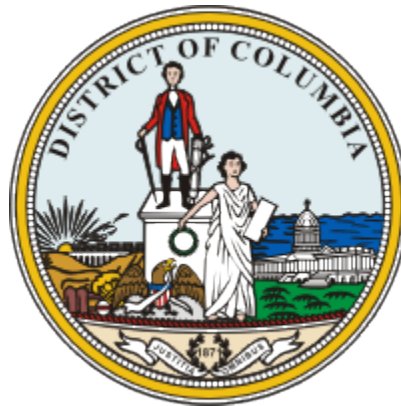




DISTRICT OF COLUMBIA
SENTENCING COMMISSION

2017 ANNUAL REPORT



April 30, 2018

DISTRICT OF COLUMBIA SENTENCING COMMISSION
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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.



District of Columbia
Sentencing Commission

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Hon. Charles Allen
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April 27, 2018

Honorable Phil Mendelson, Chairman
Council of the District of Columbia
John A. Wilson Building, Suite 504
1350 Pennsylvania Avenue NW
Washington, DC 20004

Dear Chairman Mendelson:

In compliance with its statutory obligation, the District of Columbia Sentencing Commission respectfully submits its 2017 Annual Report. This year's report provides an overview of felony sentences imposed by the D.C. Superior Court from January 1, 2017, through December 31, 2017, and also highlights certain sentencing trends from 2010 through 2017.

For the second straight year, the number of felony sentences increased after experiencing a steady decline from 2010 through 2015. This increase is primarily attributed to an increase in the number of felony drug offenses sentenced. Prison remains the most common sentence type, representing 49% of all sentences imposed.

Judicial compliance with the Sentencing Guidelines remains over 97% for the second consecutive year. This very high compliance rate demonstrates wide acceptance of the Guidelines by the Court, which has reduced unwarranted disparity and increased certainty and adequacy of punishment in felony sentences imposed in the District.

Finally, the Commission is actively undertaking a review of the recommendations included in the recent Guideline Evaluation Study to identify specific aspects of the Guidelines that may warrant modification to ensure fair and consistent sentencing policies for the District.

Respectfully Submitted,

Honorable Milton C. Lee, Chairman

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COMMISSION MEMBERS AND STAFF

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Superior Court of the District of Columbia

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EXECUTIVE SUMMARY

Throughout 2017, the District of Columbia Sentencing Commission monitored the implementation and use of the District of Columbia Voluntary Sentencing Guidelines and focused on improving data quality and data sharing capabilities. The Commission's emphasis on data access and management has provided the agency with the ability to analyze sentencing practices and trends within the District of Columbia, respond to numerous data requests, and increase the amount of data the Commission shares with other agencies and the public. In addition, this data enables the Commission to make evidence based policy recommendations.

Over the past year, the Commission completed a comprehensive ten-year evaluation of the Sentencing Guidelines to determine whether the Guidelines have achieved their statutory goals of certainty, consistency, and adequacy of punishment. The evaluation determined that the Guidelines are operating in practice as they were intended, with over 90% of all felony sentences imposed complying with the Guidelines recommended sentence type and length. Given the design of the Guidelines, offenders with extensive criminal records and those who have committed serious and violent crimes are predominately going to prison. Judges are frequently using non-incarceration sentences, including short split sentences and suspended prison terms with probation, for lower level offenders, who are viewed as good candidates for rehabilitation. The Guidelines have made sentencing more consistent, reducing unwarranted disparity and increasing the certainty and adequacy of punishment, while at the same time making the sentencing process more transparent for persons charged with a crime, crime victims, and the general public.

In 2017, the total number of felony cases and offenders sentenced increased for a second consecutive year, after showing a steady decline since 2010. Although the number of cases sentenced increased, compliance with the Guidelines remains very high, with 97.2% of all felony sentences imposed complying with the Guidelines. The high compliance rate indicates that the Guidelines are being consistently applied by the judiciary.

2017 Trends in Sentencing

D.C. Superior Court sentenced 1,666 offenders in 1,762 felony cases, consisting of 2,244 individual felony counts. This represents a two percent increase in the number of sentences from 2016. Felony non-drug offenses represented 75% of the total number of sentences imposed in 2017, with Violent and Weapons offenses accounting for half (52%) of the non-drug offenses. Violent offenses remain the most common offense category sentenced, accounting for 31% of all offenses sentenced. Homicide counts sentenced in 2017 decreased by 12% from 2016 and represent the lowest number of Homicide sentences imposed since 2010. Overall, Robbery offenses sentenced also slightly decreased between 2016 and 2017, with declines in armed robbery and attempted robbery, 22% and 15% respectively. However, that decline was offset by a 5% increase in completed unarmed robbery offenses.

Felony Drug offenses sentenced in 2017 increased by 24% over 2016 and 80% since 2015. This increase is primarily due to the number of attempted distribution of controlled substance

convictions. The increase in Drug offenses sentenced accounts for a large part of the overall increase in total counts sentenced.

Prison was the most common sentence type imposed (49% of all felony cases) and the percentage of cases sentenced to prison increased by 3%. Notably, this was the first increase in the percentage of prison sentences imposed since 2010. Combining prison and short split sentences revealed that 70% of D.C.'s felony offenders were sentenced to at least some period of incarceration in 2017. Compared to 2016, the proportion of probation sentences imposed decreased within each offense category. This marks the first time since 2013 that the percentage of Property, Drug, and Other felony offenses sentenced to probation has declined. This decrease can partially be attributed to increases in the proportion of Weapon offenses sentenced to prison and increases in the proportion of Property, Drug, and Other offenses receiving short split sentences.

The vast majority of felony offenders sentenced in 2017 were male, consistent with the previous years. However, the percentage of female offenders did increase by two percentage points from 2016. Among both male and female offenders, Violent and Drug offenses were the most common offense categories sentenced for both genders at the case level. The average criminal history score for males was 1.8 compared to 1.1 for females. Offenders between the ages of 18 and 30 accounted for 58% of all offenders sentenced in 2017.

Guidelines Compliances

Overall, judicial compliance with the Sentencing Guidelines remains very high. The 97.5% Guidelines compliance rate reported in 2016 was the highest compliance rate ever observed by the Commission. In 2017, the compliance rate decreased very slightly to 97.2%. Highest compliance rates were observed for Sex and Violent offenses, while the highest rates of non-compliant sentences were for Weapon and Drug offense categories.

A compliant in the box sentence indicates that the sentence type and length imposed is within the recommended Guidelines sentencing range and options. The percentage of compliant in the box sentences has steadily increased from 86.9% in 2014 to 92.7% in 2017. Departures occurred in 33 counts sentenced in 2017. Each compliant departure sentence is assigned a departure factor by the sentencing judge. The majority of compliant departure sentences were mitigating departures (the sentence was less severe than initially recommended by the Guidelines). There was a 46% decrease in the number of compliant departures reported in 2017 compared to 2016. This is primarily attributed to specific sentencing issues related to the offense of Unlawful Possession of a Firearm By a Person With a Prior Conviction >1 year, which carries a mandatory prison sentence of not less than 12 months.

Modifications to the Guidelines

Since 2012, the Commission has not modified the recommended sentencing range or sentencing options on the Guideline Master or Drug Grids. In 2017, the Commission did not rank any new felony offenses enacted or modified by the Council. Although the Commission did not make any substantive policy changes to the Guidelines in 2017, it did make several technical changes clarifying the rules set forth in the Guidelines Manual. The Commission also made substantial improvements to the information contained in the Guidelines' appendices.

KEY FINDINGS

1. The number of counts, cases, and offenders increased for a second consecutive year, following a steady decrease from 2010-2015 (page 18).
2. Increases in the number of Drug offenses sentenced, followed by increases in Weapon offenses, contributed significantly to the overall increase in counts and cases in 2017. (pages 28 and 29). Attempted Drug offenses appear to be the primary drug offense contributing to the increase in Drug offenses (page 39).
3. In 2017, the number of cases disposed of through jury trials, reached its lowest percentage (5.8%) since 2010, while the percentage of cases disposed of through pleas reached its highest percentage (93.5%) for the same time period (page 19).
4. The percentage of cases resulting in a prison sentence increased for the first time since 2010 (page 20).
5. Prison was the most frequent sentence type in all offense severity groups, except D3 and D4, which are the least severe offense groups on the Drug Grid (page 21).
6. Half of all felony cases and 70% of non-drug cases sentenced were either Violent or Weapon offenses (page 25).
7. The percentage of Property and Drug cases sentenced to probation decreased for the first time since 2013. Between 2016 and 2017, the percentage of Property cases sentenced to probation decreased 14 percentage points, while Drug cases decreased by 12 percentage points (page 27).
8. The 46 Homicide counts sentenced in 2017 represent the lowest number of homicide sentences imposed since 2010 (page 30).
9. The percentage of female offenders sentenced increased from 8% in 2016 to 10% in 2017 (page 31).
10. Violent and Drug offenses were the most common offenses sentenced for both genders at the case level (page 32).
11. Offenders between the ages of 18 and 30 accounted for 58% of all offenders sentenced (page 34).
12. Young Black males (of ages 18 to 30) constituted more half of the sentences in 2017 at the count-, case-, and offender-level which is consistent with prior years (page 36).
13. In 2017, 97.2% of all felony counts sentenced were compliant with the Guidelines (page 45). 93% of sentences were Compliant in the Box (page 47).
14. Of the 27 compliant departure factors cited by judges in 2017, 25 were mitigating departures and 2 were aggravating departures (page 50).

TABLE OF ABBREVIATIONS AND ACRONYMS

Term	Definition
ADW	Assault with a Dangerous Weapon
CH	Criminal History
CJCC	District of Columbia Criminal Justice Coordinating Council
Commission	District of Columbia Sentencing Commission
Council	Council of the District of Columbia
COV(s)	Crime(s) of Violence
CPWL	Carrying a Pistol Without a License
CSOSA	Court Services and Offender Supervision Agency for the District of Columbia
Dist.	Distribution of a Controlled Substance
District	District of Columbia
Evaluation Project	District of Columbia Sentencing Guidelines Evaluation Project
FY	Fiscal Year
GRID System	The Guidelines Reporting and Information Data System
GSS	The Commission's GRID Scoring System
Guidelines	District of Columbia Voluntary Sentencing Guidelines
IJIS 12.1	District of Columbia Integrated Justice Information System Outbound Data Feed
JUSTIS	District of Columbia Justice Information System
OSG	Offense Severity Group
PCP	Phencyclidine
PFDCV	Possession of a Firearm During a Crime of Violence
PWID	Possession with Intent to Distribute a Controlled Substance
Rule 11(c)(1)(C)	Superior Court Rules of Criminal Procedure Rule 11(c)(1)(C)
SCR-Crim.	A Superior Court Rule of Criminal Procedure
Superior Court	Superior Court of the District of Columbia
UPF-Prior Felony	Unlawful Possession a Firearm of By a Person With a Prior Conviction > 1 year

CHAPTER ONE: THE COMMISSION AND ITS WORK

I. Commission's Legislative Mandate and Duties

A. Legislative Mandate

The D.C. Sentencing Commission (the Commission) has three primary statutory responsibilities: (1) to monitor the implementation and use of the District of Columbia Voluntary Sentencing Guidelines (Guidelines); (2) to rank newly created offenses, and (3) to review and analyze data on sentencing practices and trends in the District of Columbia.¹ As part of its mandate, the Commission is responsible for collecting data from the Superior Court of the District of Columbia (the Superior Court) and from the Court Services and Offender Supervision Agency (CSOSA) to identify and address issues, assess compliance with the Guidelines, and monitor historical and emerging sentencing trends. The Commission is also required to incorporate into the Guideline structure each new felony offense or sentencing provision enacted by the Council of the District of Columbia (the Council).²

B. Commission Duties

In addition to its overarching mandate, the Commission has the following duties under D.C. Code § 3-101(b) (2016):

1. Promulgate, implement, and revise a system of voluntary sentencing guidelines for use in the Superior Court designed to achieve the goals of certainty, consistency, and adequacy of punishment, with due regard for the:
 - a. Seriousness of the offense;
 - b. Dangerousness of the offender;
 - c. Need to protect the safety of the community;
 - d. Offender's potential for rehabilitation; and
 - e. Use of alternatives to prison, where appropriate.
2. Publish a manual containing the instructions for applying the voluntary guidelines, update the manual periodically, and provide ongoing technical assistance to the Superior Court and practitioners on sentencing and sentencing guideline issues;
3. Review and analyze pertinent sentencing data and, where the information has not been provided in a particular case, prompt the judge to specify the factors upon which he or she relied in departing from the guideline recommendations or for imposing what appears to be a noncompliant sentence;

¹ The legislation governing the D.C. Sentencing Commission can be found at D.C. Code § 3-101 (2016), *et seq.*

² A complete history of the Commission can be found on the Commission website at <https://scdc.dc.gov/node/1108916>.

4. Conduct focus groups, community outreach, training, and other activities designed to collect and disseminate information about the guidelines;
5. Review and research sentencing policies and practices locally and nationally, and make recommendations to increase the fairness and effectiveness of sentences in the District of Columbia; and
6. Consult with other District of Columbia, federal, and state agencies that are affected by or address sentencing issues.

II. Commission's Composition

A. Commission Membership

The Commission is composed of 17 members: 12 voting members and five non-voting members. Its membership includes representatives from various criminal justice agencies, the judiciary, academic and research institutions, practicing attorneys, and the public. This diverse membership provides a wide range of perspectives in the development of sentencing policy.

The voting members of the Commission include:

- Three judges of the Superior Court, appointed by the Chief Judge of the Superior Court;
- The United States Attorney for the District of Columbia or his or her designee;
- The Director of the Public Defender Service for the District of Columbia or his or her designee;
- The Attorney General for the District of Columbia or his or her designee;
- The Director of the Court Services and Offender Supervision Agency or his or her designee;
- Two members of the District of Columbia Bar, one who specializes in the private practice of criminal defense in the District of Columbia, and one who does not specialize in the practice of criminal law, appointed by the Chief Judge of the Superior Court in consultation with the President of the District of Columbia Bar;
- A professional from an established organization devoted to research and analysis of sentencing issues and policies, appointed by the Chief Judge of the Superior Court; and
- Two citizens of the District, one nominated by the Mayor subject to confirmation by the Council, and the other appointed by the Council.

The non-voting members of the Commission are:

- The Chairperson of the Council committee that has oversight of the Commission;
- The Director of the District of Columbia Department of Corrections or his or her designee;
- The Chief of the Metropolitan Police Department or his or her designee;
- The Director of the United States Bureau of Prisons or his or her designee; and
- The Chairperson of the United States Parole Commission or his or her designee.

B. Commission Staff

1. Commission Staff Members

As of April 30, 2018, the Commission staff consisted of:

Barbara Tombs-Souvey
Executive Director

Linden Fry, Esq.
General Counsel

Mehmet Ergun
Senior Statistician

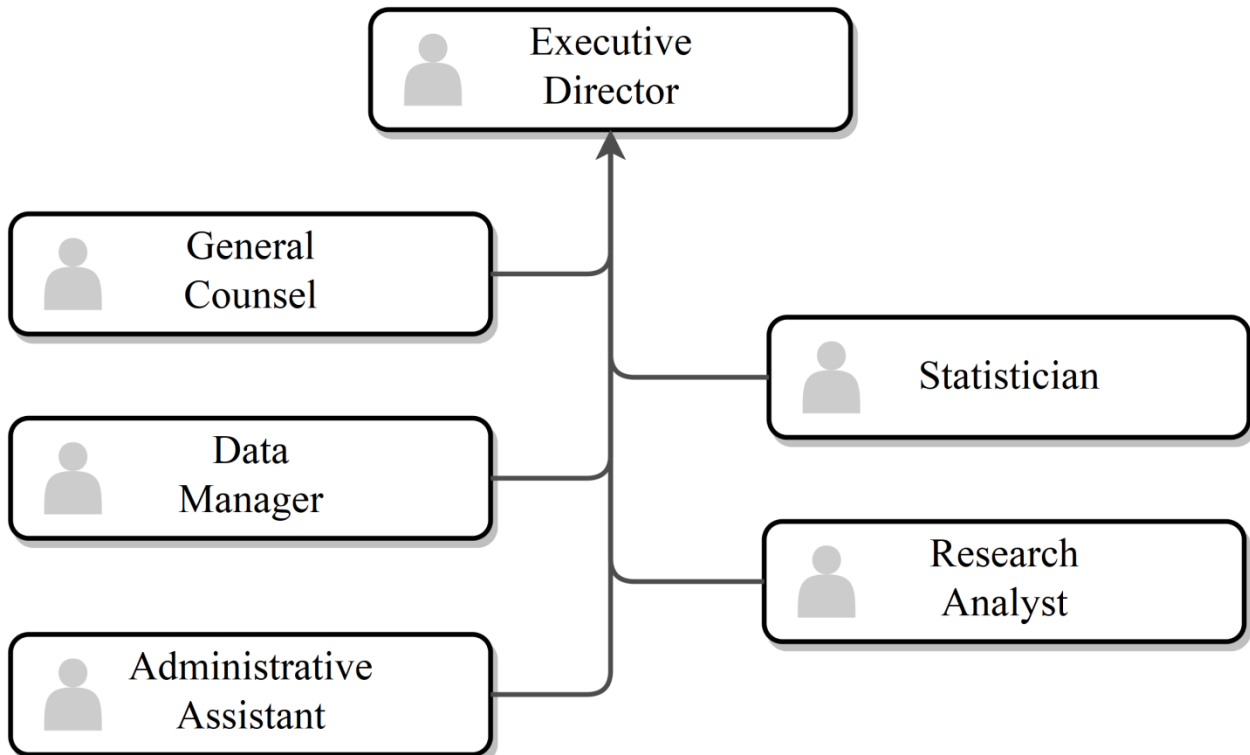
Mia Hebb
Administrative Assistant

Miatta Sesay
Data Manager

Taylor Tarnalicki
Research Analyst

2. Organizational Structure

Figure 1: Sentencing Commission Organizational Chart



III. Commission's Budget

In Fiscal Year FY 2017 and to date in FY 2018, the Commission's entire operating budget consisted of District of Columbia local funds and \$129,566.25 in capital funds. The agency did not receive any grant funds in either FY 2017 or FY 2018.

Table 1: The Commission's Total FY 2018 Budget (dollars in thousands)

Personnel Services (Salaries and Benefits)	\$ 686
Non-Personnel Services	\$ 408
Capital Funds	\$ 130
Total Budget	\$1,224

Table 2: The Commission's Total FY 2017 Budget (dollars in thousands)

Personnel Services (Salaries and Benefits)	\$ 659
Non-Personnel Services	\$ 428
Total Budget	\$ 1,087

Between FY 2017 and FY 2018, the Commission's budget increased by 13%.

IV. Commission's Work

A. Commission Activities

The full Commission met ten times in 2017 to address Guidelines, sentencing policy, criminal justice, and agency issues.

The Commission met on the following dates in 2017:

January 5	July 18
February 7	September 19
February 21	October 17
March 28	November 14
May 23	December 12

Over the past year, the Commission made changes to the Guidelines, and released several publications, including the 2016 Annual Report, the 2017 Guidelines Manual, and the Sentencing Guidelines Evaluation Project (Evaluation Project) Report. The minutes of the Commission's public meetings are available online at the Commission's website, located at <http://scdc.dc.gov>.

Following the release of the Evaluation Project Report, the Commission concentrated its efforts on reviewing the Report's results and recommendations for further action. One of the Report's recommendations was for the Commission to re-visit how each defendant's prior Criminal

History (CH) score is calculated and used in determining the applicable Guidelines recommended sentence. To follow-up on this recommendation, the Commission's November 14th meeting was an all-day seminar facilitated by Dr. Richard Frase, of the Robina Institute at the University of Minnesota. The training focused on the calculation and use of CH scores in sentencing throughout the country.

The Commission closed limited portions of several meetings throughout 2017 to discuss personnel issues. Additionally, because the November 14, 2017, Commission meeting was limited to an educational seminar for members and staff, the meeting was not open to the public.

Interested parties are always encouraged to attend Commission meetings. The Commission publishes meeting dates in advance in the D.C. Register and on the Commission's website. The Commission's website also includes an agenda for each upcoming meeting. Commission meetings are usually held on the third Tuesday of each month at One Judiciary Square, 441 4th Street, Suite 430 South, NW, Washington, D.C. 20001.

B. Committee Activities

In addition to the meetings of the full Commission, several working committees meet on a regular, or sometimes *ad hoc*, basis to formulate recommendations on specific sentencing issues, for action by the full Commission. Two of these Committees were active in 2017:

1. Research Committee

The Research Committee's 2017 work focused on finalizing and releasing the Evaluation Project Report. The Evaluation Project was a comprehensive multi-year research study that included three major components: 1) a comprehensive evaluation of sentencing data from 2010 through 2015 to assess whether the Guidelines are achieving their statutory goals; 2) a comparative analysis of sentencing practices both before and after the implementation of the Guidelines; and 3) the development of research-based recommendations regarding potential modifications to sentencing policy and/or the Guidelines.

The Committee began initial work on the Guideline Evaluation Project in 2014, and its work concluded with the publication of the Evaluation Project Report on March 31, 2017. While the Report's recommendations addressed specific areas of the Guidelines for the Commission's re-examination or modification, the Commission ultimately determined that, overall, the current Guidelines are operating in practice as they were intended.

2. Guidelines Implementation Committee

The primary goal of the Guidelines Implementation Committee is to develop and submit proposals to the Commission for new or modified criminal offense rankings and other possible Guidelines rule changes. The Committee also evaluates potential policy changes that may affect the Guidelines and oversees all changes to the Guidelines Manual.

In 2017, the Guidelines Implementation Committee addressed possible changes to the Sentencing Guidelines Manual. The changes to the Guidelines Manual are discussed in Chapter Two of this Report.

C. Supporting Practitioners, Policy Makers, and the Public

The Commission and its staff support criminal justice practitioners, policy makers, and the public on a daily basis. This support is provided in the following manner: 1) releasing print and electronic publications; 2) hosting an interactive website containing current information on the Guidelines, the Commission, and Superior Court sentencing practices; 3) responding to requests for data; 4) providing Guidelines training and education sessions; 5) responding to Guidelines inquiries; and 6) collaborating with other criminal justice partners.

1. Publications

In 2017, the Commission published the following documents:

- The Guidelines Evaluation Report
- The 2016 Annual Report
- The 2017 Voluntary Sentencing Guidelines Manual

2. Website

The Commission's website increases transparency and public awareness about the Commission's activities. The website provides detailed information about the Sentencing Guidelines and makes current sentencing data and Commission research easily accessible. Visitors can now find a wealth of materials and Guidelines resources at <http://scdc.dc.gov>.

The Commission's website resources include:

- Background/About the Commission
 - A list of Commission members;
 - Sentencing Commission updates, press releases, and news;
 - A new Frequently Asked Questions section that provides detailed answers to common questions regarding the Commission, the Guidelines, and Commission Data;
 - A chronology of the Guidelines and the Commission;
- Meeting Information
 - The date, location, and agenda for the next Commission meeting;
 - Commission meeting agendas and minutes;
- Guidelines
 - The Guidelines Master and Drug Grids;
 - An electronic copy of the current Guidelines Manual, as well as all prior versions of the Manual;
 - Guidelines updates and alerts;
 - A glossary of Guidelines and sentencing terminology;
 - All recent and historic Sentencing Commission publications;
 - Self-guided trainings;

- Data
 - Data and charts displaying information about felony sentences and sentencing trends;
 - A public dataset for all Felony Sentences (without case specific identifying information);
 - A Data Dictionary with definitions for all publicly available shared data;
- Contact Info
 - A link for sending questions to the Executive Director;
 - Information on how to contact the Commission, request a training session, ask questions about sentencing data, or receive assistance applying the Guidelines;
 - Sentencing data request forms;
- Miscellaneous
 - Employment opportunities with the Commission; and
 - Open Government and Freedom of Information Act materials.

Over the course of the past six years, the Commission staff has continually expanded the features available on the agency's website. The Commission's website received 14,171 visits in calendar year 2017.³

3. Data Requests

The Commission's data collection and analysis extends beyond what is presented on its website or contained in the Annual Report. The Commission regularly responds to requests for sentencing data and analysis from individual Commission members, Councilmembers, the Mayor's Office, other government agencies, organizations, educational institutions, researchers, legal practitioners, and the general public. Following the implementation of the Guidelines Reporting and Information Data System (GRID) system, the Commission has experienced a substantial increase in data requests. Information pertaining to data requests is available on the Commission's website.

Data shared by the Commission is available in two formats: aggregate data and felony data sets void of identifying information about offenders. The Commission does not provide individual case sentencing information or information that would allow for the identification of an offender.

In calendar year 2017, the Commission received 38 substantial data requests, which required 1,688 staff hours to complete.

The following are examples of data requests the Commission received and responded to in 2017:

³ The Commission defines website traffic as unique website visits; it does not count repeat page hits by the same visitor.

- The total number of counts in which any defendant pled guilty to both CPWL and PWID, was eligible for a probation sentence (as recommended by the Guidelines), and actually received a probation sentence at the time of sentencing
- The total number of defendants sentenced between 2012 and 2017 who had a criminal history (CH) score of 0 and received an incarceration sentence for a weapon offense.

4. Guidelines Training and Education Sessions

The Commission regularly conducts group and individual Guidelines training sessions throughout the year. In calendar year 2017, Commission staff provided in-person Guidelines training to more than 150 individuals. Anyone interested in arranging an individual or group training session should contact the Commission at scdc@dc.gov.

In addition to in-person trainings, the Commission's expanded website has a module devoted to providing self-guided online trainings and resources that are available at all times. Currently, the Commission has the following online trainings and educational references available⁴:

- Introduction to Sentencing and the Sentencing Guidelines;
- Basic Voluntary Sentencing Guidelines Training;
- How the Commission Determines Judicial Compliance with the Sentencing Guidelines;
- How to Calculate an Offender's CH Score;
- DC Voluntary Sentencing Guidelines Quick Reference Sheet; and
- How to Calculate the CH Score for Prior Marijuana Convictions.

5. Responding to Inquiries

Commission staff is available every business day to provide general and specific information about the substance and application of the Guidelines. Staff responds to a wide variety of questions and inquiries from judges, court personnel, government and defense attorneys, CSOSA, the criminal justice community, and members of the public. The Commission provides information varying from the general purpose and basic structure of the Guidelines to assistance with the application of the Guidelines in specific cases. The majority of inquiries are from criminal law practitioners, including CSOSA pre-sentence report investigators, prosecutors, criminal defense attorneys, and Superior Court personnel. Guidelines support is available by e-mail, phone, or via a direct link on the Commission's website.

Commission staff responds to approximately 600 Guidelines and information inquiries every year.⁵ Most inquiries involve assistance determining the score of an out-of-District conviction, calculating an offender's total CH score, identifying the applicable sentencing range, or reviewing whether a specific sentence was compliant with the Guidelines.⁶

⁴ Online trainings and educational references are available at the Commission's website at <https://scdc.dc.gov/service/training-voluntary-sentencing-guidelines>.

⁵ The Commission staff responded to 625 Guidelines and information inquiries in FY 2015, 615 in FY 2016, and 595 in FY 2017.

⁶ It is important to note that assistance using or applying the Sentencing Guidelines received from Commission staff is not legal advice. Any information provided to or received from Commission staff when seeking assistance is not

6. Inter-Agency Collaboration

On a regular basis, the Sentencing Commission collaborates with other judicial, criminal justice, and public safety agencies operating in the District. This collaboration allows the Commission to share expertise, data, and knowledge between agencies. This effort includes participation in several citywide workgroups and committees, including:

- Criminal Justice Coordinating Council (CJCC) - This agency serves as the forum for identifying issues and their solutions, proposing actions, and facilitating cooperation to improve public safety in the District.
- Information Technology Advisory Committee (ITAC) - This committee sets the direction, policies, and goals for Justice Information System (JUSTIS) projects in the District.
- Inter-Agency Data Quality Workgroup (IDQ) - This group reviews and analyzes data quality issues for JUSTIS projects in the District.
- Inter-Agency Workgroup (IWG) - This group implements and supports technology projects set by the ITAC.
- Inter-Agency Data Team - This team engages in discussions regarding data collection, application, sharing, classification, and governance in the District.
- Security Group (ISW) - This group addresses issues and concerns surrounding the security of criminal justice information shared among District agencies.
- Gun Stat - This group supports a city-wide effort to track gun cases as they progress through the criminal justice system while identifying trends, strengths, and weaknesses of the process.

confidential. Inquiry responses are not intended or expected to form an attorney-client relationship, may be provided by non-attorneys, are not binding on the court, and do not constitute the official opinion of the Sentencing Commission. For example, if a practitioner would like to know how an offender's prior out-of-District conviction would factor into his or her total CH score, a Commission staff member will review the applicable Guidelines rule with the practitioner and give examples of prior scorings.

CHAPTER TWO: VOLUNTARY SENTENCING GUIDELINES

The Commission is required to include in its Annual Report any substantive changes made to the Guidelines during the previous year.⁷ This includes any changes to offense severity rankings, the Guidelines recommended sentencing range or sentencing options, and the rules for calculating an offender's CH score. If the Council enacted legislation during the preceding year that created new offenses or changed penalties for existing offenses, the report must explain how the Commission incorporated those changes into the Guidelines.

Since 2012, the Commission has not modified the Guidelines Master or Drug Grids that set out the recommended sentencing range and options for any felony offense. In 2017, the Commission did not rank any new felony offenses. While the Commission did not make any major substantive policy changes to the Guidelines in 2017, it did make several technical changes to clarify the rules set forth in the Guidelines Manual.

In addition to revisions to the text of the Guidelines Manual, the Commission made significant changes to Guidelines Appendices E through J to better inform, educate, and assist practitioners and the public.

I. New Offense Rankings

In 2017 the Commission did not rank or re-rank any felony offenses.

II. Technical Changes to the Guidelines Manual

The Commission made the following significant amendments to the Guideline Manual in 2017.

A. Chapter One

1. The Commission provided additional information for individuals contacting the Commission with inquiries or requests for assistance. Section 1.6 now states that:

The Commission provides information to assist in understanding and applying the Sentencing Guidelines. The Commission strongly encourages practitioners to ask questions regarding the application of the Guidelines. If you have a Guidelines application inquiry, please contact us at (202) 727-8822 or scdc@dc.gov. The issues raised by the

⁷ D.C. Code § 3-104(d)(2) states that the Commission's Annual Report shall describe "any substantive changes made to the guidelines during the preceding year, including changes in the: (A) Recommended sentencing options or prison ranges; (B) Ranking of particular offenses; or (C) Rules for scoring criminal history." Further, subsection (d)(3) provides that the Annual Report will also inform "the Council how it has ranked any new felony offense or re-ranked any existing felony offense because of a statutory change or for another reason, and the resulting guideline sentencing options and prison range for each such an offense."

inquiry may also be used to inform subsequent revisions of this Manual.

It is important to note that assistance regarding the use or application of the Sentencing Guidelines provided by Commission staff is not legal advice. Any information provided to or received from Commission staff when seeking assistance is not confidential. Inquiry responses are not intended or expected to form an attorney-client relationship, may be provided by non-attorneys, are not binding on the court or parties in any case, and do not constitute the official opinion of the Sentencing Commission.

B. Chapter Two

1. The Commission simplified the Guidelines rules addressing the scoring of prior convictions for offenses that were repealed and/or replaced. Further, the rules and information previously contained in section 2.2.7 were adjusted and moved to Section 2.2.8.

Section 2.2.8 now addresses the scoring of “any conviction or adjudication for an offense that has been completely repealed, repealed and completely replaced, or partially repealed or replaced.” The Commission also created a specific rule to address the scoring of prior Assault on a Police Officer convictions in section 2.2.8(e) due to changes in the Assault of a Police Officer and Resisting Arrest statutes. The rule addressing the scoring of prior marijuana convictions was moved from section 2.2.10(b) to section 2.2.8(d).

The remaining rules and information previously contained in section 2.2.8, which address the scoring of unranked or amended statutes, were moved to section 2.2.7.

2. Prior to 2017, Section 2.10 provided that a prior conviction under a statute later found unconstitutional was not scored. The rule was updated to note the difference between a statute that was found unconstitutional “on its face” versus a statute found unconstitutional “as applied.”

C. Chapter Three

1. The applicability of mandatory minimum sentencing provisions to defendants sentenced pursuant to the Youth Rehabilitation Act (D.C. Code § 24-901 et seq.) is not a settled legal matter. Therefore, the Commission modified its guidance on the issue. Section 3.6 now notes that:

For most offenses that require a mandatory minimum sentence for offenders aged 18 years and older at the time of offense, the District of Columbia Court of Appeals has not decided whether a judge who imposes a sentence pursuant to the Youth Rehabilitation Act (D.C.

Code § 24-901 et seq.) may suspend all or part of the sentence or impose a prison term that is shorter than the mandatory term. For offenders 18 years old and older at the time of offense, the Commission expresses no view on whether a youth offender sentenced under the YRA must be sentenced to the mandatory minimum sentence.

D. Chapter Seven

1. In Section 7.17, and throughout the Manual, references to “Long Split Sentences” were changed to “*Compliant* Long Split Sentences.” This was done to remove confusion about what is, and what is not, a compliant long split sentence. A compliant long split sentence occurs when “the court imposes a sentence within the applicable prison range, [and] suspends execution of all but a term that also falls within the applicable prison range.”

E. Appendices

1. The Commission substantially modified the Guidelines Manual appendices to provide more useful and useable information.

These changes included:

- i. Replacing the 2002 “Instructions on Splits” letter with a Guide to imposing Split Sentences.
- ii. Adding a Probation and Supervised Release Quick Reference sheet.
- iii. Listing of the maximum fine amounts a judge may impose pursuant to the Fine Proportionality Act.
- iv. Moving the log of Guidelines Manual amendments from the Manual to the Commission’s website. Appendix I now only contains a listing of the newest revisions the Guidelines Manual and a reference to the complete listing of amendments on the Commission’s website.

CHAPTER THREE: OVERVIEW OF AGENCY DATA SOURCES AND COLLECTION PROCEDURES

The Commission's GRID System enables the Commission to efficiently analyze sentencing trends and determine judicial compliance with the Sentencing Guidelines. The GRID system utilizes data from three sources: the Superior Court, CSOSA, and individual judges. The Superior Court provides the Commission with all offense, conviction, and sentencing-related data. This data is transmitted from the Superior Court to the Commission electronically through the CJCC's Integrated Justice Information System Outbound Data Feed (IJIS 12.1). CSOSA officers directly input offender criminal history and demographic information into the GRID system via the GRID Scoring System (GSS) module. Finally, individual judges provide specific case information in response to Commission staff inquiries regarding perceived non-compliant departures from the Guidelines.

I. The GRID System

The GRID System is an independent, web-based application platform that was developed and implemented in 2013. It enables the Commission to capture sentencing information, analyze Guidelines compliance, and perform numerous types of data analysis. The GRID System's core capabilities include: receiving and processing information; storing, displaying, and exporting data; calculating compliance; and performing analytics/analysis.

II. Sentencing Data

Improved data quality and access enables the Commission to identify more precisely the impact of policy changes and to identify and support potential modifications to the Sentencing Guidelines. The Commission captures more than 500 data values from the Court transmitted through the IJIS 12.1 data feed. This data is electronically transferred into the GRID System. Case and offender information updates are performed nightly, ensuring that the Commission has the most accurate case information. For example, when an offender's charge in a case is updated by the Superior Court, the GRID System will maintain a record of both the new and old charge. This data allows for the analysis at the count, case, and offender level. The Commission classifies this data as "live data," since it changes continually.

In addition to capturing live data, the GRID System contains a historic data feature that preserves data captured during each calendar year. The historic data functionality, referred to as annual "snap shot," ensures consistent and accurate reporting of the sentencing decisions made during a given year. The snap shot data is frozen in time and will not be affected by modifications or updates that may occur in subsequent years. As a result, snap shot data is static, allowing year-to-year data comparisons. For example, the snap shot data allows the Commission to report on a case from 2015 that was modified in 2016. While GRID records the 2016 sentence modification, the annual snap shot data allows the Commission to report case-related activity that occurred only during 2015.

III. Criminal History Data

An offender's CH score at the time of sentencing is one of the three factors used by the Commission to determine compliance with the Guidelines. CSOSA provides an offender's CH score for most felony counts, which is entered directly into the GRID System by CSOSA through GSS. In addition to an offender's total CH score, CSOSA also provides information related to the Offense Severity Group (OSG) and severity of each prior conviction and juvenile adjudication, and calculates the score using the Guidelines rules for decay and/or revival, if applicable. Criminal history information and compliance calculations are updated daily in the GRID system.

IV. Compliance Data

When a sentence falls within the recommended Guidelines range and sentence options, the sentence is deemed compliant with the Guidelines.⁸ The Guidelines utilize two grids, the Master Grid and the Drug Grid, to determine an offender's recommended range and available sentencing options based upon the offense of conviction and the offender's CH score.⁹ If a felony sentence is initially determined to be non-compliant, the sentence is evaluated further using various factors to assess if the sentence imposed may be compliant for other reasons. The Commission uses a seven-step process to determine if a sentence imposed is actually compliant with the Guidelines. The GRID System automatically performs the first five steps of the Commission's process. The two remaining steps, if necessary, are performed manually by Commission staff.

For every felony count sentenced, this seven-step compliance process reviews and verifies that the sentence is within the appropriate grid box, identifies any special Guidelines sentencing rules or circumstances that may apply, or whether an appropriate departure for the Guidelines occurred. If, after this review process is completed, a sentence still appears to be non-compliant, Commission staff contacts the sentencing judge to verify the non-compliant sentence imposed.¹⁰

⁸ See Chapter 4 for more details on calculating Guidelines compliance.

⁹ See Appendix A and B for the Master and Drug Grids.

¹⁰ See Appendix E for a detailed description of the Commission's seven step compliance verification process.

CHAPTER FOUR: SENTENCING AND COMPLIANCE TRENDS

This chapter provides an overview of felony sentences imposed by the Superior Court during 2017, including the judicial compliance with the Guidelines. Data used in this chapter include all felony convictions sentenced between January 1, 2017, and December 31, 2017, without regard to the date of the offense, plea, or verdict. This chapter focuses on felony sentencing patterns by sentence type, offense category, and offender characteristics. The analyses presented do *not* include sentences for misdemeanor offenses, including criminal traffic related offenses, which are currently beyond the purview of the Guidelines.

In addition to presenting an overview of sentencing in 2017, this chapter also includes a comparison of felony sentencing trends and Guidelines compliance from 2010 through 2017. This broader comparative analysis covering the past eight years highlights changes in sentencing patterns, as well as the implications of modifications to criminal statutes and the Sentencing Guidelines during the period.

In order to analyze the multiple aspects of sentencing, data analysis is performed at three levels: count level, case level, and offender level. Count level analysis provides an overview of sentencing practices that occur for each individual felony offense sentenced. Case level analysis examines sentencing trends based upon the most severe count for a specific case. Lastly, offender level analysis identifies trends related specifically to the felony population sentenced in Superior Court during the year.¹¹

The Commission determined that in order to compare sentencing trends from year to year effectively, it is necessary to capture or “freeze”, the data for each year. This ensures a true comparison of sentencing trends overtime. As described in Section II of Chapter Three, this data is referred to as annual “snap shot” data, which captures felony sentences from January 1 through December 31 of a given year. The first annual “snap shot” was taken in 2013, and includes data from 2010 through 2013. Subsequent annual snap shots were taken for each following calendar year.

Previously, the data analysis presented in the Commission's Annual Report was based on a combination of live and snap shot data, depending on the specific type of analysis completed. Starting in 2016, the Commission began using only snap shot data in its Annual Report. Limiting analysis to the snap shot data ensures the most accurate year to year comparisons of sentencing trends, as well as identifying the impact of any modifications to the Sentencing Guidelines.

The decision to use snap shot data accounts for discrepancies between the data reported in pre-2016 Annual Reports. Beginning with the 2016 Annual Report, the data are more reflective of actual sentencing trends that occurred during previous years when compared to live data, which continually changes. Moving forward, data presented for prior years will remain unchanged, allowing for a more in-depth analysis of sentencing trends.

¹¹ Each case may have one or more counts. Each offender may have one or more cases in a given calendar year.

The development of the GRID system was a significant undertaking for the Commission, since it represented the agency's first fully automated data system. As with the implementation of any large and complex data system, adjustments and modifications were necessary to address data classification and quality issues that were identified after initial implementation. The resolution of these issues changed how data was reported at times, resulting in discrepancies with data presented in earlier reports.

The key adjustments to the data include:

- Prior to calendar year 2013, case level sentencing data was analyzed based on the count with the longest sentence. In 2014, the case level analysis was changed to be based on the most severe count in each case, which is determined by the offense severity group, sentence type, sentence length, and then offense category.
- Prior to calendar year 2013, the Commission's reporting of split sentences included both short split and long split sentences.¹² In 2013, the Commission decided to categorize long split sentences as prison sentences because a compliant long split sentence requires the offender to serve at least the minimum Guideline compliant prison sentence. This sentencing option is available in all Grid boxes. For data reporting purposes, all split sentences that do not qualify as a short split sentence under the Guidelines' rules are classified as prison sentences.¹³ By including long split sentences with prison sentences, the Commission now classifies three types of sentences for the purpose of analysis: probation, short split, and prison sentences.
- In 2014, the Commission removed probation revocations from the yearly analysis of sentences imposed since they do not represent an initial sentence imposed by the court.
- In 2015, the Commission determined that sentences following a remand from the D.C. Court of Appeals would not be analyzed with other initial sentences. Sentences imposed following a remand often do not receive a Guidelines compliance status because they occur several years after the initial sentence was imposed. In addition, the data available to the Commission does not indicate why a case was remanded by the Court of Appeals.

As with the development and implementation of any new data system, adjustments and modifications are expected. After several years of monitoring, use, and adjustments, the GRID system has moved past the initial implementation phase and has stabilized. Initial data consistency and quality issues have been resolved. Moving forward, the Commission will be able to undertake a more robust analysis of sentencing data.

¹² A long split sentence is one where the court imposes a prison sentence and suspends execution of some of the sentence, but requires the offender serve more than six months in prison, and then places the offender on probation for a period of up to five years. A long split sentence is compliant under the Guidelines in every box if the prison term to be served before release to probation meets the minimum prison term in the grid box.

¹³ A short split sentence is a prison sentence in which the court suspends execution of *all but six months or less* - but not all - of that sentence, and imposes up to five years of probation to follow the portion of the prison term to be served.

I. Sentencing Structure

Sentences imposed under the Sentencing Guidelines are based on two grids: the Master Grid for felony non-drug offenses and the Drug Grid for felony drug offenses.¹⁴ These grids are comprised of two axes: one for the offender's CH score, and one for the OSG of each offense for which a sentence is imposed. There are five classifications of CH scores (A to E) on the horizontal axis of both the Master and Drug grids, in which an offender's Criminal History may be classified. A CH score of "A" represents the lowest criminal history classification, while a CH score of "E" represents the highest.¹⁵ The Master Grid classifies offenses into nine OSGs represented on the vertical axis, which decrease in severity from M1 to M9. The Drug Grid has four OSGs, which decrease in severity from D1 to D4. The Commission ranks each felony offense into one of the OSGs according to the level of seriousness associated with that offense. The intersection of an offender's CH score on the horizontal axis and OSG on the vertical axis determines both the recommended sentencing options and the sentencing range (in months) for prison sentences.

II. Sentencing, Offense, and Offender Data

A. Felony Sentences Imposed in 2017

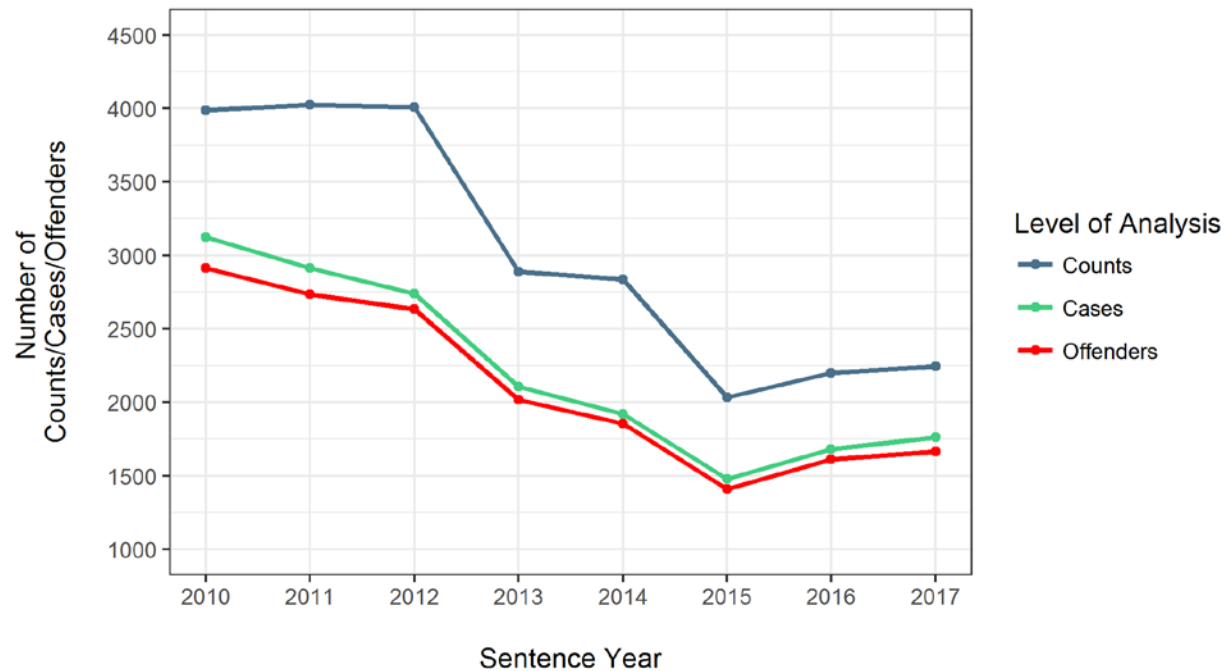
There were 1,666 individuals sentenced for felony offenses in 2017. These felony offenders were sentenced in 1,762 cases, consisting of 2,244 individual felony counts. Of the 1,762 felony cases, 687 involved a single felony count and 1,075 involved multiple felony counts.

¹⁴ See Appendices A and B for the Master Grid and the Drug Grid.

¹⁵ The classifications of CH scores are as follows: A (0 to 0.5), B (0.75 to 1.75), C (2 to 3.75), D (4 to 5.75), and E (6+).

Overall, the number of felony cases and offenders steadily decreased between 2010 and 2015 before experiencing an increase in the number of counts, cases, and offenders sentenced in 2016. This increase continued in 2017 indicating a 5% increase in the total number of cases, a 2% increase in the total number of counts, and a 3% increase in the total number of offenders sentenced when compared to 2016 (Figure 2).

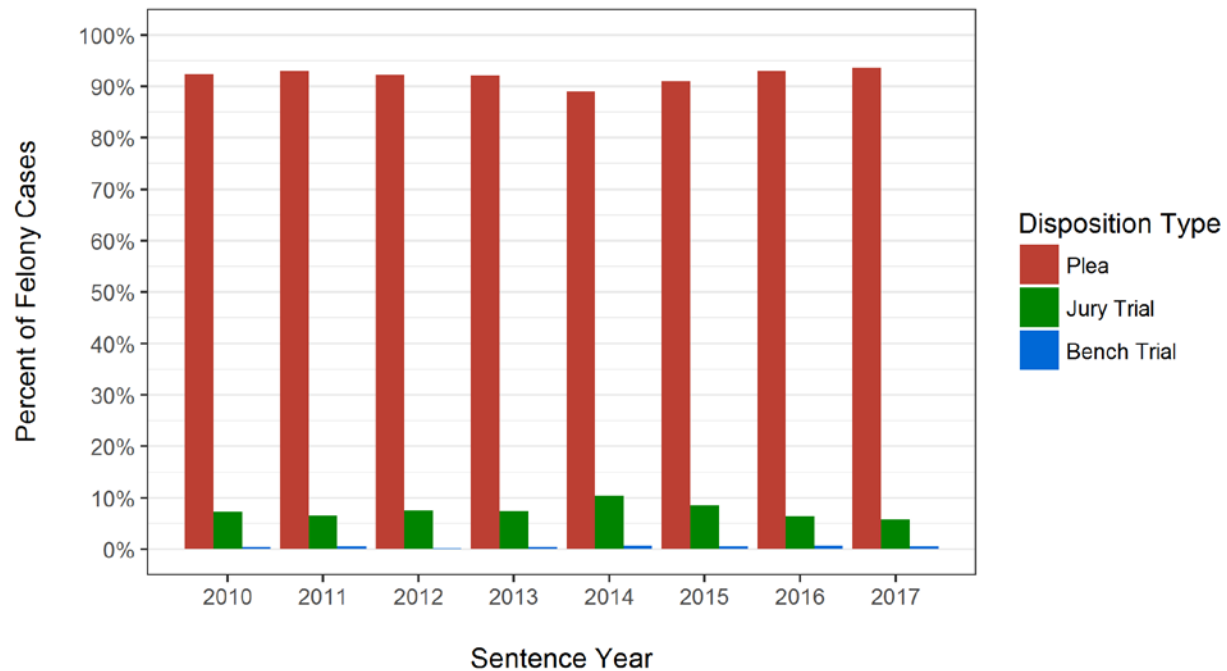
Figure 2: Felony Sentences by Year (2010 - 2017)



	2010	2011	2012	2013	2014	2015	2016	2017
Counts	3988	4024	4007	2891	2835	2033	2201	2244
Cases	3125	2913	2739	2105	1919	1477	1683	1762
Offenders	2913	2737	2635	2016	1854	1410	1611	1666

Figure 3 presents the disposition of felony cases sentenced in calendar year 2017. Ninety four percent of cases were disposed through guilty pleas. The 5.8% of cases receiving a jury trial is slightly less than average; historically jury trials have accounted for between 6% and 10% of cases sentenced. The percentage of sentences resulting from bench trials has remained at or below 1% between 2010 and 2017.

Figure 3: Felony Case by Disposition Type (2010 - 2017)



	2010 (N=2118)	2011 (N=1868)	2012 (N=1779)	2013 (N=1290)	2014 (N=1918)	2015 (N=1476)	2016 (N=1683)	2017 (N=1762)
Plea	92.3%	93.0%	92.1%	92.1%	88.9%	90.9%	93.0%	93.5%
Jury Trial	7.3%	6.5%	7.6%	7.4%	10.4%	8.5%	6.4%	5.8%
Bench Trial	0.5%	0.5%	0.3%	0.5%	0.7%	0.5%	0.7%	0.6%

1. Sentence Type

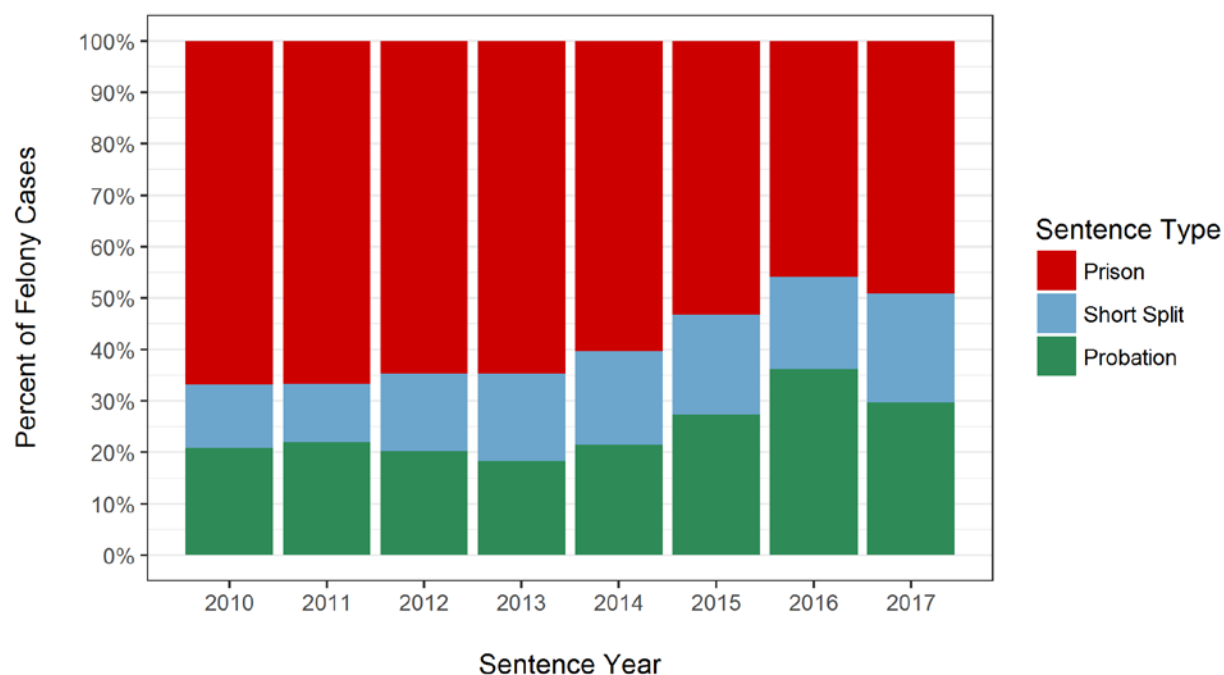
The Commission classifies sentences into three categories: prison, short split,¹⁶ and probation. Since 2010, the percentage of cases sentenced to prison has ranged between 46% and 67%, currently accounting for 49% of all felony sentences imposed. The percentage of short split

¹⁶ As noted previously, a short split sentence is a prison sentence in which the court suspends execution of all but *six months or less - but not all* - of that sentence, and imposes up to five years of probation to follow the portion of the prison term to be served. If the court imposes a prison sentence and suspends execution of some of the sentence, but requires the offender serve *more than six months* in prison and then places the offender on probation for a period of up to five years, the sentence would be a non-compliant short split or a compliant long split sentence, both of which, for the purposes of this chapter, are classified as a prison sentence.

sentences has ranged from 11% to 20% over the 2010-2016 timeframe, reaching a high of 21% of felony sentences imposed in 2017 (Figure 4).

In 2017, 70% of D.C.'s felony offenders received either a prison or short split sentence. The remaining 30% of offenders were sentenced to probation, which is the first decrease in the proportion of probation sentences imposed since 2013. Conversely, the proportion of cases sentenced to prison increased for the first time since 2010.

Figure 4: Sentence Type, Case Level (2010 - 2017)



	2010 (N=2158)	2011 (N=1884)	2012 (N=1781)	2013 (N=1290)	2014 (N=1919)	2015 (N=1477)	2016 (N=1683)	2017 (N=1762)
Prison	67%	67%	65%	65%	60%	53%	46%	49%
Short Split	12%	11%	15%	17%	18%	20%	18%	21%
Probation	21%	22%	20%	18%	21%	27%	36%	30%

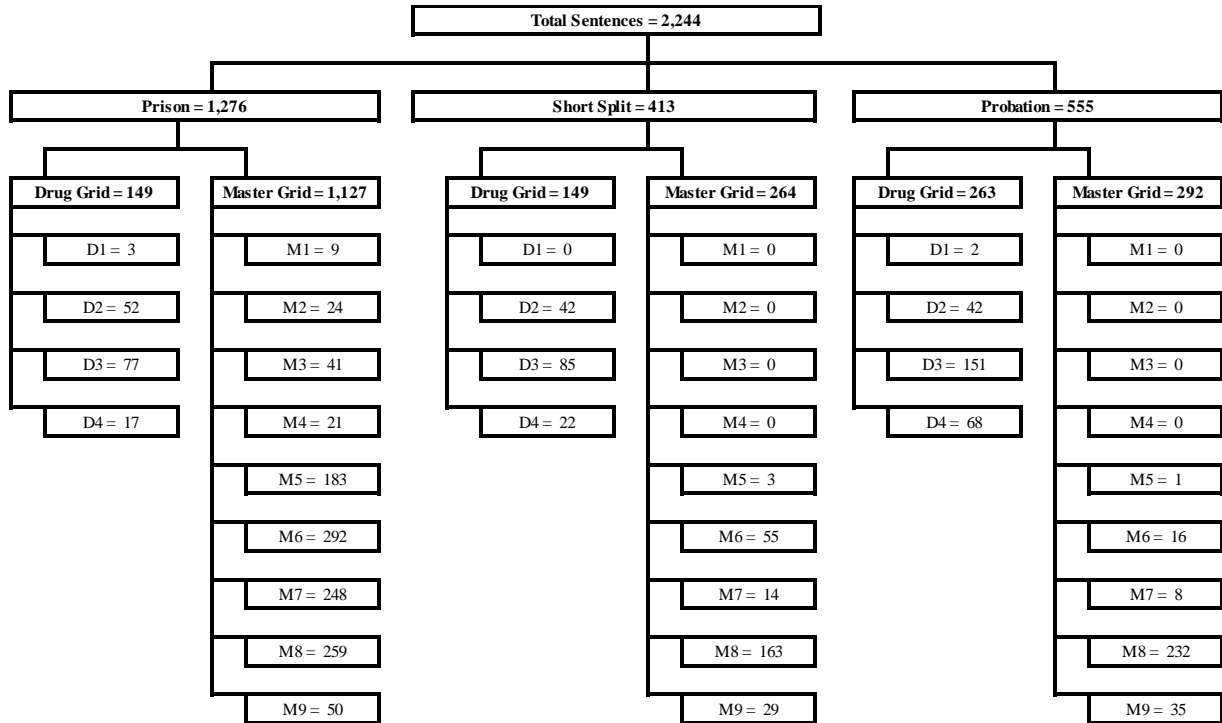
Under the Sentencing Guidelines, a prison sentence is an available sentencing option in every Grid box. Compliant probation and short split sentences are only available in 22% of the boxes (10 of 45) on the Master Grid and 70% of the boxes (14 of 20) on the Drug Grid.¹⁷ These types of sentences are typically imposed for less severe offenses and/or offenders with limited criminal histories. However, some offenses are subject to mandatory minimum sentencing provisions, which require the court to impose a mandatory prison term, the execution of which cannot be suspended, even in a short split or probation eligible box.

¹⁷ See Chapter 4 section III below for a detailed explanation of the Sentencing Guidelines' structure and Appendices A and B for the Master and Drug Grids.

2. Offense Severity Group

Figure 5 shows a count-level distribution of sentence types imposed in 2017 for each OSG on the Master and Drug Grids.

Figure 5: Counts Sentenced by Offense Severity Group (2017)



Prison was the most frequent sentence type in all offense severity groups, with the exception of OSGs D3 and D4, where probation was the most common sentence type imposed. Similar sentencing patterns were observed in previous years; however, in 2016, probation was also the most frequent sentence for OSGs M8 and D2.

Between 2016 and 2017, the total number of probation sentences decreased slightly for lower-severity offenses (M8, M9, D2, D3 and D4); with an accompanying increase in the rates of prison (D2, D3, and M8) and short split (D3, D4, and M9) sentences.¹⁸ The largest number of

¹⁸ For example, while 40% of D2 counts were sentenced to probation in 2016, this rate decreased to 31% in 2017, primarily accounted for by a 6 percent point increase in the proportion of D2 counts that were sentenced to prison, from 32% in 2016 to 38% in 2017. A similar pattern was observed M8 counts, 44% of which were sentenced to probation in 2016 but 35% in 2017, a decrease accounted for primarily by an increase in the proportion of M8 counts that were sentenced to prison (34% in 2016 but 40% in 2017). The 12 percent point decrease in the proportion of D3 counts sentenced to probation (from 60% in 2016 to 48% in 2017) was accounted for by a 6 percent point increases in each of the proportion of D3 counts sentenced to short splits and those sentenced to prison. The decrease in the proportion of D4 and M9 counts sentenced to probation (74% to 64% and 36% to 31%

non-drug felony counts sentenced appeared in M8 (654 sentences), representing 39% of all felony non-drug offenses sentenced. On the Drug Grid, D3 (313 sentences) contained the largest number of felony drug counts sentenced in 2017, representing 56% of felony drug sentences. Similar sentencing trends were observed in 2016.

Table 3 below presents¹⁹ the average CH score by sentence type and OSG for felony counts sentenced in 2017. This table also highlights OSGs where no probation and/or short split sentences were imposed.

Table 3: Sentence Types and Average CH Score by Offense Severity Group, Count Level (2017, N=2244)

	Prison		Short Split		Probation	
OSG	% of Counts	Average CH Score	% of Counts	Average CH Score	% of Counts	Average CH Score
M1 (N=9)	100%	1.3	0%		0%	
M2 (N=24)	100%	2.1	0%		0%	
M3 (N=41)	100%	2.1	0%		0%	
M4 (N=21)	100%	1.5	0%		0%	
M5 (N=187)	98%	2.1	2%	0.3	1%	0
M6 (N=363)	80%	2.2	15%	0.1	4%	0.2
M7 (N=270)	91%	2.5	5%	0.5	3%	0.7
M8 (N=654)	40%	2.5	25%	0.8	36%	0.5
M9 (N=114)	44%	2.9	25%	1.9	31%	1.1
D1 (N=5)	60%	0.9	0%		40%	0.3
D2 (N=136)	38%	3.5	31%	1.9	31%	1.2
D3 (N=313)	25%	3.2	27%	2.3	48%	1.1
D4 (N=107)	16%	1.8	21%	2.3	64%	1.4

Similar to 2016, M5 is the most severe OSG on the Master Grid in which a non-prison sentence was imposed. However, of all the counts sentenced in M5 in 2017, only three (3) counts received a short split sentence and only one (1) count was sentenced to probation; the remaining 183 counts were all sentenced to prison. M8 is the first OSG in which prison represents less than half of the sentences imposed (40%). On the Drug Grid, non-prison sentences (short split or probation) represent the dominant sentence type imposed for all OSGs except D1, in which three (3) of the five (5) counts were sentenced to prison.

respectively) was accounted for primarily by increases in the rates of short split sentences (12% to 21% and 19% to 25% respectively).

¹⁹ Percentages may not always sum to 100% across rows due to rounding.

Table 4 provides the percentage of felony cases sentenced in each OSG from 2010 through 2017. Overall, the proportion of Drug cases (D1 to D4) decreased steadily from 2010 to 2015, but has increased since 2015, accounting for 29% of the total cases sentenced in 2017. The decline in drug offenses through 2015 was primarily due to a steady decrease in the number of D2 and D3 cases, coupled with the increases in the number of M4, M5, M8, and M9 cases. Since 2015, this trend has reversed, with the most pronounced changes seen in D3, D4, and M9 cases.

Table 4: Felony Sentences Imposed by Offense Severity Group, Case Level (2010 - 2017)

	M1	M2	M3	M4	M5	M6	M7	M8	M9	D1	D2	D3	D4
2010 (N=2149)	0.7%	0.9%	1.0%	0.4%	3.1%	6.0%	1.4%	11.3%	9.0%	0.7%	27.3%	38.2%	0.0%
2011 (N=1876)	1.4%	1.4%	1.6%	0.6%	4.0%	6.0%	2.3%	16.1%	6.8%	0.7%	23.8%	34.2%	1.1%
2012 (N=1771)	1.4%	1.5%	1.8%	0.6%	5.0%	8.2%	3.3%	22.2%	8.8%	0.3%	19.1%	24.5%	3.5%
2013 (N=1290)	1.4%	3.3%	0.6%	1.4%	4.3%	21.6%	8.5%	17.3%	10.1%	0.6%	12.6%	17.2%	1.2%
2014 (N=1919)	1.2%	1.8%	2.2%	1.7%	5.9%	10.9%	9.1%	35.1%	11.2%	0.4%	6.9%	10.7%	2.9%
2015 (N=1476)	0.7%	2.5%	2.2%	1.9%	6.6%	14.4%	10.1%	33.1%	10.4%	0.1%	5.3%	10.1%	2.5%
2016 (N=1683)	0.4%	1.4%	1.7%	1.2%	5.9%	15.2%	11.4%	32.6%	7.0%	0.1%	5.0%	13.6%	4.4%
2017 (N=1762)	0.4%	1.1%	1.4%	1.1%	5.1%	15.2%	11.7%	30.0%	5.1%	0.2%	6.5%	16.2%	6.0%

Between 2016 and 2017, the proportion of cases sentenced on the Drug Grid increased from 23% to 29%, with a corresponding decrease in cases sentenced on the Master Grid. This difference was primarily the result of a 24% decrease in M9 cases, a 36% increase in D2 cases, a 25% increase in D3 cases, and a 42% increase in D4 cases. Increases in attempted/completed distribution of a controlled substance (Dist.) cases accounted for the overall increase in OSGs D2, D3, and D4. Viewed historically, however, the 29% of Drug cases sentenced in 2017 is still far below the high of 65% recorded in 2010.

Among all D2, D3, and D4 cases where drug information was available to the Commission, increases were observed in cases involving synthetic cannabinoids,²⁰ representing a 113% increase from 31 cases in 2016 to 66 cases in 2017, and a 33% increase in cases involving cocaine from 172 cases in 2016 to 229 cases in 2017. Synthetic cannabinoids were first observed in the Commission's data in 2016.

Lower-severity (D2 to D4) cases appear to be a primary driver of the increase in the number of drug cases sentenced between 2016 and 2017.

²⁰ Synthetic cannabinoids references a group of substances. Depending on the underlying chemical content of the specific substance, synthetic cannabinoids can fall into different drug schedules.

3. Classification of Offense Categories

Listed below are the Commission's offense categories and the most frequent offenses within each category:

- Drug Offenses:
 - Drug offenses while armed;
 - Distribution or possession with intent to distribute a controlled substance; and
 - Attempted distribution or attempted possession with intent to distribute a controlled substance.
- Non-Drug Offenses:
 - Homicide: first degree murder, felony murder, second degree murder, and voluntary and involuntary manslaughter;
 - Violent offenses: armed and unarmed robbery, assault with a deadly weapon, aggravated assault, carjacking, and kidnapping;
 - Sex offenses: all degrees of sex abuse, child sex abuse, and human trafficking offenses;
 - Property offenses: arson, first degree burglary, second degree burglary, first degree theft, felony receiving stolen property, unauthorized use of a vehicle, fraud, and forgery;
 - Weapon offenses: carrying a pistol without a license, unlawful possession of a firearm (felon in possession of a firearm), and possession of a firearm during a crime of violence ("PFDCV")²¹; and
 - Other Offenses: prison breach, fleeing law enforcement, obstruction of justice, and Bail Reform Act ("BRA") violations.²²

²¹ A PFDCV conviction has a 60-month mandatory minimum prison sentence. Because the Guidelines take mandatory minimums into account, sentences imposed for PFDCV increase the compliance rate as well as the percent sentenced to prison for Weapon offenses. Among all Weapon offenses sentenced in 2017, at the count level, 24% were for PFDCV.

²² A BRA conviction is the result of an offender failing to return to court as required. D.C. Code § 23-1327(a) (2013).

Figure 6 below presents the distribution of Drug and Non-drug offense categories at the case level. Overall, felony non-drug offenses represented approximately 71% of cases sentenced in 2017. The Violent and Weapon offense categories together accounted for half of all felony cases and 70% of all non-drug cases sentenced. The Violent offense category was the largest offense category accounting for 30% of all cases sentenced. Within the Violent offense category, similar to 2016, attempted/completed robbery were the most frequent offenses sentenced (49%), followed by attempted/completed assault with a dangerous weapon at 28%.

Figure 6: 2017 Offense Categories, Case Level (N=1762)

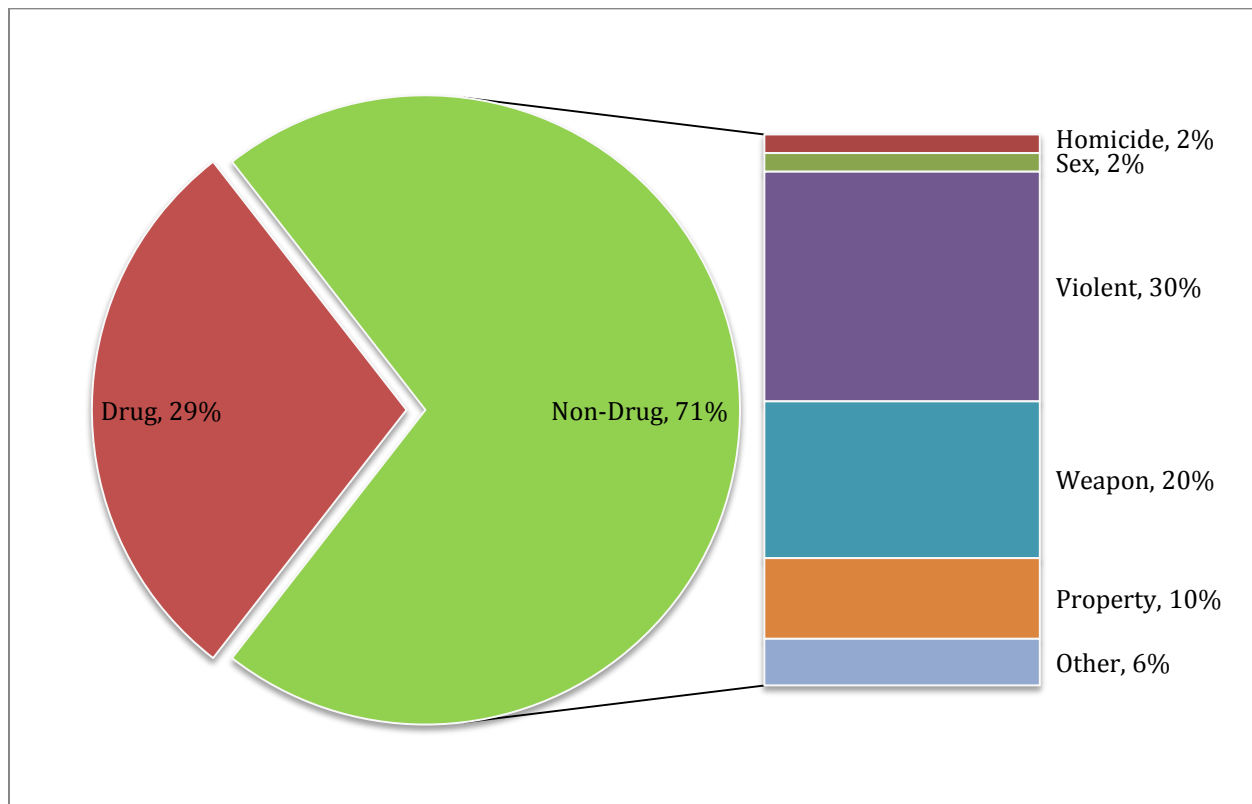
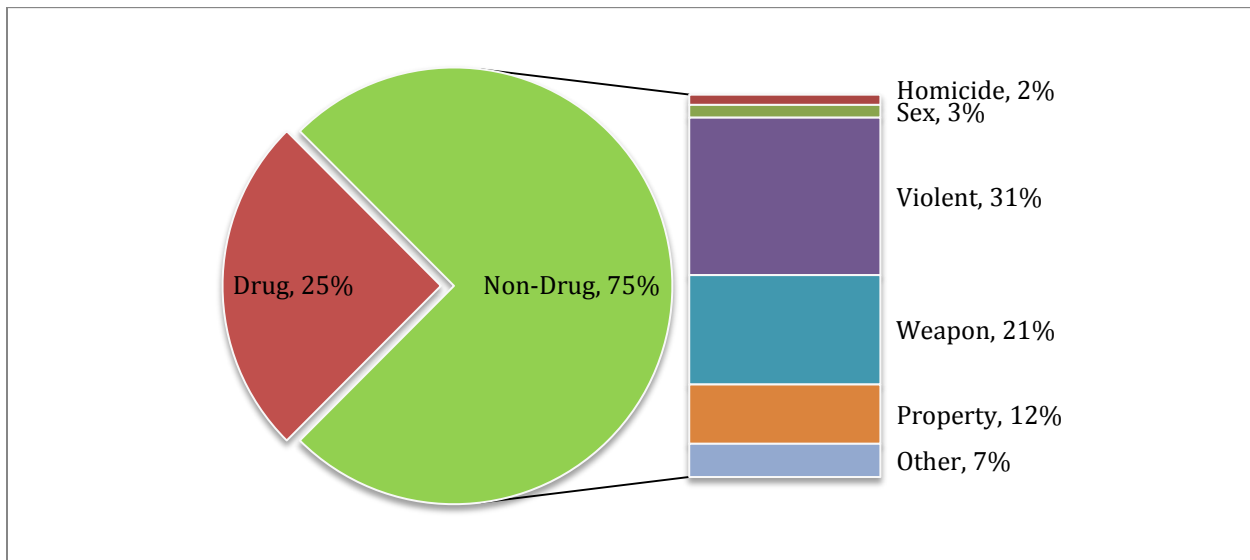


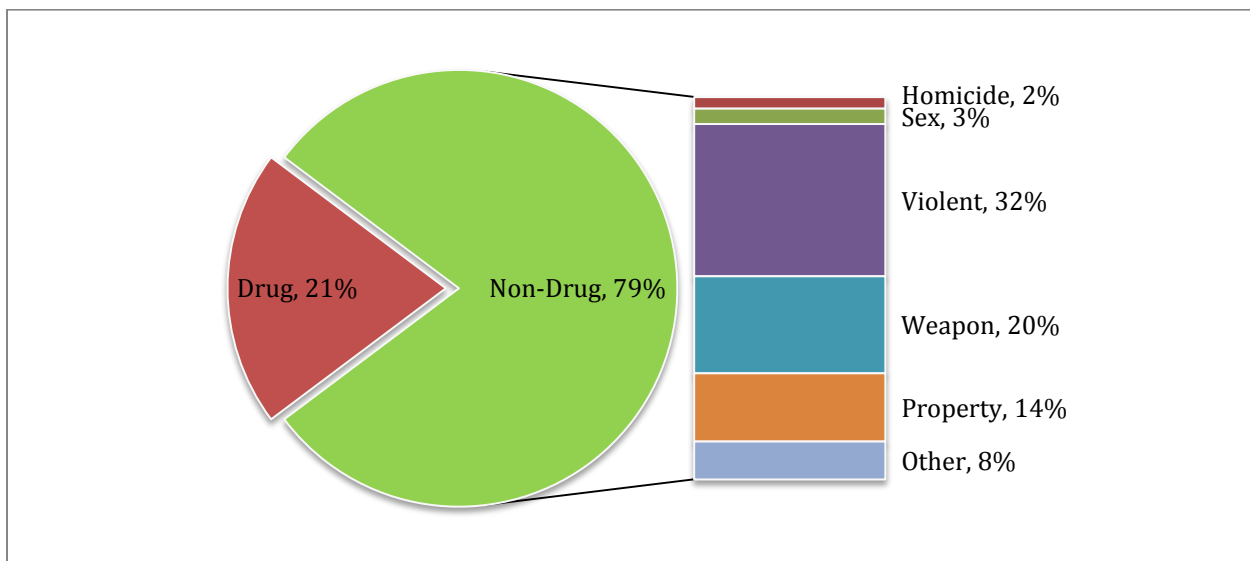
Figure 7 below compares the percentages of the Drug and Non-Drug counts sentenced in 2017 and 2016. Felony Non-Drug offenses represented approximately 75% of all counts sentenced in 2017, a decrease of four (4) percentage points from the 79% in 2016 (Figure 7). Drug counts experienced an increase of four (4) percentage points from 21% in 2016 to 25% in 2017. Between 2016 and 2017, the relative distribution of Non-Drug counts remained similar, with a slight increase in the proportion of Weapon counts and slight decreases in the proportion of Property, Violent, and Other counts.

Figure 7: Offense Categories, Count Level (2016 and 2017)

2017 (N=2244)

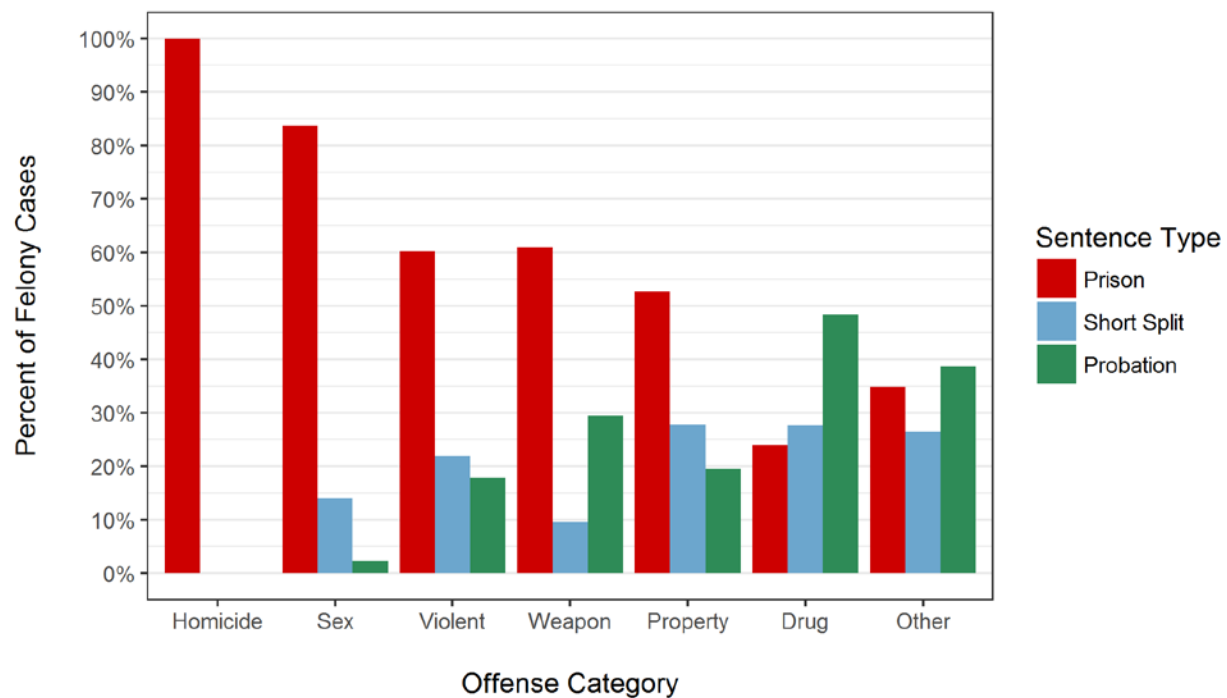


2016 (N=2201)



The percentage of probation, short split, and prison sentences imposed at the case level for each offense category in 2017 is presented in Figure 8 below. Compared to 2016, the proportion of cases sentenced to probation decreased within each offense category. This marks the first time since 2013 that the percentage of Property, Drug, and Other cases sentenced to probation has decreased. Notably, Drug cases sentenced to probation decreased from 60% in 2016 to 48% in 2017. The decreases in the proportion of cases sentenced to probation within each offense category can be attributed to the increases in the proportion of Weapon cases sentenced to prison and to increases in the proportion of Property, Drug, and Other cases receiving a short split sentence when compared to previous years.

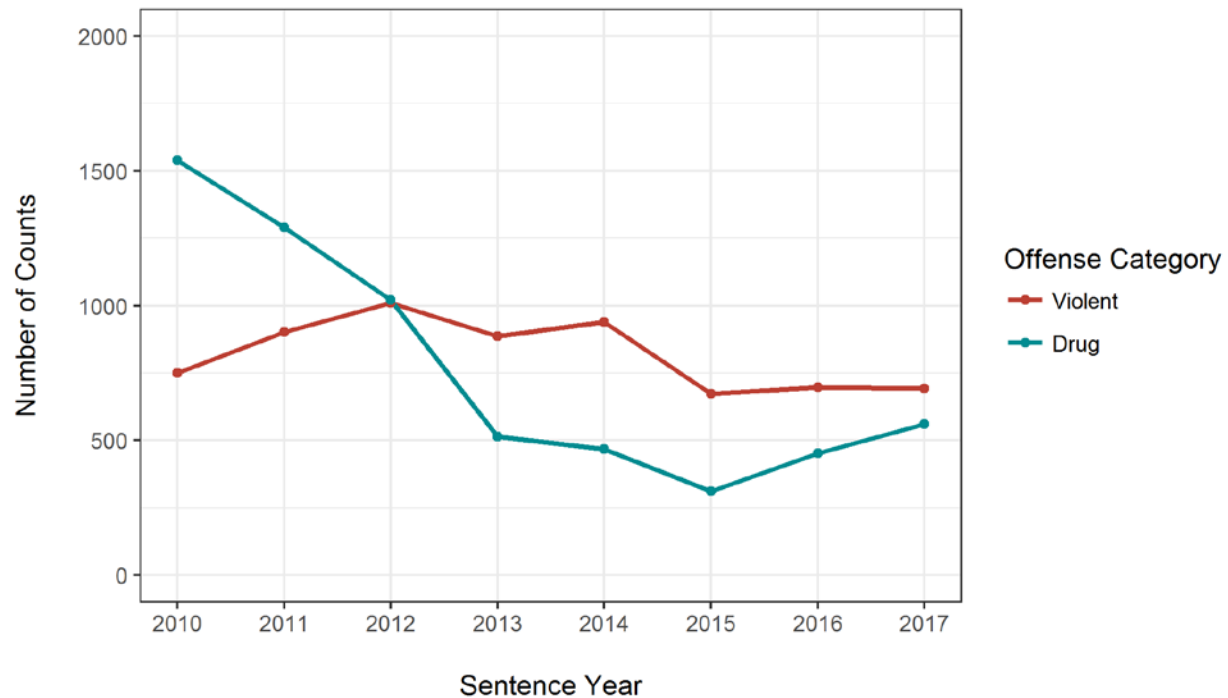
Figure 8: Offense Category by Sentence Type, Case Level (2017)



	Homicide (N=43)	Sex (N=43)	Violent (N=521)	Weapon (N=356)	Property (N=184)	Drug (N=509)	Other (N=106)
Prison	100%	83.7%	60%	61.0%	53%	24%	35%
Short Split	0%	14.0%	22%	9.6%	28%	28%	26%
Probation	0%	2.3%	18%	29.5%	20%	48%	39%

Figure 9 highlights sentencing patterns for Drug and Violent offense categories. While the number of Violent offenses showed some volatility between 2010 and 2015, the number of Violent offenses sentenced has remained fairly stable in both 2016 and 2017. As discussed, Drug offenses steadily declined from 2010 through 2015 then began to increase. This largely accounts for the overall increase in the total counts sentenced in 2017.

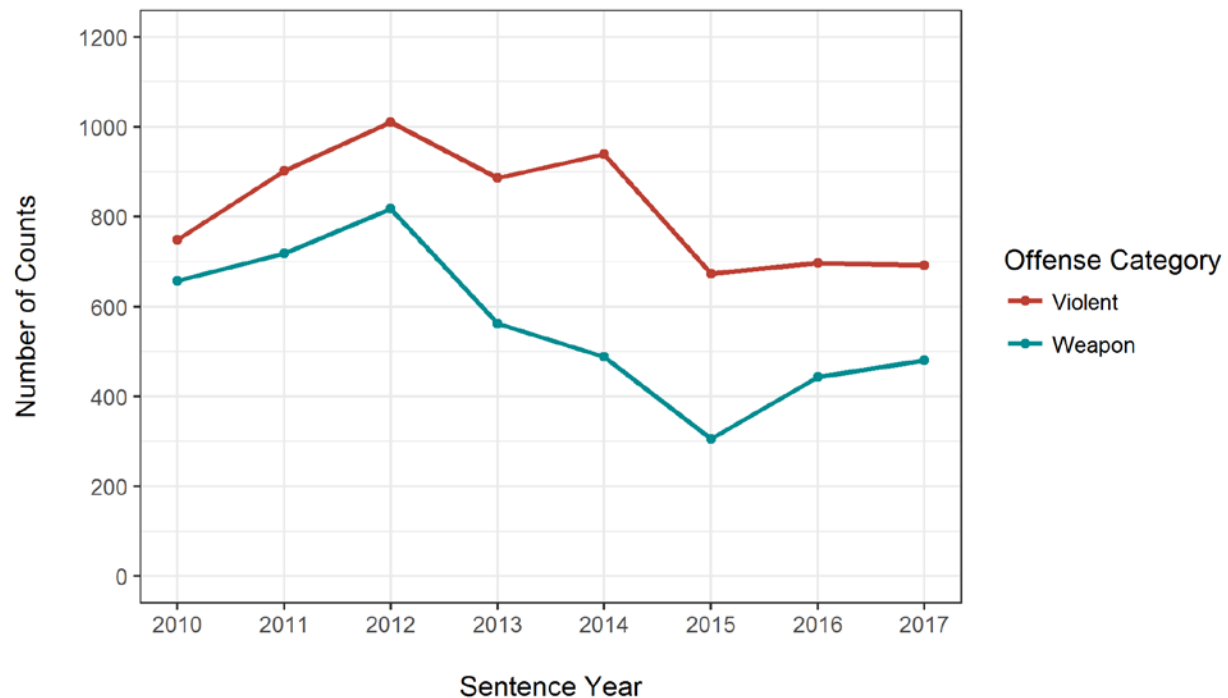
Figure 9: Sentenced Drug and Violent Offense Counts (2010 - 2017)



	2010 (N=2287)	2011 (N=2191)	2012 (N=2033)	2013 (N=1400)	2014 (N=1407)	2015 (N=986)	2016 (N=1149)	2017 (N=1253)
Violent	749	902	1011	886	939	674	697	692
Drug	1538	1289	1022	514	468	312	452	561

When Weapon and Violent offenses are examined (Figure 10), the number of Weapon offenses sentenced increased by 8% from 444 to 481 and Violent offenses decreased by 1% from 697 to 692. While there was an increase in the number of Weapon counts sentenced between 2016 and 2017, there was no corresponding increase in Violent offenses for that same time period. Historically, the trends in the number of Violent and Weapon offenses sentenced have been similar, with the exception of 2014.

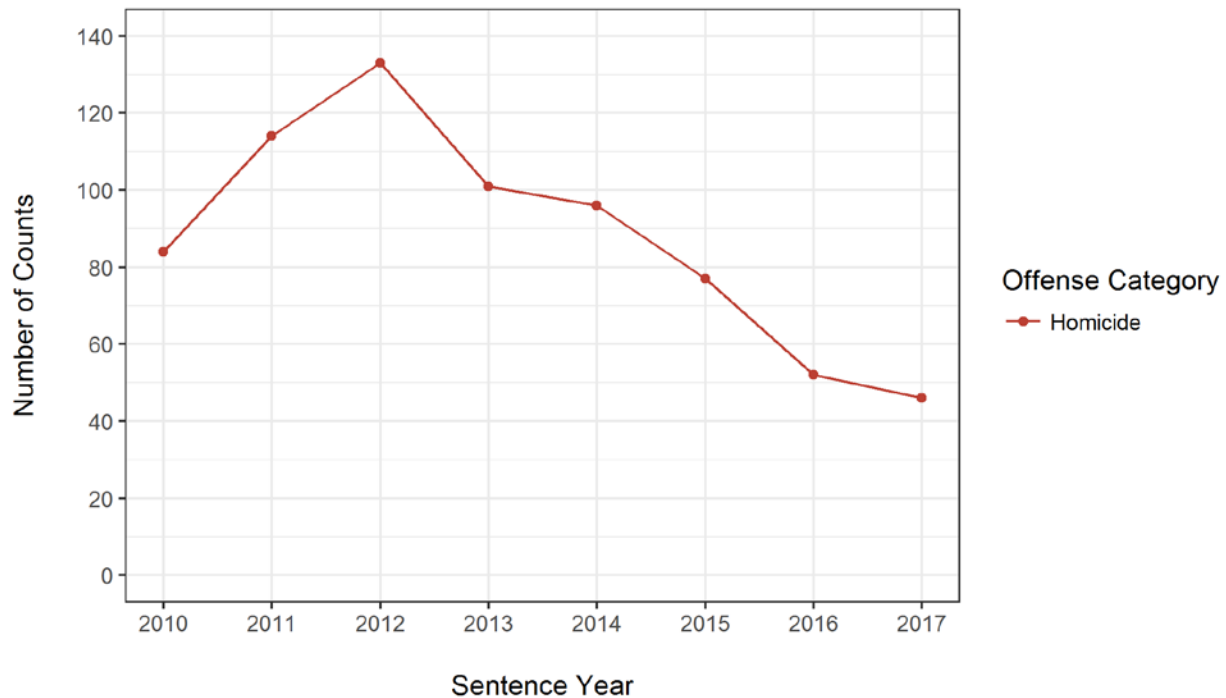
Figure 10: Sentenced Weapon and Violent Offense Counts (2010 - 2017)



	2010 (N=1407)	2011 (N=1620)	2012 (N=1828)	2013 (N=1449)	2014 (N=1427)	2015 (N=980)	2016 (N=1141)	2017 (N=1173)
Violent	749	902	1011	886	939	674	697	692
Weapon	658	718	817	563	488	306	444	481

Homicide counts accounted for 703 of 24,223 felonies (3%) sentenced across all years between 2010 and 2017. In 2017, Homicide counts represented two percent (46) of the 2,244 felonies sentenced. As shown in Figure 11 below, Homicide counts sentenced decreased by 12%, from 52 counts in 2016 to 46 counts in 2017, continuing a downward trend that began in 2013. This is the lowest number of homicide sentences imposed in any year since 2010.

Figure 11: Sentenced Homicide Counts (2010 - 2017)



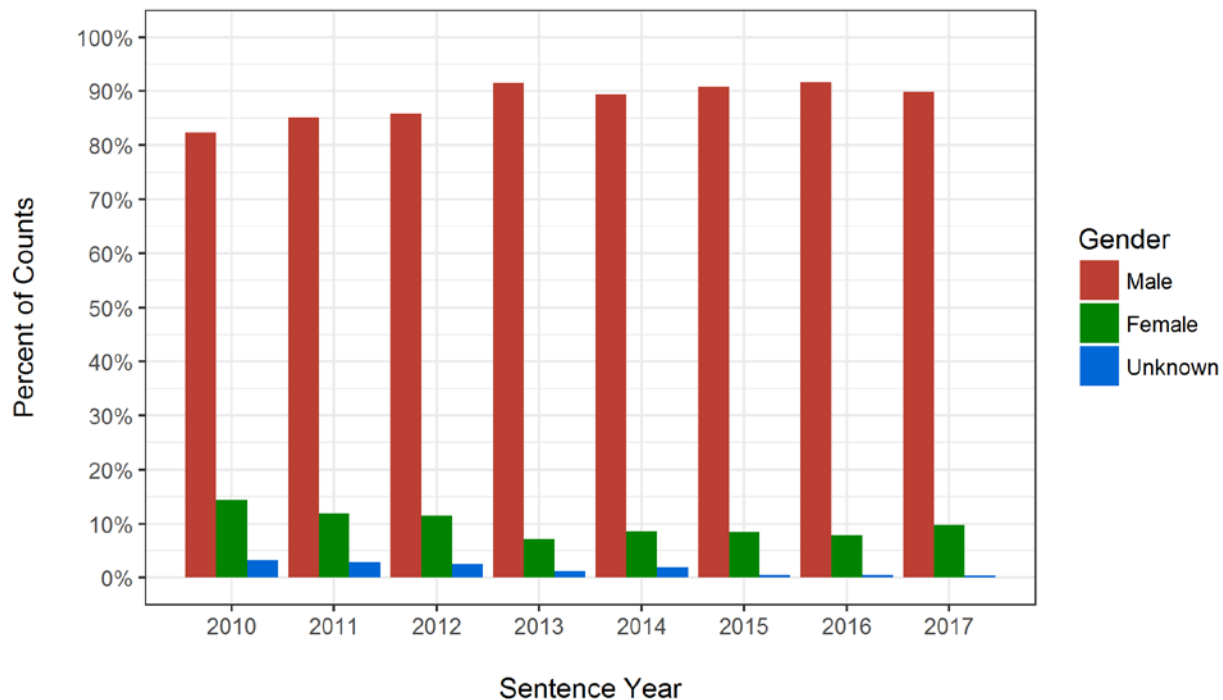
	2010	2011	2012	2013	2014	2015	2016	2017
Homicide	84	114	133	101	96	77	52	46

B. Felony Sentencing Demographics: Gender, Race, and Age of Offenders

1. Gender by Offense Categories

An offender's gender²³ was recorded for 1,660 of the 1,666 offenders sentenced in 2017 (Figure 12). In 2017, the number of male offenders sentenced was 1,497 (90%), compared to 163 female offenders (10%). The percent of female offenders sentenced increased by 2% from 2016 to 2017, and the percent of males decreased by the same.

Figure 12: Felony Offenders by Gender (2010 - 2017)



	2010 (N=2913)	2011 (N=2737)	2012 (N=2635)	2013 (N=2016)	2014 (N=1854)	2015 (N=1410)	2016 (N=1611)	2017 (N=1666)
Male	82.4%	85.1%	85.9%	91.5%	89.4%	90.9%	91.6%	89.9%
Female	14.4%	11.9%	11.5%	7.2%	8.7%	8.5%	7.8%	9.8%
Unknown	3.2%	2.9%	2.5%	1.2%	1.9%	0.6%	0.6%	0.4%

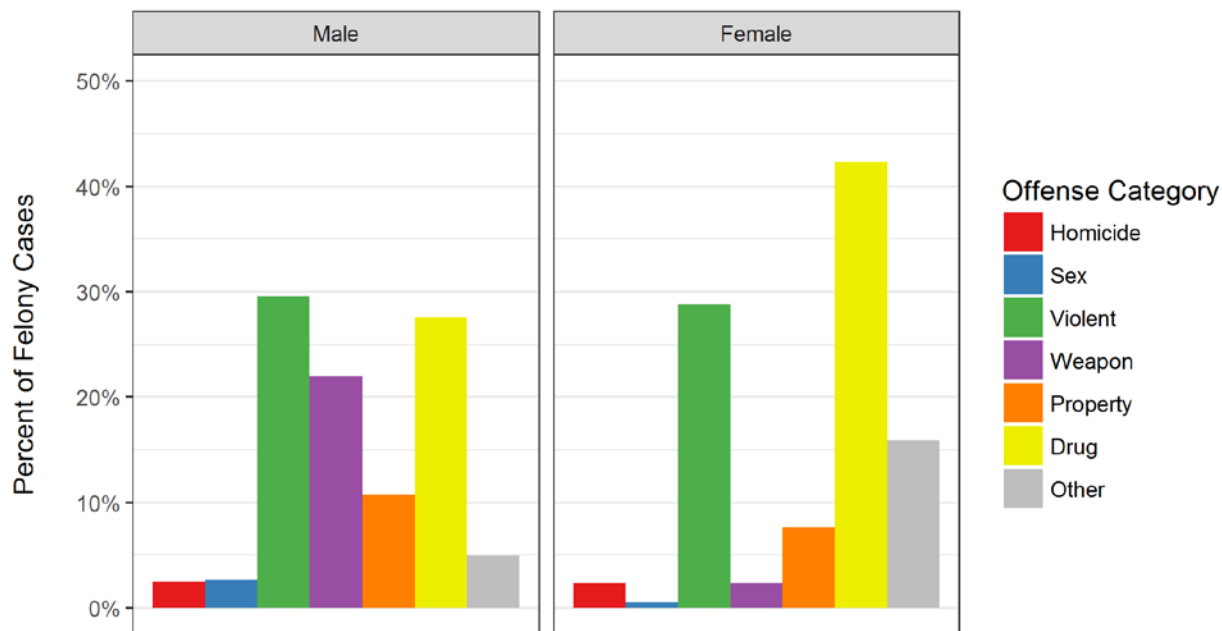
Figure 13 shows the percentage distribution of sentences imposed by offense category for each gender. The most common offenses for males were Violent (30%), Drug (28%), and Weapon (22%) offenses. The most common offense categories for females sentenced were Drug (42%), Violent (29%) and Other (16%) offenses. Violent and Drug offenses were the most common offense categories for both gender categories. Attempted/completed robbery (48%) and assault with dangerous weapon (ADW, 26%) cases comprised the majority of the Violent offenses for

²³ The Commission's data on offender gender is a limited binary categorization (i.e. only male or female).

male offenders. Females were sentenced more frequently in ADW cases (51%) than in robbery cases (18%).

For both males and females, attempted/completed Dist. were the most common drug offenses sentenced. For Dist. offenses where drug information was available, cocaine was the most common drug for both male and female offenders. However, in 2017, heroin was the second most common drug for men, compared to synthetic cannabinoid for women.

Figure 13: Gender by Offense Category, Case Level (2017)



	Homicide (N=43)	Sex (N=43)	Violent (N=518)	Weapon (N=353)	Property (N=184)	Drug (N=509)	Other (N=106)
Male (N=1586)	2.5%	2.6%	29.6%	22.0%	10.8%	27.6%	5.0%
Female (N=170)	2.4%	0.6%	28.8%	2.4%	7.6%	42.4%	15.9%

In 2017, the average CH score of 1.8 for men was higher than the average CH score of 1.1 for women. As was the case in previous years, males received longer sentences on average and were sentenced more frequently to prison, and less frequently to probation (Tables 5a and 5b).

Table 5a: Criminal History Score and Sentence Length by Gender, Case Level (2010 - 2017)

	Average Criminal History Score		Sentence Length Imposed (Months)			
			Mean		Median	
Sentence Year	Female	Male	Female	Male	Female	Male
2010	1.3	2.1	14.5	29.5	12	18
2011	1.4	2.0	23.2	33.8	12	18
2012	1.1	1.9	15.5	33.7	12	18

	Average Criminal History Score		Sentence Length Imposed (Months)			
			Mean		Median	
Sentence Year	Female	Male	Female	Male	Female	Male
2013	0.8	1.8	24.0	38.3	12	18
2014	0.8	1.8	17.3	42.6	12	18
2015	1.0	1.9	17.5	34.9	12	19
2016	1.0	1.7	19.2	29.0	13	18
2017	1.1	1.8	18.1	29.4	12	18

Table 5b: Sentence Type by Gender, Case Level (2010 - 2017)

	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
Sentence Year	Female	Male	Female	Male	Female	Male
2010	38%	18%	22%	12%	40%	70%
2011	37%	20%	13%	11%	50%	69%
2012	36%	17%	19%	15%	45%	68%
2013	38%	16%	24%	17%	39%	67%
2014	42%	19%	21%	18%	37%	63%
2015	50%	25%	24%	19%	26%	56%
2016	53%	35%	21%	18%	26%	47%
2017	49%	28%	28%	21%	23%	52%

Some of the differences between sentence type and sentence length for males and females can be explained by the types of offenses for which each gender is typically sentenced. For example males are more frequently sentenced for Weapon offenses than females, which can result in more severe and longer sentences. However, when comparing similar offenses for which males and females are frequently sentenced, such as Drug and Violent offenses, overall, males still received more serious sentences.²⁴ These differences can be attributed, in part, to limited criminal history, parental responsibilities, level of cooperativeness, role in the offense, and mental health, abuse, addiction, and other life circumstances of female offenders.²⁵

2. Race by Offense Categories

An offender's race was reported for 1,641 of the 1,666 offenders sentenced in 2017. In 2017, 94% of all offenders sentenced were Black, the highest proportion of Black offenders since the Commission began analyzing the data in 2010. In 2017, the remaining 6% of offenders sentenced

²⁴ See analysis of Weapon, Violent and Drug offenses by gender in Appendix F.

²⁵ Sonja B. Starr, "Estimating Federal Disparities in Federal Criminal Cases," *Law and Economics Research Paper Series, University of Michigan Law School*, no. 12-018 (2012): 12-16.

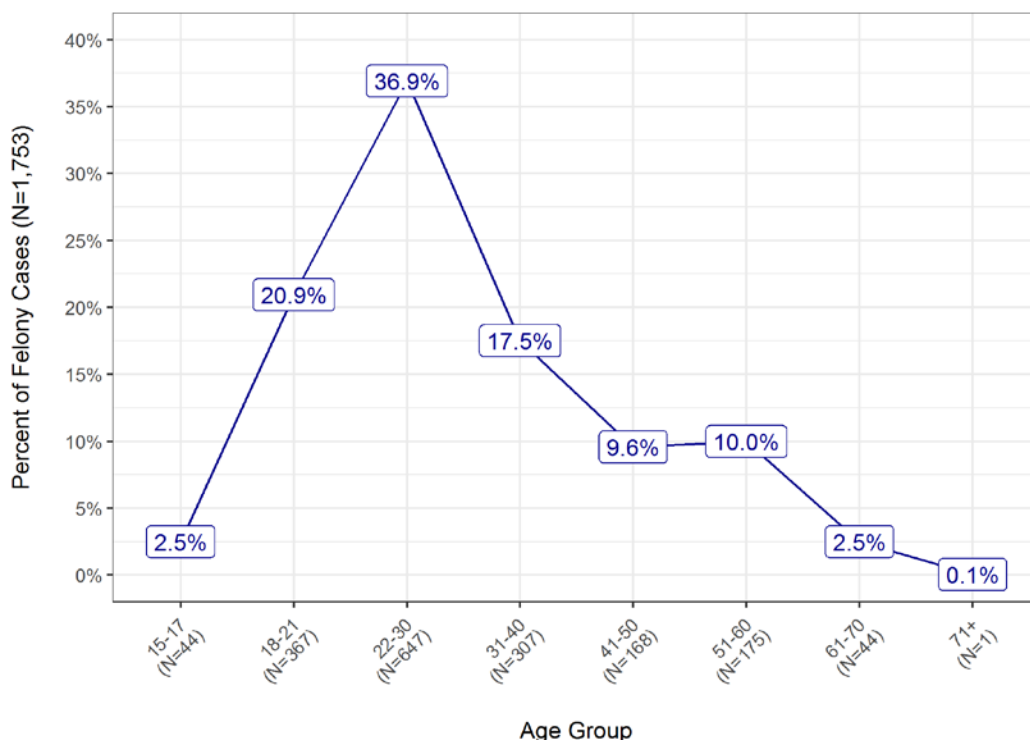
were White (4%), Unknown (2%), Asian (0.1%), and Hispanic (0.1%).²⁶ The proportion of all offenders sentenced who are Black has been increasing since 2014.

For both Black and White offenders, Violent offenses were the most frequently sentenced offenses, with Violent offenses accounting for 45% of sentences for White offenders and 30% of sentences for Black offenders. By comparison, Homicide and Sex offenses were the least commonly sentenced offenses for both Black and White offenders. Asian and Hispanic offenders and offenders of Unknown race were not included in this comparison due to the low number of offenders in each of these race categories.

3. Age by Offense Categories

Age was calculated for offenders in 1,753 of the 1,762 cases sentenced in 2017.²⁷ Offenders between the ages of 18 and 30 accounted for 58% of all offenders sentenced (Figure 14). The 22-30 age group was the most prevalent age cohort, accounting for 37% of all offenders sentenced. The 71+ age group was the least represented age group at 0.1% (one offender sentenced).

Figure 14: Sentences Imposed by Age Group, Case Level (2017)



The inverse V-shaped age curve displayed in Figure 14, has remained fairly consistent between 2010 and 2017. From 2010 to 2017, at the case level, the proportion of offenders in the 22-30 age group has continued to gradually increase to 36.9% in 2017. This represents an 11% increase

²⁶ Racial category data used by the Commission does not capture ethnicity, thus Black offenders of Hispanic origin or White offenders of Hispanic origin are not presented.

²⁷ The age of each offender refers to his or her age at the time the offense was committed.

from 2010. In contrast, the largest decrease between 2010 and 2017 was the 41-50 age group, declining from 24% in 2010 to 10% in 2017.

Between 2016 and 2017, the data indicates a five (5) percentage point decrease in the percentage of offenders sentenced in the 18-21 age group. This reflects the largest decrease in any age category in the past year. The largest increase (4%) was observed for offenders sentenced in the 22-30 age group.

Table 6: Sentences by Age Group, Case Level (2010 - 2017)

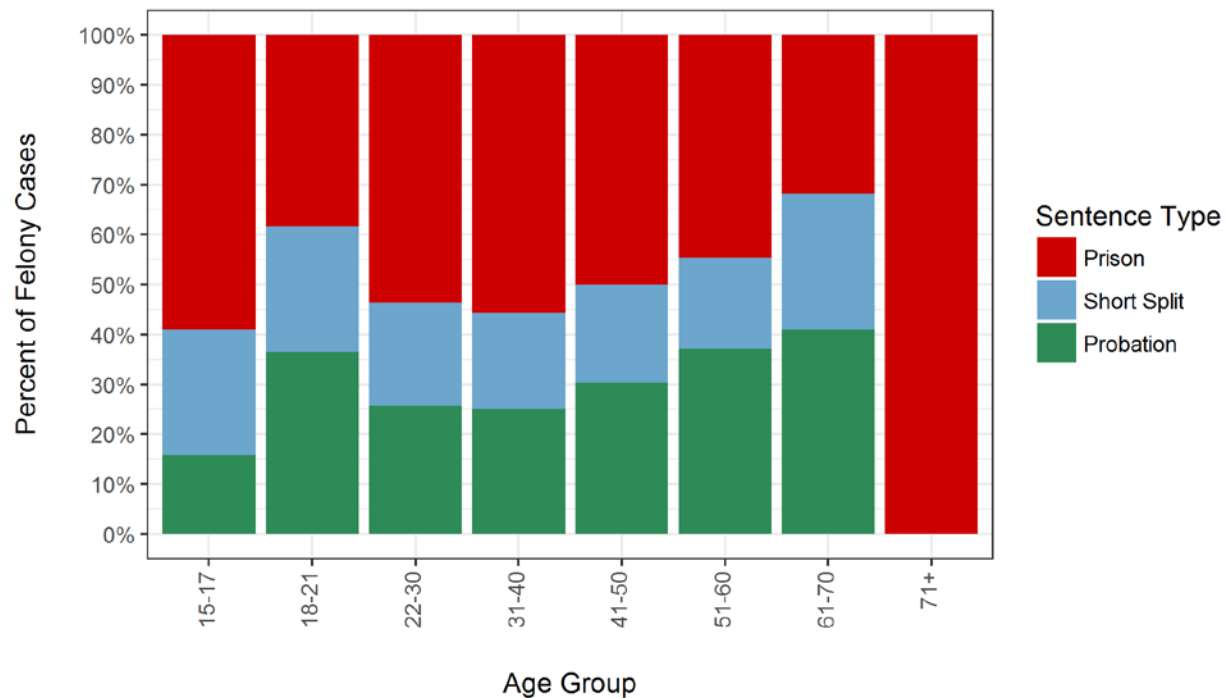
	2010 (N=2090)	2011 (N=1823)	2012 (N=1719)	2013 (N=1258)	2014 (N=1894)	2015 (N=1476)	2016 (N=1669)	2017 (N=1753)
15-17	1.2%	1.5%	1.3%	2.9%	2.6%	2.3%	3.6%	2.5%
18-21	16.5%	19.8%	23.3%	29.1%	31.8%	27.8%	26.0%	20.9%
22-30	26.2%	26.8%	28.3%	29.5%	28.8%	32.7%	32.5%	36.9%
31-40	19.2%	20.3%	19.7%	17.1%	17.4%	18.1%	17.7%	17.5%
41-50	23.8%	20.5%	17.4%	12.9%	11.0%	10.3%	10.7%	9.6%
51-60	11.2%	10.0%	8.6%	6.8%	7.1%	7.7%	7.7%	10.0%
61-70	1.8%	1.2%	1.3%	1.6%	1.2%	0.9%	1.8%	2.5%
71+	0.1%	0.0%	0.1%	0.2%	0.1%	0.2%	0.1%	0.1%

In 2017, without controlling for offense category, 80% of all offenders who received a prison sentence were under the age of 41 (Figure 15).²⁸ Prison was the most common sentence type for all age groups except for the 61-70 age group.

It should be noted that only one (1) case was sentenced in the 71+ age group, where the defendant received a compliant prison sentence for an OSG D4 drug offense.

²⁸ No 15 year olds were sentenced during this time frame. The relatively high rate of prison sentences for 16 and 17 year olds is explained by the fact that these individuals can be charged as adults only for the most serious and violent offenses under D.C. Code §16-2301.

Figure 15: Age Group by Sentence Type, Case Level (2017)



	15-17	18-21	22-30	31-40	41-50	51-60	61-70	71+
Prison	26	141	347	171	84	78	14	1
Short Split	11	92	134	59	33	32	12	0
Probation	7	134	166	77	51	65	18	0

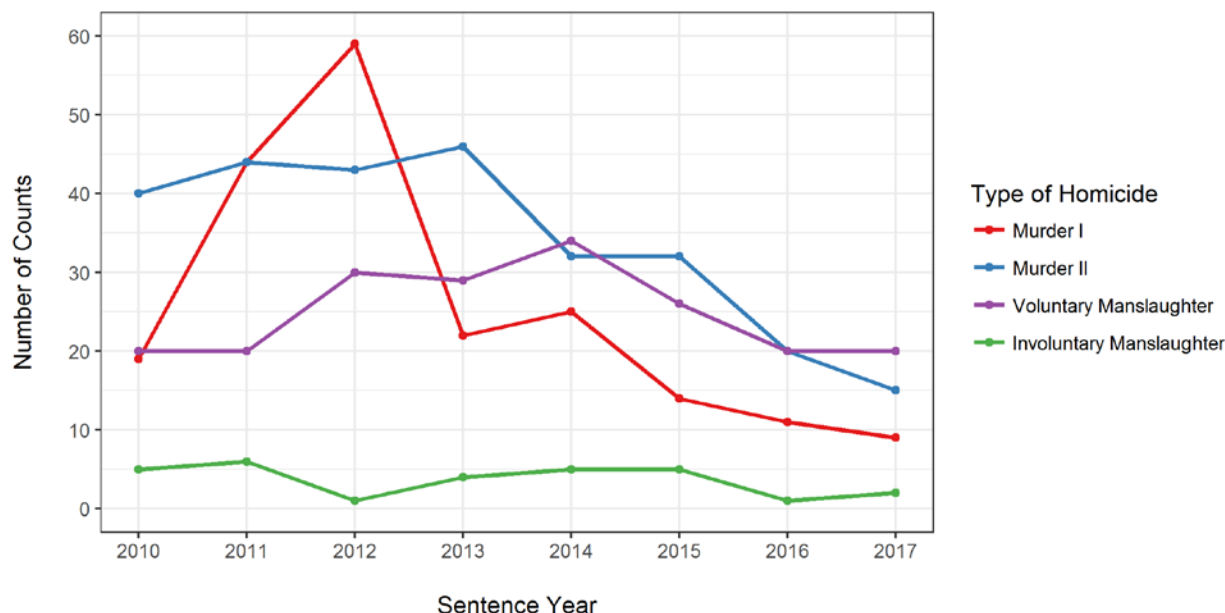
When race, gender, and age were taken into account simultaneously, young Black males (ages 18 to 30) constituted more than half of the sentences imposed in 2017 at the count, case, and offender level. Fifty-one percent of offenders in this group received a prison sentence.

C. Homicide Analysis

There were 46 Homicide²⁹ counts sentenced in 2017, a 12% decrease from 2016 and the fewest number of Homicide sentences imposed in the District since 2010. Sentences for Homicide peaked in 2012 at 133 counts. The most frequent types of Homicide sentenced in 2017 were Voluntary Manslaughter (44%, n=20) and Murder II (33%, n=15). The number of Voluntary Manslaughter counts remained the same as the previous year, while the number of Murder I and Murder II counts decreased slightly, continuing the trend from previous years (Figure 16).

²⁹ Negligent homicide is not included in the Homicide category but rather in the Other Offenses category.

Figure 16: Homicide Sentences by Year, Count Level (2010 - 2017)



	2010 (N=84)	2011 (N=114)	2012 (N=133)	2013 (N=101)	2014 (N=96)	2015 (N=77)	2016 (N=52)	2017 (N=46)
Murder I	19	44	59	22	25	14	11	9
Murder II	40	44	43	46	32	32	20	15
Voluntary Manslaughter	20	20	30	29	34	26	20	20
Involuntary Manslaughter	5	6	1	4	5	5	1	2

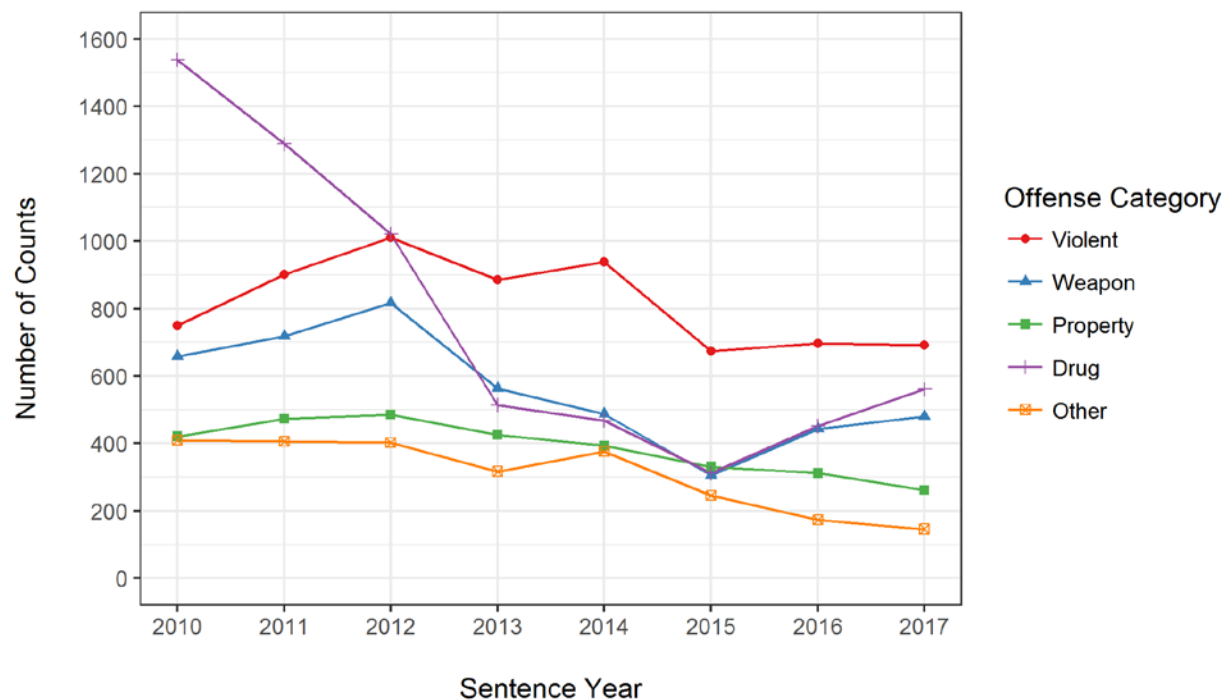
The percentages of Murder I, Murder II, and Involuntary Manslaughter, of all Homicide counts, have remained somewhat stable historically. For instance, the percentage of Murder I counts have fluctuated between approximately 20% and 25% of all homicide offenses since 2013. Similarly, between 2010 and 2017, Murder II counts constituted approximately 35% to 50%, and Involuntary Manslaughter less than 10% of all Homicide counts sentenced. However, the percentage of Voluntary Manslaughter counts has been steadily increasing since 2011 from 18% to 44% in 2017.

D. Overview of Top Five Offense Categories and Sub-Categories

The Commission classifies all felony offenses into one of seven offense categories.³⁰ This section provides an overview of sentencing trends for the top five offense categories and sub-categories at the count level. The top five offense categories and sub-categories are determined by the number of felony counts sentenced within each offense category and sub-category. Figure 17 shows the distribution of the 2017 top five offenses categories over the past eight years.

³⁰ These offense categories are: Homicide, Sex, Violent, Weapon, Property, Drug, and Other.

Figure 17: Top Five Offense Categories, Count Level (2010 - 2017)



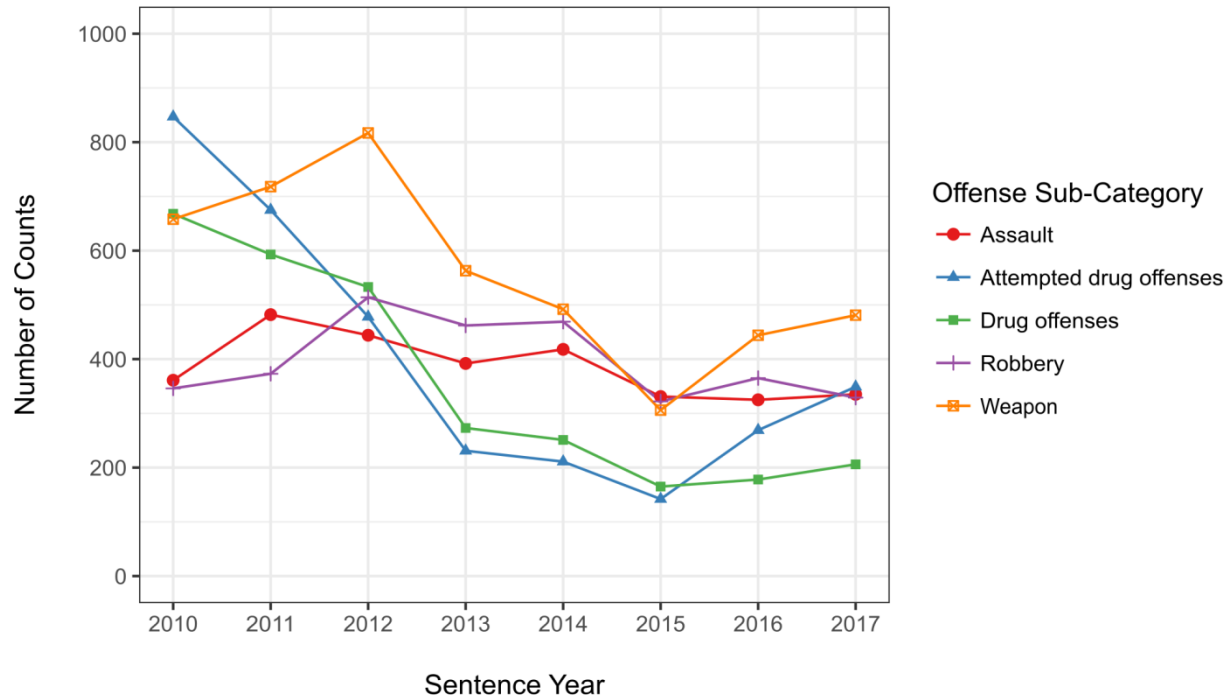
Relative to other offense categories, the steepest increase in counts sentenced between 2016 and 2017 occurred with Drug offenses, followed by Weapon offenses. The remaining other three offense categories show slight decreases. The Drug offense category, which peaked in 2010 demonstrated a sharp decline until 2015, but showed a 45% increase in 2016 and another 24% increase in 2017. The number of weapon offenses sentenced reached a high in 2012 of 817 counts; however the decline seen from 2013 through 2015 has been offset with an 8% increase in sentences imposed for Weapon offenses between 2016 and 2017. Property and Other offenses both decreased by 16% from 2016 to 2017. Although sentences in the Violent offense category peaked in 2012 (1,011), there has been fluctuation in the number of sentences in this offense category since 2013, with only a 1% (5) increase from 2016 to 2017 (Figure 17).

Each of the seven offense categories are divided into 13 sub-categories to allow for more in-depth analysis of specific offenses that significantly contribute to the larger offense categories.³¹

³¹ These offense sub-categories include: Assault, Attempted Drug offenses, Burglary, Drug offenses, Kidnapping, Murder, Other-Non-Property, Other-Property, Robbery, Sex, Theft, Weapon, and While armed drug offenses. See

Figure 18 presents sentencing trends for the top five offense sub-categories, which include: Assault, Attempted Drug offenses, Completed Drug offenses, Robbery, and Weapon offenses. These five offense sub-categories accounted for 76% of all felony offenses sentenced in 2017.

Figure 18: Top Five Offense Sub-Categories, Count Level (2010 - 2017)



The largest increases in the number of sentences imposed between 2016 and 2017 are found in the Attempted Drug offenses, a 30% increase, and Completed Drug offenses, a 16% increase. The data shows that Attempted Drug offenses are the primary driver of the overall increase in Drug sentences. Therefore, the V-shape of the distribution of Attempted Drug offenses between

Appendix C for a list of offenses contained within each sub-category for the top 5 offense sub-categories listed in this chapter.

2010 and 2017 more closely matches the overall Drug offenses data shown in Figure 17 than the shape of the completed Drug offenses.³²

Robbery was the only offense sub-category in Figure 18 where the number of sentences imposed decreased from 2016 to 2017. This decrease was almost completely offset by increases in the Assault, Kidnapping, and Other offense sub-categories, resulting in the 1% decrease in the Violent offenses. Within the Robbery sub-category, between 2016 and 2017, the number of armed robbery and attempted robbery sentences imposed decreased by 22% and 15%, respectively. In turn, the number of completed (unarmed) robbery sentences imposed increased by 5%. Similar to 2016, these three offenses comprised 97% of the Robbery sub-category in 2017. The remaining 3% of the sentences were imposed for attempted armed robbery and unarmed carjacking offenses.

In summary, although sentencing patterns within the District remain fairly stable, the Commission identified some emerging trends. Between 2016 and 2017, the number of felony cases sentenced increased by 5%, with a similar increase in the number of counts and offenders sentenced. The data indicates that the primary driver of this increase is lower-severity Drug convictions, which steadily decreased between 2010 and 2015, but have increased over the past two years, accounting for 29% of total cases in 2017. Seventy percent of felony offenders sentenced received either a prison or short split sentence, with the percentage of probation sentences showing a decrease for the first time since 2013. Offenders between the age of 18 and 30 accounted for 58% of all felony offenders sentenced in 2017.

III. Compliance with the D.C. Voluntary Sentencing Guidelines

The Commission monitors judicial compliance with the Sentencing Guidelines³³ as part of its statutory mandate. This allows the Commission to assess how well the Sentencing Guidelines are achieving the goals of promoting fair and consistent sentencing and highlights sentencing patterns that may suggest a need to modify the Guidelines.

Judicial compliance with the Sentencing Guidelines, as used in this section, means that the sentence imposed:

- satisfied both the type and length of sentence recommended by the applicable Guidelines grid box;
- was a compliant departure where the judge relied on one of the aggravating or mitigating factors identified in the Guidelines;
- was imposed to run concurrently with an equal or longer compliant sentence;
- was compliant due to a sentencing enhancement; or

³² Attempted Drug offenses and Completed Drug offenses are often the same offense resolved by different plea agreements.

³³ The District's Guidelines are voluntary. Therefore, a judge can impose any legal sentence, whether or not it is compliant with the Guidelines.

- was imposed pursuant to Superior Court Criminal Procedure Rule 11(c)(1)(C) plea agreement.

Judicial compliance with the Sentencing Guidelines has remained above 85% since the implementation of the Guidelines. The highest compliance rate was observed in 2016 (97.5%) and the lowest rate in 2010 (86%). In 2017, 97.2% of all felony counts sentenced were compliant with the Guidelines.

A. How the Commission Defines Compliance with the Sentencing Guidelines

The Commission determines compliance with the Sentencing Guidelines by examining whether the sentence imposed is within the sentencing options and sentencing range recommended by the Guidelines. The options and range are determined by the OSG of the sentenced offense and the offender's CH score. The Guidelines rank every non-drug felony offense into one of nine OSGs (M1 to M9) on the Master Grid based on its predetermined severity level (M1 being the most serious offenses and M9 being the least serious), and rank every felony drug offense into one of four OSGs (D1 to D4) on the Drug Grid, from the most serious to the least serious.

Prior to sentencing, a CSOSA presentence report writer researches an offender's complete criminal history, applies a series of Guidelines scoring rules, and calculates each offender's numerical CH score.³⁴ The Sentencing judge finalizes this score at sentencing, resolving any disputes raised by the parties. The CH scoring rules account for the type, number, and severity of the offender's prior convictions, as well as the length of time between the end of the offender's prior sentences and the commission of the instant offense. Once the CH score is calculated, the Guidelines place the CH score into one of five CH score categories, A through E, with A representing the lowest CH score category and E representing the highest.

The intersection of an offender's OSG on the vertical axis and CH score category on the horizontal axis on either the Master or the Drug Grid identifies the grid box containing the offender's recommended sentence type and sentence range.³⁵ To be considered a Guidelines compliant in the box sentence, the sentence imposed for each felony count must be compliant in length (*durational compliance*³⁶) and sentence type (*dispositional compliance*³⁷).

Dispositional compliance is based on the Guidelines sentencing options available in each grid box. There are 45 boxes on the Master Grid and 20 boxes on the Drug Grid. Each grid box has one, two, or three sentencing options available:

- **Prison and Compliant Long Split Sentences:** Available in all boxes
- **Short Split Sentences:** Available in colored (green and yellow) or shaded boxes (light and dark)

³⁴ On rare occasions, such as when the court sentences the offender immediately after a plea or verdict, CSOSA may not be requested to complete a criminal history score for an offender. In 2017, this was the case for 19 of 1762 cases.

³⁵ See Appendices A and B for the Master Grid and Drug Grid.

³⁶ Durational compliance means the total sentence falls within the specific Guidelines range for the defendant's grid box.

³⁷ Dispositional compliance means the type of sentence imposed is an available option in the defendant's grid box.

- **Probation Sentences:** Available in yellow or light shaded boxes

Sentence Options are defined as:

- **Prison Sentence:** The court sentences the offender to a prison term within the grid box range. None of the time imposed is suspended. The prison term is followed by a period of Supervised Release.
- **Compliant Long Split Sentence:** The court sentences the offender to a prison term within the grid box range. The court suspends part of the sentence; however the time actually served (not suspended) is still equal to or above the bottom of the recommended grid box range. The remainder of the sentence is suspended, with a period of probation to follow release from prison.
- **Short Split Sentence:** The court sentences the offender to a prison term within the recommended grid box range. The court suspends part of the sentence, however the time actually served (not suspended) is at least one day and *not more than six months*. The remainder of the sentence is suspended, with a period of probation to follow release from prison.
- **Probation Sentence:** The court sentences the offender to a prison term within the recommended grid box range, suspends the entire sentence, and places the offender on a period of probation.

If the type of a sentence imposed is not one of the available sentencing options, and/or if the duration of the sentence is not within the range recommended for a specific grid box, then the sentence is deemed to be an outside the box sentence. An outside the box sentence can still be compliant with the Guidelines if it falls into one of the other compliant sentence classifications listed below.

B. Guidelines Sentence Classifications

The Commission assigns all sentences to one of the following five categories:

- **Compliant In the Box Sentences:** Sentences that fall within the Guidelines recommended sentence type (prison, short split, or probation) and grid box range based on the offender's offense of conviction and CH score.
- **Compliant Outside the Box Sentences:** Sentences that fall either above or below the sentence type and grid box range based on the offender's offense of conviction and CH score, but are compliant with the Guidelines due to other factors. Examples include sentences that run concurrently with a compliant greater or equal sentence and sentences based upon a statutory enhancement.³⁸
- **Rule 11(c)(1)(C) Sentences:** Sentences that are based upon a Rule 11(c)(1)(C) guilty plea, where the parties agree upon a sentence at the time the plea is entered and the judge accepts

³⁸ Statutory enhancements raise the maximum sentence in the Guidelines range for the applicable box in proportion to the effect of the enhancement on the statutory maximum sentence, but do not affect the bottom of the in the box range.

the plea, including the agreed upon sentence.³⁹ Sentences following a Rule 11(c)(1)(C) plea are analyzed as compliant in the box sentences.

- **Compliant Departures:** Sentences that do not fall within the Guidelines recommended sentence type or grid box range based on the offender's offense of conviction and CH score, but the judge cites one of the applicable aggravating or mitigating departure principle as a basis for the sentence.⁴⁰
- **Non-Compliant Departures:** Sentences that do not fall within the Guidelines recommended sentence type or grid box range based on the offender's offense of conviction and CH score, and the judge does not cite an aggravating or mitigating departure principle.

The District's Guidelines are voluntary. Therefore, a judge can impose any legal sentence, whether or not it is compliant with the Guidelines. If, after three attempts to contact a judge regarding a sentence that appears non-compliant, the Commission does not receive a departure letter response, the Commission classifies the sentence as a Non-Compliant Departure.

The classification of compliance into five distinct categories enables the Commission to examine instances when a judge's sentence falls within the recommended range, falls within the range as expanded by a statutory enhancement, follows a departure principle, or represents a sentence where the judge did not follow the Guidelines for that sentence.

C. Data Reporting

The first step in measuring judicial compliance with the Sentencing Guidelines is to identify the recommended sentencing option and prison ranges for every felony count sentenced, and then compare the recommended sentence to the sentence imposed by the judge. The Superior Court provides offense and sentencing information to the Commission through the IJIS 12.1 interface. CSOSA enters criminal history information for each offender directly into the GRID System through GSS. The GRID System uses this data to determine compliance with the Sentencing Guidelines, which is reported at the count level.

If, after a multi-step validation process,⁴¹ a sentence still appears to be non-compliant, a Departure Form is forwarded to the judge to verify the offense, offender, and sentence information in the case. Departure Forms also provide the sentencing judge the opportunity to

³⁹ Under Rule 11(c)(1)(C), the parties can agree on a guilty plea with a specific sentence, or sentence range, or cap. If the judge accepts the plea, the judge is also bound by the parties' agreement. All counts sentenced as a result of a Rule 11(c)(1)(C) plea are classified as compliant Rule 11(c)(1)(C) sentences regardless of whether the agreed sentence imposed would have otherwise been compliant with the applicable Guidelines range and/or sentencing options.

⁴⁰ In order to address atypical cases or offenders, the Guidelines allow judges to depart from the recommended sentencing range and options. Departures are classified as either aggravating or mitigating departures depending on whether they depart higher or lower than the sentence type or prison range called for by the Grid box. There are 11 aggravating departure principles that may be used when the sentence imposed by the judge is more severe than the sentence recommended by the Guidelines and 10 mitigating departure principles that may be applied when the sentence imposed by the judge is less severe than the Guideline recommended sentence. When one of the 21 departure principles is cited by a judge as a reason for departing from the applicable guidelines, the sentence is considered a "compliant departure."

⁴¹ For a more detailed explanation of the process, see Appendix E.

identify inaccuracies in the data, such as an incorrectly recorded sentence, a modified CH score, a departure principle the judge relied on but did not record, or an explanation of why he or she elected not to utilize the Sentencing Guidelines. In 2017, the Commission contacted the Superior Court and/or sent Departure Forms to judges for all counts that initially appeared non-compliant. Of the 89 Departure Forms sent to judges, the Commission received 77 replies. The 87% response rate represents an increase over previous years. The higher response rate improves the quality of the Commission's data and partially accounts for a decrease in non-compliant sentences (Figure 19).⁴²

Superior Court judges ordered a presentence report or requested an offender's CH score in 99% of all felony counts sentenced in 2017. The Commission received complete sentencing data for all cases for which CSOSA calculated the offender's CH score (consisting of a CH score, a conviction charge, and a sentence). One percent of felony counts sentenced involved instances in which the court did not request the offender's CH score or the judge sentenced the offender without a presentence report (PSR). Without the benefit of a CH score, compliance could not be calculated in these cases.

Prior to 2010, Guidelines compliant departure information was collected and categorized in the manner different than the current classification process. The compliance analysis contained in this section applies only for data from 2010 through 2017. This allows the Commission to provide an accurate assessment of trends related to compliant departures and overall judicial compliance.

D. Compliance Analysis

1. Overall Compliance

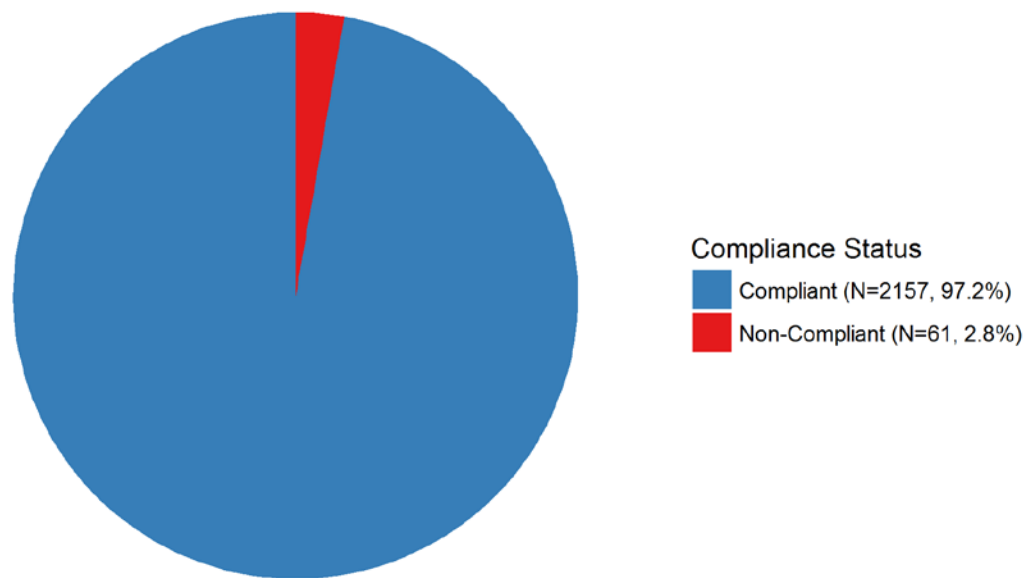
In 2017, Superior Court judges imposed sentences for 2,244 felony counts.⁴³ The Commission calculated Guidelines compliance for 2,218 of the 2,244 counts sentenced. The remaining 26 counts occurred in cases where the Guidelines did not apply⁴⁴ (n=4) or where the Superior Court did not request a Presentence Investigation Report or CH score calculation (n=22). Counts sentenced without a CH score (except for Rule 11(c)(1)(C) sentences) have also been removed from the historical data used throughout this chapter.

⁴² If a judge does not respond to a Departure Form or Commission follow-up, the sentence is deemed non-compliant.

⁴³ As noted previously, this number represents initial counts sentenced; it does not include sentences following revocation of probation or remand from the Court of Appeals.

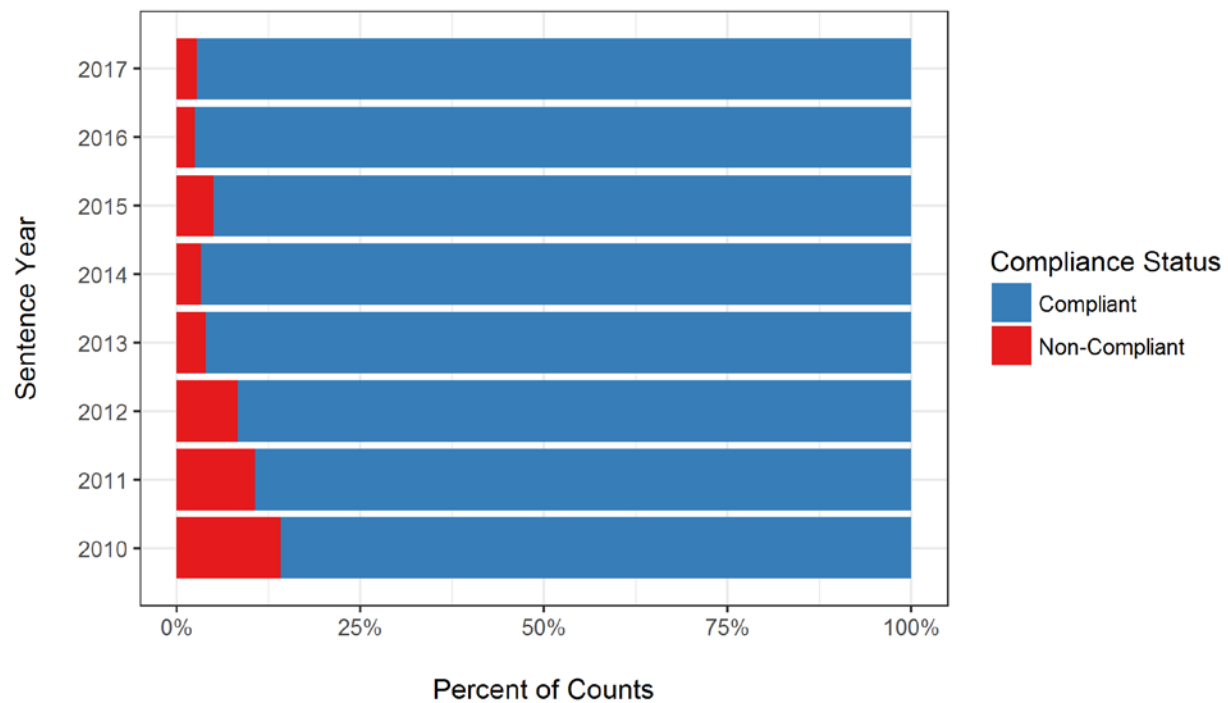
⁴⁴ The Guidelines do not apply to sentences where a defendant's guilt was determined prior to June 14, 2004.

Figure 19: Overall Judicial Compliance (2017)



Overall, the rate of judicial compliance with the Sentencing Guidelines has remained above 85% (Figure 20). The 97.5% Guidelines compliance rate in 2016 was the highest compliance rate observed by the Commission. In 2017, this rate decreased slightly to 97.2%.

Figure 20: Trends in Judicial Guidelines Compliance (2010 - 2017)

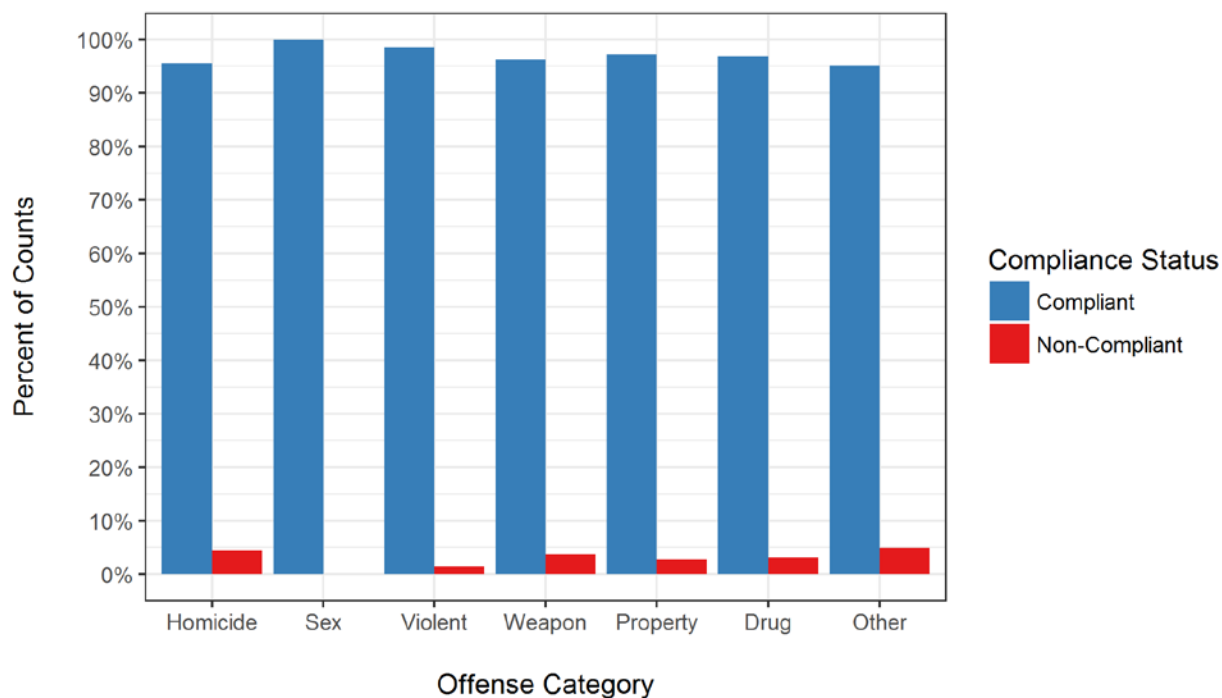


	2010 (N=1900)	2011 (N=1636)	2012 (N=2703)	2013 (N=2295)	2014 (N=2278)	2015 (N=1949)	2016 (N=2110)	2017 (N=2218)
Compliant	85.8%	89.4%	91.7%	96.1%	96.7%	95.0%	97.5%	97.2%
Non-Compliant	14.2%	10.6%	8.3%	3.9%	3.3%	5.0%	2.5%	2.8%

2. Compliance by Offense Category

Figure 21 shows the percentage of compliant and non-compliant sentences imposed by offense category. The highest rates of compliance were observed for Sex (100%) and Violent (99%) offenses, while the lowest compliance rate was for Other offenses (95%).

Figure 21: Compliance by Offense Category (2017)

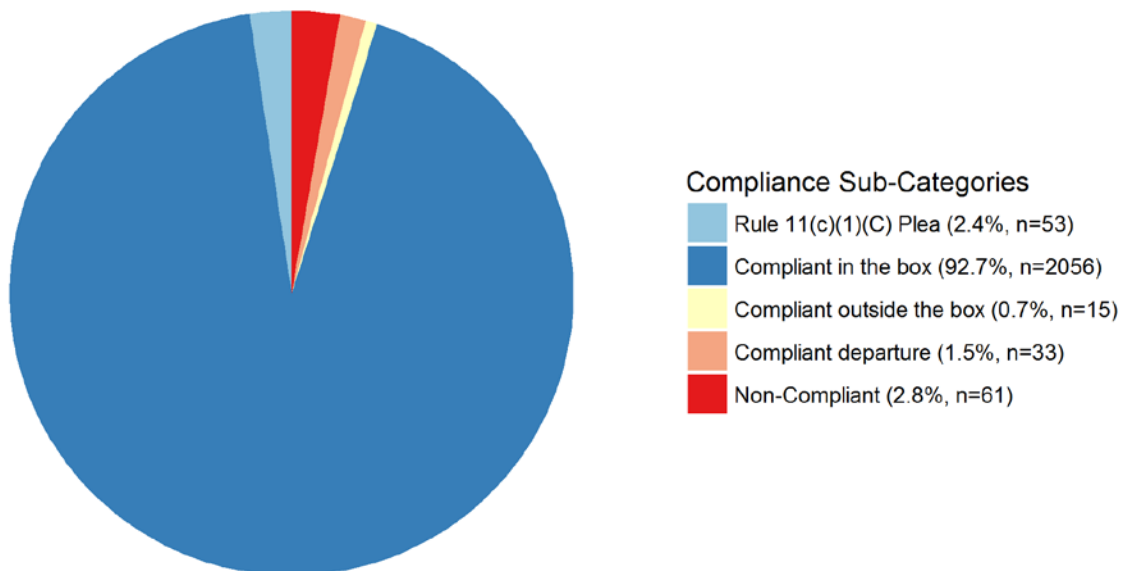


	Homicide	Sex	Violent	Weapon	Property	Drug	Other
Compliant	96%	100%	99%	96%	97%	97%	95%
Non-Compliant	4%	0%	1%	4%	3%	3%	5%

3. Judicial Compliance Sub-Categories

Judicial compliance with the Guidelines can be further divided into subcategories based on the different types of compliant sentences: Rule 11(c)(1)(C) Pleas, Compliant in the box, Compliant outside the box, Compliant departure, and Non-Compliant sentences (Figure 22).

Figure 22: Compliance Sub-Categories (2017)



As shown in Figure 23, the proportion of compliant in the box sentencing steadily increased between 2010 and 2013 from 86% to 92%, decreased to 87% in 2014, and has continued to increase since then to 93% in 2017.

Figure 23: Trends in Compliant in the Box Sentencing (2010 - 2017)

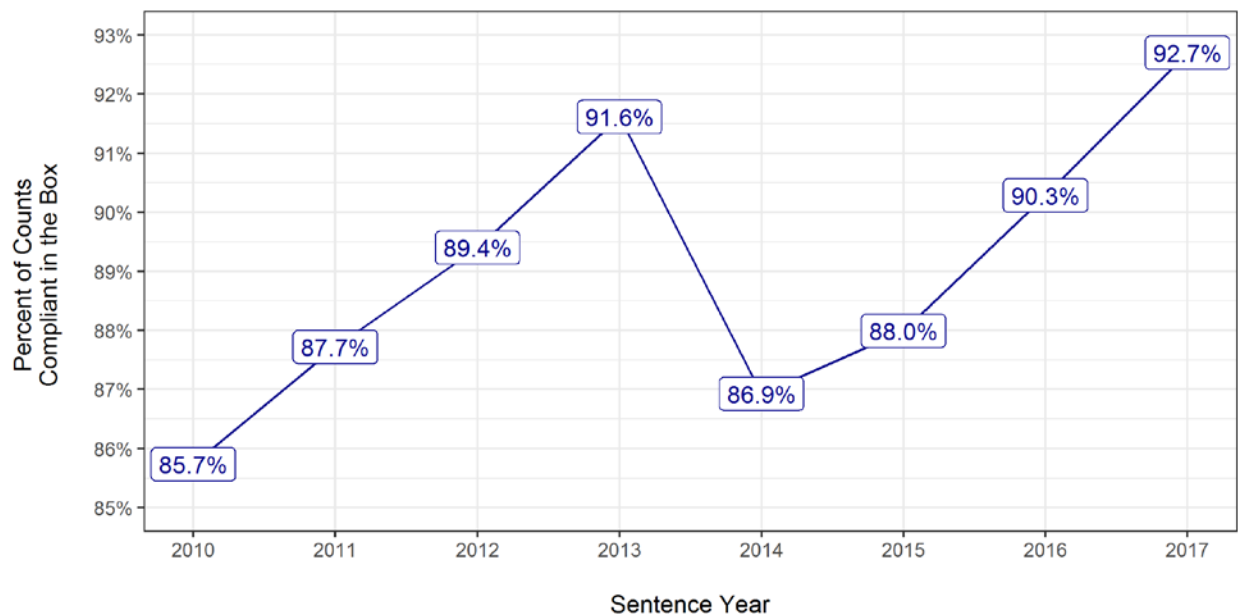
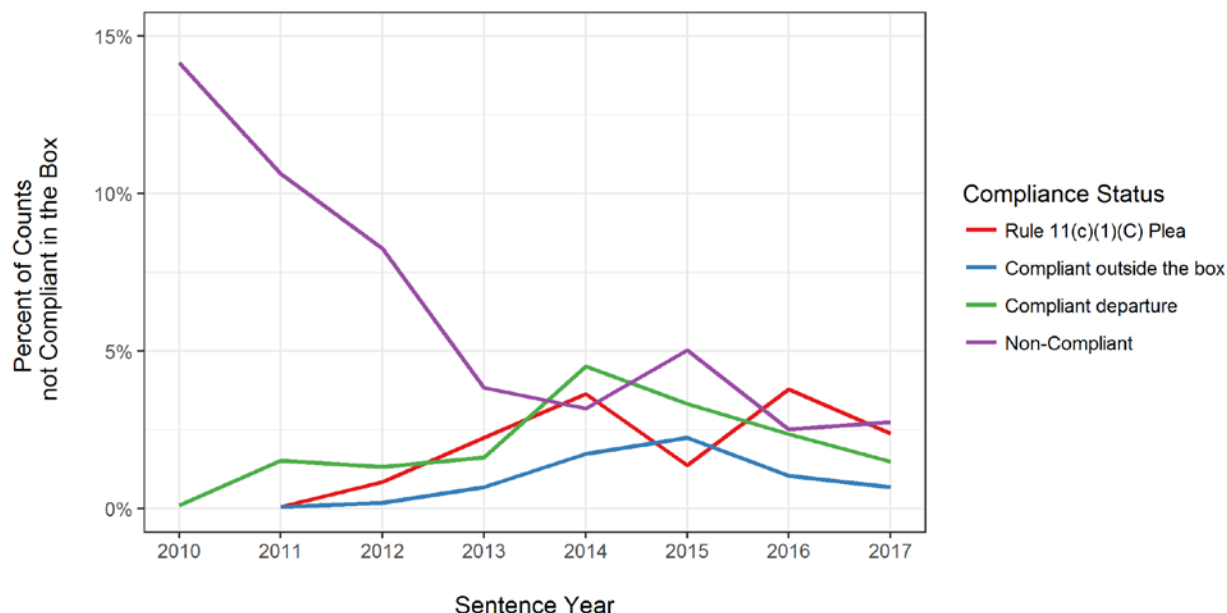


Figure 24 shows the trends in outside of the box sentences. There are four categories of outside the box sentences: Non-Compliant sentences (n=61), Compliant Departures (n=33), Compliant Outside the Box sentences (n=15), and Rule 11(c)(1)(C) Pleas (n=53).

Figure 24: Trends in Sentencing not Compliant in the Box (2010 - 2017)



The 46% decrease in compliant departure sentences and the 15% increase in non-compliant sentences may be attributed to the Commission’s efforts to clarify the Guidelines rules for defendants convicted of “Unlawful Possession a Firearm of By a Person With a Prior Felony” (UPF-Prior Felony), particularly those falling in box 7B of the Master Grid. Historically, this offense has had the highest number of compliant departures. UPF-Prior Felony presents a challenge at sentencing because judges must impose a one year mandatory minimum sentence, thus eliminating the possibility of an otherwise available short split sentence. Previously, when this situation arose, judges tended to impose an outside the box sentence but selected a mitigating departure factor, thus imposing a compliant departure sentence. After the Commission clarified that an outside the box sentence imposed solely due to the mandatory minimum should be classified as a non-complaint departure, judges began imposing more compliant in the box and non-complaint sentence for this offense.

Table 7 below provides a summary of the compliance rates detailed in the above Figures 24 through 26.

Table 7: Trends in Compliance Sub-Categories (2010 - 2017)

	2010 (N=1900)	2011 (N=1637)	2012 (N=2726)	2013 (N=2348)	2014 (N=2364)	2015 (N=1949)	2016 (N=2110)	2017 (N=2218)
Rule 11(c)(1)(C) Plea	0%	0.1%	0.8%	2.3%	3.6%	1.4%	3.8%	2.4%
Compliant in the box	85.7%	87.7%	89.4%	91.6%	86.9%	88.0%	90.3%	92.7%
Compliant outside the box	0%	0.1%	0.2%	0.7%	1.7%	2.3%	1.0%	0.7%
Compliant departure	0.1%	1.5%	1.3%	1.6%	4.5%	3.3%	2.4%	1.5%
Non-Compliant	14.2%	10.6%	8.3%	3.8%	3.2%	5.0%	2.5%	2.8%

E. Compliant Departures

Compliant Departures occurred in 2% (33) of all felony counts sentenced in 2017, with each assigned a departure factor.⁴⁵ These departures offer insight into why judges may choose to impose a sentence outside of the Guidelines grid boxes in particular cases. Judges cited the following aggravating (A) and mitigating (M) factors for departures in 2017:

- *A1*: There was deliberate cruelty to a victim or there was gratuitous violence inflicted upon a victim in a manner substantially beyond that normally associated with this offense.
- *M1*: A victim was an aggressor, initiator, willing participant in, or provoker of the incident to such a degree that the defendant's culpability is substantially less than that typically associated with the offense.
- *M6*: The defendant's capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was impaired significantly, though not sufficiently to constitute a complete defense. Voluntary use of alcohol or other drugs should not be considered in relation to this mitigating factor.
- *M7*: The defendant has provided substantial assistance to law enforcement in the detection or prosecution of other offenders, and departure for this reason does not demean the seriousness of the defendant's crime or create an unacceptable risk to the safety of the community.
- *M8*: The guideline sentence calls for a prison sentence but, after consultation with corrections authorities, the court determines that the defendant, by reason of obvious and substantial mental or physical impairment or infirmity, cannot be adequately protected or treated in any available prison facility.

⁴⁵ Appendix D lists all available Aggravating and Mitigating Departure Factors.

- *M9*: The consecutive/concurrent sentencing policy results in a guideline sentence that is so excessive in relation to the seriousness of the offense and history of the defendant that imposition of the guideline sentence would result in manifest injustice. A departure based solely on this factor shall not result in a sentence that is less than the sentence that would result if all guideline sentences were concurrent.
- *M10*: There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in mitigating factors 1 to 9, which does not amount to a defense but which substantially mitigates the seriousness of the offense or the defendant's culpability.

Table 8 displays the compliant departure factors cited by judges for sentences in 2017. In these cases, the sentencing judge imposed an outside the box sentence and utilized an appropriate departure factor. There was a 46% decrease in the number of compliant departures reported in 2017 (N=27)⁴⁶ compared to 2016 (N=50).

Table 8: Compliant Departure Reasons by Severity Group (2017)

Departure Factors	Offense Severity Groups									
	M3	M4	M5	M6	M7	M8	M9	D2	D3	(all)
A1						1	1			2
M1				1						1
M6								1		1
M7		1	3	2					1	7
M8				1		1				2
M9	1		2	1				1		5
M10				1	3	1	1		3	9
(all)	1	1	5	6	3	3	2	2	4	27

Of the 27 compliant departure sentences, 25 were mitigating departures, where the Superior Court imposed sentences below the recommended sentencing range and/or options. The most common mitigating departure principle cited was M10 (9 counts), followed by M7 (7 counts). Of the 25 mitigating departure sentences imposed in 2017, 11 were dispositional departures where the total length of the sentence was within the in the box range, but the sentence type was not recommended by the Guidelines for the defendant's specific grid box.

Aggravating factors were recorded in two felony counts for offenses in the M8 and M9 severity groups. Departure factor A1 was cited for both aggravating departures and both sentences were durational departures.

Figure 25 shows the lengths of the 16 durational departure sentences imposed in 2017. The mean durational departure length was 13.8 months. However, when one outlier of 54 months was removed from the analysis, the mean durational departure dropped to 11.1 months. This shows that most durational departures did not fall far outside of the in the box sentence range.

⁴⁶ Departure factor information was not available for six of the 33 compliant departure sentences imposed.

Figure 25: Compliant Departures - Months Sentenced Above/Below Guidelines Range (2017)



F. Non-Compliant Departures

A sentence is considered a non-compliant departure when the judge imposes an outside the box sentence without citing a departure principle. In 2017, there were 61 non-compliant departures, representing 3% of the 2,244 initial felony counts sentenced and a 15% increase from the number of non-compliant departures in 2016 (n=53). Table 9 shows the frequency of non-compliant sentences that were imposed in each OSG. In 2017, similar to 2016, most non-compliant sentences (34%) were imposed in M7. Only one non-compliant departure was imposed in the most severe grid boxes (M4 and higher).

Table 9: Non-Compliant Sentences by Severity Group (2017)

Severity Group	N
M2	1
M5	4
M6	7
M7	21
M8	6
M9	5
D2	7
D3	8
D4	2
Total Non-Compliant Sentences	61

Figure 26 depicts durational upward and downward non-compliant departures in terms of sentence length above or below the Guidelines sentence range.

Figure 26: Non-Compliant Departures - Months Sentenced Above/Below Guidelines Range (2017)



Of the 61 non-compliant sentences in 2017, 54 were downward departures. Of the total number of downward departures, 30 were durational downward departures, where the defendant received a sentence length less than the range specified in the Guidelines (Figure 28). There were 24 sentences representing dispositional downward departures, where the defendant received a sentence type less severe than the Guidelines advised. The remaining seven of the 61 non-compliant sentences in 2017 were durational upward departures (Figure 28), where the defendant received a sentence length more than the range of length specified in the Guidelines.

In summary, while the number of felony counts sentenced increased in 2017, the rate of judicial compliance remained at or above 95% for a fifth consecutive year, with a compliant in the box sentencing rate of 93%. The highest rate of compliance was observed for Sex and Violent offenses, while the Other offense category represented the lowest rate of compliance. The increase in departure letter responses has improved the quality of compliance related data and has enabled the Commission to analyze compliance in greater detail.

APPENDIX A - GUIDELINES MASTER GRID

		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
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 Possession of firearm /CV 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 Negligent homicide Attempt 2nd degree sex abuse Unlawful poss. of a firearm (prior fel.)	12 - 36	18 - 42	24 - 48	30 - 54	36 +
1 Point*	Group 8 Carrying a pistol (formerly CPWL) UUV Attempt robbery Attempt burglary 1st degree theft Assault w/significant bodily injury	6 - 24	10 - 28	14 - 32	18 - 36	22 +
	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.						
Green/dark shaded boxes – prison, compliant long split, or short split permissible.						
Yellow/light shaded boxes – prison, compliant long split, short split, or probation permissible.						

APPENDIX B - GUIDELINES DRUG GRID

		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+
1 Point*	Group 2 Distribution or PWID (schedule I or II narcotic/ abusive drugs)	12-30	16-36	20-42	24-48	28+
	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.						
Green/dark shaded boxes – prison, compliant long split, or short split permissible.						
Yellow/light shaded boxes – prison, compliant long split, short split, or probation permissible.						

APPENDIX C - GROUP OFFENSE LISTINGS

The top five grouped offense sub-categories are comprised of the following crimes:

Robbery:

- A. Robbery -- while armed (W/A)
- B. Robbery
- C. Robbery -- Attempt while armed (W/A)
- D. Robbery -- Attempt
- E. Armed carjacking
- F. Unarmed carjacking

Drug, PWID+Dist and Attempted drug offenses:

- A. Drug -- Dist. or PWID: Schedule I, II Narcotic and abusive drugs (heroin, cocaine, PCP, methamphetamine, etc.)
- B. Drug -- Dist. or PWID: Schedule I, II, III Non-narcotic and non-abusive drugs (including marijuana -- 2nd offense or > ½ pound)
- C. Drug -- Dist. or PWID: Schedule IV
- D. Drug -- Possession of Liquid PCP
- E. Drug -- Dist. to Minors
- F. Dist. of a Controlled Substance -- Attempt
- G. Dist. of a Controlled Substance to Minors -- Attempt
- H. PWID -- Attempt
- I. Unlawful Possession of Liquid PCP -- Attempt

Assault:

- A. Aggravated Assault while armed (W/A)
- B. Aggravated Assault
- C. Aggravated Assault -- Attempt
- D. Aggravated Assault Knowingly -- Grave Risk
- E. Assault with a Dangerous Weapon (ADW)
- F. Assault with a Dangerous Weapon (ADW) -- Gun
- G. Assault on Police Officer (APO) while armed (W/A)
- H. Assault on Police Officer (APO)
- I. Assault on Police Officer (APO) w/ deadly weapon -- 2nd+ offense or prior felony
- J. Assault with Intent to Kill or Poison while armed (W/A)
- K. Assault with Intent to Kill or Poison

- L. Assault with Intent to Rob while armed (W/A)
- M. Assault with Intent to Rob
- N. Assault with Intent to 1° or 2° Sex or Child Sex Abuse while armed (W/A)
- O. Assault with Intent to 1° or 2° Sex or Child Sex Abuse
- P. Assault with Intent to Commit any other Felony while armed (W/A)
- Q. Assault with Intent to Commit any other Felony
- R. Assault with Intent to Commit any other Offense
- S. Assault with Intent to Commit Mayhem while armed (W/A)
- T. Assault with Intent to Commit Mayhem
- U. Assault with Significant Injury
- V. Mayhem
- W. Threat to Kidnap or Injure a Person

Weapon:

- A. Carrying Pistol Without License (CPWL), Carrying Dangerous Weapon (CDW)
- B. Carrying Pistol Without License (CPWL), Carrying Dangerous Weapon (CDW)
- C. 2nd+ offense or after felony conviction
- D. Firearm, Presence in a Motor Vehicle Containing: Prior gun conviction or felony
- E. Firearm, Presence in a Motor Vehicle Containing
- F. Firearm, Unlawful Possession of by a person with a prior conviction > 1 yr
- G. Firearm, Unlawful Possession of by a person with a prior conviction > 1 yr and COV other than Conspiracy
- H. Firearm, Unlawful Possession of by others
- I. Possession of a Firearm During a Crime of Violence or Dangerous Offense
- J. Possession of a Prohibited Weapon
- K. Unlawful Possession of a Firearm
 - Prior Crime of Violence
 - Intrafamily Offense
 - Order to Relinquish
 - Prior Conviction (Felon in Possession)

APPENDIX D - GUIDELINES DEPARTURE FACTORS

Aggravating Factors

- A1: There was deliberate cruelty to a victim or there was gratuitous violence inflicted upon a victim in a manner substantially beyond that normally associated with this offense.
- A2: A victim was particularly vulnerable due to age or reduced physical or mental capacity, which was known or should have been known to the offender, unless that vulnerability constituted an element of the offense of conviction.
- A3: A victim sustained a "devastating injury." Devastating injury is defined as a physical or mental injury that results in one or more of the following: (a) Permanent and substantial impairment of the person's employment opportunity and/or lifestyle; (b) Permanent, gross disfigurement; or (c) Medical confinement and/or immobilization for a period of more than three months.
- A4: The crime committed or attempted was substantially premeditated, as evidenced by a high degree of planning or sophistication or planning over an extended period of time.
- A5: The defendant committed for hire or hired another to commit any one of the following offenses: Murder; Manslaughter; First-Degree Sexual Abuse; Kidnapping; Mayhem/Malicious Disfigurement; Aggravated Assault; Assault with intent to commit any of the foregoing; Assault with intent to kill; Assault with a Deadly Weapon; or Arson.
- A6: The offense was part of an enterprise significantly related to organized crime or high-level drug trafficking. This aggravating factor does not apply in cases charging only distribution or possession with intent to distribute a controlled substance where the defendant's only connection to organized crime or high-level drug trafficking is street-level drug trafficking.
- A7: The defendant threatened, bribed, attempted to bribe, induced, or attempted to induce a victim, a member of the victim's family, or a potential witness, or any other person to withhold truthful testimony or provide false testimony, or otherwise attempted to obstruct justice, unless the defendant is separately convicted of an offense that arises out of the same conduct.
- A8: The offense is a violation of Chapter 32 of Title 22 of the D.C. Official Code, which involves an intended or actual monetary loss substantially greater than what would normally be associated with the offense or any one or more of the following: (a) The offense(s) involved multiple victims or multiple incidents per victim; (b) The defendant has been involved in other conduct similar to the current offense(s) as evidenced by the findings of criminal, civil or administrative law proceedings or the imposition of professional sanctions; and/or (c) The defendant used his or her position of confidence or fiduciary responsibility to facilitate the commission of the offense(s).
- A9: The offender, in attempting to gain or while holding public office by appointment or election, betrayed the public trust by his or her unlawful conduct.
- A10: The consecutive/concurrent sentencing policy results in a guideline sentence so lenient in relation to the seriousness of the offense and the history of the defendant that imposition of the guideline sentence would result in manifest injustice. A departure based solely on this

factor shall not result in a sentence that exceeds the sentence that would result if all guideline sentences were consecutive.

- A11: There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in 1 to 10 above, which aggravates substantially the seriousness of the offense or the defendant's culpability. Note: Going to trial is not an aggravating factor and should not be used to go outside of the box.

Mitigating Factors

- M1: A victim was an aggressor, initiator, willing participant in, or provoker of the incident to such a degree that the defendant's culpability is substantially less than that typically associated with the offense.
- M2: Before detection in a crime other than a crime of violence, the defendant compensated or made a good faith effort to compensate the victim(s) for any damage or injury sustained.
- M3: The defendant participated under duress, coercion, threat or compulsion insufficient to constitute a complete defense, but which significantly reduces the defendant's culpability.
- M4: The offense was principally accomplished by another, and the defendant manifested extreme caution or sincere concern for the safety and well-being of a victim.
- M5: The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.
- M6: The defendant's capacity to appreciate the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of law was impaired significantly, though not sufficiently to constitute a complete defense. Voluntary use of alcohol or other drugs should not be considered in relation to this mitigating factor.
- M7: The defendant has provided substantial assistance to law enforcement in the detection or prosecution of other offenders, and departure for this reason does not demean the seriousness of the defendant's crime or create an unacceptable risk to the safety of the community.
- M8: The guideline sentence calls for a prison sentence but, after consultation with corrections authorities, the court determines that the defendant, by reason of obvious and substantial mental or physical impairment or infirmity, cannot be adequately protected or treated in any available prison facility.
- M9: The consecutive/concurrent sentencing policy results in a guideline sentence that is so excessive in relation to the seriousness of the offense and history of the defendant that imposition of the guideline sentence would result in manifest injustice. A departure based solely on this factor shall not result in a sentence that is less than the sentence that would result if all guideline sentences were concurrent.
- M10: There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in 1 to 9 above, which does not amount to a defense but which substantially mitigates the seriousness of the offense or the defendant's culpability.

APPENDIX E - THE SEVEN-STEP PROCESS TO DETERMINE AND VERIFY JUDICIAL COMPLIANCE

Step 1 - Identify Felony Offenses

The Sentencing Guidelines only apply to felony convictions; therefore, compliance is not calculated for misdemeanor offenses. The offense charge code within the GRID System is associated with each count in a case and can determine if the count is a felony or misdemeanor offense. If the GRID System does not recognize a charge code, the system will automatically generate a notification. Staff then reviews the offense and updates the system with the new charge code information. If the case contains at least one felony count, the process then proceeds to step 2.

Step 2 - Determine the Appropriate Grid Box

The GRID System computes compliance for every felony count sentenced. Compliance is determined automatically based upon the sentencing option available in the appropriate grid box. If a sentence falls within the recommended sentence type and range available in the applicable grid box, then the sentence is deemed compliant with the Guidelines. If the sentence does not fall within the recommended sentence type and range, the process then proceeds to step 3.

Step 3 - Determine if the Sentence Runs Concurrently with another Count

An otherwise non-compliant sentence may still be compliant with the Guidelines if it runs concurrent with a greater or equal compliant sentence for a count within the same case. For this to occur, both sentences must be eligible to run concurrently under the Guidelines.⁴⁷ In an eligible case containing multiple counts, if the non-compliant sentence runs concurrently with an equal or longer compliant sentence, then the otherwise non-compliant sentence is deemed to be a compliant outside-the-box sentence. The GRID System reclassifies the sentence as compliant because the longest sentence among concurrent counts determines the length of time a defendant will actually serve in prison. If the sentence does not run concurrent to another sentence or if the longest sentence is non-compliant, the process then proceeds to step 4.

Step 4 - Determine if the Sentence is the Result of an Appropriate Departure Factor or a Statutory Enhancement

There are several instances when an otherwise non-compliant sentence is nonetheless compliant with the Guidelines due to noted departure factors or statutory enhancements. When a sentencing judge imposes a non-compliant sentence but selects an enumerated departure reason, the sentence is deemed a compliant departure.⁴⁸ If the court records the departure factor, the GRID system will automatically mark the sentence as a compliant departure and record the reason for

⁴⁷ Chapter Six of the Guidelines Manual discusses which sentences may not run concurrently. For example, two crimes of violence committed against two separate people cannot run concurrent to each other. Similarly, two crimes of violence against one person but occurring as part of two separate events cannot run concurrently with each other.

⁴⁸ See Appendix D for the full list of departure factors.

the departure. Sentences above the recommended Guidelines range due to a statutory enhancement are also deemed to be complaint if the sentence falls within the expanded range.⁴⁹ The GRID system incorporates enhancements into its calculations when they are reported by the Superior Court in the IJIS 12.1 feed. Non-reported enhancements are verified and manually entered into the GRID system by Commission staff. If a departure cannot be determined or an enhancement does not apply, the process then proceeds to step 5.

Step 5 - Determine if the Sentence is the Result of a Special Circumstance or is Non-Guideline Applicable

Certain special factors can change how a sentence is treated under the Guidelines:

Rule 11(c)(1)(C) plea bargains: The Guidelines and the GRID system classify all sentences following a Superior Court Rule (SCR-Crim.)11(c)(1)(C) plea compliant, regardless of whether the actual agreed upon sentence falls within the in the box sentence range and/or options. This is done because SCR-Crim. Rule 11(c)(1)(C) pleas are agreed to by the parties before the defendant's CH Score was calculated.

Pleas and verdicts entered before June 14, 2004: The Guidelines do not apply to a sentence from a plea or verdict before June 14, 2004. Therefore, the GRID system automatically deems these sentences as "non-guideline applicable" sentences.

Indeterminate sentences: Most Indeterminate sentences are deemed "non-guideline applicable" sentences because The District of Columbia changed from an indeterminate to a determinate system of sentencing⁵⁰ on August 5, 2000⁵¹. The Guidelines were designed primarily for the new determinate system. However, a small number of pleas or verdicts entered after June 14, 2004, are cases in which an indeterminate sentence must be imposed because the offense was committed before August 5, 2000. If the plea or verdict was entered on or after June 14, 2004, the Guidelines apply regardless of when the offense was committed - i.e., whether the offense was committed before or after August 5, 2000. Commission staff manually evaluates compliance for indeterminate sentences.

Remand sentences are labeled "Remand" by the GRID system and are not evaluated for initial Guidelines compliance. A remand is a case sent back to the sentencing court for re-sentencing from the Court of Appeals.

⁴⁹ Chapter Four and Appendix H of the Guidelines Manual address expanding the Guidelines range based upon a statutory enhancement. For example, if a gun offense is committed in a designated "gun-free zone," the upper limit of the Guidelines range is doubled.

⁵⁰ Determinate sentences are sentences that consist of one number. For example, a sentence of 35 months incarceration is a determinate sentence. An indeterminate sentence is a sentence given in a range. For example, a sentence of 30 to 40 months incarceration is an indeterminate sentence.

⁵¹ See D.C. Code § 24-403.01 (sentencing, supervised release, and good time credit for felonies committed on or after August 5, 2000) (Formerly § 24-203.1).

The GRID system also checks the compliance status of sentences following a probation revocation. However, for data analysis purposes, these sentences are separated and not used to calculate the overall initial compliance rate.⁵²

If one of the above conditions does not apply, the process then proceeds to step 6.

Step 6 - Verification of Non-Compliance

If, after completion of the five initial steps outlined above, the sentence still appears to be non-compliant, the offender's case and CH score information is manually reviewed by Commission staff to verify that the data upon which the GRID System performed its evaluation is valid and that there are no data quality issues present. Simultaneously, compliance is rechecked using data from an alternate source: the CJCC JUSTIS System. If the sentence is still non-compliant after the information is verified, one final step must be taken.

Step 7 - Departure Forms

For sentences that still appear to be non-compliant after the previous six steps are completed, the Commission sends an electronic Departure Form to the sentencing judge to verify the sentencing data and to inquire as to whether the judge intended to impose a non-compliant sentence. The Commission has a follow-up process for all Departure Forms sent, allowing for a six week response period. If no response is received, the Commission then proceeds with the initial sentence and updates the GRID System accordingly. The Departure Form allows the judge to easily update or correct any information regarding the case. For example, if the defendant's CH Score was changed during the sentencing hearing, the judge may provide the updated CH Score. The sentencing judge may also provide a reason for intentionally imposing a non-compliant sentence.

⁵² Probation revocation sentences are not included in the overall Guidelines compliance rate because they would result in compliance being calculated twice for the same case and count, once when the sentence was initially imposed, and once again when probation is revoked.

APPENDIX F - ANALYSIS OF WEAPON, VIOLENT, AND DRUG OFFENSES BY GENDER

Weapon Offenses⁵³

Criminal History Score and Sentence Length by Gender, Case Level (2010 - 2017)

	Average Criminal History Score		Sentence Length Imposed (Months)			
			Mean		Median	
Sentence Year	Female	Male	Female	Male	Female	Male
2010	-	1.9	-	50.1	-	48
2011	0.8	1.9	24.0	37.4	24	36
2012	0.1	2.2	13.0	41.2	12	30
2013	0.3	1.9	24.0	33.6	24	24
2014	0.8	1.5	16.0	20.9	6	18
2015	0.7	1.8	10.5	25.8	9	24
2016	0.6	1.4	10.8	22.5	8.5	18
2017	1.3	1.5	18.0	22.8	15	18

Sentence Type by Gender, Case Level (2010 - 2017)

	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
Sentence Year	Female	Male	Female	Male	Female	Male
2010	-	11%	-	11%	-	78%
2011	0%	10%	0%	0%	100%	90%
2012	67%	7%	0%	4%	33%	89%
2013	0%	12%	100%	14%	0%	73%
2014	67%	23%	0%	13%	33%	64%
2015	50%	21%	25%	13%	25%	66%
2016	67%	37%	0%	10%	33%	53%
2017	50%	29%	0%	10%	50%	61%

⁵³ For each year between 2010 and 2017, the number of female offenders with Weapons cases was fewer than ten.

Drug Offenses

Criminal History Score and Sentence Length by Gender, Case Level (2010 - 2017)

	Average Criminal History Score		Sentence Length Imposed (Months)			
			Mean		Median	
Sentence Year	Female	Male	Female	Male	Female	Male
2010	1.4	2.2	14.1	19.1	12	18
2011	1.6	2.1	13.0	18.3	12	18
2012	1.4	2.1	13.1	18.6	12	18
2013	1.0	1.9	12.6	17.6	12	16
2014	1.3	2.0	12.4	16.2	12	14
2015	1.2	2.2	13.5	15.7	12	14
2016	1.4	2.0	11.8	14.8	12	14
2017	1.4	2.1	10.8	14.9	10	14

Sentence Type by Gender, Case Level (2010 - 2017)

	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
Sentence Year	Female	Male	Female	Male	Female	Male
2010	43%	24%	20%	13%	37%	63%
2011	44%	27%	13%	13%	43%	59%
2012	34%	23%	18%	19%	48%	58%
2013	41%	25%	10%	20%	48%	55%
2014	45%	33%	23%	23%	32%	44%
2015	73%	50%	14%	24%	14%	25%
2016	62%	60%	24%	20%	14%	20%
2017	61%	46%	25%	28%	14%	26%

Violent Offenses

Criminal History Score and Sentence Length by Gender, Case Level (2010 - 2017)

	Average Criminal History Score		Sentence Length Imposed (Months)			
			Mean		Median	
Sentence Year	Female	Male	Female	Male	Female	Male
2010	0.8	1.7	20.6	39.2	19	24
2011	1.1	1.4	21.0	37.5	19	24
2012	0.7	1.4	15.1	29.2	12	20
2013	1.0	1.5	20.1	28.8	18	24
2014	0.8	1.5	25.0	33.5	18	24
2015	0.7	1.7	19.5	34.9	18	24
2016	0.8	1.5	20.9	35.3	18	24
2017	0.6	1.6	28.2	34.0	18	24

Sentence Type by Gender, Case Level (2010 - 2017)

	Sentence Type					
	Percent Probation		Percent Short Split		Percent Prison	
Sentence Year	Female	Male	Female	Male	Female	Male
2010	13%	6%	50%	9%	38%	84%
2011	5%	5%	0%	8%	95%	86%
2012	42%	16%	8%	16%	50%	68%
2013	33%	15%	27%	17%	40%	68%
2014	23%	12%	26%	16%	51%	72%
2015	42%	18%	36%	21%	21%	61%
2016	41%	20%	29%	22%	31%	58%
2017	39%	16%	35%	20%	27%	64%