An Examination of Probation Terms in the Superior Court of the District of Columbia

2025 Issue Paper Number 1

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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 examines the lengths of probation terms imposed in the District of Columbia (the District), comparing them across sentence types, demographics, and specific offenses to identify patterns and trends in how probation is applied. The District of Columbia Sentencing Commission (the Commission) routinely tracks and analyzes various aspects of sentencing, including sentence type distributions. To date, much of the Commission's research has focused on trends related to the four primary sentence types, as defined in the District of Columbia Voluntary Sentencing Guidelines (the Guidelines): Prison (including Life sentences), Long Split, Short Split, and Probation. In a Prison sentence, no portion of the sentence is suspended, and the defendant serves their entire sentence incarcerated. In contrast, the entirety of the sentence is suspended in a Probation sentence, while only a portion of the sentence is suspended for both Short Split and Long Split sentences. Probation, Short Split, and Long Split sentences all include a term of probation, in which the defendant will serve all or part of their sentence in the community under the supervision of a probation officer. General descriptions of each sentence type are provided below.[1]

- **Prison:** *No portion* of the incarceration sentence is suspended. The defendant is required to serve the entire sentence in prison. The incarceration term is followed by a period of supervised release as governed by D.C. Code § 24-403.01(b).

- **Split:** *Some portion* of the incarceration sentence is suspended, as well as the period of supervised release.
    - **Long Split:** The defendant is to serve time in prison for *longer than six months, followed by a period of probation.*
    - **Short Split:** The defendant is to serve time in prison for *six months or less, followed by a period of probation.*

- **Probation:** The *entire* incarceration sentence is suspended, as well as the period of supervised release. The defendant does not serve any portion of the sentence in prison.[2]

As defined above, Probation and Split sentences include a term of probation that follows the suspension (full or partial) of the incarceration sentence.[3] These probation terms are a common component of felony sentencing; over half (61%) of the adult felony cases sentenced between 2015 and 2024 contained a term of probation. However, the term of probation imposed is an area of sentencing that remains largely unexamined. This is partly because the length of the probation term is not covered by the Guidelines' rules. In the Superior Court of the District of Columbia (Superior Court), the sentencing judge has complete discretion to set the term of probation for each conviction, provided the term does not exceed five years.[4]

[1] Please refer to Chapter Six of the Guidelines Manual for the formal definitions of Compliant sentence types.
[2] The Commission's data system classifies a completely suspended sentence as Probation if there is no mention of "time served" in the sentencing docket text.
[3] For purposes of this paper, *term of probation* denotes the amount of time a defendant must serve on probation, rather than Probation as a Guidelines Compliant sentence type.
[4] See D.C. Code § 16-710(b), capping the length of probation at five years. Certain sex offense convictions that require sex offender registration can have a term of probation beyond five years.

Understanding how probation terms vary by sentence type, criminal history, and defendant demographics will help the Commission assess whether disparities exist and consider whether probation terms should be more explicitly addressed. This issue paper begins with an overview of the distribution of sentence types for all original adult felony cases sentenced in Superior Court. It then focuses on sentences that include a term of probation – encompassing Split and Probation sentence types. The findings of this paper will provide valuable insight into current supervision practices in the District and may inform future policy discussions to further promote fairness and consistency in sentencing and supervision.

II. Data Analysis

The present research examines sentencing trends for original adult felony cases sentenced in Superior Court between 2015 and 2024 that included a term of probation. The sentencing data used in this report is sourced from the Superior Court. Please note that this report uses live data, meaning that it is continuously updated and may not exactly match the data included in prior Commission publications. Additionally, the data only includes original sentences. Therefore, the information does not include felony sentences following a remand from the Court of Appeals, a probation revocation, the granting of an Incarceration Reduction Amendment Act (IRAA) motion, or other post-sentencing modifications.

A. Annual Trends

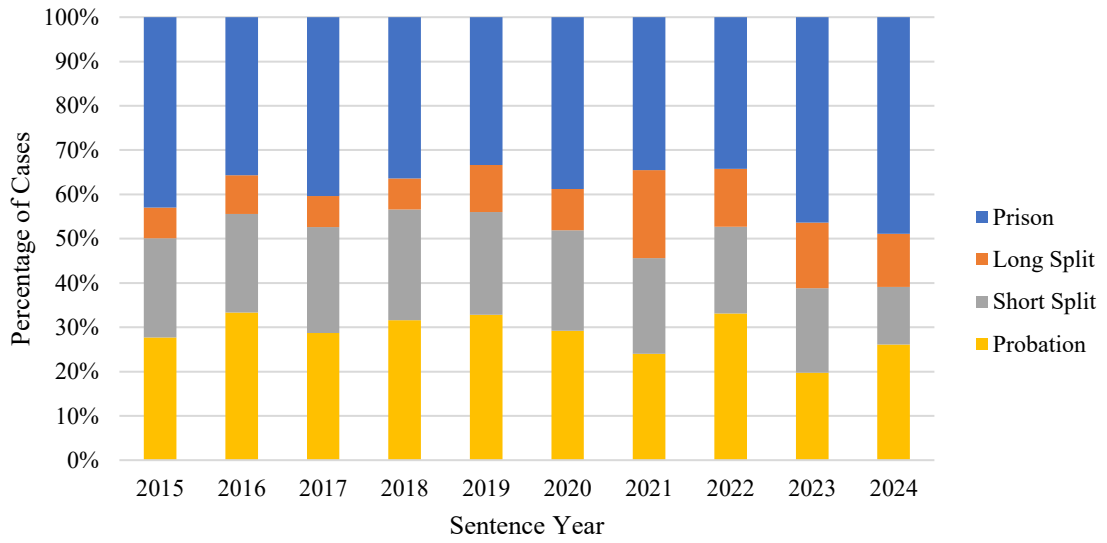
Between 2015 and 2024, there were a total of 13,311 original adult felony cases sentenced in Superior Court. Thirty-nine percent (39%, n=5,229) of these cases resulted in a Prison sentence. The remaining cases were sentenced as follows: 29% Probation (n=3,877), 21% Short Split (n=2,840), and 10% Long Split (n=1,365).

Figure 1 presents the distribution of sentence types for **cases** sentenced between 2015 and 2024.[5] Over the past decade, Prison sentences have consistently been the predominant sentence type, followed by Probation sentences. Long Split sentences consistently represented the least common sentence type imposed. Each year, approximately 61% of sentences imposed included a term of probation, either as part of a Probation or Split sentence.

[5] In a case-level analysis, cases with multiple felony convictions are represented by the most severe count (MSC) sentenced. This is because the MSC is often what drives the cumulative sentence in a case and therefore is reflective of the overall sentence type imposed. The MSC is initially determined by the Offense Severity Group (OSG), followed by the offense type, sentence imposed, and lastly the charge number.

Figure 1: Annual Sentence Type Trends

Case Level (2015-2024)

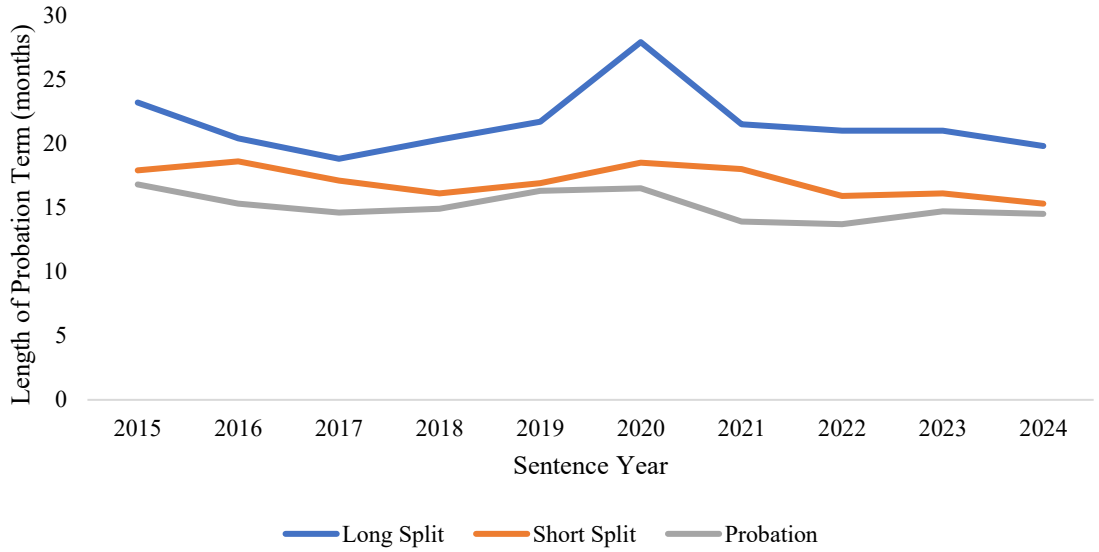


	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Prison	43.0%	35.7%	40.4%	36.4%	33.4%	38.8%	34.5%	34.2%	46.3%	48.9%
Long Split	6.9%	8.7%	7.0%	7.0%	10.6%	9.3%	19.8%	13.1%	14.8%	12.0%
Short Split	22.4%	22.3%	23.9%	24.9%	23.2%	22.7%	21.6%	19.6%	19.1%	13.0%
Probation	27.7%	33.3%	28.7%	31.6%	32.8%	29.2%	24.0%	33.1%	19.7%	26.1%
Total Cases	**1,469**	**1,657**	**1,907**	**1,636**	**1,434**	**497**	**796**	**1,329**	**1,066**	**1,520**

Figure 2 reports the average term of probation, as measured in months, for Probation and Split sentences over the last 10 years. **This analysis, along with the remaining analyses in this paper, excludes Prison because Prison sentences do not involve a subsequent term of probation.**[6] Between 2015 and 2024, a total of 8,082 adult felony cases were sentenced to a term of probation. Overall, Long Split sentences had the highest average probation term at 21 months, followed by Short Split sentences at 17 months, and Probation sentences at 15 months. Long Split sentences exhibited the greatest year-to-year variation, whereas Short Split and Probation sentences remained relatively stable over time. When all three sentence types are combined, the average probation term for adult felony cases sentenced between 2015 and 2024 was approximately 17 months.

[6] Instead of a term of probation, Prison sentences include a mandatory term of supervised release following incarceration.

Figure 2: Average Term of Probation by Sentence Type
Case Level (2015-2024)



	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Long Split	23.2	20.4	18.8	20.3	21.7	27.9	21.5	21.0	21.0	19.8
Short Split	17.9	18.6	17.1	16.1	16.9	18.5	18.0	15.9	16.1	15.3
Probation	16.8	15.3	14.6	14.9	16.3	16.5	13.9	13.7	14.7	14.5
Overall	**18.0**	**17.1**	**16.1**	**16.0**	**17.4**	**19.0**	**17.5**	**15.8**	**16.9**	**15.9**

B. Grid Structure

One of the core principles underlying the development of the Guidelines is that similar offenses committed by similar defendants should receive similar sentences. The Main and Drug Grids are used to plot two key sentencing factors: the offense of conviction (vertical axis) and the defendant's criminal history (horizontal axis). The intersection of these two factors on the Grids is a box containing the recommended sentencing options – sentence types and the applicable range – for that specific combination of offense severity and criminal history. As the seriousness of the offense and the Criminal History Score (CHS) of the defendant increase, the length of the Guidelines Recommended Sentencing Range (GRSR) increases while alternatives to incarceration become more limited. However, the Guidelines do not provide recommendations for the length of probation terms within each Grid box.

The figures below present the average length of incarceration imposed[7] (in months) and the average probation term (in months) within each region of the Main (Figures 3a and 3b) and Drug (Figures 4a and 4b) Grids. In these figures, Probation and Split sentences are combined. Each bar in the charts represents a single Grid box, defined by the intersection of an Offense Severity Group (OSG) and a CHS Column. The different colored bars represent the CHS Columns (e.g., yellow = CHS Column D), while the categories on the horizontal axis represent the OSGs. For instance, the yellow bar above M5 corresponds to Grid Box M5D – the intersection of OSG 5 on the Main Grid

[7] *Incarceration imposed* in this paper refers to the length of a defendant's total sentence, including any portion of the sentence that is suspended.

and CHS Column D. Appendix A presents this same information in a table format, including the number of cases and color coding for recommended sentence type.

As expected, there were very few or no sentences with terms of probation for offenses in OSGs M1 through M4 and in OSG D1; convictions for these severe offenses usually result in a Prison sentence. These OSGs have been removed from the figures to minimize the impact of outliers. Additionally, cases where CHS information was unavailable have been excluded from these analyses. Therefore, the analyses in this section are based on 7,519 cases (93%) where the MSC was in OSGs M5 – M9 or D2 – D4 and contained CHS information.

For felony Non-Drug offenses, the average incarceration imposed and probation terms both generally decreased as offense severity decreased. The average incarceration imposed decreased from around 59-94 months at the highest OSG studied (M5) to as low as 9-14 months at the lowest OSG (M9), while probation terms decreased from 26-32 months at M5 to 14-25 months at M9. Within each OSG, the average incarceration imposed tended to increase as the defendant's prior CHS Column increased (with one exception in box M5D) whereas the average probation terms fluctuated across CHS Columns without a consistent trend.

Figure 3a: Average Incarceration Imposed for Felony Non-Drug Offenses
Case Level (2015-2024)

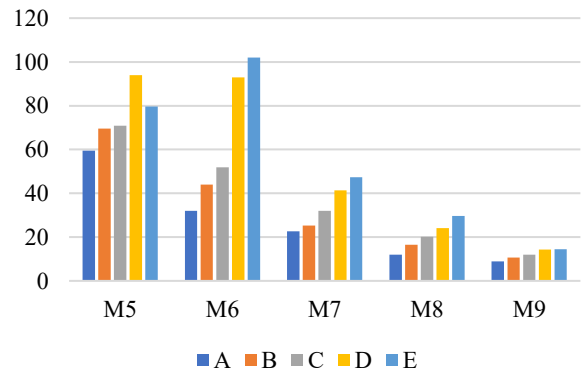
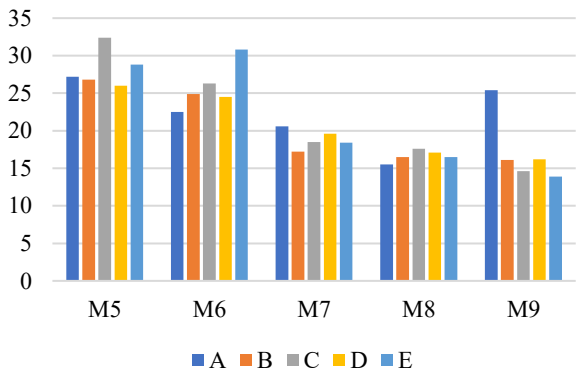


Figure 3b: Average Probation Terms for Felony Non-Drug Offenses
Case Level (2015-2024)



The average incarceration imposed for felony Drug offenses showed similar trends to what was observed for felony Non-Drug offenses. The average incarceration imposed for felony Drug offenses declined significantly as offense severity decreased, averaging 14-27 months at D2, 9-21 months at D3, and 6-15 months at D4. The length of incarceration imposed also generally increased with higher CHS severity within each OSG. Like Non-Drug offenses, within each OSG, probation terms fluctuated across CHS Columns without a consistent trend. However, in contrast to Non-Drug offenses, probation terms for Drug offenses were shorter and more consistent, clustering between 12 and 18 months across all Drug OSGs, with minimal variation.

Figure 4a: Average Incarceration Imposed for Felony Drug Offenses
Case Level (2015-2024)

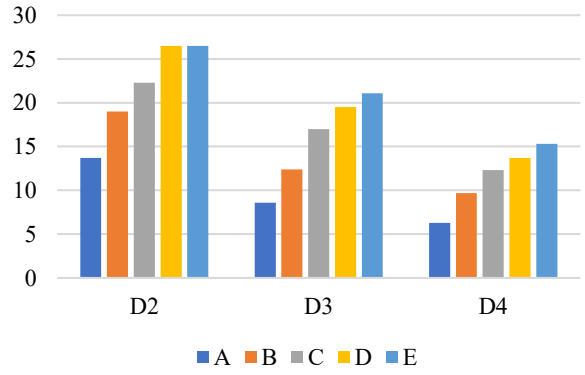
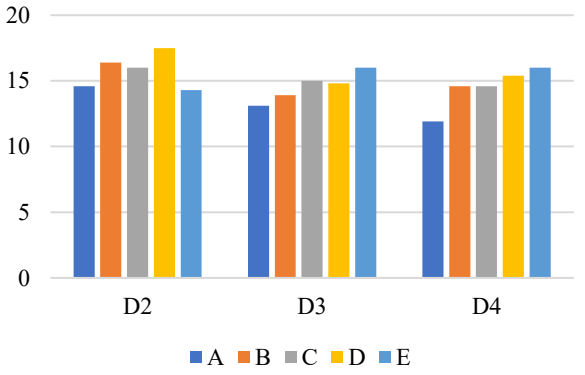


Figure 4b: Average Probation Terms for Felony Drug Offenses
Case Level (2015-2024)



These findings suggest that the length of incarceration imposed is strongly tied to OSGs and prior CHS for both felony Drug and Non-Drug offenses. In contrast, probation terms for Non-Drug offenses appear to be influenced primarily by OSG's as opposed to the defendant's CHS, while for Drug offenses, probation terms are generally applied in relatively uniform lengths regardless of the OSG and defendant's CHS.

Across all Grid boxes studied, there does not appear to be a notable relationship between mean probation terms and the defendant's prior CHS. To explore this further, Figures 5a and 5b compare average incarceration imposed and average probation terms by CHS Column for each sentence type, without controlling for OSG. Both charts include all OSGs (M1-M9 and D1-D4).

For Long Split sentences, the average incarceration sentence imposed varied across CHS Columns, while the average probation term showed an inverse relationship with CHS: the length of probation terms decreased as CHS severity increased. Short Split and Probation sentences exhibited a similar pattern to each other. For both, the average incarceration imposed increased as CHS Columns became more severe, indicating a positive relationship between the two variables. However, no consistent relationship was observed between CHS and average probation terms for neither Short Split nor Probation sentences.

Figure 5a: Average Incarceration Imposed by Sentence Type
Case Level (2015-2024)

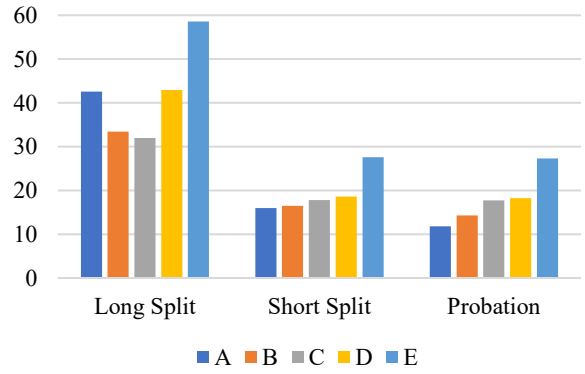
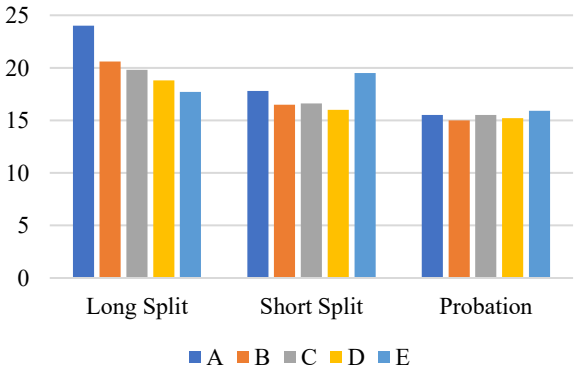


Figure 5b: Average Probation Terms by Sentence Type
Case Level (2015-2024)



C. Specific Offenses

To examine patterns in probation terms among specific offenses, the following analysis excluded offenses with fewer than 200 cases sentenced between 2015 and 2024. This threshold was applied to ensure stability and interpretability of the results, as probation rates based on very small sample sizes can be disproportionately influenced and may not reflect meaningful trends. By limiting the analysis to offenses with sufficient representation, the findings provide a clearer and more reliable picture of which offenses are most and least likely to receive probation terms, as well as whether offenses with similar probation rates share common characteristics.

Carrying a Pistol Without a License (CPWL) (93%, n=1,852), Attempted Possession with Intent to Distribute a Controlled Substance (Att. PWID) (86%, n=468), and Attempted Distribution of a Controlled Substance (Att. Dist.) (83%, n=628) are the offenses with the greatest rates of suspended sentences, i.e. time suspended where a term of probation follows. Almost all (93%) CPWL sentences had some or all of the initial sentence suspended. In contrast, Armed Robbery (21%, n=49), Unlawful Possession of a Firearm – Prior Felony (FIP-1) (35%, n=511), and Burglary Two (44%, n=140) represent the offenses with the lowest rate of suspended sentences. The three offenses with the highest rates of time suspended ranked lower in offense severity compared to the offenses with the lowest rates of time suspended. CPWL is ranked in OSG M8, while Armed Robbery is ranked in M5, a higher-severity group.

Figure 6 presents the average incarceration sentence imposed and the average probation term for offenses with the highest and lowest rates of suspended sentences. The information is broken down by sentence type (Long Split, Short Split, and Probation). It is important to note that offenses where sentences are suspended less frequently have smaller sample sizes, which may affect the averages. Table 1 provides the same information, along with the proportion of cases that received each sentence type. Incarceration and Probation in the table refer to the average incarceration imposed and average probation term, measured in months.

For offenses with high rates of suspended sentences (CPWL, Att. PWID, and Att. Dist.), the average probation term was longer than the average incarceration imposed for Short Split and Probation sentences, while the average incarceration imposed was longer for Long Split sentences. However, the average lengths of incarceration imposed and probation terms (that follow a suspended sentence) for these offenses were relatively similar across sentence types, indicating a more balanced use of incarceration and probation. Additionally, the average incarceration length and probation term for these offenses exhibited a pattern of having a positive relationship with sentence type, with both the average sentence imposed and probation term being the longest for Long Split sentences and shortest for Probation sentences.

In contrast, offenses with low suspended sentence rates (Burglary Two, FIP-1, and Armed Robbery) showed much larger gaps between incarceration imposed and probation terms. For these offenses, average incarceration sentences imposed were consistently and substantially longer than average probation terms for all sentence types. Both the average sentence imposed and average probation term for these offenses showed no apparent patterns with sentence type severity.

Figure 6: Average Incarceration Imposed and Probation Term by Sentence Type

Case Level (2015-2024)

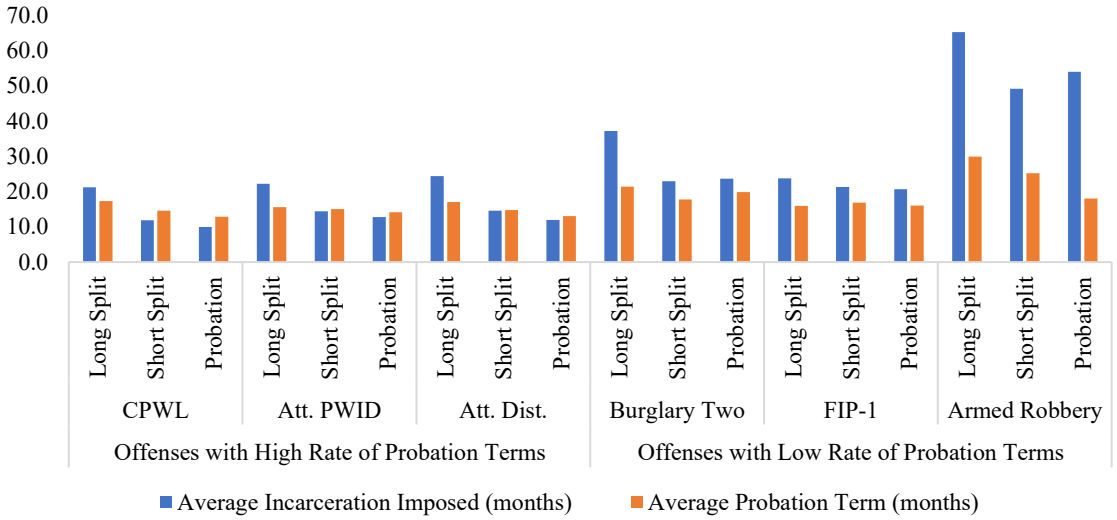


Table 1: Average Incarceration Imposed and Probation Term by Sentence Type			
Offense	**Long Split**	**Short Split**	**Probation**
Offenses with Highest Rates of Probation Terms			
CPWL (n=1,993)	**Rate:** 2% (n=46) **Incarceration:** 21.2 **Probation:** 17.3	**Rate:** 29% (n=571) **Incarceration:** 11.8 **Probation:** 14.5	**Rate:** 62% (n=1,235) **Incarceration:** 9.9 **Probation:** 12.9
Att. PWID (n=543)	**Rate:** 2% (n=10) **Incarceration:** 22.2 **Probation:** 15.6	**Rate:** 30% (n=162) **Incarceration:** 14.5 **Probation:** 15.0	**Rate:** 55% (n=296) **Incarceration:** 12.8 **Probation:** 14.1
Att. Dist. (n=760)	**Rate:** 2% (n=12) **Incarceration:** 24.4 **Probation:** 17.1	**Rate:** 28% (n=211) **Incarceration:** 14.6 **Probation:** 14.8	**Rate:** 53% (n=405) **Incarceration:** 12.0 **Probation:** 13.0
Offenses with Lowest Rates of Probation Terms			
Burglary Two (n=319)	**Rate:** 13% (n=40) **Incarceration:** 37.2 **Probation:** 21.4	**Rate:** 22% (n=71) **Incarceration:** 22.9 **Probation:** 17.8	**Rate:** 9% (n=29) **Incarceration:** 23.6 **Probation:** 19.8
FIP-1 (n=1,467)	**Rate:** 28% (n=413) **Incarceration:** 23.7 **Probation:** 16.0	**Rate:** 3% (n=37) **Incarceration:** 21.3 **Probation:** 16.9	**Rate:** 4% (n=61) **Incarceration:** 20.7 **Probation:** 16.1
Armed Robbery (n=238)	**Rate:** 15% (n=36) **Incarceration:** 65.3 **Probation:** 29.9	**Rate:** 2% (n=5) **Incarceration:** 49.2 **Probation:** 25.2	**Rate:** 3% (n=8) **Incarceration:** 54.0 **Probation:** 18.0

D. Demographic Trends

Age at offense information was available for 7,710 (95%) of the 8,082 cases that received a suspended sentence (Long Split, Short Split, or Probation sentence types).[8] The average age at the time of the offense for these defendants was 29 years old. In comparison, the average age at offense

[8] Age in this report refers to the defendant's age at the time the offense was committed. In infrequent cases where an offense date is not provided, the age at the time of arrest is used.

for defendants who received a Prison sentence (no time suspended) was 31 years old. Figure 7 shows the average incarceration imposed and term of probation for defendants sentenced to Long Split, Short Split, or Probation sentences. This information is presented on the case level, based on the age at offense of the defendant. Across all age groups, the average sentence imposed was greater than the average probation term. The average incarceration imposed and probation term for defendants aged 15 to 17 at the time of the offense were significantly greater than for all other age groups, however defendants in this age group were initially charged with a high severity offense, per § 16–2301(3).[9] Additionally, it is important to account for the differences in sample size. Average sentences imposed and probation terms were fairly constant among the other age groups, with the average sentence imposed ranging from 17.6 months (31-40 age group) to 21.1 months (61-70 age group) and the average probation term ranging from 15.7 months (51-60 age group) to 17.7 months (18-21 age group).

Figure 7: Average Incarceration Imposed and Probation Term by Age Group
Case Level (2015-2024)

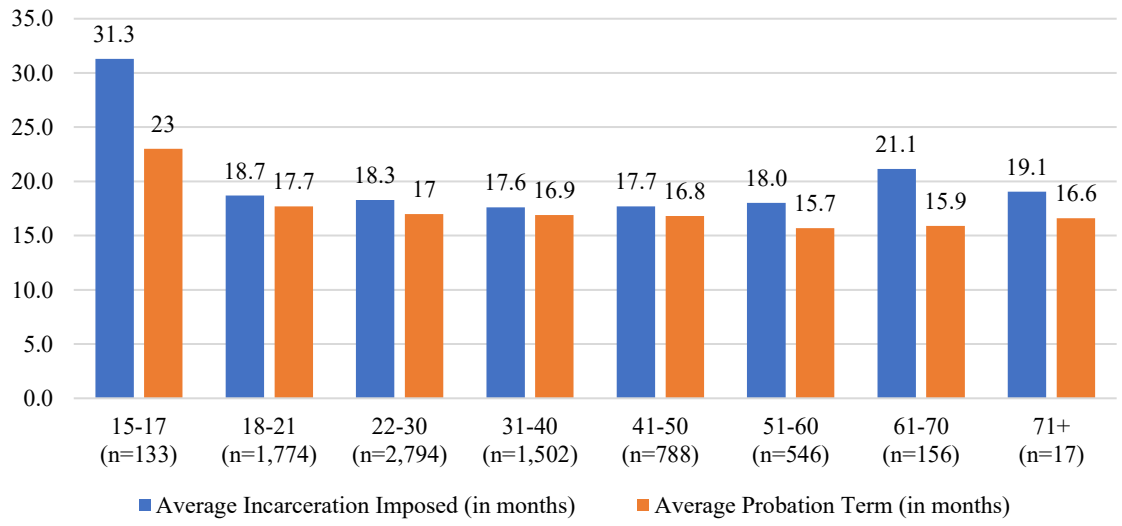


Table 2 shows the average sentence imposed and probation term, in months, by gender and race for Long Split, Short Split, and Probation sentences imposed between 2015 and 2024. Analyses in the table are conducted at the case level. For race, "Other" encompasses Hispanic, Asian, American Indian, and Pacific Islander; these races represent one percent of all defendants who received a Long Split, Short Split, or Probation sentence. Of the cases sentenced to a Long Split, Short Split, or Probation sentence, 89% of the defendant population were Male and 92% were Black. This mirrors the total population of defendants sentenced during this timeframe, which also consisted of an overwhelming majority of Male (92%) and Black (93%) defendants.

There appears to be an inverse relationship between average sentence imposed and probation term by gender: males had longer average sentences imposed but shorter probation terms, and females had shorter average sentences imposed but longer probation terms. For race, average probation terms did not strictly correlate to average sentence imposed – for example, Black and White

[9] See: § 16–2301(3). Definitions. | D.C. Law Library (dccouncil.gov).

defendants had identical average sentences imposed, but White defendants received nearly two months longer of probation terms on average. Caution is advised when interpreting categories with small sample sizes.

Table 2: Average Incarceration Imposed and Probation Term by Gender and Race		
Gender[10]		
	Average Incarceration Imposed	Average Probation Term
Male (n=7,231)	18.2 months	15.5 months
Female (n=817)	15.5 months	18.2 months
Unknown (n=34)	17.4 months	19.8 months
Race[11]		
	Average Incarceration Imposed	Average Probation Term
Black (n=7,468)	18.2 months	16.6 months
White (n=355)	18.2 months	18.6 months
Other (n=58)	20.7 months	20.8 months
Unknown (n=201)	16.6 months	17.3 months

III. Conclusion

The Guidelines direct sentencing practices in the District by recommending the type of sentence to be imposed and providing a recommended sentencing range. However, the Guidelines only recommend when a suspended sentence might be appropriate; they do not provide any guidance on the length of the probation term to be imposed. This Issue Paper examined whether, in the absence of Guidelines recommendations for probation terms, the length of probation terms followed the same trend as the length of incarceration imposed, wherein the Guidelines recommend harsher sentences for more severe offenses and defendants with greater Criminal History Scores.

When Long Split, Short Split, and Probation felony Non-Drug sentences were examined by OSG, the average term of probation and the average incarceration imposed both decreased as offense severity decreased. In contrast, when examined by CHS Column, the average amount of incarceration imposed tended to decrease with lower CHS severity, but there was no consistent relationship observed for average probation terms. For felony Drug sentences, the trends suggest that incarceration has a strong positive relationship with OSG and CHS severity, while probation terms are applied in relatively uniform lengths regardless of the OSG and CHS Column. Short Split and Probation sentences both had an inconsistent relationship between CHS and probation terms, but Long Split sentences had an inverse relationship between CHS and probation terms.

Notable sentencing trends emerged when comparing offenses with the highest (CPWL, Att. PWID, Att. Dist.) and lowest (Burglary Two, FIP-1, Armed Robbery) rates of suspended sentences. Offenses with high suspended sentence rates showed relatively consistent incarceration lengths and probation terms, with probation terms exceeding incarceration for Short Split and Probation sentences and both incarceration and probation terms increasing with sentence type severity. In

[10] The Commission's data on gender is a limited binary categorization (male or female). Gender information is obtained from Superior Court records.

[11] Race category data used by the Commission does not capture ethnicity, thus Black individuals of Hispanic origin or White individuals of Hispanic origin are not separately presented.

contrast, offenses with low rates of suspended sentences exhibited larger gaps between incarceration and probation terms, where incarceration lengths consistently exceeded probation terms without a discernible link to sentence type.

When studying the demographics of defendants sentenced to Long Split, Short Split or Probation sentences, it was found that younger defendants had greater average sentences imposed and greater average probation terms compared to older defendants. Males and females exhibited an inverse relationship between the average sentence imposed and the average probation term, with males receiving a greater average sentence imposed than probation term, and females receiving a greater average probation term than incarceration. Black and White defendants had the same average incarceration sentence imposed, but White defendants received approximately two more months of probation on average compared to Black defendants.

Overall, terms of probation did not entirely follow the same trends as incarceration. Although the Guidelines do not provide direction on the length of probation to be imposed, some parallels can still be observed between the duration of incarceration imposed and the length of probation terms for offenses of comparable severity. The key exception lies with Criminal History: while incarceration lengths generally increased as CHS severity increased, probation terms did not follow the same pattern.

IV. Appendix A

The tables below present the average sentence imposed (in months) and average probation term (in months) within each region of the Main and Drug Grids, with color-coding indicating the recommended sentence types. White boxes indicate Prison or Long Split only, dark blue boxes indicate Prison, Long Split, and Short Split permissible, and light blue boxes indicate all sentence types permissible.

Average Incarceration Imposed and Probation Term in the Main Grid						
OSG		0 to 0.5	0.75 to 1.75	2 to 3.75	4 to 5.75	6+
		A	B	C	D	E
M5	Average Sentence Imposed	59.4	69.6	70.9	94.0	79.6
	Average Probation Sentence	27.2	26.8	32.4	26.0	28.8
	Number of Cases	78	32	15	3	5
M6	Average Sentence Imposed	32.0	44.0	51.9	92.9	102.0
	Average Probation Sentence	22.5	24.9	26.3	24.5	30.8
	Number of Cases	522	116	47	13	8
M7	Average Sentence Imposed	22.7	25.3	32.0	41.4	47.4
	Average Probation Sentence	20.6	17.2	18.5	19.6	18.4
	Number of Cases	113	127	71	25	10
M8	Average Sentence Imposed	11.9	16.5	20.2	24.1	29.6
	Average Probation Sentence	15.5	16.5	17.6	17.1	16.5
	Number of Cases	2,327	986	602	102	30
M9	Average Sentence Imposed	8.9	10.7	12.0	14.3	14.4
	Average Probation Sentence	25.4	16.1	14.6	16.2	13.9
	Number of Cases	187	111	85	33	7

Average Incarceration Imposed and Probation Term in the Drug Grid						
OSG		0 to 0.5	0.75 to 1.75	2 to 3.75	4 to 5.75	6+
		A	B	C	D	E
D2	Average Sentence Imposed	13.7	19.0	22.3	26.5	26.5
	Average Probation Sentence	14.6	16.4	16.0	17.5	14.3
	Number of Cases	172	124	114	25	8
D3	Average Sentence Imposed	8.6	12.4	17.0	19.5	21.1
	Average Probation Sentence	13.1	13.9	15.0	14.8	16.0
	Number of Cases	397	314	343	130	18
D4	Average Sentence Imposed	6.3	9.7	12.3	13.7	15.3
	Average Probation Sentence	11.9	14.6	14.6	15.4	16.0
	Number of Cases	69	55	60	28	7