

--These minutes were amended by vote during the Commission's October 17, 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

September 19, 2023

Via WebEx

Voting Members in Attendance:

Hon. Milton Lee

Hon. Marisa Demeo

Hon. Rainey Brandt

Nazgol Ghandnoosh

William Martin

Renata Cooper

Katerina Semyonova

Dave Rosenthal

Non-Voting Members in Attendance:

Christina Hillyer for Sonya Thompson

Carlos Heraud

Anaiah Mitchell

Erika McJimpsey

Staff in Attendance:

Linden Fry

Maeghan Buckley

Brittany Bunch

Mia Hebb

Nicholas McGuire

Basil Evans

Emily Blume

Taylor Tarnalicki

Keelin Herbst

Monthly Meeting Introduction – Action Item, Judge Lee, Chairman

Judge Lee called the September monthly meeting to order at 5:03 p.m. A roll call was completed, and a quorum was established. Before continuing with the agenda, Judge Lee welcomed the Commission's new Metropolitan Police Department (MPD) representative, Carlos Heraud, Assistant Chief, Investigative Services Bureau.

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

The Commission received the draft July meeting minutes for final review prior to the meeting. Members voted by roll call to approve the minutes (seven votes in favor, zero opposed, and one abstention). The motion was carried, and the minutes were adopted.

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

Mr. Fry provided members with an overview of the Commission's recent activities.

An update was given regarding the Commission's progress in updating the agency's data system to ensure an easy transition to D.C. Superior Court's new case management system, Enterprise Justice. The Commission's work is currently on schedule; however, the Court continues to work through implementation issues with its criminal justice partners.

--These minutes were amended by vote during the Commission's October 17, 2023, meeting--

Next, Mr. Fry addressed a recent problem related to the coding of the GRID data system's rules and algorithms. This problem resulted in inaccuracies and missing cases, which has ultimately led to delays in the agency's current research projects and verification of compliance and criminal history scores. Fortunately, with the help of the Commission's vendor, the data system is no longer experiencing these issues. Commission staff are currently testing the data to ensure that there are no further inaccuracies. If the data remains stable, regular analysis capabilities should be fully restored by 09/22/23. The Commission staff will continue to monitor the system closely.

Lastly, Mr. Fry informed members that the Commission has initiated its Fall Guidelines training season. If any members know of any group, organization, or individual who is seeking additional training, they can contact Maeghan Buckley at Maeghan.buckley@dc.gov.

Ranking New Felony Offenses from the Prioritizing Public Safety Emergency Amendment Act of 2023 – Discussion and Action Item, Judge Lee and Maeghan Buckley, Attorney Advisor

On July 20, 2023, Mayor Bowser signed into law the "Prioritizing Public Safety Emergency Amendment Act of 2023" (hereafter 'The Emergency Act'). The Emergency Act created two new felony offenses, as well as amended Unlawful Possession of a Firearm. Amongst other mandates, the Sentencing Commission is tasked with ranking any new felony offenses and reporting those rankings to the Council of the District of Columbia (the D.C. Council). Prior to the full Commission meeting, the Guidelines Implementation Committee (GIC), made up of Erika McJimpsey, Dave Rosenthal, Renata Cooper, Katerina Semyonova, and Judge Lee, met and reached a consensus on each of the rankings. Ms. Buckley presented a detailed explanation of the rankings for the new offenses, and Ms. Cooper made a statement on behalf of the U.S. Attorney's Office for each offense.

Following a discussion of the new offenses, the Commission unanimously voted to rank the new offenses as follows: Endangerment with a Firearm was ranked in Master Group 9 and Strangulation was ranked in Master Group 8. The new offense of strangulation also includes an enhancement as part of the penalty for instances when 1) the victim has sustained a serious bodily injury; 2) the defendant was under an active stay away or no contact order with the victim; or 3) the defendant had committed an intrafamily, or similar, offense within 5 years of the commission of the offense. The Commission voted, consistent with other Guidelines enhancements, that when the enhancement is utilized, the top of the Guidelines applicable Grid box for the offense would increase by 1.5 times. This enhancement will not be independently ranked but rather formatted as other enhancements are in Appendix H of the Manual. The ranking for the enhancement will remain in Master Group 8. Ms. Buckley clarified that the enhancement doesn't change what the ranking is, it just changes the top number in the box and the statutory penalty, which provides the judge the option to increase the sentence while still being compliant with the Guidelines.

Lastly, the members discussed the amendment to Unlawful Possession of a Firearm. New language was added to the statute, which reads "Stalking or attempted stalking, pursuant to Title V of the Omnibus Public Safety and Justice Amendment Act of 2009, effective December 10, 2009 (D.C. Law 18-88; D.C. Official Code §22-3131 et seq.), punishable as a misdemeanor, or any similar provision in the law of another jurisdiction." The new language adds another way for a person to be found guilty of unlawful possession of a firearm, but it does not amend the penalty. Members unanimously voted in favor of keeping the offense ranked in Master Group 8.

Commission staff will create and distribute a Guidelines Alert to inform partners and the public about the rankings.

--These minutes were amended by vote during the Commission's October 17, 2023, meeting--

Discussing Potential Non-Substantive Modifications to Chapter Six of the Voluntary Guidelines Manual – Discussion and Action Item, Judge Lee and Maeghan Buckley

Ms. Buckley explained that there was an inadvertent error in Chapter Six, Subsection 6.2, of the 2023 Guidelines Manual. Historically, there has been a colon in the sentence that reads “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.” However, in the 2023 version, the colon was replaced with a semicolon so that the sentence reads “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.” After much discussion regarding whether the semicolon should be updated to a colon to remain uniform with historic versions, a vote was taken by members. With a vote of seven to one, the motion was passed to alter the manual so that the semicolon in Chapter 6 becomes a colon. The Commission will discuss whether further amendments need to be made to Chapter 6 early in 2024.

Commission staff will create and distribute a Guidelines Alert to inform partners and the public about the Chapter 6 correction.

Meeting Adjourned at 6:01 pm.

NEXT MEETING:
October 17, 2023
Via WebEx

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