

EXECUTIVE SUMMARY

The District of Columbia Sentencing and Criminal Code Revision Commission's (the Commission) 2011 Annual Report analyzes felony sentences imposed during 2011, describes substantive changes made to the Sentencing Guidelines, and identifies the rankings assigned to new felony offenses enacted during the year. This report also provides an overview of the Commission's work on the Criminal Code Revision Project. In addition to its statutory obligations, the Commission has undertaken a variety of activities to improve data collection and quality allowing it to better analyze sentencing trends and judicial compliance with the District's Voluntary Sentencing Guidelines.

Analysis of Felony Sentences

During 2011, 2,855 felony cases resulting in 3,959 individual counts were sentenced in the Superior Court of the District of Columbia (Superior Court) and reported to the Commission. Of the total number of cases sentenced, 2,372 were single count cases and 483 represented multiple count cases. Slightly more than 91% of all cases were disposed of through guilty pleas, with jury and bench trials accounting for only 9% of the total dispositions. Over half of all cases and counts received a sentence of incarceration, followed by probation, with split sentences accounting for the least number of sentences imposed.

Chapter Four provides an analysis of the sentences imposed for drug and non-drug offenses. Drug offenses represented just over 32% of all offenses sentenced. Non-drug offenses accounted for almost 68% of the total number of sentences, with violent crimes accounting for slightly over 25% of non-drug offenses.

Five grouped offenses including Possession with Intent to Distribute a Controlled Substance/ Distribution of a Controlled Substance (PWID+Dist), Attempted Drug Offenses, Weapon Offenses, Assault Offenses and Robbery Offenses account for slightly over 70% of all felony sentences imposed. A discussion of sentencing trends and offender demographics for these five offense categories is also included in Chapter Four.

Judicial Compliance

Chapter Five focuses on judicial compliance with the Sentencing Guidelines. Compliance involves comparing the sentence imposed with the sentence recommended under the Guidelines. A sentence is considered compliant if it falls within the Guideline compliant range determined by the Offense Severity Group ranking and criminal history category of the offender for each felony offense. If the sentence imposed falls within the Guideline range or if the Guidelines authorize a departure outside of that range, the sentence imposed is considered compliant.

Overall compliance rates for the sentencing guidelines have consistently been near or above 90% since their implementation in 2004. However, this year's compliance rate of 97.4% represents the highest rate to date and is a strong indicator of the acceptance and use of the Guidelines by Superior Court judges. Further analysis of compliant sentences reveals that 95% of sentences were compliant-in-the-box sentences, with compliant departures representing only 1.6% percent

of all sentences. Non-compliant sentences accounted for 2.6% of all felony sentences and were highest among drug offenses.

Modifications to the Sentencing Guidelines

This past year brought significant modifications to the Sentencing Guidelines which represented some of the first major structural changes to the Guidelines since their inception in 2004. The Commission's mandate requires it to promulgate revisions to the Guidelines to ensure certainty, consistency and adequacy of punishment. To support this mandate, the Commission revised the Drug Grid for pleas and verdicts entered on or after June 15, 2011, to create a more rational and proportional sentencing structure for drug offenses.

Chapter Two presents an overview of the rationale for restructuring the Drug Grid from its original three Offense Severity Groups to the revised four Offense Severity Groups and the redistribution of a limited number of drug offenses throughout the grid. Serious drug offenses remained on Drug Grid D1 and D2, with drug offenses having lower statutory maximums ranked on D3. Drug Offense Severity Group 4 (D4) was created solely for attempts and conspiracies of D3 offenses, in addition to the new drug offense of Possession of Liquid PCP.

A second structural change recalculated the criminal history point value assigned to some prior misdemeanor convictions in the calculation of criminal history scores. Under this change, all misdemeanors with a designated penalty of 90 days or more are now 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 monitor the Guidelines and implement changes necessary to support the guiding principles of fairness, consistency and proportionality.

Ranking of Felony Offenses

The Commission is charged with the task of ranking new felony offenses on the sentencing grids to ensure that the underlying goals of the Guidelines are supported. In 2011, the Commission ranked a total of 25 felony offenses including offenses focused on Human Trafficking, Sexual Abuse of a Secondary Education Student, Sexual Abuse While Armed and Possession of Liquid PCP. A complete list of new offense rankings can be found on pages 17-19 of the report.

Criminal Code Revision Project

In addition to the Commission's mandate to develop, implement and monitor the Voluntary Sentencing Guidelines, the Council of the District of Columbia has directed the Commission to review the entirety of the District of Columbia Criminal Code and, based on that review, develop and propose a comprehensive set of revisions to the District's criminal laws. Chapter Six of this report provides the background and detailed legislative mandate for the Criminal Code Revision Project.

In January 2011, the Commission submitted to the Council the Fine Proportionality Act of 2011, which standardizes fines for all felony and most misdemeanor offenses. This initial

recommendation addresses inconsistencies and fine amounts found in the current criminal code and proposes fine amounts proportional to the penalty for a specific offense. This legislation is currently before the Council.

A comprehensive criminal code revision requires a significant investment of both time and resources, which has been a challenge for the Commission given the limited staffing allocated to this project. However, even with limited resources, the Commission will continue to move forward with its mandate by implementing a standardized language and organization scheme throughout the entire code to ensure that each code section is clear, consistent, and free of ambiguity. Proposed revisions may also include substantive changes when necessary and appropriate to promote consistency and clarity, remove historical anachronisms, or otherwise improve the code.

Data Quality Improvement

Unlike offense, disposition and sentencing data provided to the Commission through an electronic data feed from the Superior Court, criminal history data is not transferred electronically from Court Services and Offender Supervision Agency (CSOSA). The Commission is working with CSOSA to improve the data transfer process to ensure all criminal history information is provided in a timely and efficient manner. In late 2011, the Commission and CSOSA developed and implemented an electronic Sentencing Guideline Form (SGF) that has embedded automated data quality functions that calculates, validates and corrects certain data fields to improve data quality. The new SGF also incorporates automated mathematical computations for criminal history scores ensuring that critical data points are entered in a consistent and uniform manner thus reducing data entry errors and improving the accuracy of criminal history information used to determine Guideline compliance.