range to which initially the Court is not bound. Judges use additional information such as victim impact statements to guide their decisions. Once the judge reviews this information, the judge can choose to agree or disagree with the plea. If the judge agrees, then they are bound to impose a specific sentence or a sentence within the agreed upon range. All Rule 11(c)(1)(C) pleas are recorded as Guidelines compliant.

Below are a few facts that were mentioned during the presentation:

- 15% of total felony counts sentence were resolved via a Rule 11(c)(1)(C) plea agreement;
- 40% of Rule 11(c)(1)(C) plea agreements were associated with Violent Offenses;
- 37 individuals' cases were resolved via a Rule 11(c)(1)(C) plea agreement; and
- The average age of an individual sentenced under a Rule 11(c)(1)(C) plea was 27 years old.

Following the presentation, members were encouraged to ask questions and give feedback. Katerina Semyonova, of the Public Defenders Service of the District of Columbia, encouraged staff members to offer a better description of Rule 11(c)(1)(C) pleas so that it could be more digestible to the public. She also suggested that the report focus more on cases rather than counts to help the public better understand the data. Judge Lee noted that he would have to give this change some thought since it may not fully reflect multiple instances.

How Other Guidelines Jurisdictions Handle Lapse and Revival Presentation – Information Item, Nicholas McGuire, Attorney Advisor, and Keelin Herbst, Policy Advisor.

Due to the gravity of the discussion, Judge Lee decided to move the discussion on Lapse and Revival to the June Commission Meeting agenda. Judge Lee wanted to ensure that enough time was given for the presentation and discussion.

---These minutes were amended by vote during the Commission's June 20, 2023, meeting--

Continued Discussion: Moving forward after the Revised Criminal Code Act of 2022 - Discussion Item, Judge Lee and Linden Fry.

Though unsure of the next steps for Revised Criminal Code Act of 2022 (RCCA), the Commission intends to look at potential changes to the D.C. Voluntary Sentencing Guidelines. Members can reach out regarding what changes they would like to see. Before the meeting ended, other members voiced their thoughts.

Meeting Adjourned at 6:02 pm.

NEXT MEETING:
June 20, 2023
Via WebEx

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