

## EXECUTIVE SUMMARY

During 2010, the District of Columbia Sentencing and Criminal Code Revision Commission (the “Commission”) achieved a number of significant goals in furtherance of sound sentencing policy for the District. The Commission completed implementation of the electronic transfer of sentencing data between it and the D.C. Superior Court and also submitted its first recommended legislation to the Council for criminal code reform entitled the “Fine Proportionality Act of 2011.” Finally, the Commission developed the first major structural changes to the Guidelines since their implementation in 2004. These accomplishments were in addition to its continued monitoring and updates to the Voluntary Sentencing Guidelines to ensure that the goals of fairness and consistency are maintained.

### **Data Collection and Analysis**

This year’s report contains a description of improvements the Commission has made to its data transfer and collection practices. Although the Commission has been collecting sentencing data since its inception, there have been ongoing limitations with both the timeliness and the quality of the data available to the Commission. In order to properly monitor and evaluate sentencing practices related to the Guidelines, valid and reliable data is crucial. For a number of years the Commission has attempted to facilitate the electronic transfer of data from the D.C. Superior Court but has encountered significant technology challenges. Through a multi-agency effort, in the past year each technological problem was addressed and resolved. This resulted in the agency receiving a one-time, historic data transfer of approximately 15,000 cases dating back to 2006, and it is currently receiving sentencing data on a daily basis from the Court. The Commission now has a comprehensive sentencing database that will permit an in-depth analysis of the effectiveness of the Guidelines.

To improve its monitoring of judicial compliance with the Voluntary Sentencing Guidelines, the Commission enacted a new protocol for obtaining information about sentences that appear to be non-compliant. This year, the Commission implemented a multi-step process for investigating these apparent non-compliant sentences, which includes a new, user-friendly “Compliance Survey” to query judges about particular cases. This process has significantly increased response rates as well as compliance rates, since many sentences become compliant once the judge provides clarification of a sentence imposed. This year’s compliance rate is approximately 96%, compared to 88.1% reported in 2009. Examining compliance is a vital part of monitoring the effectiveness of the Guidelines and identifying areas that may require modification.

The final data improvement relates to criminal history information the Commission uses in the calculation of the recommended Guidelines sentence. Historically, the Court Services and Offender Supervision Agency (CSOSA) has provided criminal history data to the Commission through a Word document that is then manually entered into the agency’s data base. The process

is both time consuming and vulnerable to data entry errors. The Commission is in the process of replacing the current Word document with an electronic InfoPath form that standardizes data formats, calculates the criminal history score and transfers the data electronically into the agency's database. This change will improve the quality of the Commission's criminal history data and allow for a more efficient use of staff resources.

The analysis of sentences in 2010 shows that the number of cases and counts sentenced are consistent with what the Commission reported in 2009. Likewise, offender race and gender demographics remain stable, although a small group of offenders were recorded without gender identification. There is a minor decrease in the percentage of offenders identified as White, but it is not clear whether this is a true decrease or a result of how an offender's race is being reflected in the data.

As was true in prior years, offenders between 18 and 23 years of age represented the largest age group of offenders sentenced in 2010. However, the largest age group of sentenced female offenders was in the early- to mid-forties. There was a statistically significant, but weak relationship between gender and type of sentence imposed, reflecting a higher percentage of probation sentences for females than for males.

Once again, drug offenses predominated, representing 40% of all charges sentenced during 2010. Violent and weapon offenses accounted for 19% and 18% of sentences respectively. Sex offenses represented only 2% of charges sentenced. Prison terms were imposed for 63.8% of all counts sentenced and probation was imposed in 23.9% of the counts. The remaining 11.4% of sentences were short split sentences.

### **Guidelines Modifications**

The Commission's second major accomplishment in 2010 was to implement structural changes to the Voluntary Sentencing Guidelines for the first time since their implementation in 2004. To ensure that the Guidelines promote sentencing consistency and proportionality, the Drug Grid was modified by adding a fourth Drug Group and adjusting sentencing options available on the grid.

A second structural change affected the calculation of criminal history scores. Criminal history was expanded to include all misdemeanors with a penalty of 90 days or more, including those prosecuted by the D.C. Office of the Attorney General, which previously had not been scored. This revision ensures that serious misdemeanors, regardless of the prosecuting agency or its placement in the District's code, are included in an offender's criminal history. The Commission will continue to explore structural changes of this kind as it fulfills its mission to ensure that similarly situated offenders convicted of similar crimes receive sentences that are comparable and proportional.

## **Criminal Code Revision Project**

Lastly, despite the staffing challenges encumbering the Criminal Code Revision Project, the Commission has made progress and submitted its first set of recommendations entitled “The Fine Proportionality Act of 2011,” to the Council of the District of Columbia in January. The proposed Act would standardize fines for all felony and most misdemeanor offenses within the District of Columbia. This initial recommendation addresses inconsistencies in fine amounts found in the current criminal code and provides for maximum fines that are proportional to the maximum term of incarceration for each specific offense.