

## **EXECUTIVE SUMMARY**

The District of Columbia Sentencing and Criminal Code Revision Commission's (the Commission) 2013 Annual Report reviews the work of the agency over the past year, analyzes felony sentences imposed during 2013, describes substantive changes made to the Sentencing Guidelines, and identifies the new rankings assigned to felony offenses during the year. The report also provides an overview of the Commission's progress on the Criminal Code Revision Project.

### **Data Collection**

In 2013, the Commission developed and implemented a new data system called the Guideline Reporting Information Data (GRID) system. The system has allowed the agency to significantly improve and expand both the quality and quantity of information it uses to analyze felony sentences and to calculate judicial compliance with the Guidelines. Offense, conviction, and sentencing related data from the Superior Court of the District of Columbia (Superior Court) and criminal history information provided by Court Services and Offender Supervision Agency (CSOSA) are electronically transferred to the Commission on a daily basis and merged to create a comprehensive agency database.

The electronic transfer of an offender's criminal history score data from CSOSA enables the Commission to establish a comprehensive sentencing record for each defendant convicted of a felony offense and automatically calculate judicial compliance with the Sentencing Guidelines. This capability replaces a prior resource intensive manual processes and that was subject to data entry errors which decreased data quality.

Through the implementation of the GRID system, the Commission has improved both its data access capabilities and data quality, enabling the agency to better monitor and analyze sentencing policy and trends in the District. In the future, the expanded analytical capacity of the Commission will allow for more comprehensive evaluation of the Sentencing Guidelines and will further the Commission's goal of developing data driven policy decisions that ensure fairness and consistency in sentencing.

### **Key Data Findings**

In 2013, there were 2,106 felony cases and 2,895 felony counts sentenced in Superior Court. This represents a decrease of 413 felony cases and 849 felony counts sentenced from 2012. Felony cases sentenced this year also reflect a decrease of 536 cases and 794 felony counts from 2011, demonstrating a decline in the number of both sentenced cases and counts over the past three years. Of the 2,106 felony cases sentenced, 1,720 represented single count and 386 were multiple count cases. Ninety percent of all cases were disposed of through a guilty plea, which is consistent with previous years.

There were 1,972 offenders sentenced this year, with 134 offenders sentenced in more than one case during 2013. These figures reflect an overall reduction in the total number of offenders sentenced but a slight increase in the number of offenders sentenced in more than one case. Offender demographics for 2013 shows minimal change from prior years.

Prison remains the most common sentence type imposed by Superior Court judges, followed by probation. A short split sentence, a combination of incarceration and probation, was the least common sentence type. A prison sentence was imposed in 65% of all cases and 71% of all counts. Prison sentences were imposed more frequently for non-drug offenses; while the rate of probation was highest for drug offenses. Compared to past years, during 2013, there was a slight decline in the number of prison sentences imposed with a corresponding increase in the number of short split sentences. However, the percentage of prison versus non-prison has sentences has remained relatively constant over the past few years.

Assault, attempted drug distribution offenses, drug distribution offenses, robbery, and weapon offenses, which account for over 70% of all felony sentences imposed, remained the most common offense types over the past three years; however, the ranking order of these specific five offense groups has changed slightly by year. In 2013, robbery convictions increased as a percentage of the total number of cases, followed by weapon and assault offenses. The increase in sentences for robbery corresponds to the increase in arrests for what is commonly referred to as “snatch and grab” offenses involving cell phones or other electronics. In contrast, there has been a continuing decline in the number of drug offenses sentenced since 2011. In 2013, drug offenses accounted for only 516 sentences, representing a 44% decrease from 2012 and 55% decrease from 2011. This notable decline in drug sentences contributes significantly to the overall decline in cases and counts sentenced in 2013.

### **Guidelines Compliance**

In 2013, the compliance rate for all felony sentences imposed was 96.1%. Since the inception of the Guidelines, the yearly compliance rate has been near or above 90%. This finding indicates that Superior Court judges are consistently applying the Guidelines and imposing felony sentences within the recommended Guidelines range. The increased compliance rate is due to a combination of factors including: (1) the length of time the guidelines have been in place; (2) modifications to the guidelines to ensure the recommended sentence is appropriate; and (3) improved data collection and validation practices.

Compliant in-the-box sentences accounted for 91.6% of all sentences imposed, meaning that the sentence imposed was within the recommended range and sentence type. Compliant departures accounted for 1.6% of all sentences imposed during the year. Although they represent a small percentage of all sentences imposed, departures provide insight into why judges choose to impose a sentence outside the Guidelines. There were 13 aggravating (or upward) departures and 25 mitigating (or downward) departures. Violent offenses constituted a greater proportion of

compliant departures, which is in contrast to 2012, when drug offense for the largest proportion of compliant departures.

In 2013, non-compliant departures constituted 3.9% of all sentences for which compliance was calculated. The Commission considers a sentence to be a non-compliant departure when the judge imposes an out-of-the-box sentence without citing a departure principle. The data indicates that weapon offense accounted for the greatest proportion of all non-compliant sentences, followed by violent offenses.

### **Guidelines Modifications**

The Sentencing Commission made several modifications to the Guidelines Manual in 2013. The changes included allowing any party to challenge a presentence report writer's initial scoring of an out-of-District conviction and encouraged presentence report writers to include an explanatory footnote when they score certain out-of-District offenses. These changes were made to increase transparency and fairness to the process of scoring out-of-District convictions. The Commission also ranked 40 criminal offenses in 2013. These rankings applied to terrorism and while armed sex offenses.

### **Criminal Code Revision Project**

The Criminal Code Revision (CCR) project made significant progress towards revising the District's Criminal Code. A project plan was developed, approved by the Commission, and submitted to the Council, to guide the work of the project through its projected completion date in September 2016. The project plan details the priorities, methodology, milestones, and deliverables for the revision of the criminal code.

During the early part of 2013, the project focused on drafting general provisions for a revised criminal code. General provisions refer to the practice of codifying common definitions and principles of liability that apply to most criminal offenses. They also improve a criminal code's clarity and consistency by replacing the varied, sometimes conflicting, terminology and definitions used in particular offenses that were enacted separately over many years.

The second activity undertaken by the CCR project was the reorganization of criminal offenses in Title 22 of the D.C. Code, with the goal of creating a logical and user-friendly structure. The District's current criminal code can be confusing for both legal practitioners and the public because it does not always group similar offenses together and it often includes extraneous information besides offense definitions and penalties. The reorganization included a macro-level restructuring, consisting of 13 subtitles such as Offenses Against Persons, Offenses Against Property, Drug Offenses and Weapon Offenses, etc., that were further reorganized into chapters and subchapters. This new structure was applied to hundreds of criminal offense and penalty provisions contained in Title 22 of the D.C. Code.

The final project activity during 2013, involved drafting revisions of the most frequently convicted and serious criminal offenses. In 2013, the Commission identified 37 offenses and offense types that collectively accounted for over 95% of all 2012 felony convictions. These offenses include all major types of crime: property crimes, drug and weapon offenses, crimes against persons, and offenses affecting government operations. Property offenses were the initial offense group selected for revision. Revision of these target offense groups and offense types will significantly contribute to the modernization of the District's criminal code.