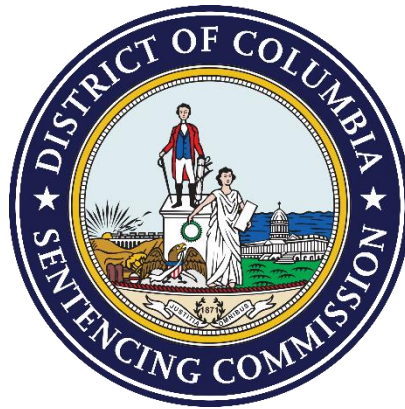




Domestic Violence Arrest to Sentencing Trends in the District of Columbia



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Mission Statement

The mission of the District of Columbia Sentencing Commission is to implement, monitor, and support the District's Voluntary Sentencing Guidelines, to promote fair and consistent sentencing policies, to increase public understanding of sentencing policies and practices, and to evaluate the effectiveness of the guidelines system in order to recommend changes based on actual sentencing and corrections practice and research.

I. Introduction

This issue paper focuses on how felony domestic violence (DV) arrests progress through the District of Columbia's criminal justice system. The data used for the analysis on arrest and sentencing trends is sourced from the District of Columbia Metropolitan Police Department (MPD) and the D.C. Superior Court (Superior Court). The DV determination is a binary data point (yes/no) that is captured upon initial data entry into MPD's Records Management System (RMS) by the reporting officer and is based on what the officer knows at the time of the arrest. This determination is dependent on the relationship between the victim and the alleged perpetrator of the crime, rather than the specific offense committed. The reporting officer uses the statutory definition of domestic violence fatality¹ when making this determination.²

Please note the following about the adult arrest information included in this analysis:

- The analysis examines all adult felony arrests that were made between August 23, 2021 and December 31, 2023. Note that the DV field within MPD's RMS system was not mandatory until August 23, 2021, and therefore DV reporting was inconsistent prior to this date.
- The data used in this paper is from the Commission's most recent annual data "snapshot," which was taken on January 10, 2024; the data reflects the status of arrests and convictions as of January 10, 2024.
- The analysis only covers adult felony arrests, it does not include juvenile arrests.
- During this timeframe there were a total of 88 adult felony arrests that did not have domestic violence information available. This subset of arrests represents 1% of all adult felony arrests made between August 23, 2021, and December 31, 2023, and has been excluded from the following analysis as the domestic violence status cannot be determined.

Within the Superior Court Criminal Division, felony DV cases are indicated by the case type acronym 'FD', while misdemeanor DV cases use the acronym 'DVM'. These acronyms will be included in the case numbers for any felony or misdemeanor DV case filed. The analysis in this paper examines how many felony DV *arrests* (as demarcated by MPD) were sent to Court for prosecution (papered) and compares sentencing trends for DV and non-DV *cases* that resulted in a conviction.

¹ Note that this statutory definition is being utilized broadly by the MPD for homicide and non-homicide crimes to determine if there is a DV relationship between said parties.

² Domestic violence fatality, as defined in D.C. Code Ann. § 16-1051(3)(A):

- (i) The alleged perpetrator and victim resided together at any time;
- (ii) The alleged perpetrator and victim have a child in common;
- (iii) The alleged perpetrator and victim were married, divorced, separated, or had a romantic relationship, not necessarily including a sexual relationship;
- (iv) The alleged perpetrator is or was married to, divorced, or separated from, or in a romantic relationship, not necessarily including a sexual relationship, with a person who is or was married to, divorced, or separated from, or in a romantic relationship, not necessarily including a sexual relationship, with the victim;
- (v) The alleged perpetrator had been stalking the victim;
- (vi) The victim filed a petition for a protective order against the alleged perpetrator at any time;
- (vii) The victim resided in the same household, was present at the workplace of, was in proximity of, or was related by blood or affinity to a person who experienced or was threatened with domestic violence by the alleged perpetrator; or
- (viii) The victim or the perpetrator was or is a child, parent, sibling, grandparent, aunt, uncle, or cousin of a person in a relationship that is described within this subsection.

II. Arrest to Sentencing Analysis

The following analysis showcases the arrest-to-sentencing trends for felony DV arrests made between August 23, 2021 and December 31, 2023. This analysis is presented at the arrest level, where a single arrest with multiple DV charges is only counted once. Note that this analysis does not consider the number of individuals arrested for DV offenses, instead it focuses on the number of arrests made between August 23, 2021 and December 31, 2023 that contained at least one DV charge.

Arrest and Papering Trends

Between August 23, 2021 and December 31, 2023, there were 12,227 adult felony arrests made in the District of Columbia. Felony DV arrests made up 13% (n=1,618) of the total number of felony arrests made in this timeframe. The other 87% of felony arrests did not contain a DV charge.³

A majority (57%, n=925) of the felony DV arrests were papered. During the same timeframe, 60% of felony non-DV arrests were papered (n=6,293). An arrest is classified as “papered” if the arrest number in the MPD arrest data has a corresponding Superior Court case. Papering decisions are documented at the arrest level; if an arrest results in at least one immediately papered charge (misdemeanor or felony), the entire arrest is classified as papered. A papered arrest can contain charges that are not among the initial arrest charges. Further, the arrest does not need to include any, or all, initial arrest charges. The term “no papered” means that the prosecuting authority (United States Attorney’s Office or Office of Attorney General) elected not to immediately file charges in the Superior Court related to the arrest. The Sentencing Commission (hereinafter ‘the Commission’) only analyzes arrest papering rates based on charges initially brought in the Superior Court. This means that charges transferred to U.S. District Court or charges re-brought after an initial decision not to paper the case are not included in the papered case data. Further, the Commission does not receive any information regarding why a papering decision was made in relation to a specific arrest or case.

The 925 papered felony DV arrests resulted in 945 non-fugitive cases filed in Superior Court. The total number of filed cases will rarely equal the total number of papered arrests given that a single papered arrest can generate multiple D.C. Superior Court cases or only a fugitive from justice case. Any filed cases where the arrested individual is only being prosecuted as a fugitive from justice are excluded from the analysis.

In this paper, the filed non-fugitive cases have been categorized into four groups based on the case type acronym.⁴ These four groups are: felony DV cases (FD cases), felony non-DV cases (CF cases), misdemeanor DV cases (DVM cases), and misdemeanor non-DV cases (CMD, CDC, and CTF cases).⁵ Over half (64%, n=612) of the filed cases were for misdemeanor charges, comprised of 552 misdemeanor DV cases and 60 misdemeanor non-DV cases. Felony DV cases represented approximately one in five of the cases filed from a felony DV arrest.

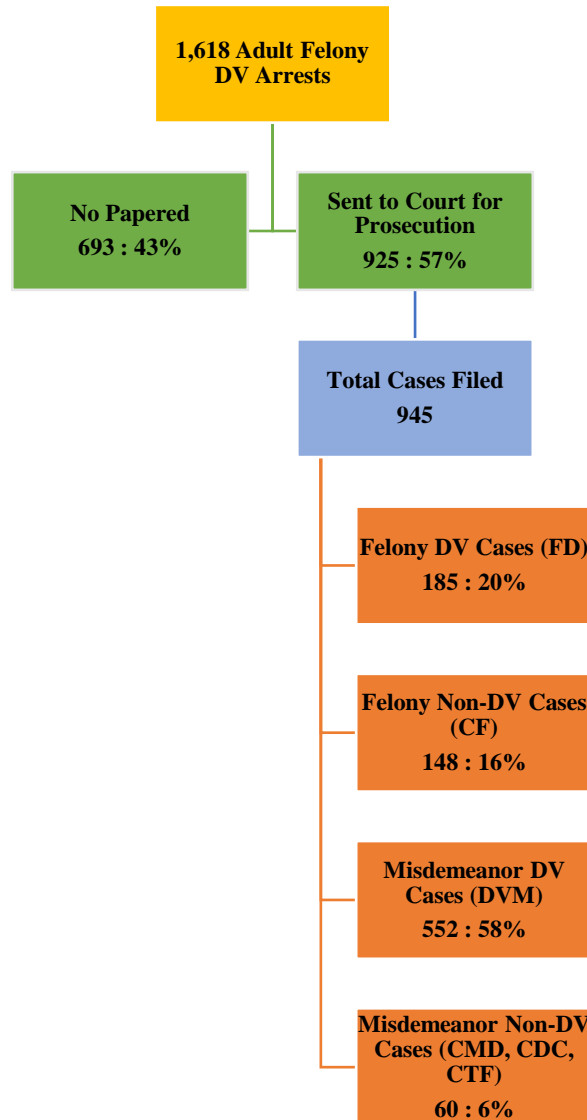
The below diagram (Figure 1) outlines the arrest and papering trends for the felony DV arrests made between August 23, 2021 and December 31, 2023. The remainder of the analysis will compare the types of cases that were generated from an adult felony DV arrest.

³ As discussed in the introduction, 88 arrests did not have DV information and have been excluded from the analysis. The analysis accounts for 12,139 arrests where the MPD reporting officer notated whether a DV charge was present.

⁴ Misdemeanor cases and convictions are included in this part of the analysis because felony arrests can result in a misdemeanor case or a misdemeanor conviction.

⁵ These acronyms stand for the following case types: CMD refers to criminal misdemeanor cases, CDC refers to District of Columbia criminal misdemeanor cases, and CTF refers to criminal traffic cases. During the analyzed timeframe, there were no misdemeanor non-DV cases resulting from a felony DV arrest that included the CCC (criminal contempt cases) acronym.

Figure 1: Arrest and Papering Trends for Adult DV Felony Arrests



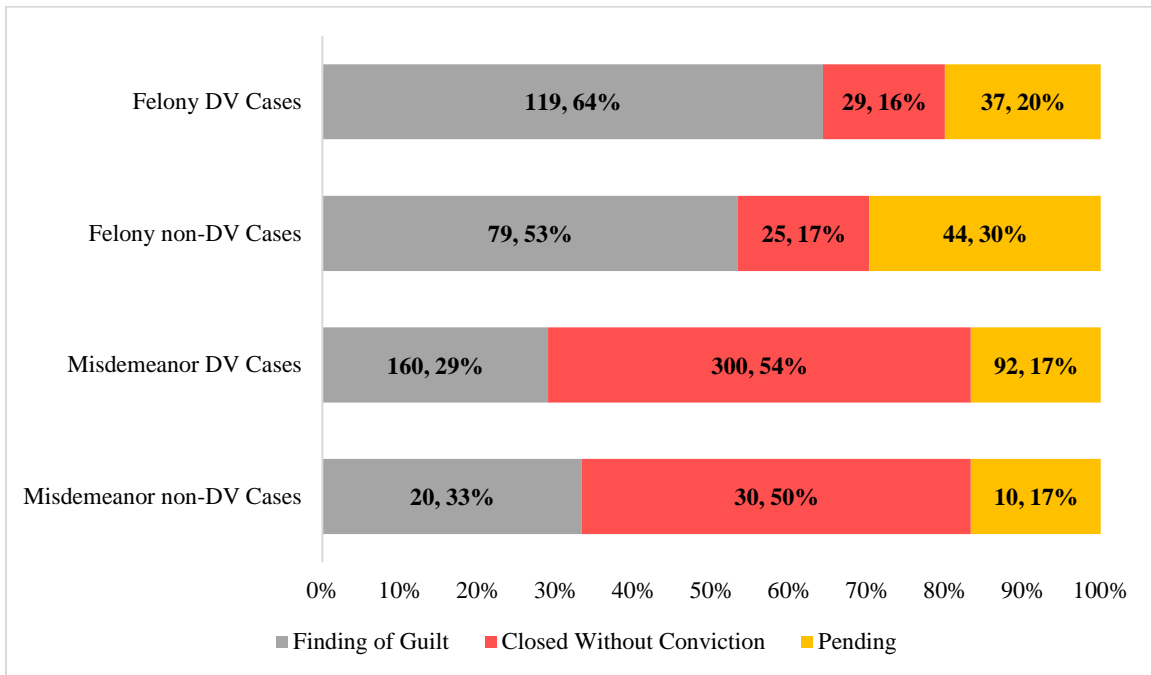
Of the 945 non-fugitive cases filed, approximately 41% (n=384) were closed without conviction, meaning the case was either dismissed or the defendant was acquitted.⁶ Forty percent (40%, n=378) of filed cases resulted in a finding of guilt for a criminal offense, while the remaining 19% (n=183) were still pending disposition at the time of the data freeze (January 10, 2024).⁷

Figure 2 compares the dispositions of the filed cases based on case type. The dispositions for felony DV cases and felony non-DV cases were similar, with over half of the papered cases resulting in a conviction (64% and 53% respectively). Comparatively, 29% of misdemeanor DV cases and 33% of misdemeanor non-DV cases resulted in a conviction.

⁶ “Dismissed” cases may have been dismissed by the government or the Court, it also includes cases where the defendant successfully completed a diversion program.

⁷ Due to the inherent nature of the criminal justice system, there is a delay between an arrest, when a case reaches its final disposition, and when a case is sentenced.

Figure 2: Disposition by Case Type



Sentencing Trends

The following analysis compares the proportion of convicted cases that resulted in only misdemeanor convictions to those that resulted in at least one felony conviction. Additionally, it identifies the most serious offense (MSC) sentenced on each case with a felony conviction. The MSC is used to report sentencing trends at the case level, given that it often drives the overall sentence in a case and is therefore generally reflective of the overall sentence imposed. The MSC is determined by selecting the offense with the highest Guidelines Offense Severity Group (OSG) out of all the convicted counts in a case.⁸ If there are multiple offenses with the same OSG, then the sentence type and lengths are compared for those offenses.

Ninety-five percent (95%, n=360) of the 378 cases that resulted in a finding of guilt had been sentenced at the time of the data freeze. Note that the analysis reports on trends for initial sentences, only. Therefore, the information does not include sentences following a remand from the D.C. Court of Appeals, a probation revocation, the granting of an Incarceration Reduction Amendment Act motion, or other post-conviction sentence modification. Thirty-one cases were not initial sentences and have been excluded from the analysis: the following sentencing analysis is based on 329 cases.

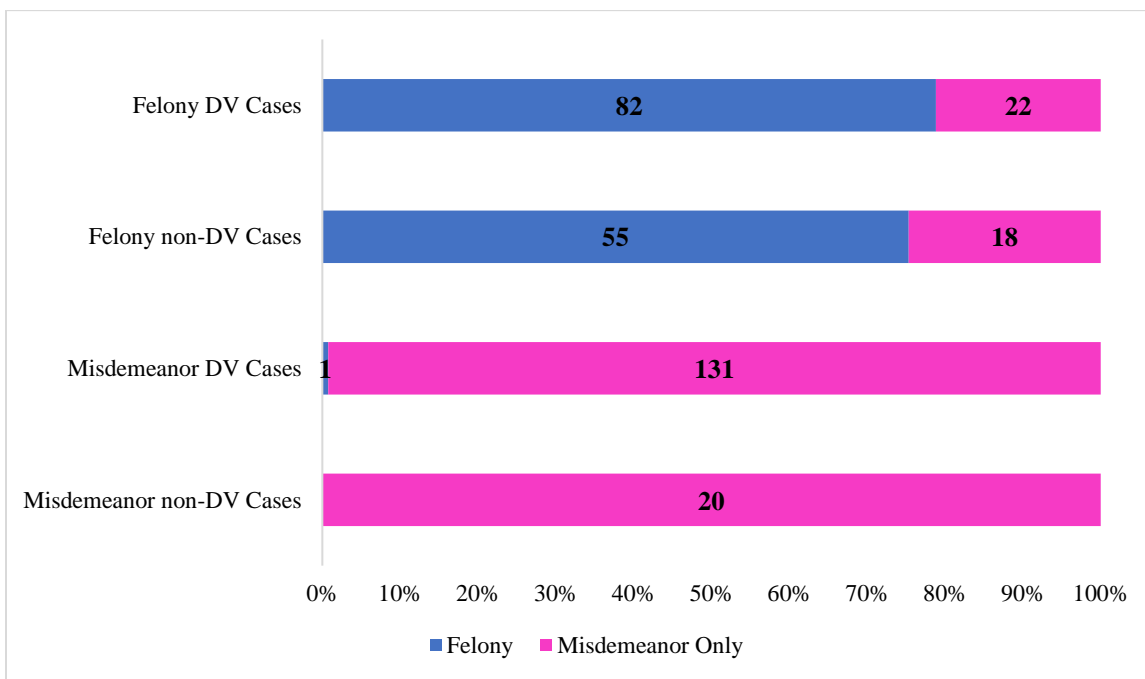
Of the 329 cases initially sentenced, 58% (n=191) resulted in misdemeanor-only convictions. The remaining 42% of cases contained at least one felony conviction (n=138). The breakdown of misdemeanor-only and felony cases by case type is shown in Figure 3. A majority of the filed felony DV and felony non-DV cases resulted in at least one felony conviction (79% and 75% respectively).⁹ The remainder of the

⁸ Offense severity comparisons are based on the following OSG order: M1, M2, M3, M4, M5, D1, M6, M7, D2, M8, M9, D3, D4. See the D.C. Voluntary Sentencing Guidelines Manual for more information on how OSGs are determined.

⁹ Notably, one misdemeanor case (DVM case type) ultimately resulted in a felony conviction. A case in D.C. Superior Court may be given a misdemeanor case type, but later have felony offenses charged for a variety of reasons including additional investigation or the filing of a felony enhancement. Case type is determined by the initial charges filed but is not determinative of the ultimate charge being sentenced (whether felony or misdemeanor).

sentencing analysis will only compare felony DV and felony non-DV cases that resulted in at least one felony conviction for a meaningful comparison.

Figure 3: Felony and Misdemeanor Only Cases by Case Type



Overall, the vast majority (98.5%, n=135) of felony convictions for both felony DV and felony non-DV cases were the result of a plea agreement. Of the 135 cases that resulted in a plea agreement, 15 cases were resolved via a plea agreement entered pursuant to D.C. Superior Court Rule of Criminal Procedure 11(c)(1)(C) and 120 cases were the result of a traditional plea agreement.¹⁰ There were only two felony convictions that resulted from a jury trial: one Second-Degree Burglary MSC (felony DV case) and one Carrying a Pistol Without a License MSC (felony non-DV case).

Felony DV and felony non-DV cases exhibited a similar distribution in sentence type, as shown in Figure 4. Over half of felony DV (65%, n=53) and felony non-DV (64%, n=35) cases resulted in a Prison sentence.¹¹

¹⁰ A Rule 11(c)(1)(C) plea bargain is a specific type of plea wherein the prosecution and the defense agree upon a specified sentence or sentence range as part of the plea agreement. This agreement is presented to the court, which can either accept or reject the plea. If accepted, the plea agreement becomes binding on the court.

¹¹ Prison sentences include both Incarceration and Long Split sentence types.

Figure 4: Sentence Type by MSC

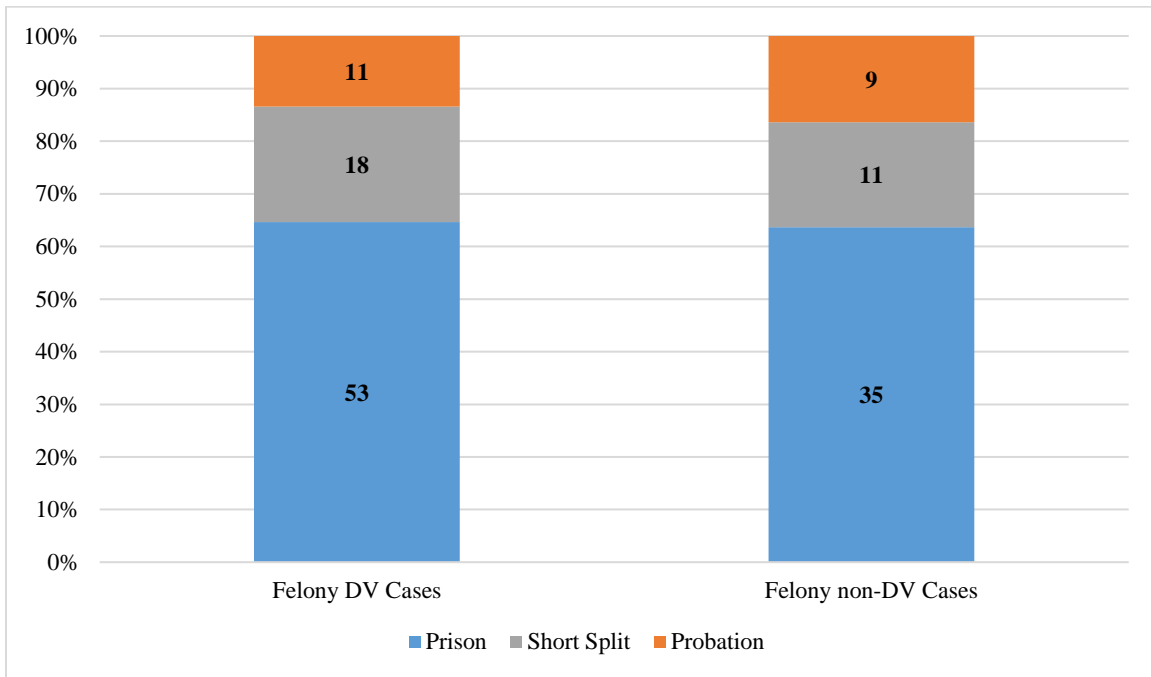


Table 1 breaks down the data based on the MSC of conviction. It shows the most frequently sentenced felony offenses for felony DV and felony non-DV cases that resulted from a felony DV arrest. The table also reports on the average sentence imposed, represented in months, for each offense.¹² Assault with a Dangerous Weapon (ADW), Attempted ADW, and Unlawful Possession of a Firearm (UPF) were among the most frequently sentenced offenses for both case types though the sample sizes vary. Overall, the average sentence imposed for felony DV cases was 28.4 months and the average sentence imposed for felony non-DV cases was 29.9 months.

In comparing ADW convictions between felony DV and felony non-DV cases, felony DV cases had a slightly higher average sentence imposed compared to felony non-DV cases. Felony DV cases involved more ADW convictions (12 versus 4), and the average sentence imposed in felony DV cases was 41.5 months, compared with 31.5 months in felony non-DV cases.

For Attempted ADW, felony DV cases resulted in more Attempted ADW convictions (24 versus 11) but received shorter sentences. The average sentence imposed for felony DV cases was 20.1 months, while felony non-DV cases had a slightly higher average sentence imposed of 22.3 months.

In UPF cases, the number of felony DV and felony non-DV cases were almost the same (9 felony DV cases and 10 felony non-DV cases), but felony DV cases had slightly longer average sentences imposed at 21.3 months compared to 18.0 months for felony non-DV cases.

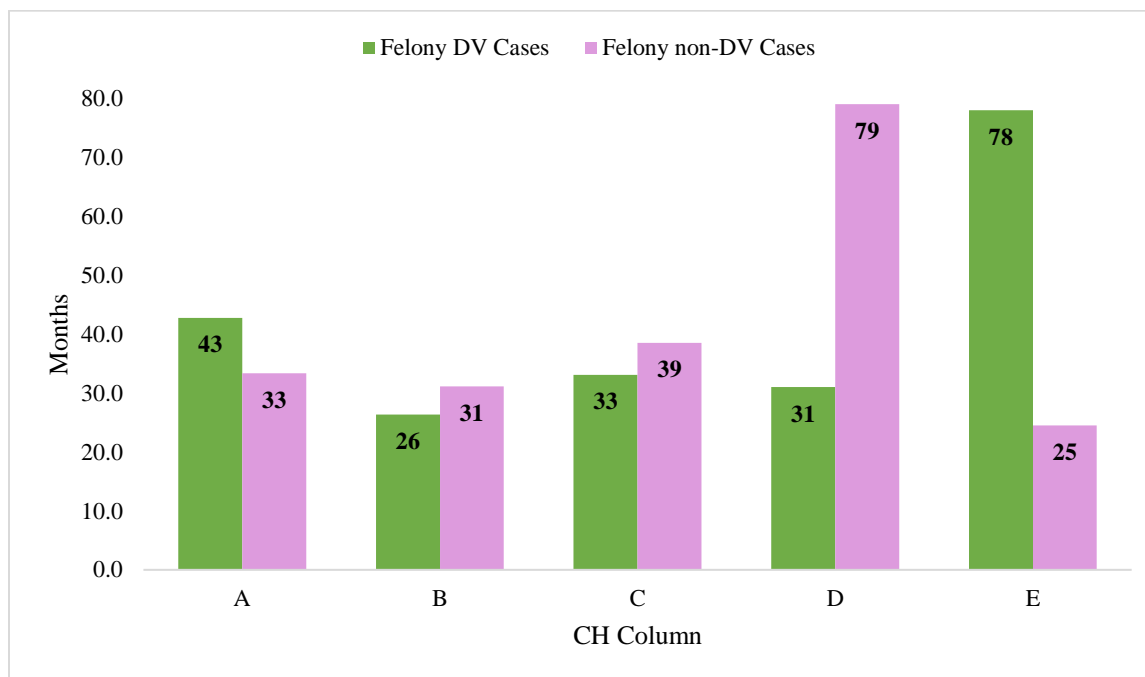
¹² The sentence imposed is the length of a defendant's sentence, including any portion of the sentence that is suspended.

Table 1: Average Sentence Imposed by Most Frequently Sentenced Offense

Felony DV Cases		
Offense	Number of Cases	Average Sentence Imposed (in months)
Attempted ADW	24	20.1
ADW	12	41.5
UPF	9	21.3
Assault with Significant Bodily Injury	6	19.0
Attempted Kidnapping	5	17.8
Felony non-DV Cases		
Offense	Number of Cases	Average Sentence Imposed (in months)
Attempted ADW	11	22.3
UPF	10	18.0
Carrying a Pistol Without a License (CPWL)	7	11.9
ADW	4	31.5
Second Degree Child Sex Abuse	4	45.0

The following analysis compares the average sentence imposed for felony DV and felony non-DV cases based on the defendant's Criminal History (CH) Column. Green bars represent felony DV cases and purple bars represent felony non-DV cases. The greatest variance can be seen for defendants with high criminal histories in CH Columns D and E. Defendants with criminal histories in CH Column D had greater sentences imposed for felony non-DV cases compared to felony DV cases. Comparatively, defendants with criminal histories in CH Column E had greater sentences imposed for felony DV cases compared with felony non-DV cases. The table below Figure 5 shows the sample sizes in the chart for each CH Column. It is important to interpret these results with caution due to the small sample sizes.

Figure 5: Average Sentence Imposed by CH Column



	A	B	C	D	E
Felony DV Cases	33	27	14	6	2
Felony non-DV Cases	21	12	15	3	4

III. Discussion and Conclusion

The analysis presented in this paper provides an understanding of how adult felony DV arrests progress through the criminal justice system in the D.C. Superior Court.

The data indicates that 13% of all adult felony arrests made between August 23, 2021 and December 31, 2023 were domestic violence related. The papering rates for felony DV and felony non-DV arrests were similar during this timeframe, 57% of felony DV arrests were papered and 60% of felony non-DV arrests were papered. A vast majority (78%, n=737) of papered felony DV arrests were assigned to a DV case number, with misdemeanor DV cases representing 75% of the DV cases filed.

When comparing DV cases to non-DV cases, slight differences in sentencing trends emerged. Notably, felony DV cases had slightly lower average sentences imposed compared to felony non-DV cases, though these trends varied based on the offense and the defendant’s criminal history.

With domestic violence now being a mandatory field in arrest reporting, the Commission will continue to monitor domestic violence arrest to sentencing trends, and the impact of that variable on felony sentencing.

Appendix A – Master Grid

August 2023 -- Sentencing Ranges Listed in Months

		Criminal History Score				
Ranking Group Most Common Offenses		0 to ½ A	¾ to 1¼ B	2 to 3¾ C	4 to 5¾ D	6 + E
3 Points*	Group 1 1st degree murder w/armed 1st degree murder	360 - 720	360 - 720	360 - 720	360 - 720	360 +
	Group 2 2nd degree murder w/armed 2nd degree murder 1st degree sex abuse 1st degree sex abuse w/armed	144 - 288	156 - 300	168 - 312	180 - 324	192 +
	Group 3 Voluntary manslaughter w/armed 1st degree child sex abuse Carjacking while armed Assault with intent to kill w/armed Armed burglary I	90 - 180	102 - 192	114 - 204	126 - 216	138 +
	Group 4 Aggravated assault w/armed Voluntary manslaughter	48 - 120	60 - 132	72 - 144	84 - 156	96 +
	Group 5 PFCOV Armed robbery Burglary I Obstruction of justice Assault with intent to kill	36 - 84	48 - 96	60 - 108	72 - 120	84 +
	Group 6 ADW Robbery Aggravated assault 2nd degree child sex abuse Assault with intent to rob	18 - 60	24 - 66	30 - 72	36 - 78	42 +
2 Points*	Group 7 Burglary II 3rd degree sex abuse UPF-PCOV Negligent homicide Attempt 2nd degree sex abuse	12 - 36	18 - 42	24 - 48	30 - 54	36 +
	Group 8 Carrying a pistol (CPWL) UUV Attempt robbery/burglary UPF ⁴⁰ 1st degree theft Assault w/significant bodily injury	6 - 24	10 - 28	14 - 32	18 - 36	22 +
1 Point*	Group 9 Escape/prison breach BRA Receiving stolen property Forgery/uttering Fraud	1 - 12	3 - 16	5 - 20	7 - 24	9 +
	*Criminal History Points for prior convictions in these groups.					
White/unshaded boxes – prison or compliant long split only.						
Dark shaded boxes – prison, compliant long split, or short split permissible.						
Light shaded boxes – prison, compliant long split, short split, or probation permissible.						

Appendix B – Drug Grid

August 2023 -- Sentencing Ranges Listed in Months

		Criminal History Score				
Ranking Group Most common offenses		0 to ½ A	¾ to 1¾ B	2 to 3¾ C	4 to 5¾ D	6 + E
2 Points*	Group 1 Distribution w/a (any drug) PWID w/a (any drug)	30-72	36-78	42-84	48-90	54+
	Group 2 Distribution or PWID (schedule I or II narcotic/ abusive drugs)	12-30	16-36	20-42	24-48	28+
1 Point*	Group 3 Distribution or PWID (except schedule I or II narcotic or abusive drugs) Attempt distribution or attempt PWID (schedule I or II narcotic/ abusive drugs) Possession of Liquid PCP	6-18	10-24	14-30	18-36	22+
¾ Point*	Group 4 Attempt distribution or attempt PWID (except schedule I or II narcotic or abusive drugs) Attempt possession of liquid PCP	3-12	5-16	7-20	9-24	11+
*Criminal History Points for prior convictions in these groups.						
White/unshaded boxes – prison or compliant long split only.						
Dark shaded boxes – prison, compliant long split, or short split permissible.						
Light shaded boxes – prison, compliant long split, short split, or probation permissible.						