



District of Columbia Sentencing Commission

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DRAFT MINUTES OF COMMISSION MEETING

June 18, 2019

One Judiciary Square, Suite 430S, Washington, DC 20001

Voting Members in Attendance:

Milton Lee	Julie Samuels (via phone)
Molly Gill	US Attorney Jessie K. Liu; Designee Renata K. Cooper
Katerina Semyonova	Alicia Washington for Dave Rosenthal
Danya Dyson	Frederick Cook, Jr.
Marvin Turner	Richard Tischner for Cedric Hendricks
Frederick Weisberg	

Non-Voting Members in Attendance:

Kevin Whitfield
MPD Chief Peter Newsham; Designee Robert Contee
Stephen Husk

Guest in Attendance:

Elana Suttentberg

Staff in Attendance:

Barbara Tombs-Souvey	Kara Dansky	Taylor Tarnalicki
Mia Hebb	Mehmet Ergun	Miatta Sesay

- I. Judge Lee called the meeting to order at 5:10 p.m.
- II. The minutes from May 21, 2019, were approved pending any changes submitted to Barbara Tombs-Souvey.
- III. Overview of Impact of Felon in Possession Re-Ranking – Informational Item, Taylor Tarnalicki, Research Analyst and Barbara Tombs-Souvey, Executive Director

Overview of Impact of Felon in Possession Re-Ranking: Ms. Tarnalicki provided an update of sentencing trends for Unlawful Possession of a Firearm-Prior Felony (FIP). In July 2018, FIP was re-ranked from Offense Severity Group 7 to Offense Severity Group 8. The update reflected sentences imposed for a time period of 11 months before the re-ranking of FIP, and for 11 months after the re-ranking. Ms. Tarnalicki discussed the memorandum presented to the Commission members which outlined key findings as well as a comparison of FIP sentences imposed pre and post re-ranking. The following key findings were presented:

- Felon in Possession represented 10.8% of all felony counts sentenced pre re-ranking and 7.8% of all felony counts sentenced post re-ranking
- Between pre and post re-ranking, the average sentence imposed for Felon in Possession decreased by 5 months
- Both pre and post re-ranking under half (47.5) of FIP counts belonged to multi count cases, where all other charges were dismissed except Felon in Possession
- The percentage of FIP counts resolved via 11(c)(1)(c) plea almost double between the pre and post ranking period
- All non-compliant sentences in “problem” cells on the Master Grid (pre re-ranking: 7B, post-change: 8C) received a sentence of 12 months
- Both pre and post re-ranking, just over one-third of FIP counts that belonged to multi-count cases were sentenced concurrently to other counts on the case. (Pre-change: 38%, Post-change: 36%)
- Both pre and post re-ranking, the majority of FIP offenders had a criminal history score of C.

Judge Lee opened the floor for questions on the Felon in Possession update summary report. There were issues raised by Chief Newsome and US Attorney Jessie Liu regarding the July 2018, re-ranking of Unlawful Possession of a Firearm – Prior Felony from Master Group 7 (M7) to Master Group 8 (M8). Judge Lee responded to the concerns raised and briefly provided an overview and rationale of the action taken by the Commission. Commission members also provided feedback regarding the issues.

IV. Continued Discussion and Action on Double Counting Issue, Unlawful Possession of a Firearm, Prior Conviction for Crime of Violence – Action Item, Judge Lee, Chairperson.

Continued Discussion and Action on Double Counting Issue, Unlawful Possession of a Firearm with a Prior Conviction for Crime of Violence: Judge Lee continued the discussion on the Double Counting Issue, Unlawful Possession of Firearm with a Prior Conviction for Crime of Violence (“UPF-COV”) memo. Judge Lee gave an overview of the memorandum that was provided to the Commission members for the April 2019 Commission meeting that summarized the potential approaches the Commission could consider to address this issue.

Judge Lee opened the floor for further discussion from Commission members on the various approaches to address double counting issue related to UPF-COV. Commission members discussed the various options and voiced their positions and concerns related to each of the best options.

USAO supported adjusting the criminal history scoring by moving one criminal history box to the left when sentencing a defendant for UPF-COV. PDS supported re-ranking UPF-COV offense from a M6 to M7 since it mirrored the same approach previously approved by the Commission to address the double counting issue for unlawful possession of firearm – prior felony (FIP).

Commission Action#1: The Commission voted to address the double counting issue related to UPF-COV by re-ranking the offense of UPF-COV from Master Grid 6 (M6) to Master Grid 7 (M7) by a vote of 6-5.

V. Review and approval of “Compliant in the Box Sentencing” Issue Paper - Action Item, Miatta Sesay-Wood, Data Manager and Barbara Tombs-Souvey, Executive Director

Review and approval of “Compliant in the Box Sentencing” – Issue Paper: The review and approval of “Compliant in the Box Sentencing” issue was deferred until a later date.
Meeting Adjourned at 6:25pm.

NEXT MEETING:

July 16, 2019

One Judiciary Square (441 4th Street, NW) Suite 430S.