



District of Columbia Sentencing Commission

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MINUTES OF VIRTUAL COMMISSION MEETING

May 17, 2022

Via WebEx

Voting Members in Attendance:

Hon. Milton Lee	Renata Cooper
Hon. Marisa Demeo	Frederick Cooke, Jr.
Hon. Juliet McKenna	Dave Rosenthal
Cedric Hendricks	
Molly Gill	
Janet Mitchell (Temporary PDS Designee)	

Non-Voting Members in Attendance:

Cristina Hilyer for Sonya Thompson
Steve Husk
Leslie Parsons
Kevin Whitfield for Charles Allen

Staff in Attendance:

Linden Fry	Taylor Tarnalicki	Maeghan Buckley	Emily Blume
Mia Hebb	Brittany Bunch		

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

Judge Lee called the May monthly meeting to order at 5:15 p.m. A roll call was completed. A voting quorum was not initially established. As the meeting proceeded, additional voting members joined. A quorum was established by 5:30pm.

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

Linden Fry greeted the Commission members and staff. He proceeded to give a brief overview of the staff’s current activities.

The Commission and staff are continuing to prepare for the potential passage of the Revised Criminal Code Act of 2021 (RCCA) currently before the Council. The Commission’s proposed fiscal year 2023 budget, including the approval of funds for two staff positions and a needs assessment for the Commission’s data system, was included in the Council’s first reading of the FY23 budget bill. The budget is slated to be finalized in late May.

The D.C. Superior Court is moving forward with the planned replacement of its current case management system. This switch will alter the form of the data the Commission and other entities receive from the Court as well as how some internal Court practices operate. The Commission is currently preparing for the GRID system for this update, including developing testing scenarios with the Criminal Justice Coordinating Council (CJCC), the Court, and the Court’s technology vendor. Mr. Fry noted that once testing starts, he will provide an update to the Commission.

Mr. Fry highlighted the Commission's expanded Guideline training opportunities. He also thanked Attorney Advisor Maeghan Buckley for her work increasing the number of trainings the Commission provides. In fiscal year 2022, the Commission placed an emphasis on better supporting practitioners by providing more resources and education materials. So far this year, commission staff has completed trainings for D.C. Superior Court law clerks, attorneys for the Second Look Project and help five separate sessions for CSOSA presentence report writers. Additionally, the Commission is taking steps to further support D.C. Superior Court judges. The Commission will also be delivering a D.C. Voluntary Sentencing Guidelines Quick Reference Sheet and survey to better assess the needs of judges. The Commission encouraged members and attendees at the meeting to reach out with additional ideas for training.

Mr. Fry noted that the Guidelines Implementation Committee has been working on the 2022 Voluntary Sentencing Guidelines Manual. During the Commission's June meeting, Ms. Buckley will present suggested edits to the Commission for consideration.

The Commission recently entered a new data-sharing Memorandum of Understanding (MOU) with CJCC. CJCC is currently in the process of completing its mandated semi-annual report on individuals sentenced under the Youth Rehabilitation Act (YRA). CJCC requested data that includes personal identifying information (PII) which will allow the CJCC to match Commission data with the data from other sources. Under the MOU, CJCC will not share any Commission identifiable data with anyone outside of their agency. Additionally, the Commission will not provide CJCC with identifiable criminal history data because the Commission does not maintain ownership of this data.

Mr. Fry and Judge Lee are continuing their efforts to obtain Commission access to Pre-Sentence Reports (PSR's). This remains a Commission priority. They are hopeful to have a more substantive update in the upcoming meetings.

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

Emily Blume, the Commission's Research Analyst, gave a high-level overview of the Commission's recent Second Quarter Criminal Rule 11(c)(1)(C) Quarterly Report. In the most recent quarter, 17% of all felony counts sentenced were a result of a Rule 11(c)(1)(C) plea agreement. During the second quarter of 2022, the data showed a slight decrease from the percentage of Rule 11(c)(1)(C) plea agreements observed in the First Quarter but it remains greater than in previous years.

The Commission members discussed the report. Judge Lee inquired about the 22% of cases that did not have a criminal history score. Commission and staff members discussed possible reasons why a plea would move forward without a CH score. Commission staff members will look further into these cases before the next report is published.

Mr. Fry asked Commission members if the pandemic has contributed to the rise in Rule 11 plea agreement for more severe felony cases. Commission members were not aware of a direct link, however Judge Lee noted that Rule 11(c)(1)(C) plea agreements are a negotiation tool that is often used for more severe felony cases and appear to be becoming more common. Janet Mitchell, noted that in her lengthy career she has observed an increase in the use of Rule 11(c)(1)(C) pleas in recent years. She echoed Judge Lee's observations that they tend to be utilized in more serious cases. Dave Rosenthal, of the Attorney General's Office, emphasized that all Rule 11(c)(1)(C) pleas were Guideline compliant. Judge Lee further explained that this is done to ensure that the judges only look at the facts of the case when determining if they should accept a Rule 11(c)(1)(C) plea.

Carjacking Data Presented to the Council – Informational Item, Taylor Tarnalicki, Statistician

Taylor Tarnalicki, the Commission’s Statistician, gave a brief overview of 2019-2021 carjacking data and analysis the Commission recently provided to the Council. The analysis compared different factors including whether a weapon was involved, if a victim was injured, papering rates, case dispositions, as well as sentencing trends for carjacking arrest.

Between 2019 and 2021 there were a total of 112 arrests made for carjacking offenses. Below are the key takeaways from the presentation:

- Unarmed carjacking represented 41 percent of (36) carjackings arrest and armed carjacking represented 59 percent of (66) carjacking arrest.
- 78.5 percent (88 arrests) of carjacking arrests resulted in a filed D.C. Superior Court case
- Unarmed carjacking arrests were papered at a greater rate than armed carjacking. The papering rate of unarmed carjacking is 93%, compared to a 68% papering rate of armed carjacking.
- 71%, (79) arrests of carjackings involved the use of a weapon
- 20% (22) carjacking arrests resulted in a victim injury
- Of the 55 arrests that resulted in a finding of guilt, only 13% (7) were convicted of a carjacking offense
- Approximately half of the individuals who were arrested for carjacking were ultimately convicted of a felony offense, most frequently robbery (26%)

Molly Gill questioned if these sentences were a result of a plea agreement. Ms. Tarnalicki confirmed that all carjacking arrests that resulted in a finding of guilt were disposed of via a plea agreement. This is likely due to the impact of the COVID-19 pandemic on Superior Court operations. Judge Lee further explained that the reason almost every carjacking arrest resulted in a non-carjacking conviction was because defendants often plead guilty to a lesser offense, such as robbery to avoid the mandatory minimum sentences associated with armed and unarmed carjacking. However, based on the data, guilty plea sentences for carjacking arrests involve sentences that aligned, in large part, with the mandatory minimum sentence timeframes associated with unarmed carjacking.

Mr. Rosenthal inquired about whether there were any instances of an arrest for an unarmed carjacking that involved a weapon. Ms. Tarnalicki clarified that over the time period of this dataset all armed carjacking arrests indicated the presence of a firearm. Further, there were unarmed carjacking arrests that also indicated a weapon was present, however the data does not indicate if the weapon was actually used during the commission of the offense. Leslie Parsons, of the Metropolitan Police Department (MPD), noted that MPD has an online carjacking dashboard that is used to present data on carjacking offenses and arrests. It was also noted that the data the Commission used only applied to adult arrests.

The Commission will continue to monitor and discuss this information in future meetings.

Review and approval of the minutes from April 19, 2022, Commission meeting – Action Item, Judge Lee, Chairman.

The Commission was sent the draft April meeting minutes for final review prior to the April meeting. A voting quorum was established, and the Commission voted to approve the minutes (10 votes in favor and no votes opposed).

Meeting Adjourned at 6:21 pm.

NEXT MEETING:
June 15, 2022
Via WebEx