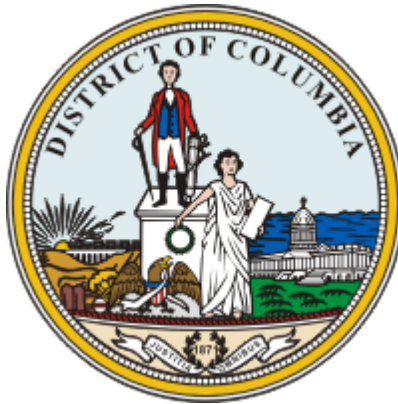




DISTRICT OF COLUMBIA SENTENCING
AND
CRIMINAL CODE REVISION COMMISSION

2015 ANNUAL REPORT



APRIL 27, 2016

DISTRICT OF COLUMBIA SENTENCING AND CRIMINAL CODE REVISION
COMMISSION

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Mission Statement

The mission of the District of Columbia Sentencing and Criminal Code Revision 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, to evaluate the effectiveness of the guidelines system in order to recommend changes based on actual sentencing and corrections practice and research, to analyze the District of Columbia's current criminal code and administration of existing criminal laws, and to propose reforms in the criminal code to create a uniform and coherent body of criminal law in the District of Columbia.



District of Columbia
Sentencing and Criminal
Code Revision Commission

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The 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 and Criminal Code Revision Commission respectfully submits its 2015 Annual Report. This year's report provides an overview of felony sentences imposed by the Superior Court from January 1, 2015, through December 31, 2015.

The implementation of the agency's new data system is now complete. As a result, the Commission is able to undertake comprehensive analysis of all 2015 sentencings and perform comparative analysis of sentencing patterns between 2010 and 2015. These new capabilities enable the Commission to highlight changes in sentencing practices and identify any emerging trends. In addition, for the first time since the implementation of the Guidelines in 2004, the Commission received offenders' Criminal History scores from CSOSA in every case in which a score was calculated. Overall, 95.5% of felony sentences imposed in 2015 complied with the Sentencing Guidelines recommended sentence.

In 2014, the Council modified the District's marijuana laws. As a result of the statutory changes, in 2015 the Commission made a significant policy changes to the Sentencing Guidelines by changing how the Guidelines treat prior marijuana convictions when calculating an offender's criminal history score.

Finally, the Commission submitted its *Report on Enactment of D.C. Code Title 22 and Other Criminal Code Revisions* and accompanying *Appendices* to the Council and Mayor on September 30, 2015. The Report included draft legislation in the *Appendices* that would implement the Commission's recommendations.

Respectfully Submitted,


Frederick H. Weisberg, Chairman

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As of April 30, 2016

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EXECUTIVE SUMMARY

In 2015, the District of Columbia Sentencing and Criminal Code Revision Commission (the Commission) continued to focus on improving data quality and data access, enhancing the agency's capacity to monitor and analyze sentencing trends within the District. The Commission's advanced analytical capability allows for a more detailed evaluation of the Sentencing Guidelines and enables data-driven policymaking. Although the number of felony cases sentenced in the Superior Court continues to decline, compliance with the Guidelines remains over 95%, indicating their wide acceptance among prosecutors, defense counsel, and the judiciary. In September 2015, the Criminal Code Revision Project (CCRP) delivered to the Council and the Mayor, a package of proposed code revisions entitled "Enactment Plus," which included recommendations for enactment of Title 22 and identification of unconstitutional, common law, obsolete, and outdated statutory provisions.

Data Systems and Collection

The Commission's Guideline Reporting Information Data (GRID) System, which serves as the agency's primary data system, was enhanced in 2015 with the implementation of the Grid Scoring System (GSS). The Commission, with assistance and collaboration from the Court Services and Offender Supervision Agency (CSOSA), developed GSS to allow both agencies to improve sharing of sentencing data in a secure and timely manner. CSOSA users directly input offenders' prior criminal history information into GSS, which then automatically applies Guidelines scoring rules to calculate each offender's total criminal history score (CH score) for the user and electronically transfers the information into the GRID System. This enhancement improves both the quality and timeliness of criminal history scores received by the Commission. Due to the successful implementation of GSS, the Commission received every expected CH score calculation from CSOSA in 2015.

The Commission also upgraded the GRID System to allow for yearly "snapshots" of historical case data. Preserving a "snapshot" of historical case data for each calendar year allows the Commission to make year-to-year comparisons of sentencing practices and trends. On January 1 of each year, the GRID System now preserves a "snapshot" of the data for the previous calendar year. Given that felony cases in the GRID System are updated continually by the court, it is important to preserve a yearly "snapshot" for an accurate comparison and analysis of sentencing data and trends. The "snapshot" provides a major expansion of the Commission's analytical capabilities.

With these enhancements to the GRID System, the Commission is able to undertake more in-depth monitoring and evaluation of the effectiveness of the Sentencing Guidelines in ensuring certainty and consistency in sentencing within the District.

Key Data Findings

In 2015, the D.C. Superior Court sentenced 1,617 offenders in 1,701 felony cases, consisting of 2,309 individual felony counts. This represents a decline of 534 (19%) felony counts from 2014 and 1,356 (37%) felony counts since 2010. The notable 75% decline in the number of felony drug offenses sentenced from 2010 to 2015 contributes significantly to the overall decline in both felony cases and counts. Of the 1,701 cases sentenced in 2015, the numbers of single (990) and multiple (711) count cases are consistent with cases sentenced in previous years. Sex, Violent, Weapon and Other Offenses accounted for 42% of all multi-count cases. By far the largest number of felony sentences imposed are for offenses in Offense Severity Group (OSG) M8 and OSG D3, accounting for 43% of all felony sentences in 2015.

Prison remains the most frequent sentence type imposed, followed by probation and short split sentences. From 2010 through 2014, prison sentences ranged between 65% and 68% of all felony sentences imposed; in 2015, the percentage of cases sentenced to prison decreased to 55%. Probation was imposed in 25.6% of all felony cases, with short split sentences imposed in the remaining 19.5% cases. The proportion of cases sentenced to probation ranged between 17% and 20% from 2010 through 2014, increasing to nearly 26% in 2015. Short split sentences also reached their largest proportion of sentences in 2015, increasing from a range of 12% to 16% of sentences between 2010 and 2014 to more than 19% in 2015.

Offender demographics remain consistent with previous years, with males representing 91.7% of offenders sentenced and females 7.8%. Despite the large difference in the gender of offenders sentenced, the data show that there are some offense types where male and female offenders share similar sentencing proportionality. For example, 25.8% of both males and females were sentenced for Violent offenses. However, even though the proportions of males and females sentenced for Violent offenses were identical, females received prison sentences at a significantly lower rate, with 3.2% of females receiving a prison sentence, compared to 62.0% of males for Violent offenses.

The number of offenders in age groups 18 to 21 and 22 to 30 accounted for more than 63% of all offenders sentenced in 2015. The proportion of offenders age 18 to 21 has increased markedly from 20% of sentences in 2010 to 32% of sentences in 2015. The percentage of 15 to 17 year old offenders sentenced as adults has consistently remained between 2% and 3% of all cases. Only 1% of felony cases involved offenders over the age of 60, which is reflective of the percentage of offenders sentenced in this age group in both 2013 and 2014.

In 2015, the average age across offense types ranged from 24 to 36 years of age, while the median age ranged from 20 to 34 years of age. Offenders sentenced in Homicide, Violent, and

Weapon offense categories tended to be younger offenders. Those sentenced in Drug, Other Offenses, and Sex offense categories were slightly older offenders. The age of offenders sentenced for Property offenses showed the greatest variability.

In 2015, drug offenses represented 19% of case level and 16% of count level felonies sentenced. Drug offenses also experienced the largest decline from 1,497 counts sentenced in 2010 to 375 counts in 2015, representing a 75% decrease. Possession with intent to distribute a controlled substance or attempted possession with intent to distribute a controlled substance account for more than half of the drug offenses (53%), while distribution or attempted distribution of a controlled substance represents 28% of drug offenses. Possession or attempted possession of liquid PCP accounted for 20% of all drug offenses sentenced in 2015.

Non-drug felony sentences represent the largest proportion of total felony sentences at both the case (81%) and count (84%) levels. Violent offenses comprise the largest non-drug category at the case level (26%). Robbery was the most common offense within the Violent category in 2015, accounting for 35% of cases in this category and 20% of all felony cases. This finding is similar to 2014 where robbery accounted for 40% of all Violent cases. Homicide was the least frequent offense category, representing 3% of the sentences at both the case and count level in 2015. This finding represents a change from previous years, when Sex offenses represented the smallest category of felonies sentenced. In 2015, Sex offenses represented 4% of cases and counts.

Guideline Compliance

In 2015, 95.5% of all counts sentenced were compliant with the Voluntary Sentencing Guidelines (the Guidelines). This percentage is consistent with yearly compliance rates in excess of 90% since the inception of the Guidelines. However, Guidelines compliance in 2015 was slightly lower than the 96.5% reported in 2014. This finding indicates that Superior Court judges consistently apply the Guidelines and impose felony sentences within the recommended Guideline structure. The high compliance rate is attributable 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 compliance validation practices.

Compliant in-the-box sentences accounted for 86.5% of all sentences imposed, meaning that the sentence imposed was within the Guidelines recommended range and sentence type. The percentage of compliant-in-the-box sentences has remained relatively stable over the previous five years. In addition, there was a 1.0% increase in the number of non-compliant sentences from 2014 (3.5%) to 2015 (4.5%). However, the percentage on non-compliant sentences is still significantly below the 2011 (8.0%) and 2012 (6.7%) levels.

Compliant departures occurred in 2.9% (68 counts) of all felony counts sentenced in 2015, where the sentencing judge departed using one of the Guidelines departure factors. Of the total compliant departures reported, 52 were durational departures from the Guidelines sentencing range (i.e., a sentence above or below the recommended sentencing range) and 16 were dispositional departures from the Guidelines eligible sentence type (e.g., a probation sentence in a prison only box). Although these departures constituted a small percentage of all sentences, they offer insight into the reasons judges may choose to impose a sentence outside of the Guidelines grid boxes in particular cases. The overall trend for compliant departures has shown a relative decline in the percentage of compliant departures for Drug offenses, and increased compliant departures for Weapon and Violent offenses.

In 2015, there were 86 non-compliant departures representing 4.5% of felony counts sentenced, an increase from 3.5% in 2014, but a decrease from 8% in 2011. Weapon and Drug offenses comprised the majority of non-compliant departure sentences imposed. The proportion of offense types receiving non-compliant departures changed between 2014 and 2015. In 2015, Weapon Offenses (33.7%) represented the largest proportion of non-compliant sentences, an increase of 10.0% from 2014. This increase was related to an increase in the number of non-compliant sentences for assault with a dangerous weapon and unlawful possession of a firearm with a prior conviction. Of the 86 non-compliant departures, 62 were durational departures and 24 represented dispositional departures.

Modifications to the Guidelines

The Commission is required to include in its Annual Report any substantive changes it made to the Guidelines during the previous year. Last year, the Commission did not modify any of the Guidelines' recommended sentencing options or prison ranges contained in either the Master Grid or the Drug Grid. However, the Commission did adopt one major substantive policy change necessitated by changes to the District's marijuana laws.

Since their inception, the Guidelines have provided that prior convictions or juvenile adjudications for conduct that was later de-criminalized are not counted when calculating a defendant's CH score. Following marijuana decriminalization/legalization in the District, possessing, growing, and sharing of limited amounts of marijuana became legal, but possessing, sharing, and growing large amounts of marijuana, along with PWID and distribution for remuneration remained illegal. However, based upon prior conviction records, it is usually impossible to determine if an offender's prior conviction was for behavior that was legalized (possessing, growing, or sharing a small amount of marijuana) or behavior that remains illegal (possession or sharing a large amount of marijuana or selling marijuana).

To clarify which prior marijuana convictions should and should not be scored, the Commission developed a new rule for determining when a prior marijuana conviction should and should not be scored and for assigning the burden to the party responsible for providing information to the court when challenging the scoring of a prior marijuana conviction.

Criminal Code Revision Project

In March, the Commission updated the CCRP Plan to prioritize code revision activities in areas where Commission member agreement was the strongest. The Commission then focused on developing code revision recommendations, collectively labeled as “Enactment Plus,” which included recommendations for enactment of Title 22 and identification of unconstitutional, common law, obsolete, and outdated statutory provisions.

In September, the Commission reviewed and approved the Report on Enactment of D.C. Code Title 22 and Other Code Revisions and accompanying appendices, which was submitted to the Council and the Mayor on September 30, 2015. The report included draft legislation in the Appendices, which could be used to implement the Commission’s recommendations.

Table of Abbreviations and Acronyms

Term	Definition
Advisory Commission	District of Columbia Advisory Commission on Sentencing
CCR	Criminal Code Revision
CCRC	The Commission's Criminal Code Revision Committee
CH	Criminal History
CJCC	District of Columbia Criminal Justice Coordinating Council
Commission	District of Columbia Sentencing and Criminal Code Revision Commission
Council	Council of the District of Columbia
COV(s)	Crime(s) of Violence
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
Guidelines	District of Columbia Voluntary Sentencing Guidelines
GRID System	The Guidelines Reporting and Information Data System
GSS	The Commission's Guidelines Scoring System
IJIS 12.1	District of Columbia Integrated Justice Information System Outbound Data Feed
JUSTIS	District of Columbia Justice Information System
OCTO	District of Columbia Office of the Chief Technology
Original Commission	D.C. Sentencing Guidelines Commission (1984 – 1987)
OSG	Offense Severity Group
PCP	Phencyclidine
PDID	Metropolitan Police Department Identification Number (assigned to arrestees)
PII	Personal Identifying Information
Project	The Commission's Criminal Code Revision Project
PSA	Pretrial Services Agency for the District of Columbia
PSI	Pre-Sentence Investigation
PWID	Possession with Intent to Distribute a Controlled Substance
Revitalization Act	National Capital Revitalization and Self-Government Improvement Act of 1997
SGS	Sentencing Guidelines System
Superior Court	Superior Court of the District of Columbia
TIS Commission	Truth-in-Sentencing Commission
XML	Extensible Markup Language

CHAPTER ONE

COMMISSION PROFILE

I. History of the D.C. Sentencing and Criminal Code Revision Commission

A. The Sentencing Guidelines Commission (1984-1997)

The origins of the District of Columbia Sentencing and Criminal Code Revision Commission (the Commission) trace back to 1984, when Superior Court Chief Judge H. Carl Moultrie appointed 18 members to the D.C. Sentencing Guidelines Commission (Original Commission). The Original Commission was tasked with developing a sentencing guidelines system for Superior Court judges to reduce sentencing disparity.

After substantial research and discussion, the Original Commission released an Initial Report in 1987 that recommended the adoption of sentencing guidelines. In many ways, the system recommended in the 1987 proposal resembles the current guidelines in place today: it centered on a series of grids based on the severity of the offense and the offender's prior criminal history (CH) score. Further, its use by judges was also voluntary.

Upon completion of the 1987 Initial Report, there was a movement to transform the proposal into actual sentencing guidelines for the District of Columbia (the District). However, the project was ultimately unsuccessful: the drafted guidelines were never formally adopted by the Superior Court and the Original Commission was disbanded. Nevertheless, the Original Commission's research and proposed guidelines were distributed to Superior Court judges, some of whom used the materials as a reference to inform sentencing decisions. This project laid the groundwork for the later creation and adoption of sentencing guidelines in the District.

B. The Revitalization Act, the Truth in Sentencing Commission, and the Creation of the Advisory Commission on Sentencing (1997-1998)

In 1997, Congress enacted the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act). Among other important reforms to the District's criminal justice system,¹ the Revitalization Act mandated the creation of the Truth-in-

¹ The Revitalization Act required fundamental changes to the District's criminal justice system, including: closing the Lorton Correctional Complex; abolishing the District of Columbia Parole Board; creating the Court Services and Offender Supervision Agency (CSOSA); transferring control of imprisoned felony offenders from the D.C. Department of Corrections to the Federal Bureau of Prisons; and converting the sentencing system from an indeterminate system with a minimum and maximum prison term and parole to a determinate sentencing system. To accomplish the determinate sentencing requirement, the Act established truth-in-sentencing determinate sentencing standards, which mandated that all offenders who commit certain enumerated felonies on or after August 5, 2000

Sentencing Commission (TIS Commission). The TIS Commission was established to assist the Council of the District of Columbia (the Council) in implementing the requirements set out in the Revitalization Act regarding changes to the District's sentencing laws for specified felony offenses committed on or after August 5, 2000.²

The TIS Commission issued its formal recommendations to the Council on February 1, 1998. The recommendations were limited to changes in the D.C. Code specifically required by the Revitalization Act.³ Beyond its formal recommendations, the TIS Commission also submitted a Comments and Suggestions Report, which identified outstanding issues for the Council's consideration. One of the supplemental recommendations suggested in the Report was the creation of a local entity to advise and assist the Council in the development of future sentencing policy.

After considering the TIS Commission's Comments and Suggestions Report, the Council established the District of Columbia Advisory Commission on Sentencing (the Advisory Commission). The Advisory Commission was created to make further recommendations consistent with the goals of the Revitalization Act, including conducting an annual review of sentencing data, policies, and practices, and to suggest other policy changes to enhance the fairness and effectiveness of criminal sentencing in the District of Columbia.

C. The Sentencing Reform Amendment Act of 2000 and the Development of Sentencing Guidelines in the District of Columbia (1998-2004)

Following its inception in the fall of 1998, the Advisory Commission began its work by conducting extensive research on sentencing practices in the District and in other jurisdictions. This research culminated in two reports submitted to the Council: Criminal Sentencing Practices in the District of Columbia 1993-1998 (submitted in 1999), and Sentence Recommendations to the Council of the District of Columbia (submitted in 2000). Among other suggestions, the Commission recommended that the District consider adopting a form of structured sentencing as a way of promoting fairness under the new determinate sentencing system.

serve at least eighty-five percent of the prison term imposed followed by a period of Supervised Release overseen by the United States Parole Commission.

² The Act mandated that: (1) the sentence would reflect the seriousness of the offense and the criminal history of the offender and provide for just punishment and deterrence, necessary educational and vocational training, medical care, and other correctional treatment for offenders; (2) good time credit would be calculated pursuant to section 3624 of Title 18 of the United States Code; and (3) an "adequate period of supervision" would follow release from imprisonment.

³ The formal recommendations of the TIS Commission were ultimately adopted by the Council as the Truth-in-Sentencing Amendment Act of 1998, D.C. Code § 24-403.01.

The Council adopted these recommendations as part of the Sentencing Reform Amendment Act of 2000.⁴ The legislation required the Advisory Commission to survey structured sentencing systems throughout the United States and to recommend a form of structured sentencing that would best serve the needs of the District's criminal justice system. The Council also required the Advisory Commission to continue reporting on the implementation of the new determinate sentencing structure in the District.

In 2003, the Advisory Commission recommended that the District adopt voluntary sentencing guidelines. In response, the Council enacted the Advisory Commission on Sentencing Structured Sentencing System Pilot Program Amendment Act of 2004. The Act directed the Advisory Commission to assist the Superior Court with the implementation of the pilot D.C. Voluntary Sentencing Guidelines (the Guidelines). In addition, the legislation made the Advisory Commission a permanent, independent District Government agency, and renamed it the District of Columbia Sentencing Commission (the Commission). The pilot program went into effect in June 2004. The Guidelines became permanent in 2006 and the Commission continues to monitor and support their use in the Superior Court.⁵

D. Revision to the Criminal Code and Continued Monitoring of Voluntary Sentencing Guidelines (2004-Present)

In 2006, the Council expanded the role of the Commission to include a project to revise the District's criminal code. The Council expressed concern about the state of the criminal code, specifically that it contained confusing and outdated statutory language, was insufficiently organized, and might contribute to unfair sentencing practices.

To address those concerns, the Council enacted the Advisory Commission on Sentencing Act of 2006. The Act mandated that the Commission examine the criminal code and make recommendations to provide for a uniform and coherent body of law.⁶ More specifically, the legislation directed the Commission to examine the District's criminal statutes to ensure clear and consistent language, to organize existing statutes in a logical order, to address proportionality of fines and penalties, to propose a classification system for misdemeanor offenses, and to develop any amendments necessary to facilitate the equitable administration of the criminal laws in the District of Columbia. The legislation also added three new Commission membership positions and changed the name of the Commission to the District of Columbia Sentencing and Criminal Code Revision Commission. For several years the Commission lacked sufficient resources to undertake this additional work, but in 2012 the Commission received

⁴ See D.C. Code § 24-403.01 (2000).

⁵ See District of Columbia Sentencing and Criminal Code Revision Commission Amendment Act of 2007, D.C. Code § 3-101 (2007).

⁶ See Advisory Commission on Sentencing Act of 2006, D.C. Code § 3-101.1 (2007).

funding for an additional five full-time staff members to support the work of the Criminal Code Revision (CCR) Project. The Commission fully staffed the Project in early 2013. The Commission's CCR mandate expires at the end of this fiscal year, on September 30, 2016.

Today, the Commission continues its work of promoting fair and consistent data-driven sentencing policies and practices. In addition to its Guidelines work, the Commission has become a District resource for reliable sentencing information. The Commission looks forward to continuing its collaboration with the Council, the Mayor, the judiciary, and criminal justice agencies to ensure that the District continues to address its public safety and criminal justice priorities.

II. Legislative Mandate

The Commission currently has three primary statutory responsibilities: (1) to monitor the implementation and use of the Guidelines; (2) to review and analyze pertinent sentencing data; and (3) to develop recommendations for criminal code revision.⁷ As part of its mandate, the Commission is responsible for collecting data from the Superior Court and the Court Services and Offender Supervision Agency (CSOSA) to assess compliance with the Guidelines, for identifying and addressing issues with the District's sentencing system, and for monitoring historical and emerging sentencing trends. The Commission is also responsible for incorporating into the Guidelines structure each new felony offense or sentencing provision enacted by the Council. Finally, the Commission continues to fulfill its mandate to examine and formulate recommendations for the revision of the District's criminal code to achieve greater clarity and consistency.

III. Commission Membership

The Commission consists of 20 members: 15 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 and criminal law policy recommendations for the Council.

⁷ The legislation governing the D.C. Sentencing and Criminal Code Revision Commission can be found at D.C. Code § 3-101 (2012), *et seq.*

The voting members of the Commission are:

- 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 CSOSA 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;
- Two citizens of the District, one of whom is nominated by the Mayor subject to confirmation by the Council, and the other who is appointed by the Council; and
- Three professionals from established organizations, to include institutions of higher education, devoted to the research and analysis of criminal justice issues, 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.

In 2015, Ms. Judi Garrett, Esq. replaced long serving member Mr. Thomas R. Kane, Ph.D., as the non-voting Commission member designated by the Director of the United States Bureau of Prisons. The Commission welcomes Ms. Garrett and thanks Mr. Kane, who had served on the Commission since its creation, for his years of service to the Commission and the citizens of the District of Columbia. Additionally, the Mayor reappointed Mr. Marvin Turner to a three year term as a public citizen member of the Commission.

IV. Commission Meetings and Activities

The full Commission met eight times in 2015 to address Guidelines, criminal code revision, criminal justice, and agency issues. All 2015 Commission meetings were open to the public.

The Commission met on the following dates in 2015:

January	20	May	20
February	10	September	15
March	17	October	27
April	21	November	17

The minutes of the Commission's public meetings are available online at the Commission's website, located at <http://scdc.dc.gov>.

Over the past year, the Commission made changes to the Guidelines and developed new rules for scoring prior marijuana convictions. The Agency released several publications during 2015, including the 2014 Annual Report, the 2015 Guidelines Manual, the Criminal Code Revision Project Semi-Annual Report on the status of the Criminal Code Revision Project, and a Report on Enactment of D.C. Code Title 22 and Other Criminal Code Revisions. In addition, the Commission continued the multi-year District of Columbia Sentencing Guidelines Evaluation Project (Evaluation Project), expanded the capabilities of its Guidelines Reporting and Information Data System (GRID System), implemented the Guidelines Scoring System (GSS) with CSOSA,⁸ and continued its work on the Criminal Code Revision Project.⁹

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 in Suite 430 South, One Judiciary Square, 441 4th Street, NW, Washington, D.C. 20001.

V. Committee Activities

In addition to the meetings of the full Commission, several working committees meet on a regular or as needed basis to formulate recommendations on specific sentencing, data, and criminal code policy issues for action by the full Commission. The following represents an overview of the Commission's committee structure and recent work.

A. Criminal Code Revision Committee

The Criminal Code Revision Committee (CCRC) focuses on accomplishing the Commission's legislative mandate to prepare comprehensive CCR recommendations for the Council and the Mayor. Working with Commission staff, the Committee reviews and evaluates the District's

⁸ The GRID System and GSS are discussed in detail in Chapter Three.

⁹ Details on the Criminal Code Reform Project are provided in Chapter Six.

criminal statutes and makes recommendations to the Commission on revisions to the criminal code.

The current CCRC is comprised of five Commission members with diverse and balanced backgrounds. Mr. Ronald Gainer, a retired attorney formerly employed by the United States Department of Justice, has served as the Chair of the CCRC since the Committee's inception. Chairman Gainer is a nationally recognized expert in the area of criminal law reform and has written extensively on the topic. Other committee members include: Professor Donald Braman, an Associate Professor of Law at the George Washington University School of Law; Ms. Renata Kendrick Cooper, Special Counsel to the United States Attorney for the District of Columbia; Ms. Laura Hankins, Special Counsel to the Director of the Public Defender Service for the District of Columbia; and Mr. Dave Rosenthal, Senior Assistant Attorney General in the Office of the Attorney General for the District of Columbia. Other Commission members are also welcome to participate in Committee meetings.

The CCRC's work in 2015 followed a revised Project Management Plan approved by the Commission and submitted to the Council in April 2014. In the first three quarters of 2015, the CCRC: 1) developed and presented to the Commission recommendations to the Council and the Mayor regarding the enactment of Title 22 and other criminal code revisions, such as identifying statutes that are obsolete or held to be unconstitutional; 2) reviewed certain offenses against persons, including kidnapping, robbery, and carjacking, for possible revision; and 3) finalized for Commission review draft "General Provisions," which would apply to all criminal offenses. In the fourth quarter of 2015, the CCRC initiated an agency review of its previous work on drug offenses by the United States Attorney's Office, the Public Defender Service, and the Office of the Attorney General. The Commission adopted and forwarded to the Council and the Mayor recommendations for the enactment of Title 22 and other criminal code revisions in September 2015, and additionally, in December 2015, voted to approve the approach used by the CCRC in its draft General Provisions. In the course of its 2015 work, the Criminal Code Revision Committee held 22 meetings to review and consider legal research prepared by agency staff and to formulate its recommendations to the Commission.

For more information on this Committee and the Criminal Code Revision Project generally, see Chapter Six of this Report.

B. Research Committee

The Commission created the Research Committee in 2011 to undertake complex sentencing research related to the Commission's objectives. In 2014, the Research Committee began its first substantial project by developing a research design and plan for the Evaluation Project. The Evaluation Project is a multi-year research project that includes three major components: 1) a

comprehensive evaluation of sentencing data from 2010 through 2015 to assess whether the Guidelines are achieving their statutory goals of ensuring certainty, consistency, and adequacy of punishment; 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 the Guidelines for review by the Commission. Each component of the evaluation will be included in a final report submitted to the Commission.

The Research Committee began initial work on the Evaluation Project in 2014. During this period, Commission staff identified and validated the data necessary to complete the first component of the Evaluation Project. The Research Committee members developed and made recommendations to the Commission regarding possible research questions and types of analysis to be completed. The Research Committee also suggested, and the Commission agreed, that the deadline for the final report be extended to January 31, 2017, with the aim of providing the Commission a sufficient review period before publishing the report.

C. Guidelines Implementation Committee

The primary aim of the Guidelines Implementation Committee (formerly the Ranking Committee) is to develop and submit to the Commission proposals 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 or other sentencing issues and oversees all changes to the Guidelines Manual.

The full Commission selects the topics for the Guidelines Implementation Committee to address. Any Commission member may participate in the Guidelines Implementation Committee's work on a specific issue or topic. Commission representatives from the Office of the Attorney General, Public Defender Service, and the United States Attorney's Office are regular participants.

The 2015 work of the Guidelines Implementation Committee is reflected in the changes to the Guidelines discussed in Chapter Two of this Report. Following the District's decriminalization and legalization of possession, growing, and sharing of small amounts of marijuana, the Guidelines Implementation Committee spent considerable time discussing and debating whether and how prior marijuana convictions should be scored as part of an offender's criminal history, before making recommendations which were ultimately adopted by the Commission.

VI. Commission Staff Activities

A. Staffing Developments

The Commission has had a full time staff of ten employees since 2012, when the Council increased the size of the staff to accomplish the Criminal Code Revision mandate. The Council added an additional Research Analyst position to the Commission's staff, effective October 1, 2015. The position was created primarily to assist the agency in conducting sentencing related research and responding to data requests.

As of December 31, 2015, the Commission staff consisted of:

Barbara Tombs-Souvey Executive Director	Linden Fry, Esq. General Counsel	Richard Schmechel, Esq. Criminal Code Revision Project Director
LaToya Wesley, Ph.D. Senior Statistician	Michael Serota, Esq. Attorney Advisor	Rachel Redfern, Esq. Attorney Advisor
Robel Maru Data Management Specialist	Mia Hebb Staff Assistant	Matthew Graham Research Analyst
Jinwoo Park, Esq. Staff Counsel	Bryson Nitta, Esq. Staff Counsel	

B. Supporting Criminal Justice Practitioners, Decision Makers, and the Public

The Commission supports criminal justice practitioners, policy makers, and the public on a daily basis. This support is provided by: 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) fulfilling data requests; 4) providing Guidelines training and education sessions; 5) responding to Guidelines inquiries; and 6) collaborating with other criminal justice partners.

1. Printed Publications

As in years past, in 2015, the Commission released two major publications: the 2014 Annual Report and the 2015 Guidelines Manual. The Commission also submitted to the Council a semi-annual report regarding the progress of the Criminal Code Revision Project and the Report on Enactment of D.C. Code Title 22 and Other Criminal Code Revisions (September 2015). Each of these publications is part of the Commission's ongoing effort to promote a comprehensive

understanding of sentencing trends and practices in the District of Columbia, to encourage the accurate application of the Guidelines, and to keep the Council and public informed of the Commission's progress on revising the criminal code. The Commission displays official publications on its website, and provides digital copies to all major criminal justice agencies and other interested organizations in the District.

Each April, the Commission publishes an Annual Report in compliance with its statutory duty under D.C. Code § 3-104(d). In April 2015, the Commission published its 2014 Annual Report. In addition to highlighting the Commission's work over the past year and providing a summary of felony sentences imposed in 2014, the Annual Report contained an overview of the Commission's new data analysis and information sharing systems. The Report also included a semi-annual update on the progress of the Criminal Code Revision Project.

In June 2015, the Commission published its annual update to the Guidelines Manual, which became effective on June 29, 2015. The 2015 changes to the Guidelines Manual are outlined in Chapter Two of this report. Print copies of the 2015 Manual were distributed to all District of Columbia Court of Appeals judges, Superior Court judges, Councilmembers, and the Mayor. Commission staff distributed an electronic PDF version of the Manual to practitioners and criminal justice agencies via e-mail. The Commission also posted the Manual on the Commission's website for viewing, downloading, and printing.

Each year, the Commission submits two semi-annual Criminal Code Revision reports to the Council. The reports advise the Council on the progress of the Criminal Code Revision Project and provide a summary description of recent Project accomplishments and future code revision plans. The first of these reports was contained in the 2014 Annual Report; the second was submitted to the Council in September 2015.

The Commission also submitted an additional Report on Enactment of D.C. Code Title 22 and Other Criminal Code Revisions in September 2015. The report presented recommendations and draft legislation to the Council and Mayor regarding various proposed changes to District criminal laws. The report addressed: 1) obsolete offenses and provisions to repeal; 2) technical amendments to correct outdated language; 3) statutes that have been held to be unconstitutional; 4) common law offenses to repeal and further codify; 5) relocation of Title 22 provisions to other D.C. Code titles; and 6) enactment of Title 22.

2. The Website

The Commission utilizes its website as an integral part of its ongoing effort to increase 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:

- Sentencing Commission updates, press releases, and news;
- Data and charts displaying information about felony sentences and sentencing trends;
- The date, location, and agenda for the next Commission meeting;
- Guidelines updates and alerts;
- An electronic copy of the current Guidelines Manual, as well as all prior versions of the Manual;
- The Guidelines Master and Drug Grids;
- Minutes from prior Commission meetings;
- A direct link to send 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;
- A chronology of the Guidelines and the Commission;
- A list of Commission members;
- Sentencing data request forms;
- A frequently asked questions (FAQ) section providing detailed answers to common Guidelines questions;
- A glossary of Guidelines and sentencing terminology;
- Self-guided trainings;
- All recent and historic Sentencing Commission publications;
- Employment opportunities with the Commission; and
- Open Government and Freedom of Information Act materials.

The website is designed to make useful information about the Commission available to a variety of audiences. It allows those unfamiliar with the Guidelines to gain a basic understanding of their history, purpose, and scope, including two recently added self-guided trainings. At the same time, resources such as Guidelines Alerts, Manuals, and meeting minutes allow practitioners to find the most current detailed information on the Guidelines, along with a complete historical index of Guidelines Manuals.

For the past three years, the Commission staff has continually expanded the features available on the agency's website. Last year, staff focused on making sentencing data easily accessible and providing instructions on how to request data from the Commission. As a result of the

improvements made to the website, web traffic has steadily increased.¹⁰ The Commission's website received 14,050 visits in 2015 (calendar year). This was an increase over the 10,681 visits the website received in 2014 (calendar year) and a more than 450% increase since 2011.

3. Data Requests

The Commission's data collection and analysis goes beyond what is presented on its website or contained in the Annual Report or research papers. On a regular basis, the Commission responds to requests for sentencing data and analysis from individual Commission members, Councilmembers, the Mayor's office, other government agencies, organizations, educational institutions, legal practitioners, and the general public. With the implementation of the GRID System and the Commission's enhanced ability to analyze data, the Commission has seen a substantial increase in data requests made by outside parties and individuals.

The Commission requires data requests to be submitted in writing. To streamline the data request process, the Commission has developed a standardized form and procedure for all data requests. The form is available on the Commission's website, and Commission staff is always available to assist individuals completing and submitting a data request.

Data shared by the Commission is available in two formats: aggregate data and data sets void of identifying information about offenders or ex-offenders. The Commission does not provide individual sentencing information, or information that would allow for the identification of offenders or ex-offenders. After approving a data request, the Commission makes every effort to provide the information requested in a timely manner.

Following the introduction of the GRID System and the implementation of standardized data request policies and procedures last year, the Commission received a notable increase in the number of data requests compared to previous years. In addition, many of the data requests were complex and required a substantial amount of research and analysis. In calendar year 2015, the Commission received 49 data requests and spent 668 staff hours responding to the requests.

The following are examples of data requests the Commission received and responded to in 2015:

- Detailed analysis of all single count Murder I while armed cases.
- Number of offenders sentenced for "presence in a motor vehicle containing a firearm."
- An analysis of all the felony and misdemeanor individual offense codes charged and sentenced in 2014.
- The number and average length of sentences for fraud from 2010 through 2015.

¹⁰ The Commission defines website traffic as unique website visits; it does not count repeat page hits by the same visitor.

- The number of offenders age 18 or younger with a cumulative sentence of 15 or more years' incarceration.
- Aggregate data for misdemeanor and felony counts prosecuted from 2008 through 2012, for CCR project.
- The number of illegal ammunition prosecutions and sentences.

4. Guidelines Training and Education Sessions

The Commission regularly conducts group and individual Guidelines training sessions throughout the year. Training sessions differ in subject area, scope, and length depending on the needs, experience, and interests of the audience. For members of the public or individuals interested in general information about the Guidelines, Commission staff offer a basic introduction to sentencing in the District and provide an overview on how the Guidelines function. Trainings for legal practitioners vary from a basic review of the Guidelines to in-depth sessions focusing on specific rules and practical application issues. The Commission also offers trainings on any recent Guidelines or policy changes. Judicial training sessions focus on Guidelines departure procedures, scenario-based training exercises, and areas that may be of concern to the Superior Court or particular judges. Training for CSOSA officers centers on the calculation of CH scores and Guideline ranges along with the use of GSS. The Commission also offers individually tailored trainings for other criminal justice agencies. In calendar year 2015, Commission staff provided in-person Guidelines training to more than 160 individuals. Anyone interested in arranging an individual or group-training session should contact the Commission.

Last year, the Commission further expanded the training section of its website. This section contains new self-guided training materials designed as readily available resources for everyone, from experienced practitioners to individuals who want to learn about the basics of sentencing. In addition to these materials, the Commission has also begun posting a specific online training for each significant substantive change made to a Guidelines rule or policy. The Commission will continue this practice in the future when any major substantive changes are made to the Guidelines.

Currently, the Commission has the following on-line trainings and educational references available:

- Introduction to Sentencing and the Sentencing Guidelines
- Basic Voluntary Sentencing Guidelines Training
- How to Calculate a Defendant's Prior CH score
- DC Voluntary Sentencing Guidelines Quick Reference Sheet; and
- Scoring Prior Marijuana Convictions

All of the Commission's trainings conclude by providing users with information for contacting the Commission with specific questions or requests for additional information. The Commission intends to continue developing additional online training in 2016.

5. Responding to Inquiries

Since the inception of the Guidelines, Commission staff have been available daily to provide general and specific information about the substance and application of the Guidelines. Commission staff respond to a wide variety of questions and inquiries from judges, Superior 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 responded to 625 Guidelines and information inquiries in fiscal year (FY) 2015, a 9.3% increase from the 572 inquiries in FY 2014. More than 95% of the inquiries involved the scoring of an offender's prior CH, identifying the applicable sentencing range, or determining whether a specific sentence was compliant with the Guidelines. Staff responded to more than 99% of all 2015 Guidelines inquiries within 24 hours or the next business day. The rare Guidelines inquiries that required additional response time involved complex legal analysis, detailed research, or consultation with Commission members.

It is important to note that Commission staff only provide Guidelines advice and guidance; staff members are not authorized to make official determinations regarding the application of the Guidelines in specific cases. The sentencing judge assigned to a specific case makes the final Guidelines determination in each individual case. 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. Commission staff will never determine the ultimate scoring of an offense because the final decision remains with the sentencing judge. Similarly, when inquiries relate to unranked offenses or novel Guidelines issues, Commission staff may provide general information. However, only the Commission itself, not the staff, can determine the ultimate resolution of a new issue or the ranking of an unranked offense.

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 and receive expertise, data, and knowledge with other agencies. This effort includes participation in several citywide workgroups and committees, including:

- 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.
- Security Group (ISW) – This group addresses issues and concerns surrounding the security of criminal justice information shared between District agencies.

C. Sentencing Review and Analysis

Each year, Commission staff spends hundreds of hours reviewing and analyzing Guidelines usage and sentencing trends in the District. The implementation of the agency's GRID System in 2014 greatly reduced the amount of staff time expended on retrieving, cleaning, and validating sentencing data. This enables staff to spend more time on research and data analysis. Staff has also focused on fully utilizing the GRID System's capabilities to improve the validity and reliability of the data used and reported by the Commission. The GRID System is discussed below and in more detail in Chapter Three.

D. Deployment, Use, and Enhancement of the Commission's Data Systems

In December 2013, after several years of design and development, the Commission fully implemented the GRID System as its primary data system. Prior to the GRID System, the Commission was able to receive and review only a limited number of filtered sentencing data elements from the Superior Court. With the implementation of the GRID System, the Commission is now able to receive all available criminal justice data provided by the Superior Court through the Criminal Justice Coordinating Council's (CJCC) District of Columbia Integrated Justice Information System Outbound Data Feed (IJIS 12.1).

An offender's CH score is calculated by CSOSA and finalized by the sentencing judge. However, this information is not retained by the Court and is not part of the IJIS 12.1 data feed. As a result, the Commission and CSOSA have historically faced a number of challenges

obtaining and sharing accurate CH information. Until 2015, for the GRID System to receive and utilize CSOSA data, pre-sentencing investigation (PSI) report writers were required to complete an electronic CH score form and forward it to the Commission. Once the Commission received the CH score, the data was transferred into the GRID System. Based upon the offender's Metropolitan Police Department Identification Number (PDID), the record was matched with the corresponding offense and sentence data from the IJIS 12.1 feed. The form was susceptible to data entry and transmission errors, creating data quality and reliability issues.

The Commission, with assistance and collaboration from CSOSA, developed GSS to allow both agencies to quickly and easily share sentencing data in a secure and seamless manner. CSOSA users directly input offenders' prior criminal convictions and associated scores directly into GSS, which then automatically calculates the offender's total CH score and electronically transfers the information into the GRID System. Unlike the previous electronic forms used, GSS reduces CSOSA users' workloads by prepopulating offender information from CSOSA's SMART data system and the IJIS 12.1 data feed. This process has the added benefit of reducing transcription errors and highlighting discrepancies between Superior Court and CSOSA information, while ensuring that all CSOSA CH scores instantly transfer to the Commission without the need for further staff intervention.

Development of GSS was completed in December 2014. A select number of CSOSA users were selected for the pilot testing of GSS, which occurred in January and February 2015. The pilot testing ensured that GSS functioned properly and met the technical and business needs of both the Commission and CSOSA. During the pilot testing phase, Commission staff conducted extensive training and feedback sessions with all CSOSA officers and supervisors who use the system. The Commission fully deployed GSS on March 1, 2015, and discontinued the use of the electronic forms on April 1, 2015.

As a result of the successful implementation of GSS, the Commission received every expected CH score calculation from CSOSA. The only cases missing CH scores involved instances when a judge imposed a sentence without an updated PSI report or did not request that CSOSA calculate the offender's CH score.

GSS is designed to provide a bi-direction exchange of sentencing information between the Commission and CSOSA. After a judge sentences an offender, GSS informs CSOSA if the judge followed the CSOSA recommended sentence and notes any changes made to the offender's CH score. The data exchange capability was not previously available. It allows CSOSA to monitor how judges are using CSOSA sentencing recommendations. It also ensures that CSOSA has accurate information for future calculations of an offender's CH score.¹¹

¹¹ Chapter Three of this report provides details on the capabilities, use, and improvements made to GSS and the GRID System.

CHAPTER TWO

VOLUNTARY SENTENCING GUIDELINES

The Commission is required to include in its Annual Report any substantive changes it made to the Guidelines during the previous year.¹² This includes any changes to offense severity rankings, the Guidelines recommended sentencing range or sentencing options, and the rules for calculating an offender's prior Criminal History (CH) score. If the Council enacted legislation during the preceding year creating new offenses or changing 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 all ranked felony offenses. Last year, the Council did not enact any legislation that necessitated the Commission ranking or re-ranking an offense. However, the Commission did adopt one major substantive policy change and made several technical changes that clarified the rules set forth in the Guidelines Manual.

I. Policy Changes to the Sentencing Guidelines

On July 17, 2014, the District decriminalized possessing or transferring, for no remuneration (e.g., sharing), one ounce or less of marijuana, and possessing associated drug paraphernalia. Further, on February 26, 2015, the District implemented Initiative 71, which legalized possessing, growing, and/or transferring, for no remuneration, limited amounts of marijuana along with the possession, sale, and manufacture of associated drug paraphernalia. Following those changes to the District marijuana laws, questions arose from judges and practitioners regarding how prior District and out-of-District possession, sale/manufacture of drug paraphernalia, possession with intent to distribute (PWID), and distribution (Dist.) of marijuana convictions should be counted towards an offender's CH score.

Under Guidelines section 2.2.9, "a conviction/adjudication under a statute that was repealed so that the conduct was de-criminalized is not counted." Following decriminalization/legalization, possessing, growing, and sharing of limited amounts of marijuana became legal, but possessing, sharing, and growing large amounts of marijuana, along with PWID and distribution for remuneration remained illegal. Based upon prior conviction records, it is impossible to know if an offender's prior conviction was for behavior that was legalized (possessing, growing, or

¹² 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."

sharing a small amount of marijuana) or behavior that remains illegal (possession or sharing a large amount of marijuana or possession with intent to sell and selling marijuana).

Following an extensive review of the changes to the District's marijuana laws and the historic scoring of marijuana offenses, the Commission developed a nuanced policy regarding the scoring of prior marijuana convictions.

The new policy, contained in Guidelines section 2.2.9(b), now provides that:

Prior District of Columbia marijuana related convictions or adjudications that occurred before February 26, 2015, and all out-of-District marijuana convictions are treated as follows:

Prior convictions for PWID, or Dist. of marijuana, or for attempt or conspiracy to commit such offenses, that have been sealed pursuant to D.C. Code § 16-803.02, on the ground that the conduct resulting in the conviction was decriminalized or legalized, are not counted.

Prior convictions or adjudications for possession or PWID marijuana, or for attempt or conspiracy to commit such offenses, that have not been sealed under D.C. Code § 16-803.02, are not initially counted. If the government can prove to the court by a preponderance of the evidence that prior unsealed convictions or adjudications for possession or PWID marijuana, or for attempt or conspiracy to commit such offenses, were the result of conduct that was not decriminalized or legalized, the convictions are counted.

Prior convictions or adjudications for Dist. of marijuana, or for attempt or conspiracy to commit distribution of marijuana, that have not been sealed under D.C. Code § 16-803.02, are initially counted. If the defendant can prove to the court by a preponderance of the evidence that prior unsealed convictions or adjudications for Dist. of marijuana or for attempt or conspiracy to commit distribution of marijuana, were the result of conduct that is now decriminalized or legalized, the convictions are not counted.

Note: A party who would like the court to consider information that could change the scoring of a conviction should follow the procedure set forth in rule 2.4.

Due to the complexity of the new policy, following the implementation, the Commission provided trainings to attorneys, judges, and CSOSA officers on how to apply the rule. Additionally, a training specific to the scoring of prior marijuana offenses was posted on the website.

II. Technical Changes to the Guidelines Manual

- A. The Commission made the following significant amendments to the 2015 Guidelines Manual, which the Commission published in June 2015. All references contained in this chapter pertain to the Guidelines Manual.

Chapter 1

1. The Commission received several questions from judges about whether the Guidelines' concurrent and consecutive sentencing rules applied to sentences under a Rule 11(e)(1)(C) (now Rule 11(c)(1)(C)) plea. The Commission clarified this in section 1.2.9 by stating that "Rule 11(e)(1)(C) pleas control the sentence or sentencing range regardless of the otherwise applicable grid options, prison range, or Guidelines rules." Section 5.1 was also modified to reflect this clarification.

Chapter 2

1. A new paragraph was added to section 2.2.1 to specify how prior revocations are scored. The section now provides that "A sentence based solely on the revocation of a defendant's supervision (e.g. revocation of probation, parole, or supervised release) in a prior case is not scored as a new conviction. The treatment of the original underlying conviction is governed by the rules set forth in Section 2.2.2."
2. To emphasize that the CH scores calculated by CSOSA are not a final determination because an offender's ultimate CH score is determined by the sentencing judge, the Commission modified the section 2.2.6(a) to refer to CSOSA's scoring as the "initial" CH score.
3. The subsections within section 2.2.8 were reorganized so that the individual subparts of the section are built upon preceding subparts in a more logical sequence. However, the substance of the section did not change.

Chapter 3

1. During 2014, the Commission received multiple questions from judges about whether the original Guidelines sentencing range applied when an offender was resentenced following revocation of probation. The Commission addressed these questions by specifying in section 3.8 that "at resentencing,

the court should utilize the defendant's original in-the-box sentencing range and options."

Chapter 4

1. The Commission noticed that CSOSA pre-sentence report writers were sometimes unsure about how to score prior convictions with a sentencing enhancement. To address any possible confusion, a new paragraph was added to Chapter 4 noting that: "Sentencing enhancements, such as those listed in Appendix H, do not modify how a prior conviction is scored. For example, a prior conviction for assault with significantly bodily injury is scored as a M8 conviction regardless of whether a sentencing enhancement applied to that conviction."

Chapter 8

1. The Sentencing Guidelines apply to all felony sentences, including those sentenced under the Youth Rehabilitation Act (YRA). Occasionally, attorneys attempted to argue that sentences under the YRA were exempt from the Guidelines rules. The Commission added a new Frequently Asked Question (FAQ) to Chapter 8 to address this. FAQ 8.5 now asks and answers the following question:

"Do the Guidelines apply to sentences under the Youth Rehabilitation Act?"

The Sentencing Guidelines apply to felony convictions under the Youth Rehabilitation Act, D.C. Code § 24-901, et seq., just as they would any other felony conviction. Similar to other factors, at sentencing the court may consider the Youth Rehabilitation Act when determining an appropriate sentence within the applicable box."

CHAPTER THREE

OVERVIEW OF AGENCY DATA SOURCES AND COLLECTION PROCEDURES

The development of the Guidelines Reporting Information Data System (GRID System) has significantly improved the Commission's ability to analyze sentencing-related data comprehensively and efficiently. The system allows the Commission to systematically monitor all felony sentences and Guideline compliance to promote certainty and consistency. The GRID System uses data from three sources: the Superior Court, the Court Services and Offender Supervision Agency (CSOSA), and individual Superior Court judges. The Superior Court provides the Commission with all offense, disposition, and sentencing-related data through a daily electronic transmission. CSOSA adds the offender criminal history information through the Guideline Scoring System (GSS). Finally, individual judges contribute information relating to cases that Commission staff initially classify as non-compliant with the Guidelines.

I. Background of Guidelines Reporting Information Data System

Preceding the implementation of the GRID System, the Commission used a data system called the Sentencing Guidelines System (SGS). The SGS data system received 26 filtered sentencing-related data variables from the Superior Court. The Superior Court transferred the data to the Commission through an Extensible Markup Language (XML)¹³ interface via the Justice Information System (JUSTIS).¹⁴ Using SGS, the Commission received data related to Superior Court dispositions and sentencings only after a plea or verdict. The Commission then imported the case data and integrated it into the appropriate offender/case record.

In 2011, the Superior Court changed its data sharing processes with partner criminal justice agencies, when it introduced a new information sharing system called the Integrated Justice Information System Outbound 12.1 Data Feed (IJIS 12.1). Sentencing related data from Superior Court is transmitted to CJCC by the IJIS 12.1 data feed. With IJIS Outbound 12.1, agencies pull data directly from JUSTIS. This process allows JUSTIS to provide recipient agencies with an unfiltered data transfer (508 data variables and attributes) from the Superior Court. In order to receive this data transfer, technical changes to a recipient agency's data systems were required.

The Commission's SGS data system was designed to consume only 26 filtered sentencing-related data variables from the Superior Court. Therefore, the technical design of SGS was not compatible with the new IJIS 12.1 data system. In order to maintain data sharing capabilities

¹³ XML is a markup language that defines a set of rules for encoding documents in a format which is human and machine readable.

¹⁴ JUSTIS is a data-sharing network operated by the Criminal Justice Coordinating Council (CJCC).

with the Superior Court, the Commission was required to completely redesign or replace its SGS system.

A. Development and Implementation of the GRID System

Ensuring technical compatibility with the Superior Court and continued access to sentencing data became a priority for the Commission. Thus, the Commission developed and deployed the GRID System. Since its creation, the GRID System has allowed the Commission to research, analyze, and report on sentencing data and judicial compliance. The system has also enabled the agency to undertake a more comprehensive analysis of sentencing trends and practices in order to evaluate the effectiveness of the sentencing guidelines. The Commission undertook a three-phase approach in developing the GRID System:

Phase I – Needs Assessment

During the spring of 2011, the Commission contracted with an independent vendor to undertake a needs assessment to determine whether it would be feasible and cost effective to redesign the legacy data system to ensure compatibility with the IJIS Outbound data feed or, alternatively, whether the agency should contract to build an entirely new system. The needs assessment identified three options for the Commission's consideration: (1) modify the current data system; (2) buy an off-the-shelf system and adapt it to the agency's business needs; or (3) develop a new data system. After reviewing the information provided, the Commission determined that based on cost, risk, and functionality, the development of a new data system would best address both the current and future needs of the Commission.

Phase II – Design and Development of a New Data System

With the assistance of an IT Project Manager, in May 2012 the Commission developed a request for proposals that identified both the business needs and technical requirements for the Commission's new data system. After receiving and evaluating submitted proposals, the agency awarded a fixed price contract to Blueprint Consulting Services on December 21, 2012.

On January 10, 2013, Blueprint Consulting Services began the development of the new data system. Funding for the project was provided through a FY 2013 Capital Budget request. To minimize costs, the Commission entered into an inter-agency agreement with the Pretrial Services Agency (PSA) to utilize their existing database structure. PSA had recently completed modifications to their own database structure to ensure compatibility with IJIS 12.1 data and agreed to share their source code. The use of PSA's database structure reduced the overall cost of the project. In addition, incorporating the PSA database design into the development of the

GRID System enabled the Commission to obtain historical data from PSA, which complements the new IJIS 12.1 data.

Phase III – Implementation of the GRID System

The Commission developed the GRID System as a web-based application that could capture sentencing information, calculate Guidelines compliance, and perform numerous types of data analysis. It was designed as an independent, internet technology-based system. The secure JUSTIS network provides access to the application, while the Office of the Chief Technology Officer (OCTO) hosts the GRID System servers.

The GRID System was implemented using a four-step process to ensure the functionality of each component of the system prior to the completion and deployment of the entire system. The data system incorporated an agile development process that continually tested technical and functional issues and integrated agency feedback throughout the development and implementation process.

The four steps of implementation included:

- Base technical and business processes, which included providing case, count, and offender information, basic statistical analysis capabilities, and administrative security controls;
- Enhanced technical and business processes, including the development of algorithms to determine judicial compliance, ad hoc statistical analysis capabilities, and incorporation of all felony charge codes;
- Improved transfer of criminal history information from CSOSA through an XML interface and integration of data into the GRID System, including the automatic calculation of judicial compliance; and
- Full system functionality with tested and verified sentencing enhancements.

Throughout this process, the agency performed ongoing testing of each component of the system and made adjustments as needed prior to deployment. The Commission deployed the GRID System as a fully functional system on December 20, 2013, on time and within budget.

B. GRID System Capabilities

The GRID System has four essential core capabilities:

- *Receives and sends data:* The Commission uses the sentencing-related data from the Superior Court facilitated by CJCC's IJIS 12.1. All recipient agencies, including the Commission, receive the same data through an IJIS 12.1 data feed. CSOSA transfers

criminal history data to the GRID System via GSS, while the GRID System provides sentencing data to CSOSA.

- *Stores, displays, and exports data:* The GRID System merges and stores the IJIS 12.1 data received from JUSTIS and the criminal history score provided by CSOSA through GSS. This process creates a comprehensive record for each felony case, broken down by counts in a multicount case.
- *Calculates compliance:* The GRID System imports data daily from the IJIS 12.1 data feed and computes compliance for any new or updated cases sentenced.
- *Performs analysis:* The GRID System was designed to perform numerous custom and ad hoc statistical analyses that can be saved and edited for future use. This allows staff flexibility when undertaking a variety of analyses in response to data requests.

C. GRID System Enhancements Implemented in 2015

In 2015, the Commission, with assistance from Blueprint Consulting Services, completed two substantial enhancements to the GRID System. First, the GRID System now preserves a snapshot of yearly historical case data. Second, the GRID System now differentiates between initial sentences imposed and sentences imposed a following probation revocation.

Preserving a snapshot of historical case data for each calendar year allows the Commission to make year-to-year comparisons of sentencing. On January 1 of each year, the Commission will download a “snapshot” of the data for the previous calendar year. Given that felony cases in the GRID System are updated continually by the courts, it is important to preserve a yearly snapshot for an accurate comparison and analysis of sentencing data. This is a major expansion of the Commission’s analytical capabilities.

Additionally, cases in the GRID System are now updated daily to reflect new court events. For example, one such court event is probation revocation. Tracking probation revocations enables the Commission to analyze sentencing practices and trends in a more nuanced and comprehensive manner. In 2015, the Commission implemented additional systematic controls to ensure probation revocations are identified, tracked and stored appropriately. The inherent challenge in capturing revocation data along with original sentencing data is ensuring that both sentences are correct and recorded separately so that the sentence imposed after probation revocation does not overwrite the original sentence and remove it from the database. Having identified the system’s overwriting of the original sentence as a potential problem, the Commission worked with Blueprint Consulting Services to build an automated data process that ensures that both original and revocation sentences are captured accurately and maintained separately. This enhancement allows the Commission to analyze different phases of sentencing and to provide more accurate and complete analyses.

II. Guidelines Scoring System - GSS

The GRID System includes a component system known as the Guidelines Scoring System (GSS). GSS was developed in collaboration with our federal partner, the Court Services and Offender Supervision Agency (CSOSA). The GSS has fundamentally changed the way the Commission receives criminal history scores and shares sentencing information with CSOSA. GSS is a bi-directional¹⁵ XML interface, which fully utilizes the multiple functions of the new GRID System. GSS is a web-based application designed to allow CSOSA Community Supervision Officers (CSO) and Supervisory Community Supervision Officers (SCSO) to input an offender's criminal history information directly into the GRID System.

A. Description of Criminal History Score

An offender's Criminal History (CH) score is one of two primary factors required by the Guidelines to calculate the Guidelines-recommended sentence for each felony conviction. CSOSA researches each offender's CH score and prepares a score as part of the pre-sentence investigation (PSI) report. CSOSA calculates an offender's CH score based on his or her prior criminal convictions, both within and outside of the District. Prior felony convictions, most misdemeanor convictions, and recent juvenile adjudications are scored, producing the offender's total CH score.

B. Purpose of the Guideline Scoring System (GSS)

Prior to the implementation of the GRID System, CSOSA transferred CH scores to the Commission via e-mail through a digital form using InfoPath¹⁶ called the Sentencing Guideline Form. With the implementation of the GRID System, CSOSA began electronically transmitting completed Sentencing Guideline Forms to the GRID System through a single-directional XML interface.¹⁷ The GRID System automatically matched the offender's CH score to the appropriate case number and merged the CH score with the IJIS 12.1 data from Superior Court to create a complete sentencing record for Guidelines compliance purposes.

The transfer of CH scores through a single-directional XML interface was a notable improvement over the previous email system because it allowed the Commission to receive direct transmission of criminal history score information from CSOSA. However, the single-directional XML did not allow the transmission of data from the Commission to CSOSA, and the two agencies determined that a bi-directional XML secure transactional interface was necessary for effectively communicating and exchanging data.

¹⁵ Bi-directional means that information can be sent in two directions, as in between two agencies.

¹⁶ InfoPath is a software application used for designing, distributing and submitting electronic forms.

¹⁷ Single-directional means that information or data is transferred in one direction.

C. Development and Design of the Guideline Scoring System (GSS)

In early 2014, the Commission initiated a request for proposals that identified both the business and technical requirements for a new bi-directional XML interface, which became the current iteration of the GSS. After a thorough review and evaluation of the proposal, the Commission decided to enter into a fixed-price contract with Blueprint Consulting Services for the design and implementation of GSS. The development of GSS began on March 11, 2014, and was funded through a Capital Budget request.

D. Implementation of GSS

In December 2015, the Commission completed the development phase of GSS. To ensure the functionality of the new GSS system, a select group of CSOSA officers and supervisors were involved in the pilot testing, which took in January and February 2015. During testing, CSOSA and the Commission used both GSS and the single direction XML simultaneously to ensure no CH data were lost. Management from both CSOSA and the Commission reviewed GSS and verified that the deployed system met all the technical and business requirements for each agency. The Commission released GSS into full production on March 1, 2015, within the stated contract period and within budget.

E. Benefits of the Guideline Scoring System (GSS)

GSS is a bi-directional information exchange, allowing information to be transmitted in both directions between CSOSA and the Commission. GSS benefits include:

- Reducing human intervention to less than 2% for CH score data exchange between the Commission and CSOSA;
- Phasing out the use of emailed InfoPath Forms;
- Reducing missing CH scores to less than 1%;
- Creating the capability to exchange data electronically and securely between the Commission and CSOSA;
- Improving data quality; and
- Providing immediate access to criminal history scores for future sentencing purposes.

III. Sentencing Data

The Commission captures 508 sentencing parameters that include 232 unique data elements from the Superior Court's IJIS 12.1 data feed. As individual cases are modified and updated by the Court, those changes are also recorded in the GRID System through the IJIS 12.1 data feed. For example, when the court updates a charge code in a case, the GRID System will maintain a

record of the old charge code as well as the new charge code. These sentencing data include all court information available from the arrest phase through the sentencing phase and allow for the analysis of sentencing data at the offender, case, and count levels. The GRID System allows the Commission to analyze sentencing trends and identify changes in sentencing patterns over time. Improved data access and quality enables the Commission to evaluate the impact of policy changes and develop data-driven modifications to the Guidelines where appropriate.

In FY 2015, the Commission also created historical data functionality within the GRID System to analyze data captured during each calendar year. The historical data functionality provides a dataset representing sentencing events for a particular year. The historical data are captured as static data in order to reflect accurate and consistent end-of-year data reporting for Commission reports. The dynamic data captured by the GRID System are used for statistical analyses and for data requests from outside parties.

The historical data function ensures consistent and accurate reporting of the sentencing practices that have taken place during a given year, without static from modifications or updates that may occur in a case in future years. For example, the historical data functionality allows the Commission to report a case from 2014 that might have a modified sentence in 2015 as a result of a probation revocation or an appellate ruling. While the GRID System records the sentence modification in 2015, the historical functionality allows the Commission to report court activity that occurred in the case specifically during 2014.

IV. Compliance Data

When the sentence imposed falls within the recommended Guidelines range and recommended sentence type, the sentence is deemed compliant with the Guidelines (see Chapter Five for more details on calculating Guidelines compliance). The Guidelines utilize two grids the Master Grid and the Drug Grid as tools to determine an offender's recommended sentence. The recommended sentence options and range are based upon the offender's CH score and the offense of conviction. Every night, the GRID System calculates each felony sentence's compliance status with the Sentencing Guidelines. If a sentence appears non-compliant, the sentence is evaluated further using a number of different factors to ascertain whether the sentence is compliant under specific Sentencing Guideline rules. This evaluation consists of a seven-step process. The GRID System automatically performs the first five steps. The two remaining steps, which were necessary in less than 10% all counts sentenced in 2015, are still performed by staff.

A. The Seven-Step Process to Determine Judicial Compliance

1. Step One – Identify Felony Offenses

The Guidelines only apply to felony convictions; therefore, compliance is not calculated for misdemeanor, traffic, and other minor offenses. The GRID System can determine if each count in a case is a felony, misdemeanor, traffic, or other type of offense based upon the offense charge code. If the GRID System does not recognize a charge code, the system will automatically generate a notification. Commission staff then reviews the offense and updates the system with the new charge code information if necessary. If the case contains at least one felony count, the process then proceeds to step two.

2. Step Two – Determine the Appropriate Grid Box

The GRID System computes compliance for every felony count sentenced. Compliance is determined automatically based upon the Guidelines Master Grid or Drug Grid, depending on whether or not the offense is a drug charge. Each grid uses the predetermined severity level for the offense of conviction and the offender's CH score to determine the recommended type of sentence and recommended sentence length. If a sentence falls within the appropriate type and range, as designated by the applicable Guidelines grid, then the sentence is deemed compliant with the Guidelines. If the sentence does not fall within the appropriate sentence type or sentencing range, the process then proceeds to step three.

3. Step Three – Determine if the Sentence Runs Concurrently with an Equal or Longer Compliant Sentence on Another Count

An otherwise non-compliant sentence is still considered to be compliant with the Guidelines if it runs concurrently with another sentence of equal or greater within the same case, where that sentence is itself compliant with the Guidelines. To be considered compliant, both sentences must be eligible to run concurrently under the Guidelines.¹⁸ 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-of-the-box sentence since it would not increase or decrease the prison term associated with the compliant sentence. The GRID System reclassifies the sentence as compliant because the longest sentence among concurrent counts determines the actual length of time an offender will serve. If the sentence does not run concurrently with another sentence or if the longest sentence is non-compliant, the process then proceeds to step four.

¹⁸ Chapter Six of the Guidelines Manual addresses which sentences must run concurrently or consecutively. For example, two crimes of violence committed against two separate people must run consecutive to each other. Two non-violent convictions from the same event must run concurrently to each other. If the Guidelines do not specify if the sentence must run concurrent or consecutive to another sentence, discretion is left to the sentencing judge.

4. Step Four – Determine if the Sentence is the Result of an Appropriate Departure or a Statutory Enhancement

There are several instances when an otherwise non-compliant sentence is nonetheless compliant with the Guidelines because of an appropriate departure or statutory enhancement. When a sentencing judge imposes a non-compliant sentence but selects an enumerated departure reason, the Guidelines deem the sentence a compliant departure.¹⁹ If the court records the departure reason, the GRID System will automatically mark the sentence as a compliant departure and record the reason for the departure. In addition, sentences above the recommended Guidelines range due to a statutory enhancement are also deemed compliant if the sentence falls within the expanded range.²⁰ The GRID System incorporates enhancements into its calculations when the Superior Court reports them in the IJIS 12.1 feed. Non-reported enhancements are verified and manually entered into the GRID System by Commission staff. If a departure does not exist or an enhancement does not apply, the process then proceeds to step five.

5. Step Five – Determine if the Sentence is the Result of a Special Circumstance

Certain special factors can change a judge's options under the Guidelines:

- *Rule 11(c)(1)(C) pleas:* The Guidelines and the GRID System classify all sentences following a Rule 11(c)(1)(C) (formerly Rule 11(e)(1)(C)) plea as compliant, regardless of whether the agreed upon sentence would otherwise be compliant for the particular offender and offense. In Rule 11(c)(1)(C) pleas, the sentence is agreed to before the offender's criminal history score is calculated; and if the judge accepts the plea, the judge is bound to impose the sentence agreed to by the parties.
- *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 sentencing²¹ for all felonies committed after August 5, 2000.²²

¹⁹ Chapter Five describes departures in more detail.

²⁰ Chapter Four and Appendix H of the Guidelines Manual address expanding the Guidelines range based upon a statutory enhancement. For example, if a weapon offense is committed in a designated "gun-free zone," the Guidelines double the upper limit of the sentencing range.

²¹ Determinate sentences have a defined period of incarceration. A parole board does not determine the offender's initial release date. For example, a sentence of 35 months incarceration is a determinate sentence. In the District, an offender will serve at least 85% of the determinate sentence imposed. Indeterminate sentences consist of a sentencing range. A sentence will have a minimum and maximum term of incarceration and a parole board or other similar agency determines the offender's initial release date. For example, a sentence of 30 to 90 months incarceration is an indeterminate sentence, and a defendant so sentence is eligible to be released at any time after serving the initial 30 months.

²² 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 Guidelines were designed primarily for the new determinate system. However, a very 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 – even if the offense was committed before or after August 5, 2000. Commission staff manually evaluates the small number of indeterminate sentences that occasionally appear in the data.

The GRID System detects and labels remand sentences. A remand occurs when the Court of Appeals sends a case back to the sentencing court for re-sentencing or other action. The Commission does not currently evaluate Guidelines compliance for remand sentences.

The GRID System also checks the compliance status of sentences following a probation revocation. However, for data analysis purposes, these sentences are segregated and not used to calculate the overall annual compliance rate.²³ If one of the above conditions does not apply, the process then proceeds to step six.

6. Step Six – Verification of Non-Compliance

If, after completion of the five initial steps outlined above, a sentence still appears to be non-compliant, the conviction and the offender's information are manually reviewed by staff to verify that the data upon which the GRID System based its evaluation are valid and that there are no data quality issues present. Additionally, sentencing compliance is rechecked using data from an alternate source: the CJCC Justice Information System (JUSTIS). Commission staff is often able to supplement the record by reviewing official court documents available through the JUSTIS system. If the sentence still appears to be noncompliant after the information is verified, one final step must be taken.

7. Step Seven – Departure Letters

For sentences that remain non-compliant after the previous six steps are completed, the Commission sends an electronic form to the sentencing judge to verify the sentencing data upon which the judge sentenced the offender and to inquire as to whether the judge intended to impose a non-compliant sentence. The form allows the judge to update or correct any information in the case. Currently, the Commission receives responses from judges in approximately half of the cases for which it sends out forms. In 2016, the Commission intends to restructure how it contacts judges to verify sentencing information and departures. The goal is to ensure our communication with judges is effective, thereby increasing the judicial response rate.

²³ 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.

V. Conclusion

The GRID System has broadened the Commission's analytic capability and its ability to respond to data requests in a comprehensive and timely manner. The Commission's GSS and GRID Systems have transformed the way in which the agency researches, analyzes, and reports sentencing data and judicial compliance. With the implementation of these two data systems, the Commission can now automatically import the sentencing-related data necessary to monitor and analyze sentencing trends.

One of the many benefits of the GSS and GRID System is that it has all but eliminated the number of missing CH scores. In 2015, the Commission experienced no missing CH scores in the system. The automated consumption of the CH scores from CSOSA via the GSS further enhances the Commission's ability to develop a comprehensive sentencing record for each felony offender sentenced in the District. With the CH scores imported through GSS, the GRID System can now automatically calculate judicial compliance within the Guidelines. GSS allows the Commission to share with CSOSA whenever the sentencing judge corrects the score assigned to a prior conviction or modifies the offender's total CH score, thus improving the overall accuracy of CH scores and ensuring that the modified data is used if CSOSA is required to calculate the same offender's CH score in the future.

With the successful deployment of GSS in 2015, calculating guideline compliance moved from a manual to an automated process, resulting in better than 90% of compliance calculated automatically by the GRID System. The impact of the automated process has allowed the Commission to allocate staff resources to other data-related tasks while still ensuring that compliance is calculated in a timely manner.

The creation of the GRID System and GSS illustrates the Commission's commitment to improving the accuracy, validity, and reliability of sentencing data it reports. Even with the enhancements developed and implemented in 2015, the system still has room for growth. As we move forward, the Commission will continue to improve the efficiency and capabilities of its data collection system that will allow the Commission to provide information to the public and the Council in the most helpful, timely, and accurate manner possible.

CHAPTER FOUR

SENTENCING DATA AND ANALYSIS

This chapter provides an overview of felony sentences imposed by the Superior Court during 2015. The data used for the analysis in this chapter include all felony convictions sentenced in Superior Court from January 1, 2015, through December 31, 2015, without regard to the date of the offense or the date of plea or verdict. This chapter includes an analysis of felony sentencing patterns focused on sentence type, offense type, and offender characteristics. It does not include sentences for misdemeanor or traffic offenses given that the Sentencing Guidelines apply only to felony offenses.

In addition to the overview of 2015 sentencing data, this chapter also includes a summary of felony sentencing trends from 2010 through 2015. This broader analysis of sentencing trends over the previous six years reflects any modifications made to the Sentencing Guidelines during this timeframe.

In order to analyze 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 the sentencing practices that occur for each individual offense. Case level analysis examines sentencing trends based upon the most severe count for a given case. Lastly, offender level analysis reveals trends related specifically to the felony offender population sentenced in Superior Court.

The GRID System has changed the way the Commission processes and evaluates felony sentencing data.²⁴ Prior to calendar year 2013, case-level sentencing information was analyzed based on the count with the longest sentence. It is now analyzed based on the most severe felony count in each case, which is determined by the offense severity group, sentence type, sentence length, and then offense type.

The GRID System has also changed the classification of prison sentences to include long split sentences.²⁵ When a Guidelines-compliant long split sentence is imposed, an offender is required to serve at least the bottom number of the applicable sentencing range followed by a period of probation. Prior to 2013, the Commission's reporting of split sentences included both short split and long split sentences. In 2013, the Commission decided to categorize long split sentences as prison sentences given that a long split sentence requires the offender to serve at least the

²⁴ Chapter Three provides a detailed description of the implementation of the GRID System.

²⁵ 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 longer 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 is at least as long as the minimum prison term in that box.

minimum Guidelines-compliant prison sentence, and this sentencing option available in prison-only Grid boxes. 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.²⁶

The GRID System and modifications to the Commission's definitions of sentence type account for some of the discrepancies that may be found in comparisons of 2015 sentencing data to sentencing data reported in previous years. The GRID System and the modified definitions for sentence type allow the Commission to provide a more accurate and detailed summary of sentencing in the District of Columbia. Data collection from prior years was not as comprehensive given that data was provided from multiple sources rather than a single source with improved data quality. The 2010 – 2012 data presented in this report reflect the more complete sentencing data captured by the GRID System for this period. Any 2010-2012 sentencing data presented in this report may differ from data reported in previous annual reports, which did not use the GRID System as a data source or the Commission's new calculations for sentence type and most serious offense.

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.²⁷ These grids are comprised of two axes: one for the offender's Criminal History Score (CH score), and one for Offense Severity Group (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 the grids in which an offender's Criminal History may be classified, with "A" representing the lowest criminal history classification and "E" representing the highest.²⁸ 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 the recommended sentencing options and identifies the range of months for prison sentences.

²⁶ 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.

²⁷ See Appendices A and B for the Master Grid and the Drug Grid.

²⁸ The classifications of CH scores are as follows: A -0 to 1/2, B -3/4 to 1 3/4, C -2 to 3 3/4, D -4 to 5 3/4, and E -6+.

II. Felony Sentences Imposed in 2015

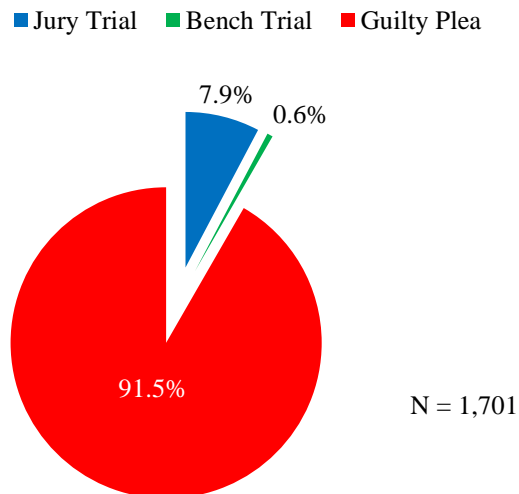
There were 1,617 felony offenders sentenced in calendar year 2015. The felony offenders were sentenced in 1,701 cases, consisting of 2,309 felony counts. Of the 1,701 felony cases, 990 involved a single felony count and 711 involved multiple felony counts. The total number of cases decreased by 198, or 10.4%, when compared to 2014. The number of cases the Commission records has decreased every year since 2010, with the number of felony cases in 2015 reaching the lowest level in the 2010 to 2015 period (Table 1).

Table 1: Number of Sentences by Year, 2010-2015

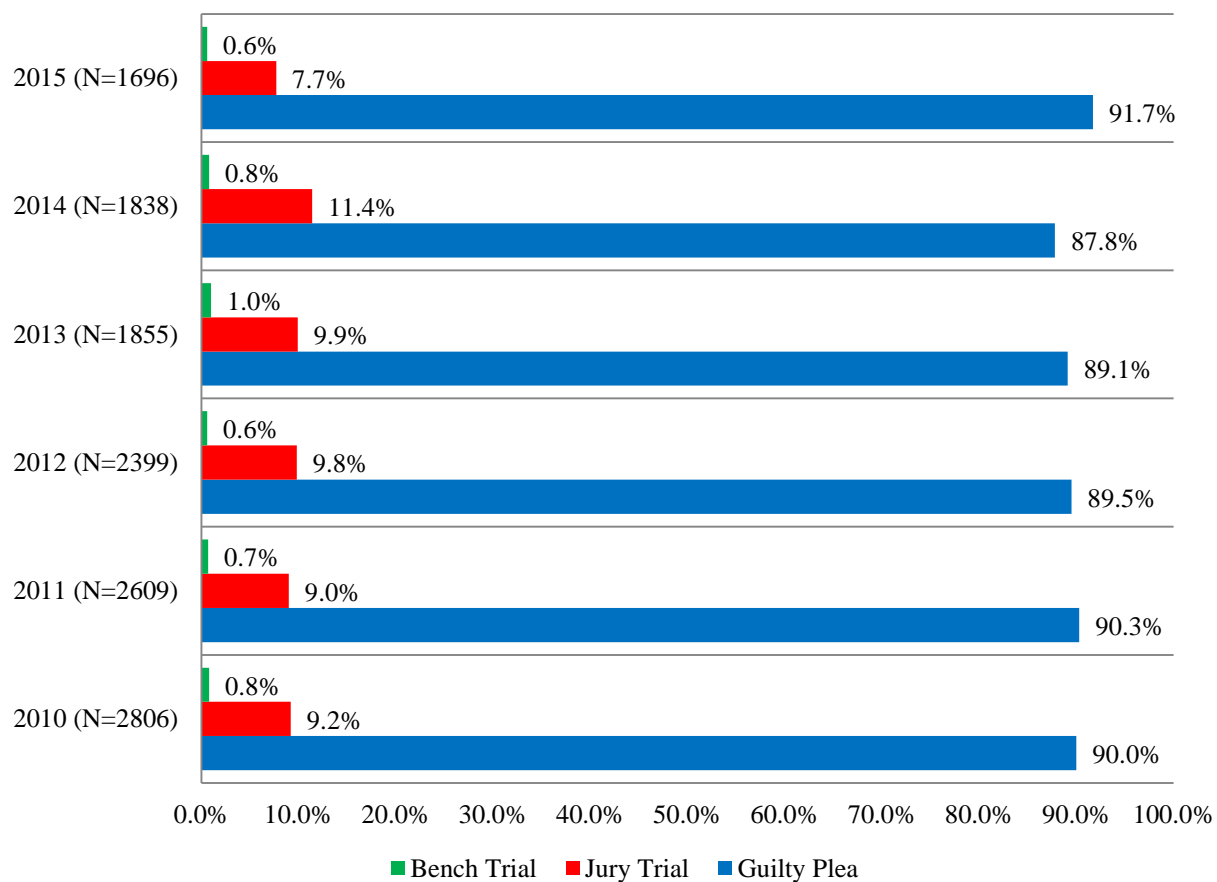
	2010	2011	2012	2013	2014	2015
Number of cases sentenced	2,616	2,438	2,280	1,919	1,899	1,701
Number of counts sentenced	3,665	3,655	3,610	2,667	2,843	2,309
Number of offenders sentenced	2,361	2,268	2,164	1,779	1,797	1,617

Figure 1 shows the disposition of felony cases in calendar year 2015. As was the case in previous years, most of the felony cases in 2015 were disposed of through guilty pleas, with the percent of cases disposed of through pleas reaching its highest level in the 2010 to 2015 period. Jury trials accounted for between 9% and 11% of cases in previous years but decreased to 7.7% of all cases in 2015, as can be seen in Figure 2. There were 10 bench trials in 2015, or 0.6% of the total dispositions. The percentage of bench trials remained relatively constant between 2010 and 2015, never rising above 1% of the felony cases sentenced in any year.

**Figure 1: Types of Disposition
by Case in 2015**



**Figure 2: Dispositon Trends 2010-2015
Case Level**

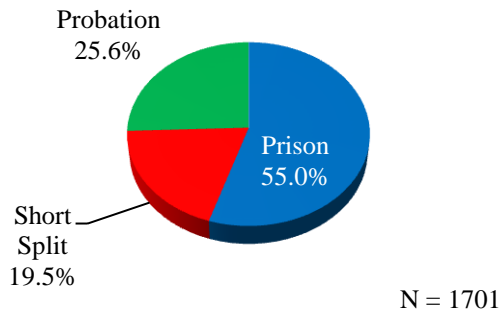


A. Sentence Type

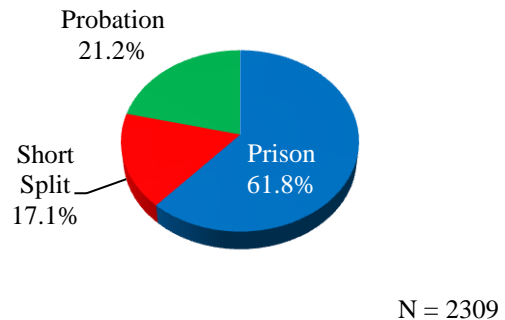
The Commission classifies sentences into three categories: probation, short split, and prison. As in prior years, the majority of sentences imposed in 2015 were prison sentences (Figures 3a and 3b). The total number of cases sentenced to prison has decreased yearly, from 1,785 cases in 2010 to 931 in 2015. There was a similar trend in the number of counts sentenced to prison, decreasing from 2,690 counts in 2010 to 1,413 in 2015.

Although the total number of cases and counts sentenced decreased from 2010 through 2015, there was also a decline in the proportion of offenders sentenced to prison. From 2010 through 2014, prison sentences accounted for between 65% and 68% of felony case sentences imposed; in 2015 the percentage of cases sentenced to prison decreased to 55% (Figure 4).

**Figure 3a: Sentence Type
by Case in 2015**



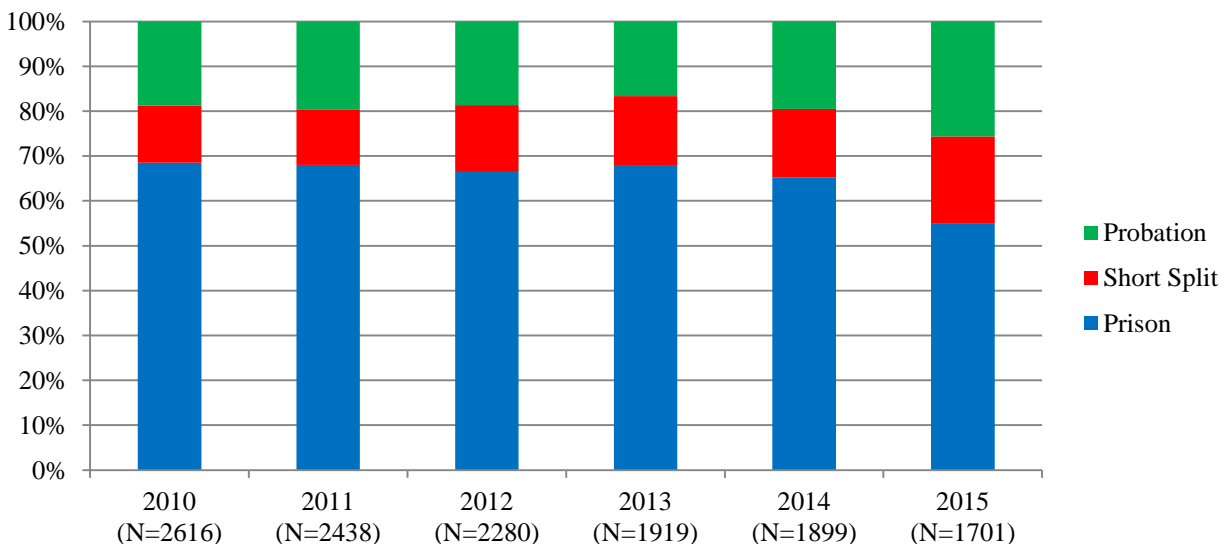
**Figure 3b: Sentence Type
by Count in 2015**



Felony counts followed this trend as well, with prison sentences accounting for between 72% and 74% of all counts sentenced from 2010 through 2014. However, in 2015 prison sentences accounted for only 62% of all counts sentenced.

While the proportion of prison sentences decreased, the proportion of probation and short split sentences both increased in 2015. The proportion of cases sentenced to probation ranged between 17% and 20% from 2010 through 2014. In 2015, the proportion of cases sentenced to probation increased to 26%. Short split sentences also reached their largest proportion, increasing from a range of 12% to 16% of sentences in a given year between 2010 and 2014 to 20% of all sentences imposed in 2015.

Figure 4: Sentence Type, Case Level, 2010-2015



Prison is expected to be the most frequent sentence type imposed because the Sentencing Guidelines provide the option of a prison sentence in every box of both the Master and Drug

Grids. Compliant probation and short split sentences are only available in 24 of the 65 boxes on the Master and Drug Grids.²⁹ These types of sentences are typically reserved for less severe offenses or offenders with limited criminal histories. In addition, some offenses are subject to mandatory minimum sentencing provisions, which require a mandatory prison term.

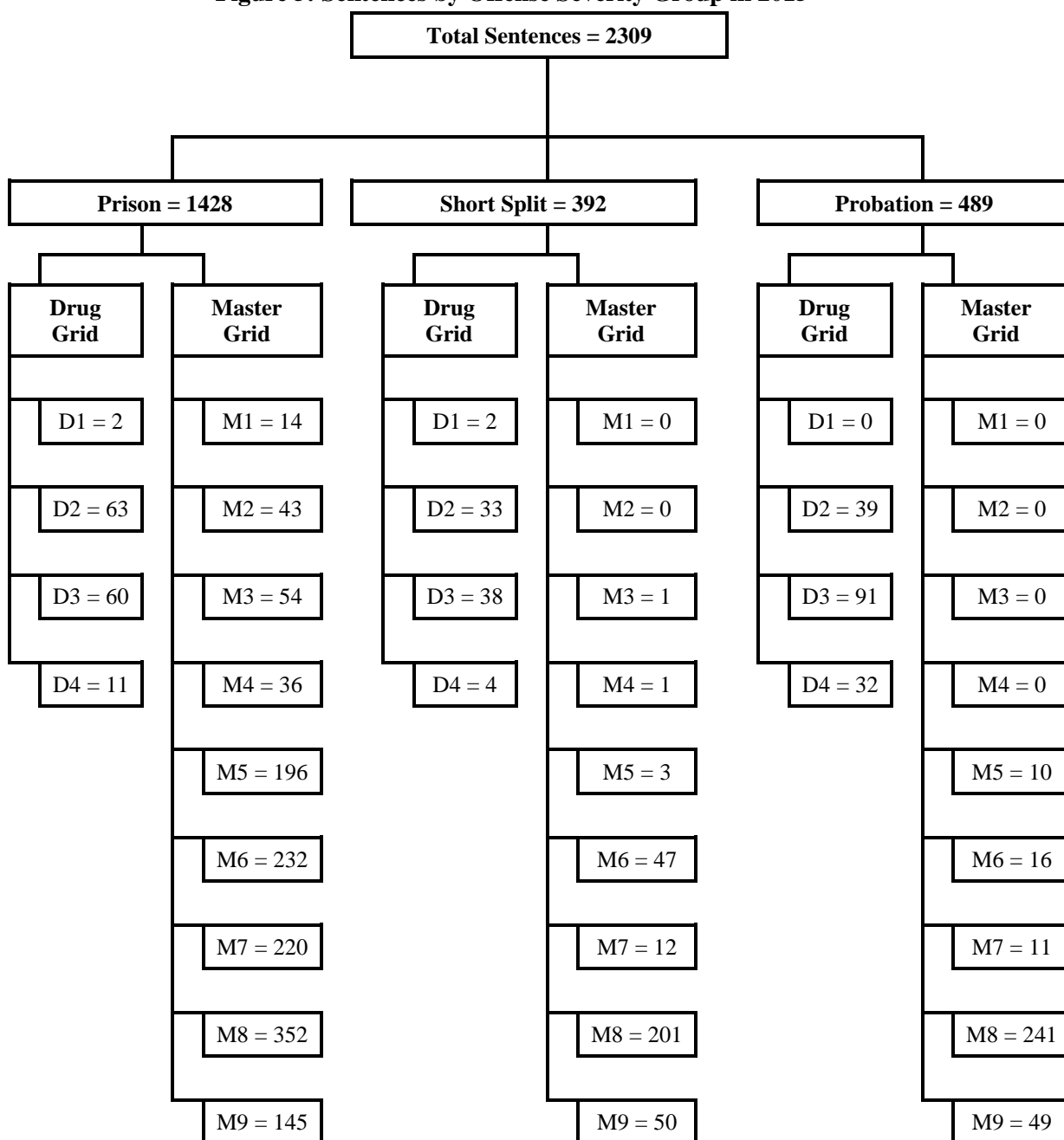
B. Offense Severity Group³⁰

Figure 5 shows a count-level distribution of sentence types imposed in 2015 for each Offense Severity Group (OSG) on the Master and Drug Grids. Prison is the most frequent sentence for every OSG except D3 and D4. While this was true of D4 in previous years, it was not true for D3. While the number of counts sentenced in D3 decreased by 29%, from 265 in 2014 to 189 in 2015, the number of D3 counts sentenced to prison decreased by over half, from 122 in 2014 to 60 in 2015.

²⁹ See page 33 for a detailed explanation of the Sentencing Guidelines structure.

³⁰ See Tables 23 and 24 in Appendix D, detailing each grid box by CH score, sentence type, and sentence length.

Figure 5: Sentences by Offense Severity Group in 2015



By far the largest number of felony sentences imposed on the Master Grid fell in M8, representing 41% of all felony non-drug sentences. Similarly, D3 had the largest number of felony drug sentences imposed in 2015, representing 50% of felony drug sentences. Combined, M8 and D3 accounted for 43% of all felony sentences in 2015. Table 2 presents the average sentence length and CH score by type of sentence and Offense Severity Group for felony counts sentenced in 2015. This table also highlights the areas where no probation and short split sentences were imposed.

Table 2: Average CH Score and Sentence Length by Offense Severity Group and Sentence Type in 2015, Count Level											
<i>Sentence Type</i>	Prison			Short Split			Probation			Total	
<i>Severity Group</i>	% of Counts	Average CH Score	Average Sentence Length (Months)	% of Counts	Average CH Score	Average Sentence Length (Months)	% of Counts	Average CH Score	Average Sentence Length (Months)	% of Counts	Average CH Score
M1 (N=14)	100.0%	0.5	430	0.0%	--	--	0.0%	--	--	100.0%	0.5
M2 (N=43)	100.0%	2.4	212	0.0%	--	--	0.0%	--	--	100.0%	2.4
M3 (N=55)	98.2%	1.8	147	1.8%	0.5	1	0.0%	--	--	100.0%	1.8
M4 (N=37)	97.3%	2.2	102	2.7%	0.0	5	0.0%			100.0%	2.2
M5 (N=209)	93.8%	1.9	68	1.4%	0.1	3	4.3%	1.0	0.0	99.5%	1.8
M6 (N=295)	78.3%	2.0	39	15.9%	0.3	4	5.4%	1.0	0.0	99.6%	1.7
M7 (N=243)	90.5%	2.4	27	4.9%	0.7	3	4.5%	1.2	0.0	100.0%	2.2
M8 (N=794)	44.0%	2.1	17	25.3%	1.2	3	30.4%	0.5	0.0	99.7%	1.4
M9 (N=244)	59.5%	2.4	11	20.5%	1.1	2	19.7%	0.8	0.0	99.7%	1.9
D1 (N=4)	50.0%	0.5	54	50.0%	0.9	4	0.0%	--	--	100.0%	0.7
D2 (N=135)	46.7%	2.8	22	24.4%	1.5	3	28.9%	0.7	0.0	100.0%	1.9
D3 (N=189)	31.7%	2.0	13	20.1%	2.1	3	48.1%	1.5	0.0	100.0%	1.8
D4 (N=47)	23.4%	3.1	7	8.5%	2.4	3	68.1%	1.2	0.0	100.0%	1.7
Total	61.8%	2.2	44	17.0%	1.2	3.0	21.1%	0.8	0.0	99.9%	1.7

Table 3 shows the percentage of felony counts sentenced in each OSG from 2010 through 2015. The proportion of M8 offenses has increased by 11% between 2010 and 2015, representing 34% of all offenses in 2015.

OSG M7 fluctuated, which may be due to an increase in the number of second-degree burglary counts sentenced from 2010 (45) to 2015 (93). M7 remained fairly stable between 2010 and

2014, representing between 6% and 9% of offenses; in 2015 it reached its highest proportion in the 2010 to 2015 period, accounting for 11% of all counts sentenced.

The spike in M5 sentences that occurred in 2014 appears aberrational, dropping back to 9% of all sentences in 2015, which is closer to the average during the 2010-2015 period. In M5, counts sentenced for armed robbery decreased from 106 in 2014 to 56 in 2015, and possession of a firearm during a crime of violence decreased from 172 to 58. M5 counts sentenced for assault with intent to kill, kidnapping, and assault with intent to commit robbery also decreased in 2015. A few offenses in M5 increased, such as first-degree burglary, but the increases were not substantial.

Table 3: Offense Severity Group by Year, 2010-2015						
	2010 (N=3665)	2011 (N=3655)	2012 (N=3610)	2013 (N=2667)	2014 (N=2843)	2015 (N=2309)
M1	0.6%	1.1%	1.6%	0.7%	0.9%	0.6%
M2	1.4%	1.3%	1.3%	2.1%	1.8%	1.9%
M3	1.7%	2.1%	3.7%	2.2%	2.8%	2.4%
M4	0.8%	1.3%	1.4%	1.3%	1.7%	1.6%
M5	8.0%	10.5%	12.7%	9.6%	14.4%	9.0%
M6	7.5%	9.0%	8.6%	12.0%	11.2%	12.8%
M7	6.2%	6.4%	7.3%	8.5%	8.1%	10.5%
M8	23.8%	26.2%	28.7%	32.8%	31.8%	34.4%
M9	9.2%	8.5%	8.5%	11.1%	10.1%	10.6%
D1	0.0%	0.4%	0.2%	0.3%	0.2%	0.2%
D2	17.6%	13.5%	10.4%	6.5%	5.3%	5.8%
D3	22.8%	19.3%	13.4%	10.6%	9.3%	8.2%
D4	0.0%	0.6%	2.2%	2.3%	2.4%	2.0%
Total	99.6%	100.2%	100.0%	100.0%	100.0%	99.9%

D2 offenses have steadily decreased, from 18% of all felony offenses sentenced in 2010 to less than 6% of counts sentenced in 2014 and 2015. One factor contributing to this decline is the addition of severity group D4, which shifted distribution and possession with intent to distribute (PWID) offenses involving less serious drugs from D2 to D3, and shifted attempted drug offenses involving less serious drugs from D3 to D4, as can be seen in Tables 4a and 4b (for further discussion of the categorization of drug types, see pages 48-50). Another factor contributing to the decline in Drug Grid sentences may be changes in law enforcement strategy regarding drugs.

There was a similar trend in the number of felony counts sentenced in D3, which includes distribution of a controlled substance, PWID, attempted distribution, attempted PWID, and possession of liquid PCP. Table 4a shows that the decrease in both D2 and D3 counts occurred for both distribution and PWID offenses, while Table 4b indicates decreases for all drug types.

The number of distribution counts sentenced in D3 decreased by 92% between 2010 and 2015. D3 PWID offenses show a 58% decrease from 2010 through 2015. Part of the decline in severity groups D2 and D3 can be attributed to the addition of D4 and the shifting of some offenses to the new severity group. However, drug sentences as a whole in all severity groups have shown a steady decrease from 2010 to 2015.

Table 4a: Drug Group Counts by Year, 2010-2015						
	2010	2011	2012	2013	2014	2015
D2	644	492	377	174	151	135
Distribution	409	271	210	58	60	48
PWID	234	221	166	116	91	86
D3	836	704	484	282	265	189
Distribution	596	398	238	81	87	48
PWID	237	236	166	133	121	99
Possession of Liquid PCP ³¹	2	65	77	68	57	42
D4	--	22	78	61	68	47
Distribution (attempted)	--	6	8	6	17	6
PWID (attempted)	--	7	28	20	16	10
Possession of Liquid PCP (attempted)	--	9	42	34	35	31

Table 4b: Drug Type by Drug Group and Year, 2010-2015						
	2010	2011	2012	2013	2014	2015
D2	644	492	377	174	151	135
Cocaine	424	318	266	120	106	69
Heroin	100	52	52	19	13	28
PCP	46	34	41	20	29	26
Other	74	88	18	15	3	12
D3	836	704	484	282	265	189
Cocaine	627	460	297	131	118	77
Heroin	104	57	43	23	30	24
PCP	39	65	56	40	36	27
Other	66	122	88	88	81	61
D4	--	22	78	61	68	47
PCP	--	4	21	14	20	22
Other	--	18	58	47	48	25
Total	1480	1218	939	517	484	371

³¹ Possession and Attempted Possession of Liquid PCP became a new felony in 2010. The Commission moved Attempted Possession of Liquid PCP from D3 to D4 in 2011, which is why sentences are shown in both D3 and D4 depending on the date of the offense.

C. Classification of Offense Types

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 prostitution-related 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")³²; and
 - Other Offenses: prison breach, fleeing law enforcement, obstruction of justice, and Bail Reform Act ("BRA") violations.³³

1. Non-drug offenses

Overall, felony non-drug offenses represented approximately 81% of cases and 84% of counts in 2015. As shown in Figures 6a and 6b, the Violent offense category was the largest offense category, with 26% of all cases and counts. Within the Violent offense category, robbery was the most frequent offense, accounting for 35% of cases and 38% of Violent offense counts sentenced in 2015. Robbery was also the most frequent offense in this category in 2014, representing about 40% of the cases and counts.

³² 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 sentences imposed by count for Weapon offenses, 15% were for PFDCV.

³³ A BRA conviction is the result of an offender failing to return to court as required. D.C. Code § 23-1327(a) (2013).

Homicide was the least frequent offense category, representing 3% of the sentences at both the case and count level in 2015. This finding represents a change from previous years, when Sex offenses represented the smallest category of felonies sentenced. In 2015, Sex offenses represented 4% of cases and counts.

Figure 6a: Offense Category by Case in 2015

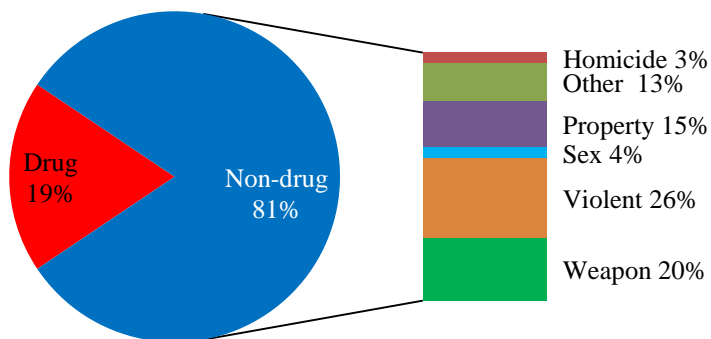
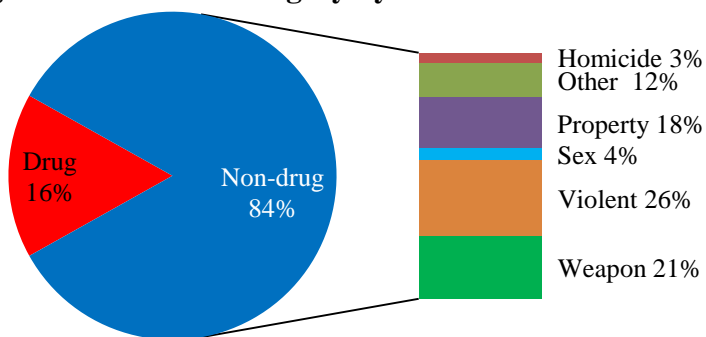
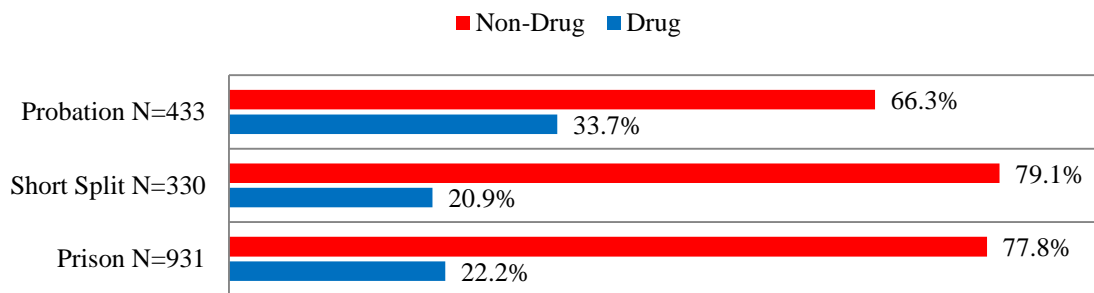


Figure 6b: Offense Category by Count in 2015

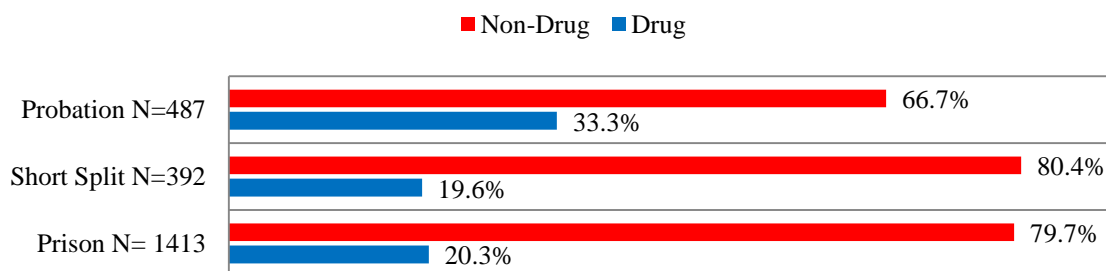


The data in figures 7a and 7b show the distribution of sentence types in drug and non-drug cases. As was true in previous years, prison sentences were imposed in non-drug cases at a significantly higher rate than in drug cases. Approximately two-thirds of all felony drug cases resulted in a probation or short split sentence (Figure 8a).

**Figure 7a: Drug and Non-Drug Sentence Types in 2015
Case Level**



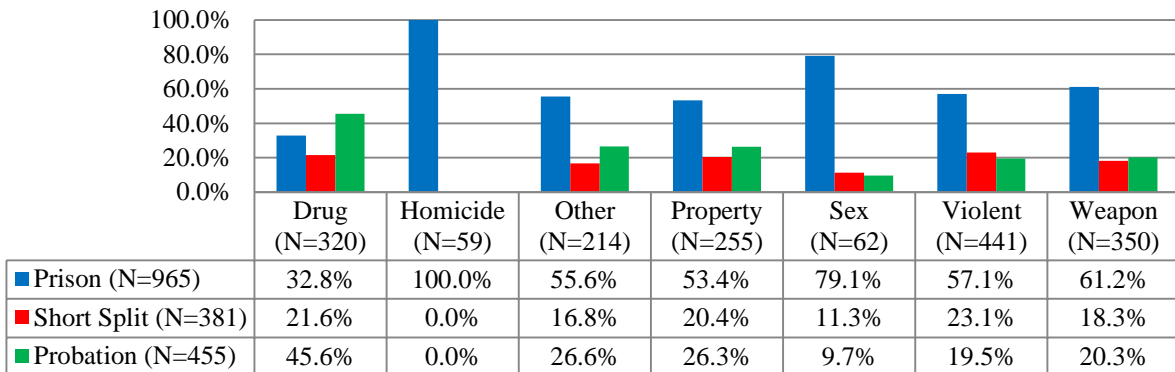
**Figure 7b: Drug and Non-Drug Sentence Types in 2015
Count Level**



Figures 8a and 8b present the proportion of probation, short split, and prison sentences imposed at the case and count level for each offense type in 2015. The Violent offense category represented the greatest change, with a more than 17% decrease in the proportion of offenders sentenced to prison at both the case and count level in 2015 compared to 2014. The proportion of prison sentences also decreased by between 8% and 10% for cases and between 5% and 12% of counts involving offenses in the Other Offenses, Property, Sex, and Weapon categories in 2015. The only offense category that did not experience a reduction in the percentage of prison sentences at either the case or count level was the Homicide category.

Short split sentences increased for Sex offenses, from 4% in 2014 to 9% in 2015. Violent offenses, meanwhile, saw an 8% increase in both probation and short split sentences, corresponding to the decline in prison sentences discussed above.

**Figure 8a: Sentence Type Imposed on Offense Category in 2015
Case Level**



**Figure 8b: Sentence Type Imposed on Offense Category in 2015
Count Level**

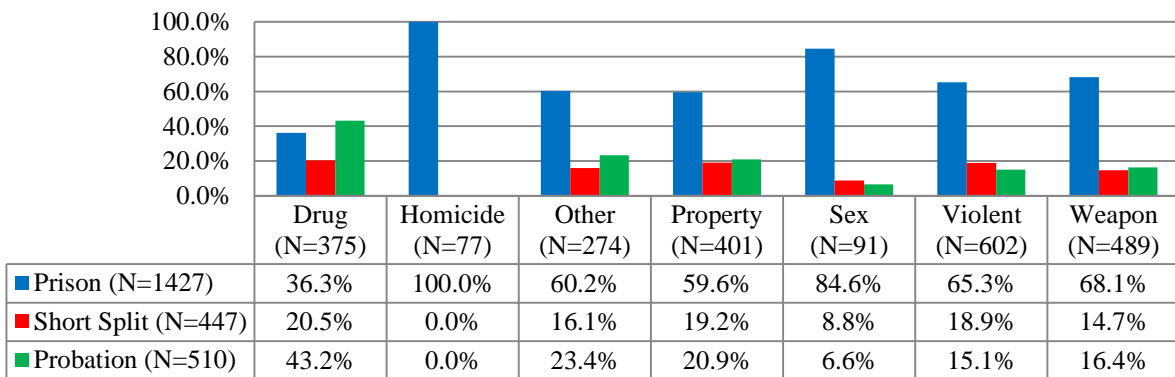


Table 5 provides an overview of the sentence type and length associated with each offense group, as well as the average CH score for each group. The table also shows that no short split or probation sentences were imposed for any Homicide offenses.³⁴

³⁴ Negligent homicide is classified in the Other Offenses category and is not included in the Homicide category. There was only one count of negligent homicide sentenced in 2015, with a prison sentence imposed.

Table 5: 2015 Offense Type by Sentence Type and CH Score - Count Level											
<i>Sentence Type</i>	Prison			Short Split			Probation			Total	
<i>Offense Type</i>	% of Counts	Average CH Score	Average Sentence Length (Months)	% of Counts	Average CH Score	Average Sentence Length (Months)	% of Counts	Average CH Score	Average Sentence Length (Months)	% of Counts	Average CH Score
Drug	9.6%	2.5	17	19.6%	1.8	3	33.3%	1.3	0	16.2%	1.8
Homicide	5.0%	1.5	210	0.0%	--	--	0.0%	--		3.3%	1.8
Other Offenses	11.7%	2.1	19	11.2%	1.3	3	13.1%	0.6	0	11.9%	1.7
Property	16.9%	2.4	26	19.6%	1.2	3	17.2%	0.8	0	17.4%	1.9
Sex	5.5%	1.6	90	2.0%	0.4	4	1.2%	0.0	0	3.9%	1.4
Violent	27.9%	2.1	46	29.1%	0.9	3	18.7%	0.6	0	26.1%	1.7
Weapon	23.5%	2.1	32	18.4%	0.7	2	16.4%	0.6	0	21.2%	1.6
Total	100.0%	2.1	44	100.0%	1.2	3	100.0%	0.8	0	100.0%	1.7

Figure 9 shows the number of sentences in each Offense Category for each year. This figure shows the consistent decline in the number of Drug sentences. Homicide cases remained relatively constant throughout the period; however, it is worth noting that a reported increase in homicides committed in 2015 is not yet reflected in the sentencing data.

**Figure 9: Offense Category 2010-2015
Count Level**

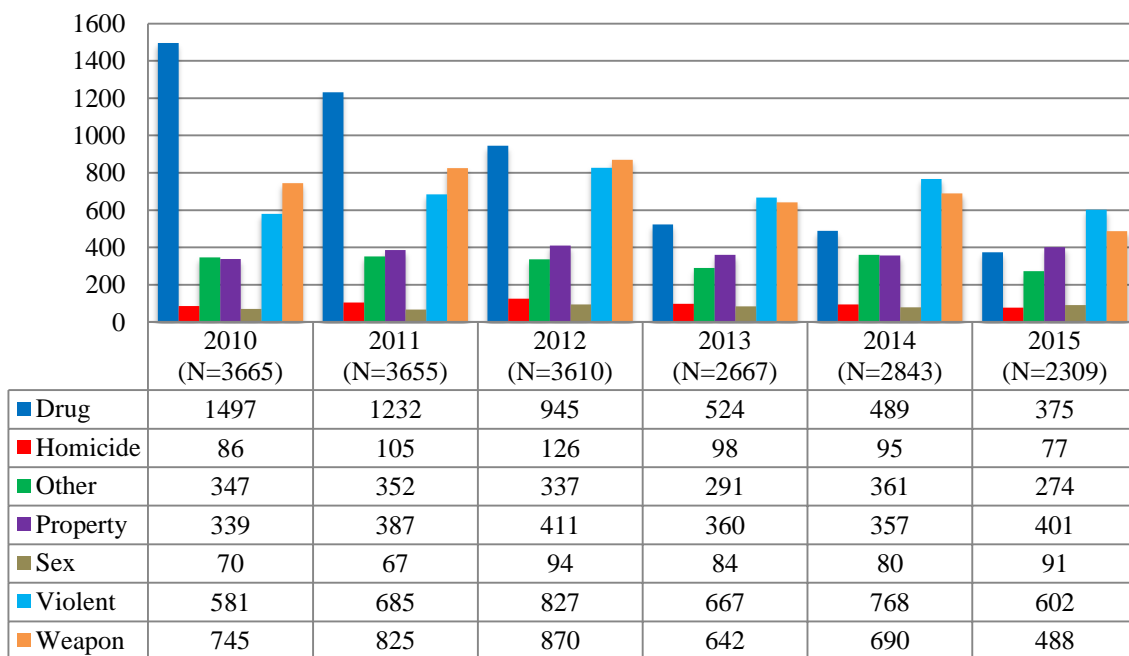


Figure 10 highlights two offense types that have seen significant changes in the number of counts sentenced between 2010 and 2015. Sentences in the Drug offense category decreased by 75% from 2010 to 2015, dropping from 1,497 counts in 2010 to 375 counts in 2015. Conversely, while drug counts have declined steadily, the number of sentences in the Violent offense category has fluctuated from one year to the next.

**Figure 10: Sentenced Drug and Violent Felony Counts
2010-2015**

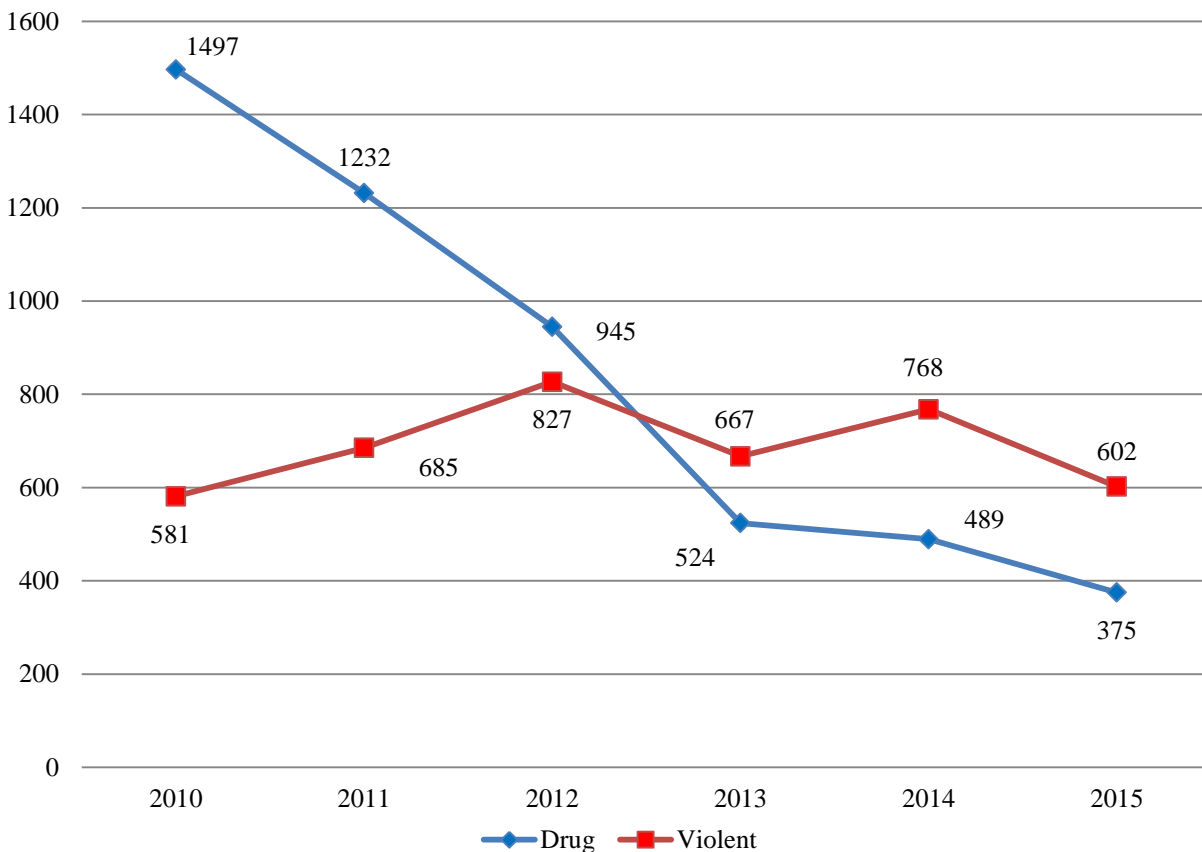


Table 6 displays the average CH score from 2010 through 2015 for each offense category, as well as the percentage of felony counts sentenced for each offense category. Overall, average CH scores show an increase in the 2010 to 2015 period.

Table 6: 2015 Offense Category Cases by Sentence Year and Average CH Score												
	2010		2011		2012		2013		2014		2015	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
Drug	1.3	50.9%	1.2	43.8%	1.8	35.8%	1.8	24.6%	1.8	22.8%	1.8	18.8%
Homicide	1.1	1.8%	1.0	2.5%	1.5	2.7%	1.5	3.8%	1.7	3.4%	1.8	3.5%
Other Offenses	1.5	9.5%	1.3	8.9%	1.6	10.1%	1.5	10.1%	1.7	13.1%	1.6	12.6%
Property	1.4	8.4%	1.2	10.3%	1.8	10.6%	2.1	12.8%	2.0	13.0%	2.0	15.0%
Sex	0.8	1.5%	0.9	2.0%	1.4	2.8%	1.3	3.2%	1.3	2.6%	1.4	3.6%
Violent	1.1	14.7%	0.9	16.9%	1.3	23.1%	1.6	25.5%	1.5	26.7%	1.5	25.9%
Weapon	1.0	13.1%	0.8	15.7%	1.5	14.8%	1.4	20.0%	1.5	18.4%	1.6	20.5%
Total	1.2	99.9%	1.1	100%	1.6	99.9%	1.6	100%	1.7	100%	1.6	99.9%

Between 2010 and 2014 there was a steady increase of 2% to 3% per year in the proportion of all sentences that were in the Violent offense category. In 2015, however, the proportion of Violent offense counts decreased slightly. The decreases in counts sentenced for assault with intent to kill, assault with significant bodily injury, kidnaping, and robbery contributed to this slight decline. The number of counts sentenced for assault with intent to kill and kidnapping were almost identical for 2013 and 2015, but nearly doubled in 2014.

The proportion of sentences for Weapon offenses increased from 2010 through 2014, but declined in 2015. The Property offense category had a similar pattern until 2014, showing modest increases from 2010 through 2013, and then decreasing slightly in 2014. In 2015, however, the percentage of Property offenses increased by almost 5%.

2. Drug offenses

Drug offenses accounted for 19% of cases and 16% of counts sentenced in 2015, a notable decrease from 2010, when drug offenses accounted for 41% of all counts sentenced. The total number of Drug counts sentenced over the past six years has decreased from 1,497 in 2010 to 375 in 2015, representing a 75% decrease.

Table 7 shows the distribution of probation, short split, and prison sentences imposed across the various drug types.³⁵ Overall, the proportion of felony drug offenses sentenced to prison

³⁵ Drugs categorized as “Other” include: alprazolam, amphetamine, buprenorphine, clonazepam, codeine, diazepam, Dilaudid, ecstasy, gamma-butyrolactone, GHB, hydrocodone, ketamine, LSD, marijuana, methamphetamine, methadone, Methylone, morphine, opium, OxyContin, oxycodone, Percocet, prescription drugs, psilocybin, Suboxone, Vicodin, and Xanax.

continued to decrease, by more than 12% at both the case and count level, from 2014 to 2015, with a corresponding 11% increase in probation sentences.

Cocaine decreased from 46% of felony drug counts in 2014 to 39% of counts in 2015. The average age of offenders sentenced for a cocaine offense was 33.0 years, which was consistent with the average age for all drug offenders (34.1 years).

Offenses involving cocaine, heroin, and PCP were more likely to be sentenced to prison than other types of drugs. These drugs are ranked higher and treated as more serious offenses under the Guidelines than Schedule III, IV, or V drug offenses, which contributes to the greater proportion of prison sentences.^{36 37}

**Table 7: Percentage of Sentence Type Imposed by Drug Type in 2015
Case Level**

	Cocaine			Heroin			PCP			Other		
	N= 128	Ave Age	Ave CH score	N= 51	Ave Age	Ave CH score	N= 65	Ave Age	Ave CH score	N= 49	Ave Age	Ave CH score
Prison	36.7%	30.6	2.2	45.1%	43	4.1	30.7%	26.7	1.8	20.4%	32.2	2.4
Short Split	18.0%	36.8	1.9	29.4%	45.1	2.6	20.0%	30.8	1.3	26.5%	31.4	1.9
Prob.	45.3%	36.4	1.5	25.5%	48.2	1.5	49.2%	33.8	1.4	53.1%	32.6	0.9
Total	100.0%	34.4	1.8	100.0%	45	2.9	100.0%	31	1.5	100.0%	32.2	1.5

The number of sentences imposed for counts involving heroin decreased by 75% from 2010 (204) to 2013 (52), and has remained relatively consistent since. In 2015, heroin offenses were frequently sentenced to prison (41% of cases and 46% of counts). Heroin was also the drug with the oldest offender population, with an average age of 44 years in each year since 2013, and had the highest average offender CH score.

PCP offenses were sentenced to prison at a lower rate than either heroin or cocaine, with only 31% of cases and 36% of counts receiving a prison sentence. The average age for PCP offenders was 31.2 years, which is below the average age of 34.1 years for all drug offenders. The average age for offenders sentenced for distribution, PWID, and possession of PCP ranged from 29 to 38 years.³⁸

³⁶ See Table 26 in Appendix D, which presents CH scores by type of drug involved from 2010 to 2015.

³⁷ The DC Drug Schedule takes into consideration a given drug's potential for abuse, pharmacological effect, the history and scope of abuse, the risk to public health, and other criteria to place it into one of five categories on the Drug Schedule. The Schedule is in descending order, with the most serious drugs contained in Schedule I and the least serious in Schedule V. For more information see D.C. Code § 48-902.01 (2015).

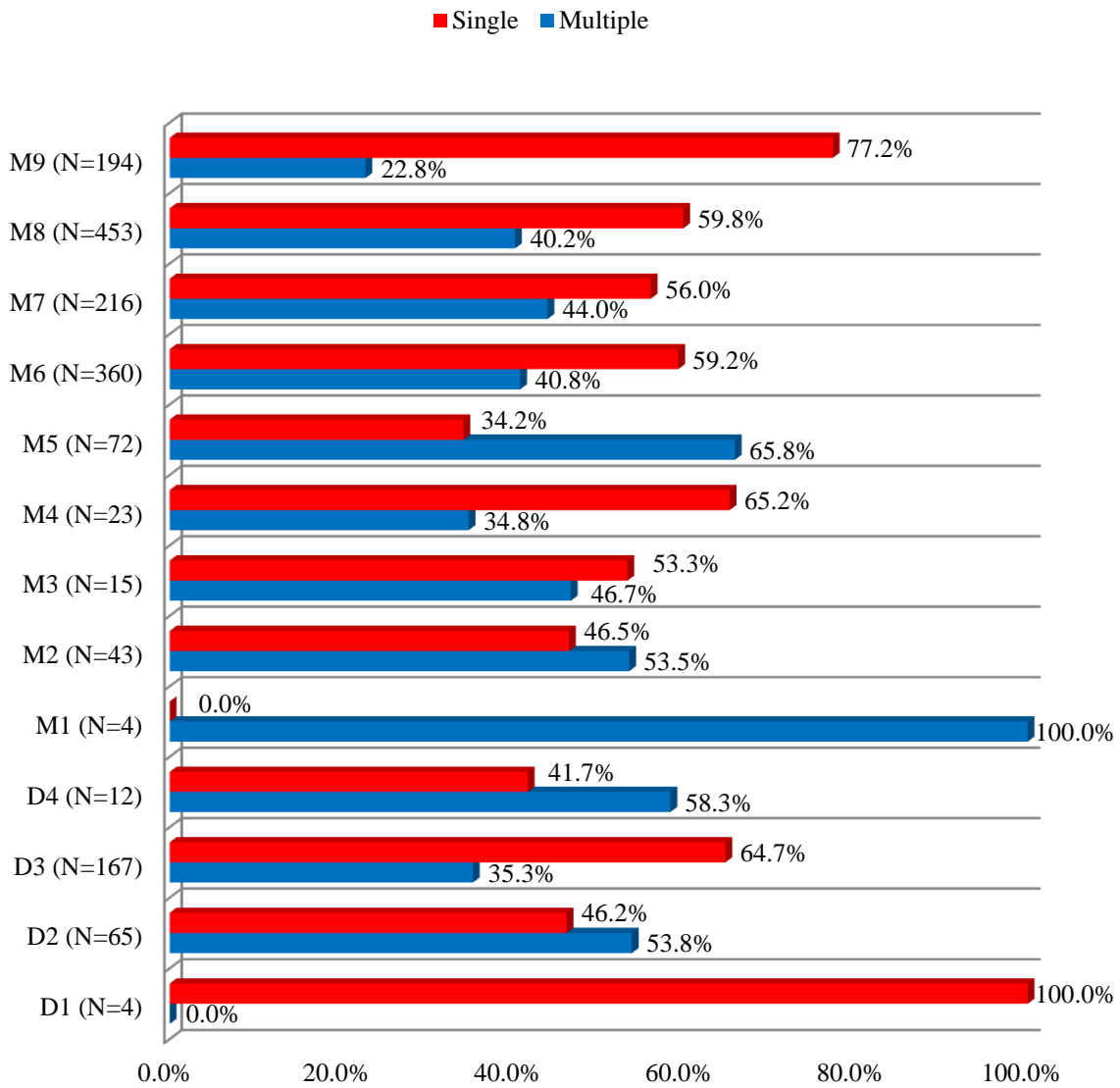
³⁸ Possession of liquid PCP is the only felony possession offense.

The Other drug category included such drugs as marijuana, codeine, ecstasy, and Xanax. The average age of this drug group has remained between 30 and 35 years since 2010. Offenders in this drug offense group were much more likely to receive probation sentences (53% of both cases and counts) than any other drug group. The lower placement of these drugs on both the Drug Schedule (i.e., Schedule III and lower) and the Drug Grid explains this finding.

D. Single vs. Multiple Count Cases

In 2015 there were 990 single-felony-count cases and 711 multiple-felony-count cases sentenced. Figure 11 shows that multiple count cases surpass single count cases in the more severe offense categories on both grids. On the Master Grid, single-count cases tend to be more frequent in the lower offense severity groups. On the Drug Grid, D4 contained the largest proportion of multiple-felony-count cases, while M1 had the largest proportion of multiple-count cases on the Master Grid, although there was only four cases sentenced on M1 in 2015. For single-felony-count cases, M9 had the largest proportion on the Master Grid, and D1 had the largest proportion on the Drug Grid.

Figure 11: Single vs. Multiple Felony Count Cases by Offense Severity Group in 2015



The majority of Other Offenses (73%), Sex (55%), Violent (66%), and Weapon (54%) offenses involved multiple-count cases. Cases in these offense categories account for 42% of all multiple-count cases. Offenses in the Drug, Homicide, and Property categories account for 32% of single-count cases.

E. Criminal History Scores

The average CH score across all offenses sentenced in 2015 was 1.7, the same as reported in 2014. CH scores for specific offenses and OSGs, however, did experience some change.^{39,40}

³⁹ For further discussion of how Criminal History Scores are calculated and implemented, see Chapter 5.

The severity group with the largest decline in the average CH score was M7. Within M7, the average CH score for second-degree burglary, which made up 38% of M7 sentences, decreased by 0.7, while unlawful possession of a firearm, which made up 51% of sentences, remained the same as in 2014. Severity group M9 experienced the largest increase in the average CH score. Overall the average score for many of the most frequently sentenced offenses remained about the same.

As discussed above, higher CH scores are generally associated with higher proportions of offenders sentenced to prison. A number of offenses saw a combination of decreasing average CH scores and a decreasing proportion of offenders sentenced to prison, such as M5 first-degree burglary, M6 robbery, M6 assault with a dangerous weapon (ADW), and M8 robbery. There were also offenses with higher CH scores than 2014 and a higher proportion of offenders sentenced to prison, such as M6 assault with intent to commit robbery, M8 first-degree theft, and M9 second-degree fraud. There were a number of offenses, however, for which the average CH score increased while the proportion of offenders sentenced to prison decreased. Examples of this are M6 ADW, M6 aggravated assault, M8 second-degree burglary, and M8 unauthorized use of a vehicle (UUV).

Two major offense categories that saw a decrease in the proportion of offenses sentenced to prison were the Violent and Drug offense categories (Table 8a). For both of these offense categories the average CH score increased or remained about the same as in 2014.

Table 8a: CH Score and Percent Sentenced to Prison, Drug and Violent Categories, 2014-2015						
	2014			2015		
	CH Score	% sentenced to prison	Total N	CH Score	% sentenced to prison	Total N
Drug	1.8	48.3%	489	1.8	36.3%	375
Distribution	2.1	48.8%	164	1.9	38.2%	102
PWID (not Marij.)	1.7	48.2%	228	1.9	38.1%	194
Possession of PCP	1.4	47.8%	92	1.5	30.1%	73
Violent	1.6	81.5%	768	1.7	65.3%	602
Aggravated Assault	1.9	93.9%	49	1.9	88.4%	43
AWIK	1.3	100.0%	73	1.2	96.9%	32
Assault w/Sign. Injury	1.3	64.2%	95	1.6	53.3%	75
Attempted Robbery	1.2	62.3%	198	1.3	45.4%	205
Robbery	2.0	86.9%	122	1.5	74.8%	107

⁴⁰ See Table 27 in Appendix D for CH score and prison sentence trends for individual offenses.

Table 8b shows the proportion of offenders sentenced to prison for the severity groups for which non-prison sentences are Guidelines compliant. As can be seen, the likelihood of receiving a prison sentence generally increases as an offender's CH score increases.⁴¹

Table 8b: Prison Sentence Rate by CH Score Ranking and Severity Group, 2015					
	CH Score group				
	A	B	C	D	E
Severity group	0 to ½	¾ to 1¾	2 to 3¾	4 to 5¾	6 +
M5 (N=209)	88.7%	94.7%	93.2%	100.0%	100.0%
M6 (N=295)	53.8%	90.3%	88.6%	100.0%	92.9%
M7 (N=243)	64.9%	91.3%	97.6%	100.0%	91.7%
M8 (N=794)	29.1%	42.2%	62.2%	79.7%	85.7%
M9 (N=244)	36.7%	66.1%	67.3%	85.7%	100.0%
D1 (N=4)	100.0%	33.3%	--	--	--
D2 (N=135)	18.0%	48.3%	55.2%	95.2%	80.0%
D3 (N=189)	13.5%	42.6%	32.7%	36.8%	40.0%
D4 (N=47)	0.0%	20.0%	36.4%	60.0%	100.0%

III. 2015 Felony Sentencing Demographics: Gender, Race, and Age of Offenders⁴²

A. Gender by Offense Categories

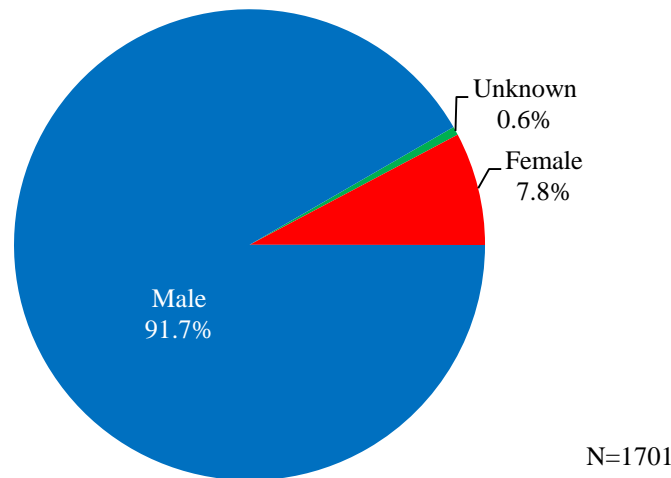
Gender was recorded for offenders in 1,691 of the 1,701 cases sentenced in 2015 (Figure 12).⁴³ As in previous years, the number of male offenders sentenced significantly exceeded the number of female offenders: 1,559 (91.7%) were male and 132 (7.8%) were female.

⁴¹ There were three severity groups that had a decreasing proportion of offenders sentenced to prison between CH score groups D and E (M6, M7, and D2). In each of these severity groups there was a single case in which an offender had a CH score of 6 or above but received a probation or short split sentence. The Guidelines-recommended sentence for any offender with a CH score of 6 or above, in all offense severity groups except D4, is a prison term.

⁴² See Table 28a and 28b in Appendix D, detailing offense type by demographic information and sentence type.

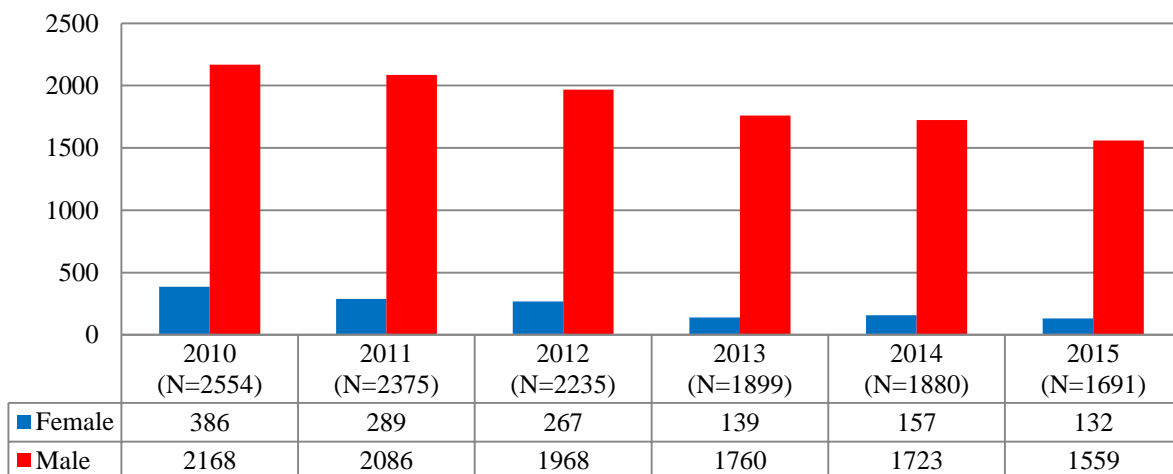
⁴³ For this report the offender's gender was calculated at the case level. Based on the data available, it was determined that this was the most accurate and reliable method of measuring offender gender.

Figure 12: Gender at Case Level in 2015



Although the number of male offenders decreased each year from 2010 through 2015, the number female offenders increased by 13% in 2014 before declining again in 2015 (Figure 13).

**Figure 13: Offender Gender 2010-2015
Case Level**



Although there were many more males than females sentenced in 2015, 25.8% of both males and females were sentenced in the Violent offense category, and 15.1% of male offenders and 14.4% of female offenders were sentenced in the Property offense category (Figure 14).

The Other Offenses category is the one category in which females are represented at a significantly higher proportion than males; 30.3% of females were sentenced for Other Offenses, such as prison breach, second-degree fraud, and BRA violations, while only 11.0% of males were sentenced for Other Offenses.

For male offenders, Violent offenses accounted for the largest offense category, representing 25.8% of males' sentences. For female offenders, the Other Offenses category accounted for 30.3% of female sentences, while Violent offenses accounted for 25.8% of female sentences, an increase from 2014, when they accounted for 20.5% of female offenses.

**Figure 14: Gender by Offense Category
Case Level in 2015**

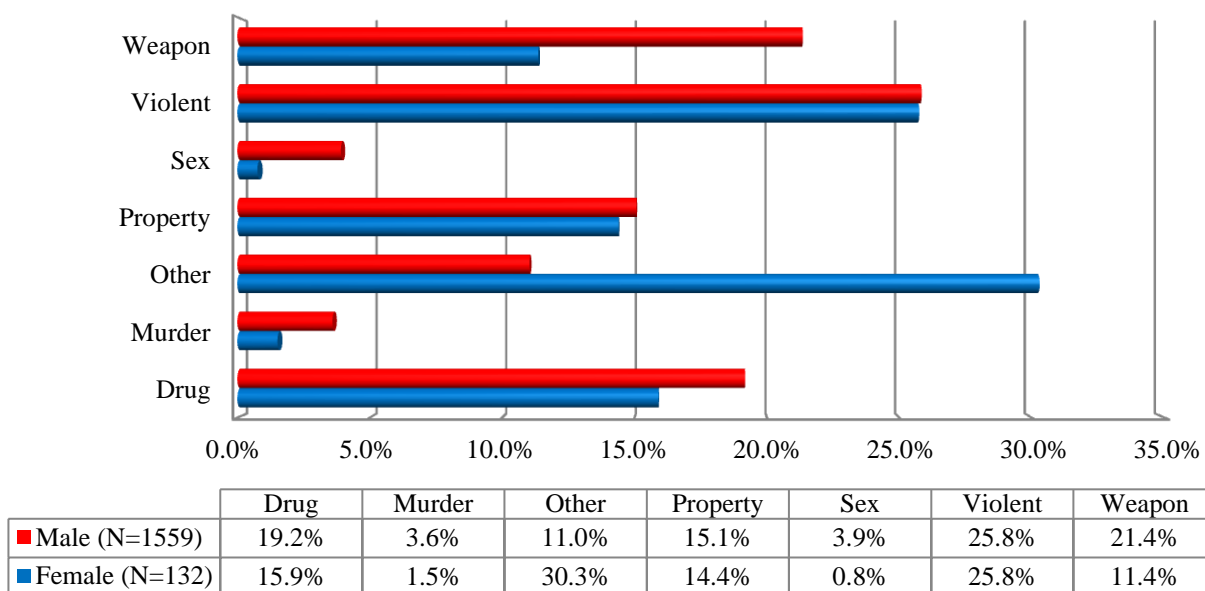


Table 9a shows that female offenders were much less likely to be sentenced to prison than male offenders, and more likely to receive a probation or short-split sentence. This is due, largely, to two factors: the types of offenses for which males are sentenced, and higher average CH scores for males. In 2015 female offenders were more frequently sentenced for Other Offenses, which include contempt, felony BRA violations, second-degree fraud, and prison breach.⁴⁴ These offenses are ranked in lower OSGs on the sentencing grid and are probation eligible. Although a greater proportion of females were sentenced for offenses in the Other Offenses category, females were much less likely to receive a prison sentence than males sentenced in this category. Only 5.1% of females sentenced for Other Offenses were sentenced to prison, compared to 55.1% of males (Table 9a). Females sentenced in this category had an average CH score of 0.8, while males had an average CH score of 1.8.

Another interesting potential disparity is in the Violent offenses category. Violent offenses made up 25.8% of both male and female offenses. However, females received prison sentences at a significantly lower rate, with 3.2% of females receiving a prison sentence, compared to 62.0% of

⁴⁴ Prison Breach is the unlawful exit of an institution to which an offender is lawfully confined. This offense includes failure to return to a halfway house or work release, and escape from the custody of an officer or employee of the District. For more information see DC Code § 22-2601.

males for violent offenses. Females sentenced for offenses in the Violent offense category had an average CH score of 0.6, compared to 1.7 for males. Attempted robbery was the most frequent offense sentenced in the Violent offense category for both males and females.

Table 9a: Offense Category & Sentence Type by Gender in 2015				
Offense Type	Sentence Type	2015		
		Male	Female	Unknown
Drug (N=375)	Prison	35.2%	1.1%	0.0%
	Short Split	19.7%	0.8%	0.0%
	Probation	38.9%	4.3%	0.0%
	Total	93.8%	6.2%	0.0%
Homicide (N=77)	Prison	97.4%	2.6%	0.0%
	Short Split	0.0%	0.0%	0.0%
	Probation	0.0%	0.0%	0.0%
	Total	97.4%	2.6%	0.0%
Other (N=274)	Prison	55.1%	5.1%	0.0%
	Short Split	13.9%	2.2%	0.0%
	Probation	15.0%	7.7%	1.0%
	Total	84.0%	15.0%	1.0%
Property (N=401)	Prison	57.6%	2.0%	0.0%
	Short Split	17.7%	1.2%	0.2%
	Probation	19.2%	1.8%	0.0%
	Total	94.5%	5.0%	0.5%
Sex (N=91)	Prison	84.6%	0.0%	0.0%
	Short Split	7.7%	1.1%	0.0%
	Probation	6.6%	0.0%	0.0%
	Total	98.9%	1.1%	0.0%
Violent (N=602)	Prison	62.0%	3.2%	0.2%
	Short Split	16.6%	1.8%	0.5%
	Probation	13.3%	1.7%	0.2%
	Total	92.5%	6.6%	0.8%
Weapon (N=488)	Prison	66.8%	0.6%	0.4%
	Short Split	13.5%	1.2%	0.0%
	Probation	14.1%	1.8%	0.4%
	Total	95.5%	3.7%	0.8%

Overall, males' average CH score of 1.8 was higher than females' average CH score of less than 1.0 (Table 9b). Females have consistently had an average CH score less than 1.0 since 2010. The average male CH score was under 1.5 in 2010 and 2011, but increased to 1.8 in 2012 and has remained stable every year since.

Table 9b: Gender by Sentence Year and Average CH Score in 2015								
	Male		Female		Unknown		Total	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
2010	1.4	82.9%	0.7	14.8%	1.8	2.4%	1.3	100.0%
2011	1.1	85.6%	0.7	11.9%	1.1	2.6%	1.1	100.0%
2012	1.8	86.3%	0.9	11.7%	2.5	2.0%	1.7	100.0%
2013	1.8	91.7%	0.7	7.2%	1.4	1.0%	1.7	100.0%
2014	1.8	90.7%	0.8	8.3%	3.2	1.0%	1.7	100.0%
2015	1.8	91.7%	0.9	7.8%	0.3	0.6%	1.7	100.0%

B. Race by Offense Categories

Race was reported for 1,539 of the 1,617 offenders in 2015. Consistent with previous years, 90% of offenders were Black (1,456 out of 1,617). The remaining offender race categories included American Indian, Asian, Hispanic, White, and Other offenders.⁴⁵ Table 10 demonstrates the average CH Score for felony offenders sentenced by race, and only includes offenders with a reported criminal history score. Very little can be evaluated across races given that the number of White, Hispanic, Asian, and American Indian offenders is not large enough to be statistically significant for comparison purposes.

Table 10: Race by Sentence Year and Average CH Score in 2015*												
	2010		2011		2012		2013		2014		2015	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
American Indian	--	0.0%	--	0.1%	--	0.0%	--	0.0%	--	0.0%	0.3	0.1%
Asian	--	0.0%	--	0.1%	2.2	0.2%	0.3	0.1%	--	0.0%	0	0.1%
Black	1.2	92.4%	1.1	92.0%	1.7	87.9%	1.7	88.0%	1.7	88.8%	1.7	89.0%
Hispanic	0	0.1%	2	0.1%	0.2	0.2%	0.3	0.8%	0.5	0.2%	0.4	0.6%
Other	--	0.0%	--	0.0%	--	0.0%	4	0.1%	1.1	0.1%	0.4	0.1%
Unknown	1.5	4.1%	0.3	5.1%	0.9	9.3%	1.3	8.3%	0.4	8.6%	0.5	6.8%
White	0.6	3.4%	0.5	2.7%	0.9	2.3%	1.2	2.9%	0.9	2.3%	1.2	3.3%
Total	1.2	100.0%	1.1	100.0%	1.6	100.0%	1.7	100.0%	1.7	100.0%	1.6	100.0%

*This table only includes only offenders with a reported criminal history score.

⁴⁵ The Other category for race includes all individuals not identified or reported as American Indian, Asian, Black, Hispanic, or White.

C. Age by Offense Categories⁴⁶

Age was calculated for offenders in 1,700 of the 1,701 cases sentenced in 2015.⁴⁷ Offenders aged 18 to 30 accounted for just over 63% of all offenders sentenced. Figure 15 also shows that 1.1% of felony cases involved offenders over the age of 60, which is consistent with the percentage of offenders sentenced in this age group in both 2013 and 2014.

**Figure 15: Age Groups in 2015
Case Level**

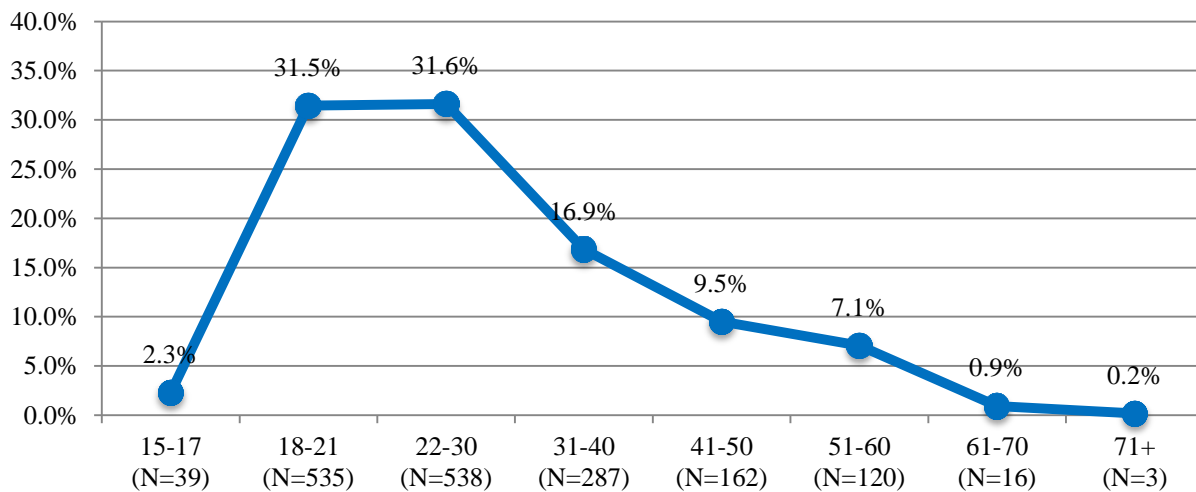


Table 11a presents the trend in age groups for offenders in cases sentenced from 2010 to 2015. The percentage of offenders in age group 18 to 21 has increased yearly, and in 2015 accounts for almost one-third of all sentences imposed. Age group 41-50 has declined yearly since 2010, and in 2015 represented less than 10% of offenders, compared to more than 21% in 2010.

Table 11a: Age Group 2010-2015, Case Level						
	2010 (N=2552)	2011 (N=2391)	2012 (N=2219)	2013 (N=1908)	2014 (N=1894)	2015 (N=1700)
15 - 17	2.2%	2.2%	2.0%	2.7%	2.6%	2.3%
18-21	19.6%	22.9%	25.4%	28.8%	29.8%	31.5%
22-30	26.9%	28.4%	30.5%	30.5%	29.6%	31.6%
31-40	18.4%	19.5%	18.6%	18.1%	18.0%	16.9%
41-50	21.4%	17.4%	14.9%	12.2%	11.5%	9.5%
51-60	9.7%	8.5%	7.5%	6.2%	7.2%	7.1%
61-70	1.6%	1.0%	1.0%	1.3%	1.2%	0.9%
71+	0.2%	0.0%	0.1%	0.2%	0.1%	0.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

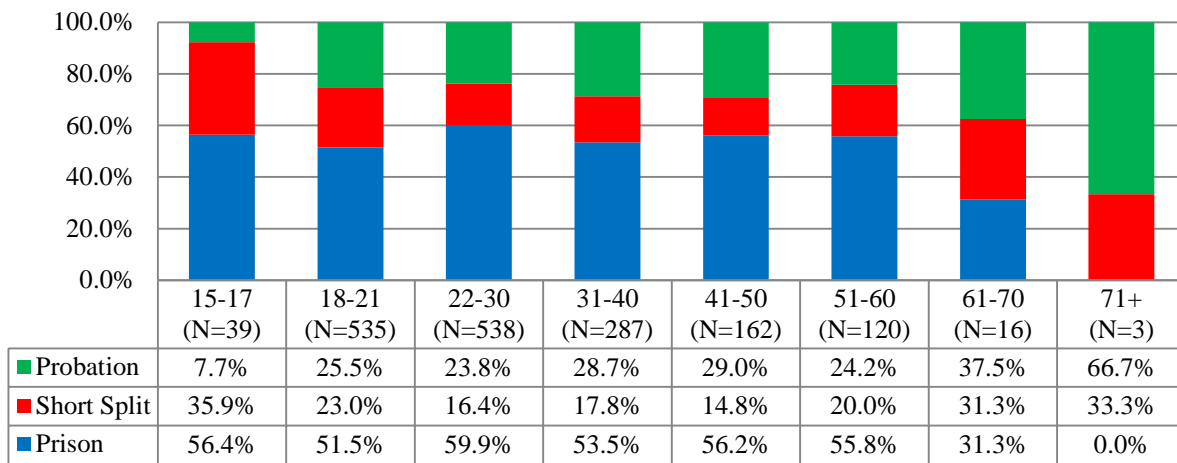
⁴⁶ The age of each offender refers to his or her age at the time the offense was committed.

⁴⁷ For this report the offender's age was calculated at the case level. Based on the data available, it was determined that this was the most accurate and reliable method of measuring offender age.

In 2015, the age group 22 to 30 reached its highest percentage of offenders in the 2010 to 2015 period. After a slight increase from 2010 to 2011, the age group 22 to 30 has remained relatively stable, representing between 29% and 32% of all sentences. The percentage of offenders in the age group of 15-to-17 has remained fairly constant since 2010, at 2% to 3% of all cases.

While in previous years the majority of offenders in all age groups were sentenced to prison, in 2015, offenders over 60 were more likely to receive probation (Figure 16).

**Figure 16: Sentence Type by Age Group in 2015
Case Level**



The average age across offense types ranged from 24 to 36 years, while the median age ranged from 20 to 34 years. Offenders sentenced in Homicide, Violent, and Weapon offense categories tend to be younger offenders (Table 11b). Those sentenced in Drug, Other, and Sex offense categories were slightly older offenders. The age of offenders sentenced for Property offenses showed the greatest variability.

Table 11b: 2015 Average Age of Offenders by Sentence Type and Offense Category								
		Drug	Homicide	Other	Property	Sex	Violent	Weapon
Prison	Mean Age	32.5	25.7	30.3	30.5	33.1	27.4	28.4
	Median Age	29.0	23.0	27.0	25.0	31.0	23.0	25.0
	Mode Age	21.0	24.0	21.0	21.0	28.0	18.0	21.0
Short Split	Mean Age	35.4	--	28.6	27.6	28.0	25.6	26.7
	Median Age	34.0	--	23.0	23.5	29.0	20.5	22.0
	Mode Age	35.0	--	19.0	19.0	19.0	20.0	20.0
Probation	Mean Age	35.8	--	31.7	27.1	28.3	24.4	27.1
	Median Age	33.5	--	29.0	22.0	29.5	20.5	24.0
	Mode Age	50.0	--	19.0	19.0	18.0	18.0	22.0

IV. Homicide Analysis

There were 67 Homicide cases and 77 Homicide counts sentenced in 2015, which is a 3% decrease in the number of cases from 2014, but a 21% decrease from 2014 in terms of counts. Of the 67 Homicide cases, 39 were multiple count cases and 28 were single count cases. The distribution of Homicide sentences imposed is reflected below in Figure 17. The most frequent types of Homicide⁴⁸ sentences were for second-degree murder (42%) and voluntary manslaughter (34%) (Figure 17).⁴⁹

Figure 17: Percent of Homicide Counts by Charge, 2015

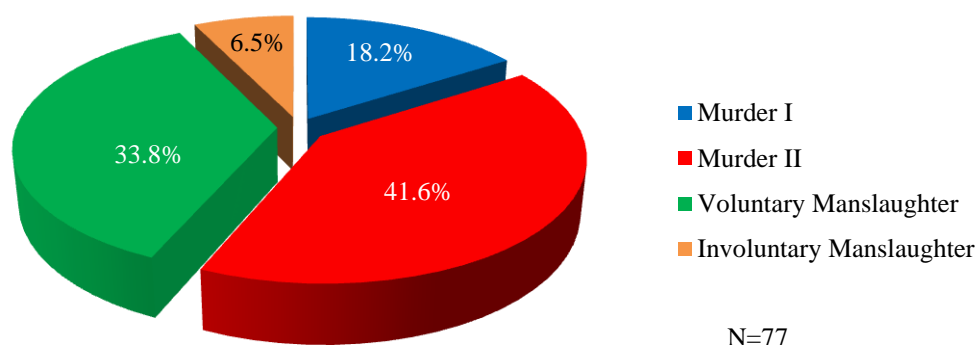


Table 12 presents the average CH score for offenders sentenced for Homicide counts in 2015. All Homicides sentenced in 2015 resulted in prison sentences. The table highlights the number of counts, the average sentence length, and the minimum and maximum sentence lengths imposed for each type of Homicide offense.

There were two females sentenced in the Homicide offense category in 2015. One was charged with involuntary manslaughter and the other with second-degree murder. Their ages were 21 and 26 respectively, and both females received prison sentences.

⁴⁸ These classifications also include the armed, attempt, and armed attempt version of each offense.

⁴⁹ Negligent homicide is not included in the Homicide category but in the Other Offenses category. Felony counts for negligent homicide resulted in one prison sentence imposed in 2015.

Table 12: Homicide Type by Sentence Length in 2015					
	# of Counts	Average CH Score	Average Sentence (months)	Minimum (months)	Maximum (months)
Murder I	14	0.7	414.5	360	480
Felony Murder	0	--	--	--	--
Murder II	32	2.7	236.5	120	360
Voluntary Manslaughter	26	2.1	135.6	72	186
Involuntary Manslaughter	5	1.1	51.2	24	88
Total	77	2.0	190.5	24	480

V. Top Five Offense Subcategories⁵⁰

The Commission designates all felonies into one of seven offense categories.⁵¹ These seven offense types are further broken down into 13 subcategories.⁵² This section examines the top five offense subcategories, which are based on the number of felony counts sentenced within each subcategory. Figure 18 shows the distribution of the 2015 top five offenses subcategories over the past five years. These top five offense subcategories account for 75% of all felony offenses sentenced in 2015. These offenses were:

1. Robbery
2. Drug
3. Assault
4. Weapon
5. Other Offenses

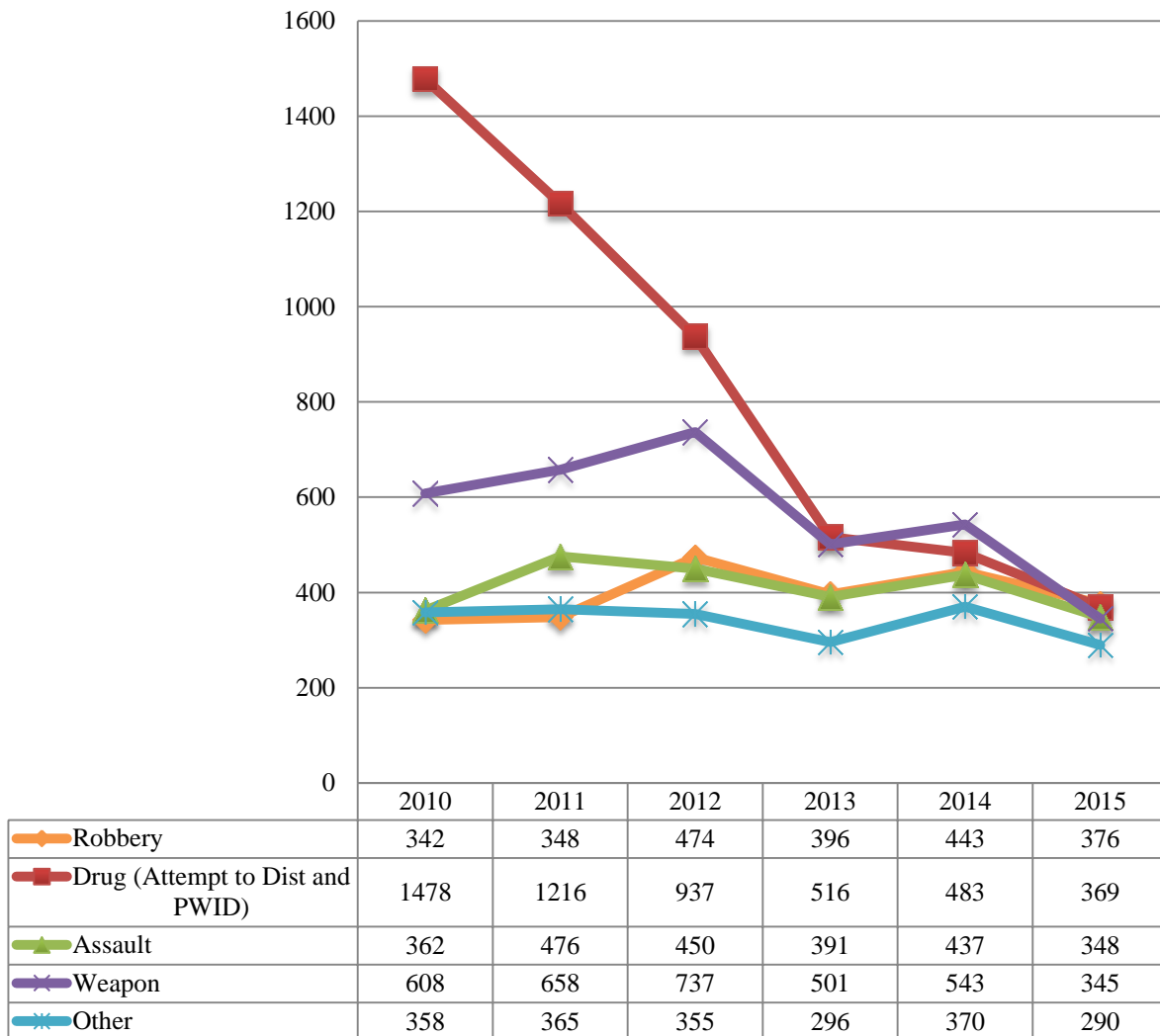
⁵⁰ See Appendix C for a list of all offenses contained within each subcategory.

⁵¹ The seven offense types include: Drug, Homicide, Other Offenses, Property, Sex, Violent, and Weapon.

⁵² The 13 offense categories include: Assault, Attempted Drug, Burglary, Kidnapping, Homicide, Other-Non-Property, Other-Property, PWID + Dist, Robbery, Sex, Theft, Weapon, and While Armed Drug Offenses.

As shown in Figure 18, the number of counts in all five offense subcategories declined significantly from 2014 to 2015. Figure 18 also shows that steady and precipitous decline in drug counts from 2010 (1478) to 2015 (369).

Figure 18: Top Five Grouped Offenses from 2010 to 2015, by Count



A. Robbery Offenses⁵³

Robbery was the most frequent felony offense subcategory sentenced in 2015, representing 20% of all felony cases and 16% of all felony counts sentenced. Approximately 65% of Robbery cases involved a single felony count in 2015.

⁵³ The Robbery Offense category includes: robbery, armed robbery, attempt to commit robbery, carjacking, and armed carjacking.

The leading offenses within this subcategory included robbery and attempted robbery, which together accounted for 81% of all Robbery offenses. The majority of counts in the Robbery subcategory in 2015 received a prison sentence (62% of counts). The average CH score for offenders sentenced for Robbery offenses was 1.6 (Table 13).

Attempted robbery accounted for 55% of all robbery counts, and almost half of the attempted robbery counts received a prison sentence, averaging 9 months. There were 107 robbery counts, three quarters of which received a prison sentence, with an average sentence length of 35 months. There were 57 armed robbery counts sentenced in 2015, and all but two counts received a prison sentence, with an average prison sentence of 65 months.

Table 13: Robbery - Average CH Score (Count Level), 2010-2015												
	2010		2011		2012		2013		2014		2015	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
M3 Carjacking W/A	2.0	2.7%	1.3	1.6%	0.0	0.2%	3.1	0.5%	2.2	1.9%	4.5	0.3%
M5 Robbery W/A Carjacking	1.7	30.3%	1.5	22.1%	2.2	18.8%	1.5	15.5%	1.9	23.0%	2.4	16.7%
M6 Assault w/ intent to commit robbery Attempted robbery W/A Robbery	2.1	32.1%	1.2	32.6%	1.9	27.6%	2.0	37.6%	2.1	29.3%	1.6	31.4%
M8 Attempt to commit robbery	1.6	34.8%	1.4	43.7%	1.2	53.4%	1.4	46.4%	1.3	45.8%	1.3	51.6%
Total	1.8	100.0%	1.3	100.0%	1.6	100.0%	1.6	100.0%	1.7	100.0%	1.6	100.0%

In terms of demographics, the percentage of Black offenders sentenced for Robbery offenses remained stable between 90% and 93% from 2010 through 2015. Between 2010 and 2015 the percentage of female offenders sentenced for Robbery offenses has also remained fairly stable between 3% and 5%, with the exception of 2012, when the percentage of female offenders increased to 6.8%. Three-quarters of offenders sentenced for Robbery offenses were between the ages of 18 and 30 at the time of the offense, with an average age of 24.5 years.

B. Drug Offenses⁵⁴

Drug offenses made up the second most frequently sentenced offense subcategory in 2015. This subcategory includes attempted drug offenses, possession with intent to distribute (PWID), and

⁵⁴ The Drug Offense category includes distribution, possession with intent to distribute, and attempted drug offenses.

distribution offenses.⁵⁵ Drug offenses represented 20% of all felony cases and 16% of all felony counts sentenced in 2015.

Possession with intent to distribute a controlled substance and attempted possession with intent to distribute a controlled substance together account for more than half of the drug offenses (53%), while distribution and attempted distribution of a controlled substance represent 28% of drug offenses. Possession and attempted possession of liquid PCP accounted for 20% of all drug offenses in 2015. Table 14 shows the average CH score and proportion of drug sentences for 2010 through 2015.⁵⁶

Table 14: Drug Attempt and PWID + Dist - Average CH Score (Count Level), 2010-2015												
	2010 (N=1,239)		2011 (N=1,077)		2012 (N=847)		2013 (N=494)		2014 (N=475)		2015 (N=370)	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
D2 PWID Distribution	2.3	44.4%	2.2	39.0%	2.3	40.0%	1.9	32.9%	2.2	33.4%	1.9	36.8%
D3 Attempt Distribution or PWID Distribution Possession of Liquid PCP	1.9	55.6%	2.0	58.9%	1.9	51.5%	1.9	54.8%	1.8	55.0%	1.9	50.7%
D4 Attempted Distribution or PWID Distribution Possession of Liquid PCP	--	--	1.4	2.1%	1.8	8.6%	2.0	12.4%	1.6	13.6%	1.8	12.5%
Total	2.1	100.0%	2.1	100.0%	2.0	100.0%	1.9	100.0%	1.9	100.0%	1.9	100.0%

The rate of prison sentences for Drug offenses decreased between 2014 (48%) and 2015 (36%). Probation sentences increased by 14% in 2015, while short split sentences accounted for approximately 20% of Drug counts in 2015, consistent with 2014. The overall average CH score for all PWID+Dist and attempted drug offense counts was 2.1; however, offenders sentenced to

⁵⁵ The Attempted Drug Offenses category includes attempted distribution or attempted PWID (except Schedule I or II narcotic or abusive drugs) and attempted possession of liquid PCP.

⁵⁶ Prior to 2010 there were no sentences for attempted possession of liquid PCP. Possession of Liquid PCP became a felony on July 23, 2010. Prior to that date all drug possession offenses were misdemeanors.

prison had an average CH score (2.5), which was higher than offenders receiving a short split (1.9) or probation (1.3) sentence.

In 2015, 89% of PWID+Dist and attempted drug offenders were Black, which is consistent with previous years. The percentage of female offenders sentenced for PWID+Dist and attempted drug offenses has decreased every year since 2010. In 2010 females accounted for 18% of offenders charged with PWID+Dist and attempted drug offenses; in 2015 females made up only 4% of sentences for PWID+Dist and attempted drug offenses. The most frequent age groups sentenced for PWID+Dist and attempted drug offenses were offenders aged 22 to 30 (26%) and 31 to 40 (26%), with an average age of 34.6 years.

C. Assault Offenses⁵⁷

Assault subcategory offenses accounted for 17% of felony cases and 15% of felony counts sentenced in 2015. The leading felony assault offenses sentenced included assault with a dangerous weapon, assault with significant bodily injury, and aggravated assault, which together accounted for 76% of all offenses in this subcategory.

Table 15 shows the average CH score and proportion of Assault sentences for each severity group from 2010 through 2015. In 2015, M3 Assault offenses reached their lowest proportion in the 2010 to 2015 period, while M8 Assault offenses reached their highest proportion. The majority of Assault cases were multiple count felony cases (56%), a six-percent decrease from 2014.

Although the rate of prison sentences for Assault offenses declined from 81% in 2014 to 66% in 2015, it remained higher than the overall rate of prison sentences for all offenses. Due to a wide variety of criminal behaviors that may be involved in felony Assault cases, the Master Grid boxes for Assault offenses range from M3 to M8. Twenty-four of the possible 30 boxes in this range are prison-only boxes, which contributes to the large proportion of Assault counts sentenced to prison. Short splits increased from 11% of sentences in this category in 2014 to 20% in 2015. The proportion of probation sentences also increased from 7% in 2014 to 13% in 2015.

Offender demographics in this category remained relatively unchanged from previous years. Black offenders represented 89% of all offenders sentenced for Assault counts, which is slightly higher than 2014 (85%). Male offenders continued to account for 92% of offenders sentenced for Assault offenses. The most frequent age group sentenced for Assault counts in 2015 were

⁵⁷ The Assault Offenses category includes: assault with a dangerous weapon, assault with intent to kill, assault on a police officer, mayhem, etc.

offenders aged 22 to 30 years (33%), followed by offenders aged 18 to 21 years (28%), with an average age of 30.3 years.

Table 15: Assault - Average CH Score (Count Level), 2010-2015												
	2010		2011		2012		2013		2014		2015	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
M3 Assault w/Intent to Kill W/A	3.4	5.6%	2.1	5.0%	1.6	16.2%	1.9	7.6%	2.2	6.6%	1.6	2.7%
M4 Aggravated Assault W/A	2.2	6.8%	1.9	7.0%	1.7	8.5%	1.1	6.5%	2.5	7.6%	2.0	6.8%
M5 Assault W/A Assault w/Intent to Rob W/A	1.5	6.0%	1.6	7.0%	1.8	6.8%	1.4	7.0%	1.3	15.2%	1.6	8.6%
M6 Assault w/ Dangerous Weapon Assault w/Intent to Rob Aggravated Assault	1.6	42.4%	1.8	38.1%	2.4	29.2%	1.6	34.6%	1.3	33.2%	1.9	35.5%
M7 Assault on Police Officer	2.3	3.2%	2.3	3.3%	2.4	2.7%	1.7	2.7%	1.9	1.9%	2.6	3.0%
M8 Assault w/Dangerous Weapon – Attempt Assault w/ Significant Injury Threat to Kidnap	1.7	36.0%	1.8	39.5%	1.7	36.7%	1.6	41.6%	1.4	35.5%	1.5	43.5%
Total	1.8	100.0%	1.8	100.0%	1.9	100.0%	1.6	100.0%	1.5	100.0%	1.7	100.0%

D. Weapon Offenses⁵⁸

Weapon offenses were the fourth most frequent offense subcategory sentenced at the count level in 2015. Carrying a pistol/carrying a pistol without a license, possession of a firearm during a crime of violence, and unlawful possession of a firearm (felon in possession) accounted for 93% of felony counts sentenced in this offense subcategory. However, between 2014 and 2015 there was a 36% decrease in Weapon offenses. This decline may be related to Second Amendment challenges to D.C.s' Carrying a Pistol statute and gun permit scheme. The confusion surrounding

⁵⁸ The Weapon Offense category includes: carrying a dangerous weapon, carrying a pistol without a license, unlawful possession of a firearm (felon in possession), distribution of firearms/destructive device/ammunition, etc.

the issue may have resulted in a decline in arrests and sentences for Weapon subcategory offenses. Sentences for carrying a pistol dropped precipitously in 2015, with counts decreasing by 34%. The number of sentences for possession of a firearm during a crime of violence also decreased substantially, by 68% from 2014. Both of these offenses had experienced declines over the past few years, with the number of counts for both offenses decreasing by over 30% between 2010 and 2014.

Table 16 shows the average CH score and proportion of Weapon sentences for each severity group from 2010 through 2015. M5 offenses reached their lowest proportion of Weapon sentences in the 2010 to 2015 period, while M6 and M7 reached their highest proportion.

Table 16: Weapon Offenses - Average CH Score (Count Level), 2010-2015												
	2010		2011		2012		2013		2014		2015	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
M5 Poss. Firearm During Crime of Violence	2.2	21.3%	2.1	23.5%	2.0	30.9%	2.3	20.3%	2.3	31.6%	1.6	15.9%
M6 Unlawful Poss. Of Firearm (Crime of Violence) ⁵⁹	--	0.0%	--	0.0%	--	0.0%	3.5	0.2%	3.4	3.6%	3.2	5.4%
M7 Felon in Possession Unlawful Poss. Of Firearm (Prior Felony)	2.7	26.3%	2.5	27.1%	2.7	24.8%	2.5	31.1%	2.9	24.1%	2.8	36.5%
M8 Carry Dangerous Weapon CPWOL	1.3	52.2%	1.1	49.3%	1.4	44.4%	1.1	48.4%	1.2	40.5%	0.8	41.6%
M9 Poss. Prohibited Weapon	4.5	0.2%	--	0.0%	--	0.0%	--	0.0%	6.0	0.2%	1.9	0.6%
Total	1.9	100.0%	1.7	100.0%	1.9	100.0%	1.8	100.0%	2.0	100.0%	1.8	100.0%

Of the total number of offenders sentenced for Weapon Offenses, 97% were male and 3% were female. The age groups 18 to 21 (32%) and 22 to 30 (41%), accounted for the largest percentage of Weapon Offenses, with an average age of 27.0 years.

⁵⁹ There are data quality issues with how Unlawful Possession of a Firearm convictions were reported from 2010 to 2012.

E. Other Offenses⁶⁰

The Other Offenses subcategory represented 15% of all felony cases and 13% of all felony counts sentenced in 2015. Due to the variety of offenses within this category, Other Offenses are ranked in numerous boxes across both Grids.

Table 17 shows the average CH score and proportion of Other Offenses subcategory for each severity group from 2010 through 2015. M6 offenses reached their highest proportion of Other Offenses subcategory sentences in the 2010 to 2015 period. The proportion of Other Offenses sentenced in M8 had increased every year since 2010, but in 2015 declined by 8%.

The majority of counts sentenced in this offense subcategory involved prison breach (26%), fleeing a law enforcement officer (13%), BRA (12%), first and second-degree fraud (8%), and conspiracy (8%).⁶¹ These counts represented 67% of all felony sentences imposed in the Other Offenses subcategory.

Overall, the Other Offenses subcategory showed a general decline from 2010 through 2013, but increased in 2014. However, in 2015 the number of Other Offense counts dropped close to the 2013 level. Part of this fluctuation may be due to the specific offense “criminal street gang affiliation.” This is an offense sentenced infrequently, with only 33 counts total sentenced from 2010 through 2013. In 2014, there were 54 counts that were part of only seven cases sentenced for this offense, stemming from just two separate criminal gang conspiracy murder prosecutions. In 2015, there are no sentences imposed for this specific offense. The decrease in sentences for “criminal street gang affiliation” alone accounts for more than two-thirds of the difference between the numbers of counts sentenced in the Other Offenses subcategory between 2014 and 2015.

In 2015, 90% of the offenders sentenced in this subcategory were Black, which is consistent with previous years. The percentage of offenses in the Other Offenses subcategory committed by females has increased very slightly over the past few years; in 2013 and 2014 females were sentenced for between 14% and 15% in the Other Offenses subcategory. In 2015 females accounted for 16% of sentences in the Other Offenses subcategory. The average age of offenders sentenced for Other Offenses was 29.8 years. The most frequent age group was 22-30 years, representing 35% of all offenders in this group, which is similar to previous years.

⁶⁰ The Other Offenses category includes a variety of offenses including: Bail Reform Act, fraud, obstructing justice, prison breach, fleeing a law enforcement officer, etc.

⁶¹ Virtually all of the offenses of “prison breach” and “escape” involved violations of halfway house custodial restrictions.

Table 17: Other Offenses - Average CH Score (Count Level), 2010-2015												
	2010		2011		2012		2013		2014		2015	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
D2 Maintain Crack House	0.0	0.4%	--	--	0.5	0.3%	--	--	--	--	1.3	0.4%
D3 Obtain Controlled Substance by Fraud	0.0	0.4%	--	--	3.0	0.3%	--	--	--	--	--	--
M5 Conspiracy to Commit Crime of Violence Obstructing Justice	2.1	10.5%	2.2	14.2%	1.9	15.5%	1.4	7.1%	1.4	6.4%	1.3	8.3%
M6 1 st Degree Cruelty to Children Arson	2.6	1.7%	1.3	1.8%	0.6	1.9%	0.0	0.4%	0.3	1.5%	0.5	2.9%
M7 Conspiracy to Commit Crime of Violence Negligent Homicide	2.0	0.9%	0.0	0.5%	1.6	1.6%	--	--	0.0	0.3%	0.1	1.1%
M8 Flee Law Enforcement 1 st Degree Identity Theft Perjury 2 nd Degree Cruelty to Children	1.0	6.1%	1.2	10.1%	1.7	13.9%	2.2	20.6%	1.5	26.8%	1.6	19.1%
M9 BRA Conspiracy Contempt 2 nd Degree Fraud Prison Breach/ Escape	2.4	79.9%	2.1	73.4%	2.0	66.3%	1.7	71.9%	1.8	65.0%	1.9	68.2%
Total	2.3	100.0%	2.0	100.0%	1.9	100.0%	1.8	100.0%	1.7	100.0%	1.7	100.0%

VI. Conclusion

Sentencing Highlights:

- In 2015, there were 1,617 offenders sentenced in 1,701 felony cases. These cases were comprised of 2,309 felony counts. This represents a 19% decrease in felony counts sentenced in 2014, and a total decrease of 37% of felony counts sentenced since 2010.
- The types of dispositions were comparable to previous years, with 91.5% of cases disposed of through guilty pleas and jury trials accounting for 7.9% of cases.
- The demographic characteristics remained similar to previous years: 90% of sentenced offenders were Black, 92% were male, and 83% were Black males. Females accounted for 8% of offenders.
- The age groups 18 to 21 and 22 to 30 accounted for more than 60% of all offenders sentenced in 2015. The proportion of offenders age 18-21 has increased markedly, from 20% of sentences in 2010 to 32% in 2015.
- The proportion of offenders sentenced to prison declined in 2015. While the percentage of cases sentenced to prison remained between 65% and 68% from 2010 (1,982 sentenced to prison) through 2014 (1,266 sentenced to prison), the percent of prison sentences fell to 55% in 2015 (961 sentenced to prison). A similar trend occurred at the count level.
- One factor potentially contributing to the decline in prison sentences may be that a larger proportion of offenders sentenced in 2015 were in boxes on the Sentencing Grid that allow for probation and/or short split sentences rather than prison-only boxes. The data show that in 2015, 64% of counts sentenced were in probation or short split eligible boxes, compared to 58% in 2014. This means that 6% more offenders were eligible for a Guidelines-compliant non-prison sentence in 2015 than in 2014.
- The proportion of probation and short split sentences both increased in 2015, with probation accounting for 21% of all felony sentences, 6% more than the next highest year (2011) in the 2010 to 2015 period. Short split sentences, meanwhile, accounted for 17% of all felony sentences in 2015, a 4% increase over the next highest year (2013) during this same period.
- In 2015, the number of counts sentenced for Drug offenses decreased by 23% from 2014. Overall, felony drug sentences have decreased by 75% from 2010 (1,497) through 2015 (375).

- In 2015, the number of sentences for Violent offenses (602) reached its second-lowest level in the 2010 to 2015 period, with only 2010 (581) having fewer.
- Robbery was the most frequently sentenced offense category in 2015. In 2014, Robbery was the second-most frequently sentenced offense category, behind Weapon offenses. The top five offenses remained the same as in 2014 but their order changed. In 2015 these five categories alone accounted for 75% of all sentences imposed.
- The average CH score for all offenders was 1.7, the same as in 2014. The average CH score for females was less than 1, while the average score for males was 1.8.
- When viewed in light of the 2015 data, 2014 appears to have been an anomalous year in a number of areas, including:
 - The number of female offenders increased; 2014 was the only year in the 2010 to 2015 period in which this occurred.
 - The number of counts sentenced increased; 2014 was the only year in the 2010 to 2015 period that reported an increase.
 - While the number of drug counts decreased by between 18% and 45% every year since 2010, the decrease in 2014 was only 7%.

As in previous years, the sentences imposed closely followed the structure of the Sentencing Guidelines that were designed to promote consistency, certainty, and adequacy of punishment in sentencing. Even with the observed decrease in the proportion of offenses sentenced to prison, prison continues to be the primary sentence imposed for violent and serious criminal behavior and for offenses committed by chronic offenders. A greater proportion of offenses sentenced in 2015 fell into probation and short-split-eligible boxes on the Sentencing Grid than in previous years, contributing the increase in these non-prison sentences. Under the Guidelines, non-prison sentences, including short split and probation sentences, are imposed for less serious criminal behavior and offenders with minimal criminal histories, allowing for rehabilitative opportunities while still holding the offender accountable for his or her criminal behavior. Under the Guidelines, both prison and non-prison sentences serve a purpose in providing rehabilitative opportunities for offenders while promoting public safety for the citizens of the District of Columbia.

CHAPTER FIVE

COMPLIANCE WITH THE DISTRICT OF COLUMBIA VOLUNTARY SENTENCING GUIDELINES

The Commission monitors judicial compliance with the Sentencing Guidelines as part of its statutory mandate. This scrutiny enables the Commission to determine how well the Sentencing Guidelines are achieving the goals of promoting fair and consistent sentencing. Monitoring and evaluating compliance also allows the Commission to identify sentencing patterns that may suggest a need to modify the Sentencing Guidelines.

Judicial compliance with the Sentencing Guidelines remains very high, consistently above 90% since 2011. In 2015, approximately 96% of all felony counts sentenced were compliant with the Guidelines.

I. How the Commission Defines Compliance with the Sentencing Guidelines

The Commission determines compliance with the Sentencing Guidelines by examining whether the actual sentence imposed by the Court falls within the sentencing options and sentencing range recommended by the Guidelines, which are based on the offense severity group (OSG) and the offender's prior criminal history (CH) score. The Guidelines place every non-drug felony offense into one of nine OSGs (M1 to M9) based on its predetermined severity level (the more serious an offense, the lower the severity group number), and place every felony drug offense into one of four OSGs (D1 to D4), 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 that offender's numerical CH score.⁶² The CH scoring rules primarily 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 criminal 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 Grid or the Drug Grid identifies the grid box containing the offender's Guidelines compliant sentence type and sentence range.⁶³ There are three types of sentences recognized under the Guidelines: prison, short split, and probation.

⁶² 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.

⁶³ See Appendices A and B for the Master Grid and Drug Grid.

Of the 45 boxes on the Master Grid, 35 are white/unshaded, “prison only” boxes,⁶⁴ four are dark shaded (or green) short split sentence permissible boxes,⁶⁵ and six are light shaded (or yellow) probation eligible boxes.⁶⁶ On the Drug Grid, six of the 20 boxes are white/unshaded, prison only boxes, four are dark shaded (or green) short split sentence permissible boxes, and ten are light shaded (or yellow), probation eligible boxes. Short split sentences are compliant in probation eligible boxes, but an entirely suspended prison sentence with probation is not compliant in short split sentence eligible boxes. Additionally, the ranges designated within each box can be expanded by certain statutory sentencing enhancements. These enhancement provisions are based on such factors as the victim’s status (e.g., senior citizen, bias-related), where the crime occurred (e.g., a drug-free zone), whether or not the offender is a repeat offender, or other statutory aggravating factors.⁶⁷

II. Departures from the Guidelines

The Guidelines were designed to promote consistency in sentencing among similar offenders convicted of similar crimes. However, 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.”⁶⁸ The District’s Guidelines are voluntary. Therefore, a judge can impose any legal sentence, whether or not it is compliant with the Guidelines. If a judge sentenced an offender outside of the recommended Guidelines range or sentencing options without citing a

⁶⁴ To impose a compliant prison only sentence, the court must impose a prison sentence that falls within the applicable Guidelines range. The Commission now categorizes so called “long split sentences” as prison sentences. To impose a compliant long split sentence, the court may suspend part of the offender’s sentence; however, the time to be served in prison must still fall within the appropriate Guidelines range.

⁶⁵ To impose a compliant short split sentence, the court must impose a prison sentence that falls within the applicable Guidelines range and suspend execution of all but six months or less - but not all - of that sentence, and impose a term of probation to follow the relatively brief term of incarceration.

⁶⁶ To impose a compliant probation sentence, the court must impose a prison sentence that falls within the applicable Guidelines range, suspend execution of the entire prison sentence, and impose a term of probation.

⁶⁷ Statutory minimum and mandatory minimum sentencing provisions do not change an offender’s applicable sentencing range under the Guidelines. However, they may limit the court’s discretion to impose a Guidelines compliant sentence within a particular box. The court may not impose a sentence lower than the mandatory or statutory minimum, even if lower sentences are otherwise available in the appropriate box.

⁶⁸ See Appendix E for a full list of departure principles under the Guidelines.

mitigating or aggravating factor, the Commission classifies the sentence as a “non-compliant departure.”

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

- **Compliant In-the-Box Sentences**—sentences that fall within the appropriate sentence type (prison only, short split, or probation) and sentence 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 original Guidelines range/sentencing options for that offender, 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.⁶⁹
- **Rule 11(c)(1)(C) Sentences**—sentences that are based upon a Rule 11(c)(1)(C) (formerly Rule 11(e)(1)(C)) guilty plea, wherein the parties, with the court’s approval, agree upon a sentence at the time the plea is entered.⁷⁰ Sentences following a Rule 11(c)(1)(C) plea that fall within an offender’s Guidelines complaint sentencing range and options are analyzed as compliant in-the-box sentences. Sentences following a Rule 11(c)(1)(C) plea that fall outside an offenders Guidelines complaint sentencing range and options are analyzed as complaint outside-the-box sentences.
- **Compliant Departures**—sentences that do not fall within the appropriate sentence type or Guidelines range given an offender’s offense of conviction and CH score; however, the judge cited an applicable aggravating or mitigating departure principle.
- **Non-Compliant Departures**—sentences that do not fall within the appropriate sentence type or Guideline range given an offender’s offense of conviction and CH score, and the judge does not cite an aggravating or mitigating departure principle.

The classification of compliance into five distinct categories enables the Commission to examine instances when a judge’s sentence falls within the recommended range, expands the range, follows a departure principle, or when the judge chooses to sentence outside the Guidelines.

III. Data Reporting

The first step in measuring judicial compliance with the Sentencing Guidelines is to identify the appropriate sentencing option and range for every felony conviction in a case, and then compare

⁶⁹ Sentences based upon statutory enhancements may fall outside-the-box. Under Chapter Four of the Guidelines, a statutory enhancement raises the maximum sentence in the Guidelines range for the applicable box in proportion to the effect of the enhancement on the statutory maximum sentence.

⁷⁰ Under Criminal 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 complaint with the applicable Guidelines range and/or sentencing options.

that to the sentence imposed by the judge. The Superior Court provides offense and sentencing information to the Commission and CSOSA enters criminal history information for each offender into the GRID System. The GRID System uses this data to automatically assess compliance with the Sentencing Guidelines, which is reported at the count level.

If, after a multi-step validation process,⁷¹ a sentence still appears to be non-compliant, a departure letter is forwarded to the judge to verify offense, offender, and sentence information in the case. Departure letters also provide the sentencing judge the opportunity to 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. The Commission continues to make use of the departure letters to assess the reasons for departures from the Sentencing Guidelines.

Superior Court judges ordered a presentence report or requested an offender's CH score information in 96.8% of all felony counts sentenced in 2015. 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). Less than four percent of felony counts sentenced involved cases where the court did not request the offender's CH score or the judge sentenced the offender without a presentence report (PSR).

Guidelines compliant departure information prior to 2011 was not collected and categorized in the same manner it is currently. Therefore, the compliance analysis contained in this section relies only on data from 2011 through 2015. This allows the Commission to provide an accurate assessment of trends related to compliant departures and overall judicial compliance.

IV. Compliance Analysis

In 2015, Superior Court judges sentenced defendants in 2,309 counts. However, of the 2,309 counts sentenced, the Guidelines only applied to 1,923 initial sentences. The remaining 386 counts occurred in a non-Guidelines case,⁷² following the revocation of an offender's probation, or a case on remand from the Court of Appeals. The number of initial sentences to which the Guidelines do not apply for other reasons remains minimal (less than 45 counts per year).

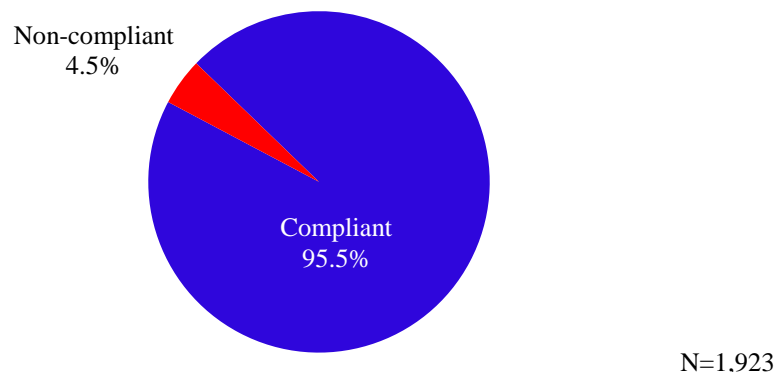
The following figures examine the initial sentence imposed for felony counts sentenced in 2015. These sentences are divided into the following categories: compliant in-the-box sentences, compliant outside-the-box sentences, compliant departures, non-Guidelines sentences, and non-compliant sentences. A sentence following a probation revocation or a remanded by the Court of

⁷¹ For a more detailed explanation of the process, see pages 28-30.

⁷² The Guidelines do not apply to sentences where defendant's guilt was determined prior June 14, 2014.

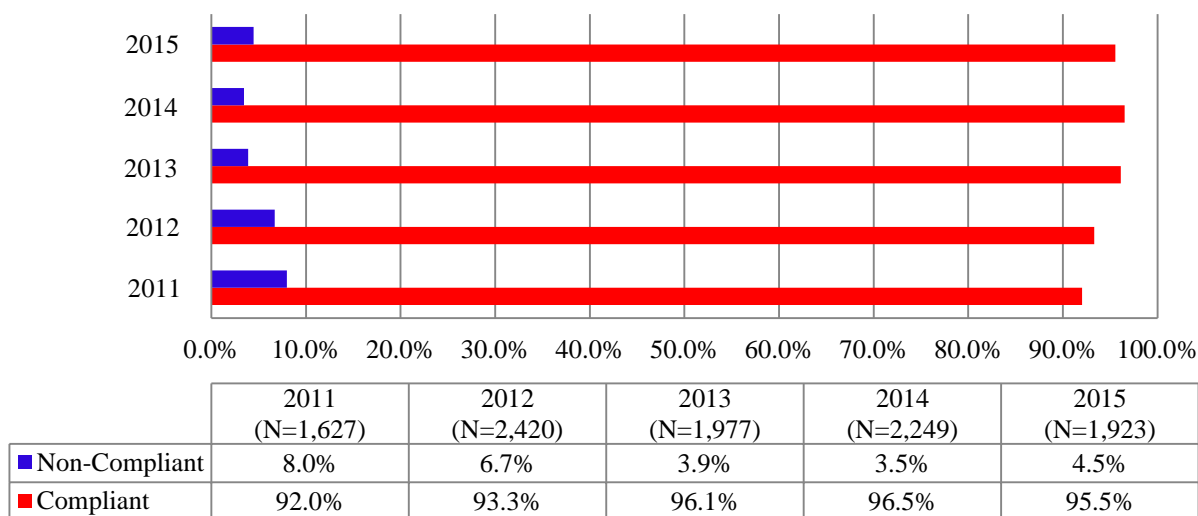
Appeals is not considered an initial sentence by the Commission and is not included in this analysis.

Figure 19a: Overall Judicial Compliance Rate in 2015



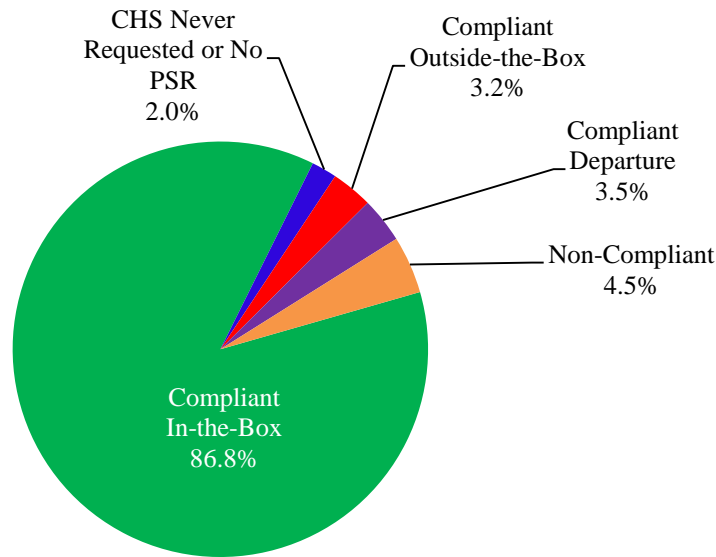
In 2015, there were 1,923 initial felony sentences imposed in the Superior Court for which compliance was calculated. As in previous years, the rate of judicial compliance with the Sentencing Guidelines remains greater than 90% (Figure 19b). However, 95.5% Guidelines compliance rate in 2015 shows a slight decline from the 96.5% Guidelines compliance rate in 2014 (Figure 19c).

**Figure 19b: Judicial Compliance Rate
2011 - 2015**



As shown in Figure 20, 86.8% of all sentenced felony counts were compliant-in-the-box sentences, meaning that the sentence imposed fell within the Sentencing Guidelines recommended sentence type and range. This percentage of compliant-in-the-box has remained fairly stable with a very slight increase in 2012 and 2013 before returning to 87% in 2014 and 2015.

Figure 20: Judicial Compliance Rate in 2015



N=1,923

In addition to the slight decline in the percentage of compliant in-the-box sentences, there was also a 1.0% increase in the number of non-compliant sentences from 2014 (3.5%) to 2015 (4.5%), as demonstrated in Table 18. However, the percentage of non-compliant sentences is still significantly below what it was in 2011 (8.0%) and 2012 (6.7%).

Table 18: Judicial Compliance Status 2010 - 2015					
N=12,281*					
	2011 N=1,627	2012 N=2,420	2013 N=1,977	2014 N=2,249	2015 N=1,923
CHS Never Requested or No PSR	4.3%	1.1%	1.5%	2.4%	2.0%
Compliant In-the-Box	86.2%	90.1%	91.0%	87.6%	86.8%
Compliant Outside the Box	0.7%	1.0%	1.9%	2.7%	3.2%
Compliant Departure	0.8%	1.1%	1.7%	3.9%	3.5%
Non-Compliant	8.0%	6.7%	3.9%	3.5%	4.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%

*This table does not include remands, revocations, or non-guideline counts.

A. Compliant-in-the-Box Sentences

Figure 21a: 2015 Compliant in-the-Box Sentences

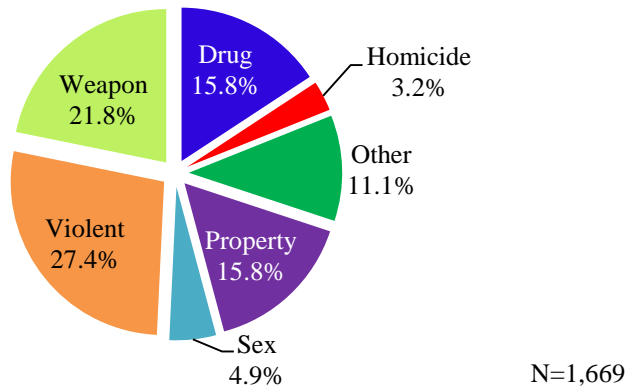
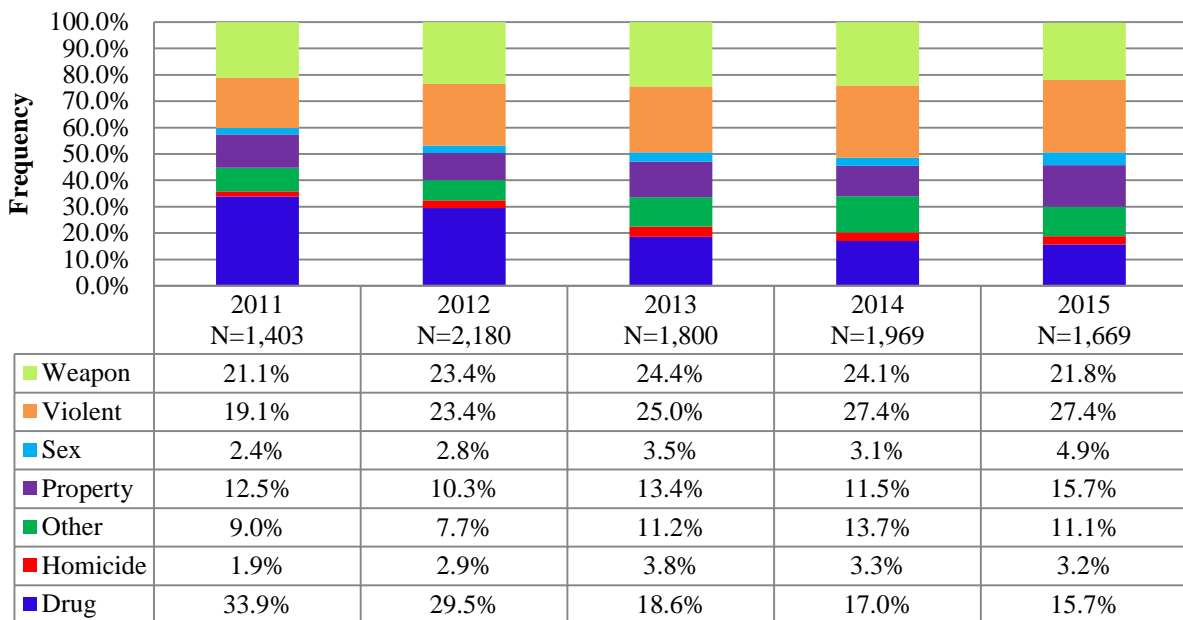


Figure 21a displays the distribution of compliant in-the-box sentences⁷³ imposed for felony counts within each offense category in 2015.⁷⁴ Of the 1,669 compliant in-the-box sentences imposed in 2015, 27.5% were for Violent offense counts. Violent offenses have accounted for the largest percentage of compliant in-the-box sentences since 2013 (25.0%), as shown in Figure 21b.

Figure 21b: Percentage of Compliant in-the-Box Sentences by Offense Category 2011 - 2015



⁷³ This includes sentences following a Rule 11(c)(1)(C) plea that otherwise fell within the available in-the-box sentencing range and options.

⁷⁴ The seven offense types are Drug, Homicide, Other Offenses, Property, Sex, Violent, and Weapon.

Prior to 2013, Drug offenses represented the highest percentage of compliant in-the-box sentences imposed, accounting for at least 30% of the compliant in-the-box sentences from 2011 to 2012. However, Drug offenses have steadily declined from the largest percentage in 2011 (33.9%) to the fourth largest percentage in 2015 (15.7%) of compliant-in-the-box sentences. This decline is due to the overall decrease in the total number of Drug offenses sentenced during this time period.

Weapon offenses were the second largest percentage of compliant in-the-box sentences, representing 21.8% of sentences in the category. Weapon offenses have been the second largest percentage of compliant in-the-box sentences since 2011. Despite the fluctuation in sentences for many offense types from 2011 to 2015, Weapon offenses have consistently represented 20-25% of compliant in-the-box sentences imposed each year.

B. Compliant Departures⁷⁵

A judge may assess factors related to the offense, the offender, the victim, or perhaps other factors that warrant a departure from the sentence recommended by the Sentencing Guidelines. Compliant Departures occurred in 2.9% (68 counts) of all felony counts sentenced in 2015, with each assigned a departure factor. Although these departures constituted a small percentage of all sentences, they offer insight into the reasons 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 2015:

- A3 - A victim sustained a devastating injury;
- A10 - The consecutive/concurrent sentencing policy results in a Guidelines sentence so lenient in relation to the seriousness of the offense and the history of the defendant that imposition of the Guidelines sentence would result in manifest injustice;
- A11 - Any other substantial and compelling basis, similar to those articulated in the Guidelines, to depart upward;
- M1 - A victim was an aggressor, initiator, willing participant in, or provoker of the incident to such a degree that the offender'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 offender compensated or made a good faith effort to compensate the victim(s) for any damage or injury sustained;
- M6 - The offender could not appreciate the wrongfulness of his or her conduct;
- M7 - The offender has provided substantial assistance to law enforcement;
- M8 - The Guidelines sentence calls for incarceration but the offender cannot be adequately protected or treated in any available prison facility;
- M9 - The consecutive/concurrent sentencing policy results in an excessively severe sentence; and
- M10 - Any other substantial and compelling basis, similar to those articulated in the Guidelines, to depart downward.

⁷⁵ See Table 29 in Appendix D page XIII, detailing departure principle by OSG, CH score, and sentence length.

Figure 22a: 2015 Distribution of Compliant Departure Sentences

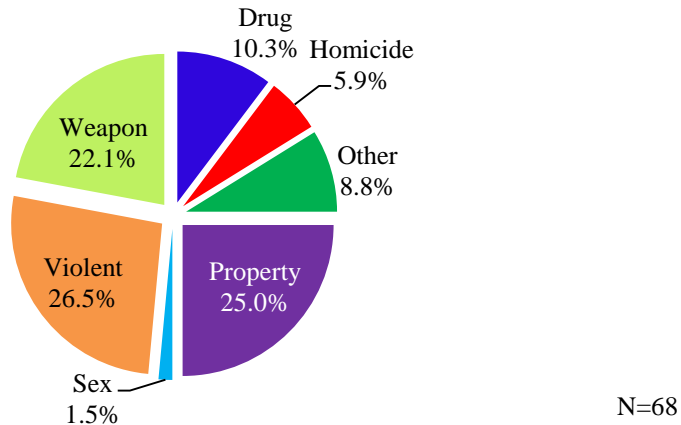
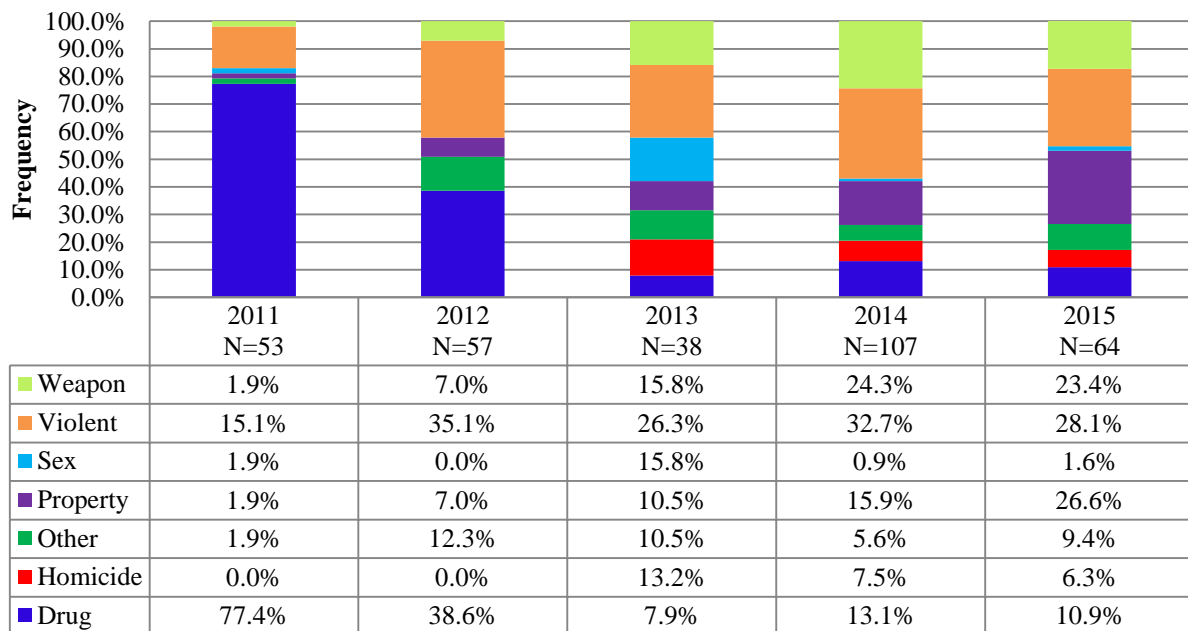


Figure 22a displays the composition of total compliant departure sentences based on offense category. The overall trend for compliant departures has been a relative decline in the percentage of compliant departures of Drug offenses, and increased compliant departures for Weapon and Violent offenses.

Figure 22b: Distribution of Compliant Departure Sentences by Offense Category* 2011 - 2015



*Compliant departure data is not available for 2010.

Table 19 displays the departure principles cited by judges and reported to the Commission for sentences occurring in 2015. There was a decline in the number of compliant departures reported in 2015 (68) when compared to 2014 (107), corresponding in part to the overall decline in the number of sentences year to year. Aggravating factors were recorded in four felony counts, with the most frequently cited aggravating factor being A11 (three counts), which is the

catchall aggravating departure principle. There were 64 mitigating departures reported, where the court imposed sentences below the recommended sentencing range. The most common mitigating departure principle cited was M7 (31 counts), which is used when the offender provided substantial assistance to law enforcement. This departure factor was followed by M10, which serves as the catchall mitigating departure principle (25 counts). The prominence of judges utilizing catch-all and substantial assistance to law enforcement downward departure factors has been consistent throughout the 2011 to 2015 period.

Table 19: Departure Reasons by Severity Group in 2015									
Severity Group	M1	M2	M6	M7	M9	M10	A3	A11	Total
D2						3			3
D3				1	1	2			4
M2				2		1			3
M4						1			2
M5				9	1	2			12
M6	1		1	1	1	5	1	2	12
M7		1		14	1	4			20
M8				3		7		1	11
M9				1					1
Total	2	1	1	31	4	25	1	3	68

The offense receiving the most mitigating departures varies from year to year, with second-degree burglary receiving downward departures most frequently in 2015.⁷⁶ Of the total 11 second-degree burglary compliant departures in 2015, 10 cited departure principle M7 and one cited M10. In 2014, only two second-degree burglary counts received compliant departures.

Unlawful possession of a firearm with a prior felony conviction was the second most common offense, with eight counts receiving a compliant departure. Mitigating departure principles were cited for each of the eight counts. Four counts of unlawful possession of a firearm with a prior felony conviction received departure principle M7, where the defendant provided substantial assistance to law enforcement, and three received the catchall departure principle M10. For the remaining count of unlawful possession of a firearm with a prior felony conviction, departure principle M2 was cited, indicating that the offender made a good faith effort to compensate the victim(s) for any damage or injury sustained.

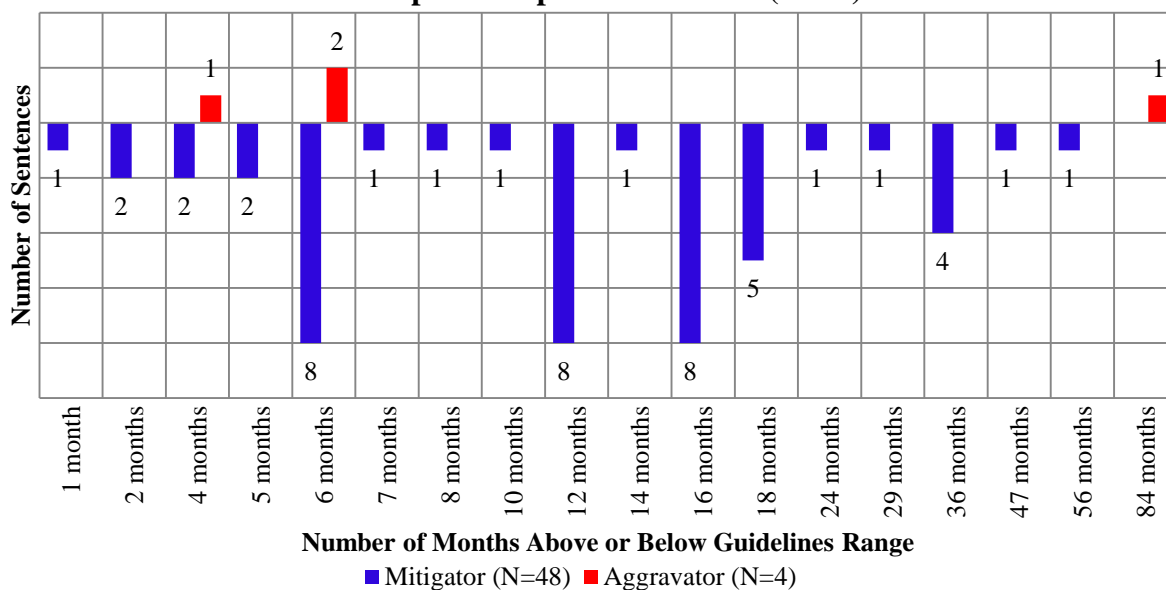
The third most common offenses with compliant departures were assault with a dangerous weapon and robbery, each receiving five compliant departures. Two counts of assault with a

⁷⁶ See Table 30 in Appendix D; page XIV, detailing departure principle by offense.

dangerous weapon received mitigating departures of M10, while the remaining three received M1, M6, and M7. However, the robbery sentences had both mitigating and aggravating departure principles cited. Departure principle M10 was cited in three of the five counts for robbery, while A11 was cited in the remaining two counts.

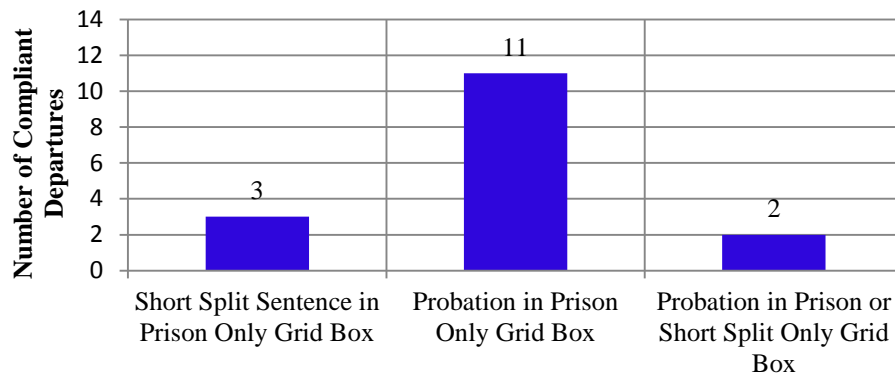
The four sentences that received upward departures resulted in an average of 25.0 months above the recommended range; however, this includes one outlier of 84 months above the box range (Figure 23a). Without this outlier, the average sentence in an upward departure was 5.3 months above the recommended range. The average for downward departures was 19.1 months below the minimum of the recommended range, with the extremes being one month below the range on one count and fifty-six months below the range on one count.

Figure 23a: Number of Months Above or Below Recommended Range for Compliant Departures in 2015 (N=52)



While the majority (52) of compliant departures were cited for departing above or below the recommended sentence range, 16 sentences were compliant dispositional departures based on the imposition of an sentence type not recommended by the Guidelines. Figure 23b displays the types of compliant dispositional departures.

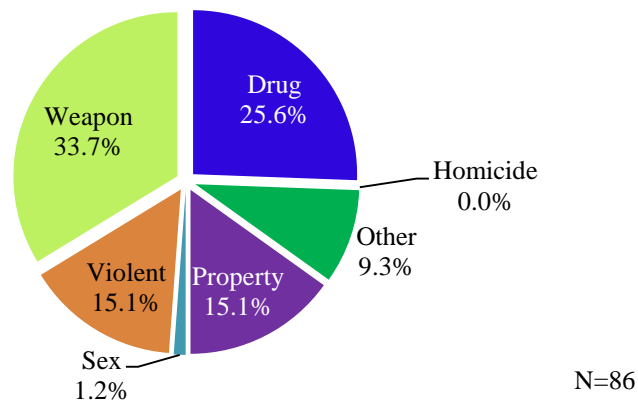
**Figure 23b: Number of Compliant Dispositional Departures in 2015
(N=16)**



C. Non-Compliant Departures

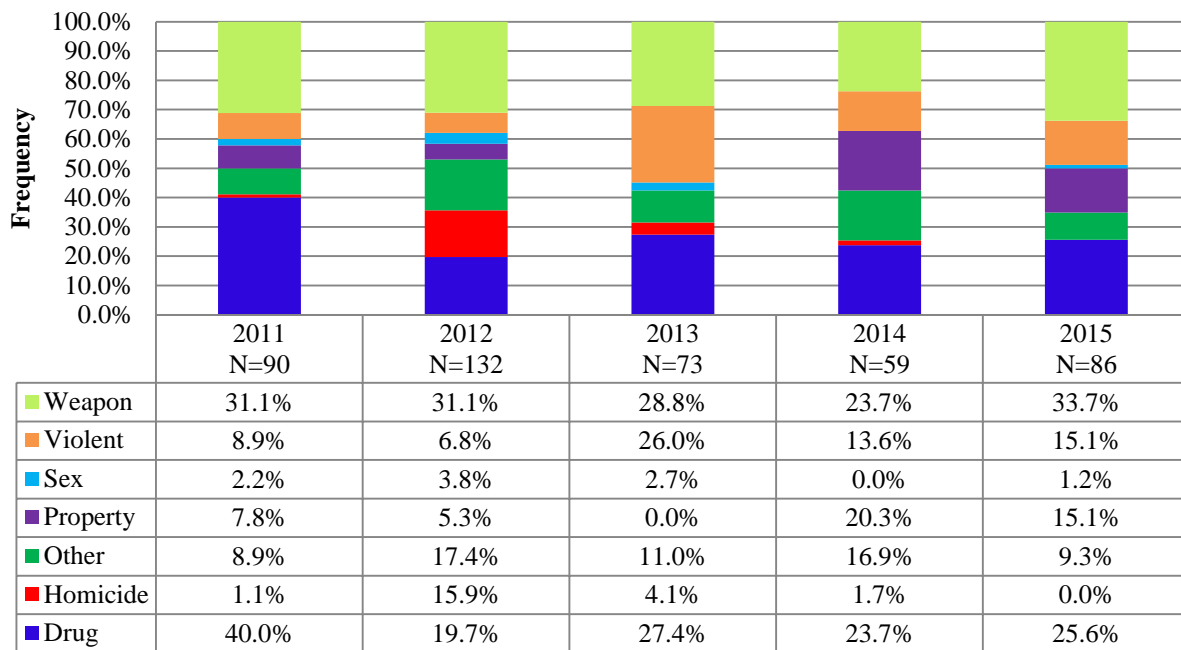
A sentence is considered a non-compliant departure when the judge imposes an out-of-the-box sentence without citing a departure principle. In 2015, there were 86 non-compliant departures represented 4.5% of felony counts sentenced, an increase from 3.5% in 2014, but a decrease from 8% in 2011. Weapon and Drug offenses comprised the majority of non-compliant departure sentences imposed, as displayed in Figure 24a.

Figure 24a: Distribution of Non-Compliant Departure Sentences in 2015



The proportion of offense types receiving non-compliant departures changed between 2014 and 2015. In 2015, Weapon Offenses (33.7%) represented the largest proportion of non-compliant sentences, an increase of 10.0% from 2014 (Figure 24b). This increase was related to an increase in the number of non-compliant sentences for assault with a dangerous weapon and unlawful possession of a firearm with a prior conviction.

**Figure 24b: Percentage of Sentenced Counts that are Non-Compliant
by Offense Type
2011 - 2015**

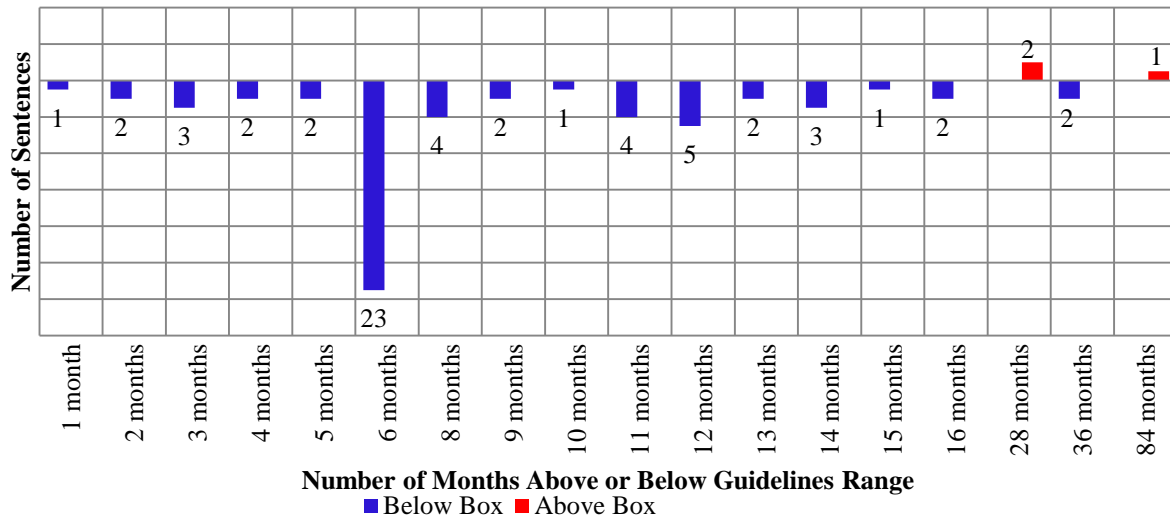


Unlawful possession of a firearm by an offender with a prior felony conviction was the leading offense to receive a non-compliant sentence in 2015, representing 14 of the 86 non-compliant sentences in 2015. Non-compliant departures for this offense are likely related to the conflict that occurs when an offender with an unlawful possession of a firearm (prior felony) conviction is sentenced in grid box M7B, which has a range of 18-60 months but is short split eligible. Due to the statutory one-year mandatory minimum sentence of 12 months, a conviction in this box is not eligible for a short split under the Guidelines because the time the offender must serve is greater than six months. To be compliant with the Guidelines, the judge must sentence the defendant to at least 18 months incarceration. A footnote⁷⁷ in the Guidelines Manual advises judges that “if the Court determines that a split sentence of 12 months incarceration or more, but less than 18 months, is appropriate, it may sentence the defendant accordingly, but this would constitute a departure from the Guidelines.”

Of the 86 non-compliant departures, 62 were departures from the recommended Guideline range. There were three sentences that received upward non-compliant departures, resulting in an average sentence of 46.7 months above the recommended range (Figure 25a). There were 59 downward non-compliant departures, with an average sentence of 8.3 months below the minimum of the recommended range.

⁷⁷ See Appendix C, page C-25 of the 2015 District of Columbia Voluntary Sentencing Guidelines Manual.

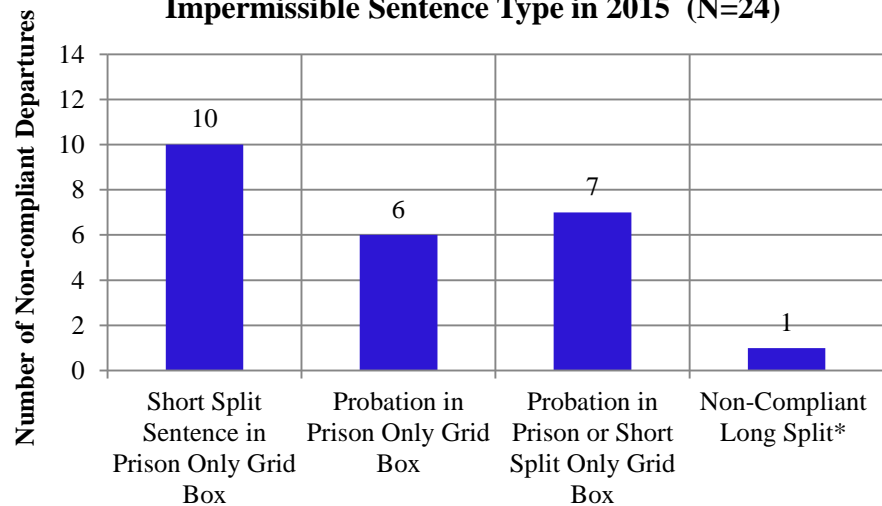
Figure 25a: Number of Months Above or Below Recommended Range for Non-Compliant Departures (N=62)*



*24 of the 86 non-compliant departure sentences represented a non-compliant dispositional departure from the

The remaining 24 non-compliant departure sentences were non-compliant dispositional departures based on the imposition of a sentence type not recommended by the Guidelines. Figure 25b displays the types of compliant dispositional departures.⁷⁸

Figure 25b: Number of Non-Compliant Departure Sentences Due to Impermissible Sentence Type in 2015 (N=24)



⁷⁸ A non-compliant long split sentence is one where the time served is greater than six months, but less than the bottom of the sentencing range.

D. Compliance by Offense Type

The majority of sentenced counts within each of the seven offense types were compliant in-the-box. However, the percentage of noncompliant sentences differs across offense types. These differing patterns of compliance are likely related to the types of offenses sentenced. For example, the non-compliant sentences were more likely to occur for Drug and Other Offenses rather than for Sex or Homicide offenses. The data in the following sections outlines trends in Guidelines compliance from 2011 through 2015.

1. Drug Offenses⁷⁹

The number of sentenced counts for Drug offenses continues to decline; however, there was also a slight decline in the percentage of these counts classified as compliant in-the-box (Table 20a). Compliant in-the-box sentences for Drug offenses fluctuated slightly from 2011 (82.2%) to 2015 (87.4%), but remained above 82% during the time period.

Table 20a: Compliance Status for Sentenced Counts Drug Offenses 2010 - 2015					
	2011 N=579	2012 N=700	2013 N=364	2014 N=373	2015 N=301
Compliant In-the-Box	82.2%	92.0%	92.0%	89.8%	87.4%
Compliant Departure	7.1%	3.1%	0.8%	3.8%	2.3%
Non-Compliant	6.2%	3.7%	5.5%	3.8%	7.3%
CH Score/PSI Never Requested	4.0%	0.6%	1.1%	2.1%	2.0%
Compliant Outside-the-Box	0.5%	0.6%	0.5%	0.5%	1.0%

2. Homicide Offenses⁸⁰

Compliant in-the-box sentences for Homicide counts fluctuated vastly from 2011 (87.1%) to 2015 (82.8%), with a low of 72.4% in 2012 (Table 20b). The 2012 low for compliant in-the-box sentences was accompanied by a significant increase in the non-compliant rate of 24.1% for Homicide counts sentenced. However, 2012 appears to be an anomaly associated with two significant multiple count Homicide cases sentenced that year.

⁷⁹ See Figure 28a in Appendix D; page XV, detailing compliance status for Drug offenses.

⁸⁰ See Figure 28b in Appendix D; page XVI, detailing compliance status for Homicide offenses.

Table 20b: Compliance Status for Sentenced Counts Homicide Offenses 2010 - 2015					
	2011 N=31	2012 N=87	2013 N=78	2014 N=79	2015 N=64
Compliant In-the-Box	87.1%	72.4%	88.5%	81.0%	82.8%
Compliant Departure	0.0%	5.7%	10.3%	5.1%	6.3%
Non-Compliant	3.2%	24.1%	3.8%	1.3%	0.0%
CH Score/PSI Never Requested	6.5%	0.0%	0.0%	5.1%	3.1%
Compliant Outside-the-Box	3.2%	3.4%	1.3%	2.5%	7.8%

In 2015, all Homicide offenses sentenced outside of the recommended sentencing guidelines had departure principles reported for the first time. The number of non-compliant sentences for Homicide counts declined from a high of 24.1% in 2012 down to 0.0% in 2015. This indicates that even with a declining number of Homicide counts sentenced each year, judges have increased their reporting of departure principles for Homicide sentences.

3. Other Offenses⁸¹

There was a 21.2% decline in the number of Other Offenses sentenced between 2014 (372 counts) and 2015 (293 counts). Compliant in-the-box sentence for Other Offenses peaked in 2014 (88.5%), increasing 31.5% from 2011. However, the percentage of compliant in-the-box sentences for Other Offenses, by count, slightly declined in 2015 (Table 20c). Sentences for criminal street gang affiliation convictions were the leading offense in the Other Offense category in 2014.⁸²

Table 20c: Compliance Status for Sentenced Counts Other Offenses 2010 - 2015					
	2011 N=149	2012 N=213	2013 N=231	2014 N=305	2015 N=221
Compliant In-the-Box	57.0%	78.4%	87.4%	88.5%	84.2%
Compliant Departure	0.5%	4.2%	4.8%	1.3%	5.0%
Non-Compliant	3.6%	10.8%	3.5%	3.3%	3.6%
CH Score/PSI Never Requested	5.9%	3.3%	2.6%	4.9%	4.5%
Compliant Outside-the-Box	0.5%	4.2%	4.8%	1.3%	5.0%

⁸¹ See Figure 28c in Appendix D; page XVII, detailing compliance status for Other Offenses.

⁸² Discussed in Chapter Four, page 68.

4. Property Offenses⁸³

The rate of compliant in-the-box counts has declined by 9.1% from 2011 (93.1%) to 2015 (84.0%), as displayed in Table 20d. This decrease is mostly influenced by increases in the percentage of Property counts that were classified as compliant departures, which increased consistently from 2011 to 2014. However, compliant departures declined again by 1.0% in 2015.

Table 20d: Compliance Status for Sentenced Counts Property Offenses 2010 - 2015					
	2011 N=189	2012 N=238	2013 N=253	2014 N=266	2015 N=313
Compliant In-the-Box	93.1%	94.5%	95.3%	85.0%	84.0%
Compliant Departure	0.5%	1.7%	1.6%	6.4%	5.4%
Non-Compliant	3.7%	2.9%	0.0%	4.5%	4.2%
CH Score/PSI Never Requested	1.6%	0.8%	1.6%	1.9%	2.2%
Compliant Outside-the-Box	1.1%	0.0%	1.6%	2.3%	4.2%

The trend for compliant in-the-box sentences for Property offense counts is also directly related to the percentage of compliant outside-the-box sentences. While there was a slight decline in the percentage of compliant outside-the-box sentences for Property offenses from 2011 to 2012, this percentage has increased consistently from 2012 through 2015. The offense contributing the most to the increase in compliant outside of the box Property sentences is second degree burglary, increasing from one count sentenced in 2013 to nine counts in 2015.

5. Sex Offenses⁸⁴

There are very few Sex offense counts sentenced, less than 100 counts per year. However, there are notable trends that occur from 2011 to 2015, as shown in Table 20e. In 2015, Sex offenses continue to increase, and had the highest percentage of compliant in-the-box sentences of any offense category at 94.3%. This increase occurred despite the variation in distribution of Sex offense counts that were classified as compliant departures, non-compliant, or compliant outside of the box.

⁸³ See Figure 28d in Appendix D; page XVIII, detailing compliance status for Property offenses.

⁸⁴ See Figure 28e in Appendix D; page XIX, detailing compliance status for Sex offenses.

Table 20e: Compliance Status for Sentenced Counts Sex Offenses 2010 - 2015					
	2011 N=40	2012 N=71	2013 N=71	2014 N=67	2015 N=87
Compliant In-the-Box	85.0%	85.9%	88.7%	91.0%	94.3%
Compliant Departure	2.5%	0.0%	8.5%	1.5%	1.1%
Non-Compliant	5.0%	7.0%	2.8%	0.0%	1.1%
CH Score/PSI Never Requested	7.5%	4.2%	0.0%	0.0%	1.1%
Compliant Outside-the-Box	0.0%	2.8%	0.0%	7.5%	2.3%

6. Violent Offenses⁸⁵

The number of counts sentenced for Violent offenses has varied between 2011 and 2015. The percentage of compliant in-the-box sentences for Violent offenses declined between 2011 (92.7%) and 2014 (87.2%), but increased to 89.3% in 2015 (Table 20f).

Table 20f: Compliance Status for Sentenced Counts Violent Offenses 2010 - 2015					
	2011 N=289	2012 N=543	2013 N=496	2014 N=618	2015 N=513
Compliant In-the-Box	92.7%	93.9%	90.7%	87.2%	89.3%
Compliant Departure	2.8%	3.7%	2.0%	5.7%	3.5%
Non-Compliant	2.8%	1.7%	3.8%	1.3%	2.5%
CH Score/PSI Never Requested	1.7%	0.2%	1.4%	2.4%	1.8%
Compliant Outside-the-Box	0.0%	0.6%	2.0%	3.4%	2.9%

⁸⁵ See Figure 28f in Appendix D; page XX, detailing compliance status for Violent offenses.

7. Weapon Offenses⁸⁶

Compliant in-the-box sentences for Weapon offense counts have ranged between 85% and 90.7% since 2011, peaking in 2012 and 2013 at slightly over 90%. Non-compliant sentences for Weapon offense counts declined during that same time period. It should be noted that compliant departures over the past two years have shown a notable increase.

Table 20g: Compliance Status for Sentenced Counts Weapon Offenses 2010 - 2015					
	2011 N=345	2012 N=563	2013 N=485	2014 N=545	2015 N=428
Compliant In-the-Box	85.8%	90.6%	90.7%	87.0%	85.0%
Compliant Departure	0.3%	0.7%	1.2%	4.8%	3.5%
Non-Compliant	8.1%	7.3%	4.3%	2.6%	6.8%
CH Score/PSI Never Requested	4.6%	0.7%	1.6%	1.8%	1.6%
Compliant Outside-the-Box	1.2%	0.7%	2.1%	3.9%	3.0%

V. Conclusion

Judicial Compliance Highlights:

- The judicial compliance rate was 95.5%, with 4.5% of felony sentences classified as non-compliant. This represents a 1.0% decline from the previous year, in which the compliance rate was 96.5%.
- Unlawful possession of a firearm with a prior conviction was the leading offense to receive non-compliant sentences in 2015.
- The average rate of sentences that were classified as compliant in-the-box between 2011 and 2015 was 87.5%. The percentage of felony counts receiving compliant in-the-box sentences increased by 8.1% from 2011 (86.2%) through 2013 (91.0%), before declining in 2014 (87.6%). The percentage of compliant in-the-box sentences stabilized in 2015 (86.8%).
- Compliant departures increased 3.8% from in 2011 to in 2014, and stabilized in 2015 at 3.5%. Aggravating factors represented only 5.9% of departure principles cited, while 94.1% of compliant departures cited mitigating principles.

⁸⁶ See Figure 28g in Appendix D; page XXI, detailing compliance status for Weapon offenses.

- Departure principles were cited by the Court in all Homicide sentences that fell outside of the recommended sentencing range in 2015.
- Factor A11 was the most frequently used aggravating factor in 2015, cited in three out of four of the upward departures.
- The substantial assistance to law enforcement departure factor (M7) was the most frequently used mitigating factor, cited in 48.4% of downward departures in 2015. Additionally, the catch-all downward departure factor (M10) was cited in 39.0% of downward departures. Since 2011, M7 and M10 have been the most frequently cited departure factors.
- Compliant in-the-box sentences in the Other Offenses category increased by 31.5% from 2011 to 2014, but declined by 4.3% in 2015.

While the overall 2015 data suggest there were some anomalies in sentencing patterns during 2014, the pattern of compliance appears to remain stable. The majority of sentences imposed continue to receive compliant in-the-box sentences. This trend was accompanied by an increase in the number of departure factors reported outside the catchall departure factors of M10 and A11, indicating a change from departure factors used in 2014. Moving forward, the Commission will continue to utilize the GRID System, in addition to departure letters, for identifying and analyzing trends related to felony sentencing and compliance with the Sentencing Guidelines.

CHAPTER SIX

CRIMINAL CODE REVISION PROJECT

The Council of the District of Columbia has directed the Commission to review and develop recommendations for revision of the District of Columbia Criminal Code. This chapter provides an overview of the Criminal Code Revision Project (the Project) and describes the Commission's 2015 activities related to the Project.

The Project's work in 2015 followed the Project Management Plan (ver. 3/15), which the Commission approved and submitted to the Council.⁸⁷ Under the Project Management Plan, the Commission's five-member Criminal Code Revision Committee (CCRC)⁸⁸ has the initial responsibility for developing code revision recommendations, while overall responsibility and final approval of all recommendations to the Council rests with the full Commission. In the course of its 2015 work, the CCRC held 22 in-person meetings and reviewed legal research prepared by agency staff.

I. Legislative Mandate

In 2006, the Council enacted the Advisory Commission on Sentencing Amendment Act, making the preparation of comprehensive recommendations for revision of District criminal statutes one of the Commission's statutory mandates. Specifically, D.C. Code § 3-101.01 states:

- (a) Beginning January 1, 2007, the Commission shall also have as its purpose the preparation of comprehensive recommendations to the Council and the Mayor that:
 - (1) Revise the language of criminal statutes to be clear and consistent;
 - (2) In consultation with the Codification Counsel in the Office of the General Counsel for the Council of the District of Columbia, organize existing criminal statutes in a logical order;

⁸⁷ See D.C. Sentencing and Criminal Code Revision Commission 2014 Annual Report, Appendix F.

⁸⁸ Mr. Ronald Gainer, a retired attorney formerly employed by the United States Department of Justice, serves as the chairman of the CCR Committee. Chairman Gainer is an expert in criminal law reform and has written extensively on the topic. The remaining committee members include: Professor Donald Braman, Associate Professor of Law at the George Washington University School of Law; Ms. Renata Cooper, Special Counsel to the United States Attorney for the District of Columbia (Policy and Legislation); Ms. Laura Hankins, Special Counsel for the Public Defender Service for the District of Columbia; and Mr. Dave Rosenthal, Senior Assistant Attorney General in the Office of the Attorney General for the District of Columbia. Ms. Patricia Riley, Special Counsel to the United States Attorney for the District of Columbia, previously served on the CCRC before she was succeeded in 2012 by Ms. Cooper.

- (3) Assess whether criminal penalties (including fines) for felonies are proportionate to the seriousness of the offense, and, as necessary, revise the penalties so they are proportionate;
 - (4) Propose a rational system for classifying misdemeanor criminal statutes, determine appropriate levels of penalties for such classes; and classify misdemeanor criminal statutes in the appropriate classes;
 - (5) Identify any crimes defined in common law that should be codified, and propose recommended language for codification, as appropriate;
 - (6) Identify criminal statutes that have been held to be unconstitutional;
 - (7) Propose such other amendments as the Commission believes are necessary; and
 - (8) Enable the adoption of Title 22 as an enacted title of the District of Columbia Official Code.
- (b) No later than March 31, 2007, the Commission shall submit to the Council and the Mayor a work plan and schedule for carrying out the responsibilities authorized by this section. The work of the Commission under this section shall be completed no later than September 30, 2016.
- (c) The Commission shall submit its recommendations for criminal code revisions in the form of reports. Draft legislation or other specific steps for implementing the recommendations for criminal code revisions shall accompany each report.

The Report from the Committee on the Judiciary explained that:

The existence of overlapping provisions and confusing or outdated language, penalties that are disproportionate to the crime or disparate from penalties of similar crimes, and other inconsistencies impede the fair and just administration of the law. Criminal code reform would encompass analysis of the current criminal code and propose reforms to the code that create a uniform and coherent body of criminal law in the District of Columbia.⁸⁹

II. Project History and Background

Early CCRC work addressed the Council's mandate to revise felony fines to be proportionate to offense seriousness. In January of 2011, the Commission submitted to the Council a proposal, which ultimately became the Criminal Fine Proportionality Act of 2012. That legislation standardized fines for crimes by correlating the designated fine amount with the maximum term

⁸⁹ Chairman Phil Mendelson, Council of the District of Columbia Comm. on the Judiciary, Report on Bill 16-172, the "Advisory Commission on Sentencing Amendment Act of 2006," B16-172, 16th Council Period, at 1-2 (2006).

of imprisonment, ensuring a system of proportionate fines within the District. The new fine structure went into effect June 1, 2013.⁹⁰

In FY 2013, the Council provided the agency with additional resources to staff the Project and revised the deadline for Project completion to September 30, 2016.⁹¹ Subsequently, the Commission developed and approved the first Project Management Plan (ver. 3/13) to guide future activities. As updated,⁹² the Project Management Plan has guided all subsequent work.

In 2013 and 2014, the CCRC produced working drafts of General Provisions that set out common definitions and principles of liability across all revised criminal statutes. The CCRC also drafted a reorganization scheme for criminal offenses in Title 22 of the D.C. Code that would be more compact, logical, and user-friendly. Lastly, the CCRC drafted and recommended revisions to specific property offenses, drug crimes, and related statutes described in Figure 26, below.

⁹⁰ See Criminal Fine Proportionality Act of 2012, 2012 D.C. Laws 19-317, A19-641 (2012); Criminal Fine Proportionality Emergency Amendment Act of 2013, A20-45, B20-0185 (2013) (an emergency act to provide a definitive effective date of June 1, 2013 for the new fine structure established by A19-641).

⁹¹ Sentencing and Criminal Code Revision Modification Clarification Amendment Act of 2012, Subtitle of Fiscal Year 2013 Budget Support Act of 2012, 2012 D.C. Laws 19-168, A19-385, Sec. 3031-32 (2012); Fiscal Year 2013 Budget Request Act of 2012, 2012 D.C. Laws A19-381, Sec. 2 (2012).

⁹² The Commission approved the first Project Management Plan (ver. 3/13) shortly after the agency received funding for additional staff. Subsequently, the Commission updated the Project Management Plan (ver. 9/14) slightly to re-sequence certain offenses scheduled for revision in light of pending litigation and legislation. On March 17, 2015, the Commission issued Project Management Plan (ver. 3/15) to add time for reviews by criminal justice agencies on the CCRC and development of recommendations for enactment of Title 22 and identification of unconstitutional, common law, and obsolete offenses. The Project Management Plan (ver. 3/15) also removed revision of certain weapon offenses, inchoate offenses, and crimes involving government operations.

Figure 26: CCRC Offenses and Related Provisions Recommended for Revision 2013-2014

<p><i>CCRC Revised Property Offenses and Related Provisions</i></p>	<p><i>CCRC Revised Drug Offenses and Related Provisions</i></p>
<ul style="list-style-type: none"> • § 22-3201 Theft Related Offense Definitions • § 22-3202 Aggregation of Amounts Received to Determine Grade of Offense • § 22-3203 Consecutive Sentences • § 22-3204 Case Referral • § 22-3211 Theft • § 22-3216 Taking Property Without Right • § 22-3215 Unauthorized Use of a Motor Vehicle • § 22-3231 Trafficking in Stolen Property • § 22-3232 Receiving Stolen Property • § 22-3213 Shoplifting • § 22-3221 Fraud • § 22-301 Arson • § 22-303 Criminal Damage to Property • § 22-801 Burglary 	<ul style="list-style-type: none"> • § 48-904.01(a) Manufacturing, Distribution, and Possession with Intent to Distribute a Controlled Substance • § 48-904.01(b) Creation, Distribution, and Possession with Intent to Distribute Counterfeit Substances • § 48-904.01(d) Possession of a Controlled Substance • § 48-904.01(e) Conditional Discharge for Possession as First Offense • § 48-904.01(f) Charging Provision • § 48-904.01(g) Definition of “Offense” • § 48-904.06 Distribution to Minors • § 48-904.07 Enlistment of Minors • § 48-904.07A Drug Free Zones

The CCRC draft revisions to theft and property offenses in 2013-2014 did not reflect unanimous or final agreement by the CCRC. Several language choices in the draft revised property and drug offenses did not receive consensus agreement among CCRC members, so several provisions have been bracketed for further review. Second, and more generally, until the Project nears completion in 2016, all CCRC code revisions are considered “preliminary” in the sense that they are subject to ongoing review in light of additional code revision work. This ongoing review is required to ensure consistency and clarity of the criminal code as a whole because new offense revisions might affect prior revision language. The Commission did not review or take action on the CCRC’s draft revisions to theft and property offenses in 2013-2014.

III. Project Activities in 2015

Major Project activities in 2015 consisted of:

1. Adoption of updated Project Management Plan (ver. 3/15) by the Commission;
2. Preparation by the CCRC, agency review, and Commission adoption of recommendations to the Council and Mayor for enactment of Title 22 and identification of unconstitutional, common law, obsolete, and outdated statutory provisions;
3. Review of certain offenses against persons by the CCRC;
4. Preparation for Commission review of draft “General Provisions” that would apply to all offenses revised by the CCRC, and subsequent Commission approval of the CCRC’s approach in drafting general provisions; and
5. Initiation of an agency review by the CCRC’s criminal justice agency members of prior work regarding the revision of certain drug offenses.

A. Adoption of Updated Project Management Plan (ver. 3/15) by the Commission

In January and February 2015, the CCRC and the Commission discussed the possibility of updating the Project Management Plan to respond to a disagreement⁹³ within the CCRC over the Council’s intended scope of Project revisions. Thus, on March 17, 2015 the Commission approved a new Project Management Plan. The Commission provided a copy of the Project Management Plan (ver. 3/15) to the Council as part of the agency’s 2014 Annual Report.

The Project Management Plan (ver. 3/15) prioritized work on legislative mandates from the Council where Commission member agreement is strongest. Specifically, it focused on the preparation of recommendations to the Council and Mayor regarding the enactment of Title 22 and other criminal code revisions, such as identifying statutes that are obsolete or have been held unconstitutional (“Enactment Plus Materials”). This work directly addressed several of the Commission’s statutory mandates. The plan also added two additional “agency reviews” by the CCRC criminal justice agency members to allow for cumulative reviews of work to-date. To offset the time spent on these additional activities, the Project Management Plan (ver. 3/15) did not provide time for revision of certain weapon offenses, inchoate offenses, and crimes involving government operations described in the prior version of the plan. However, apart from these changes, the Project Management Plan (ver. 3/15) was consistent with the prior version and

⁹³ This disagreement arose out of a review by the three criminal justice agency members of the CCRC—the Office of the Attorney General for the District of Columbia (OAG), the Office of the U.S. Attorney for the District of Columbia (USAO), and the Public Defender Service for the District of Columbia (PDS)—of prior Project work. Two of the agencies stated that they “generally support” the CCRC’s approach to criminal code revision used in drafting the General Provisions and revised property offenses. The third response, however, stated that the current approach of the Project exceeded the scope of revision intended by the Council.

included analysis, review, and recommendations for revision of many of the District's most serious felonies.

- B. Preparation by the CCRC, agency review, and Commission adoption of recommendations to the Council and Mayor for enactment of Title 22 and identification of unconstitutional, common law, obsolete, and outdated statutory provisions

The Project directed most of its resources in 2015 toward providing the Council and Mayor with recommendations on certain code revision matters specifically described in the Commission's statutory mandate:

- "Identify criminal statutes that have been held to be unconstitutional;"
- "Identify any crimes defined in common law that should be codified...;"
- "In consultation with the Codification Counsel in the Office of the General Counsel for the Council of the District of Columbia, organize existing criminal statutes in a logical order;" and
- "Enable the adoption of Title 22 as an enacted title of the District of Columbia Official Code."⁹⁴

The Commission directed the CCRC to develop draft recommendations corresponding to these four mandates, to identify obsolete offenses and provisions, and to recommend certain technical amendments that would advance the more general mandate to make the D.C. Code more "clear and consistent."⁹⁵ Most CCRC work on these draft recommendations, collectively labeled "Enactment Plus Materials," took place in the first two quarters of 2015.

On June 8, 2015, the CCRC approved a draft of the Enactment Plus Materials for an agency review by the three criminal justice agency members of the CCRC. After reviewing and considering the agencies' comments, a final draft of the Committee's Report was presented to the Commission for review. At its September 15, 2015 meeting, the Commission reviewed and voted to approve the CCRC's draft Report and Appendices with minor amendments.

The Commission submitted its *Report on Enactment of D.C. Code Title 22 and Other Criminal Code Revisions* and accompanying *Appendices* to the Council and Mayor on September 30, 2015. The Report included draft legislation in the *Appendices* that would implement the Commission's recommendations. The Report presents its recommendations and corresponding draft legislation in six parts. The key findings of these six parts are as follows.

⁹⁴ D.C. Code § 3-101.01 (a)(2)-(a)(8).

⁹⁵ D.C. Code § 3-101.01 (a)(1).

1. Obsolete Offenses to Repeal

Advancing the Commission's legislative mandate to make criminal statutes "clear and consistent," the Commission reviewed the D.C. Code for criminal offenses that are archaic and unnecessary. The Commission identified nineteen offenses, one procedural provision, and one penalty provision that it recommended for repeal.

None of the obsolete offenses recommended for repeal have been the basis of adult criminal charges or convictions within the past six years. Congress passed all but two of these offenses in the late 19th or early 20th centuries and the statutes have undergone little or no subsequent amendment. Repeal of these crimes will not have a substantive effect on the code's effectiveness because either another provision in the D.C. Code prohibits the conduct or the covered conduct is no longer a public concern. Further, elimination of these outdated and unnecessary offenses will improve the clarity and consistency of the D.C. criminal code.

2. Technical Amendments to Correct Outdated Language

Similarly, in accordance with the Commission's legislative mandate to make criminal statutes "clear and consistent,"⁹⁶ the Commission reviewed criminal statutes throughout the D.C. Code for out-of-date references to government agencies (e.g. "Corporation Counsel"), unnecessary use of gendered language, and statutory designations of prosecutorial authority in clear violation of the Home Rule Act as interpreted by the D.C. Court of Appeals (DCCA).⁹⁷

The Commission identified and recommended seventy-eight statutes for technical amendment. Among these seventy-eight statutes, seventy-six include references to outdated institutions, sixteen use unnecessarily gendered language, and three implicate the improper assignment of prosecutorial authority.⁹⁸ The Commission recommended technical amendments to address these problems. The amendments would not change the substance of the law, and will make the language of the criminal code more accurate and accessible.

3. Unconstitutional Statutes to Amend

In response to its mandate to "[i]dentify criminal statutes that have been held to be unconstitutional,"⁹⁹ the Commission conducted a review of court opinions that are binding on the District and identified two statutes in the D.C. Code that, in part, have been declared unconstitutional by an appellate court. The Commission recommended substantive amendments

⁹⁶ D.C. Code § 3-101.01(a)(1).

⁹⁷ See generally *In re Crawley*, 978 A.2d 608 (D.C. 2009).

⁹⁸ The total number of edits exceeds the number of statutes because some statutes contained outdated institutional names and gendered language.

⁹⁹ D.C. Code § 3-101.01(a)(6).

to cure the constitutional defects in these statutes. The Commission’s findings did not include statutes where subsequent legislative change appears to have remedied a statute previously ruled unconstitutional, or where constitutional challenges to a statute are currently pending.

4. Common Law Offenses to Repeal and Further Codify

In order to “[i]dentify any crimes defined in common law that should be codified,”¹⁰⁰ the Commission examined District case law, and briefly considered Maryland and British common law that may apply in the District. The Commission identified only one criminal offense, negligent escape, that is currently defined entirely in common law and has been applied in the District in the past century.¹⁰¹ The Commission recommended that negligent escape and any other offenses still defined entirely in common law be repealed. The Commission recommended that this repeal occur by amending the District’s reception statute, which recognizes the validity of certain common law offenses.

The Commission also identified 16 penalty-only offenses referenced in the D.C. Code that are defined chiefly in common law. An example of such a common law offense is D.C. Code § 22-406, Mayhem, in Figure 27, below.

Figure 27: Example of Common Law, Penalty-Only Statute Recommended for Codification

“Every person convicted of mayhem or of maliciously disfiguring another shall be imprisoned for not more than 10 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.” D.C. Code § 22-406.

The Commission recommended full codification of such penalty-only offenses in the D.C. Code. Preparation of codification recommendations of this nature is within the Commission’s statutory mandate and, time permitting, the Commission intends to do so.

5. Relocation of Title 22 Provisions to Other D.C. Code Titles

In partial fulfillment of its legislative mandate to “organize existing criminal statutes in a logical order,”¹⁰² the Commission reviewed Title 22 of the D.C. Code to identify provisions that should be relocated to other titles. The review identified 101 statutory sections that concern procedural issues, regulatory concerns, or other matters distinct from crimes and penalties. Because these sections detract from the primary focus of Title 22 on criminal offenses, the Commission

¹⁰⁰ D.C. Code § 3-101.01 (a)(5).

¹⁰¹ Negligent escape occurs when a “party arrested or imprisoned doth escape against the will of him that arrested or imprisoned him, and is not freshly pursued and taken again, before he hath lost the sight of him.” *United States v. Davis*, 167 F.2d 228, 229 (D.C. Cir. 1948).

¹⁰² D.C. Code § 3-101.01(a)(2).

recommended that they be relocated to other titles, such as Title 23 (Criminal Procedure) or Title 24 (Prisoners and Their Treatment).

6. Enactment of Title 22

To “[e]nable the adoption of Title 22 as an enacted title of the District of Columbia Official Code,”¹⁰³ the Commission compared the current text of the statutes in Title 22 of the D.C. Official Code with their organic acts and subsequent amendments. Some discrepancies were uncovered, which the Commission recommends for further Council review prior to enactment of Title 22. The Commission suggested possible explanations for these discrepancies in the Enactment Plus Materials, which also included a bill to enact Title 22. The draft enactment bill uses the latest official text of Title 22, repealing the relevant portions of underlying legislation as necessary. The draft enactment bill does not make any substantive changes in law.

C. Review of certain offenses against persons by the CCRC

In May, June, and July 2015, the CCRC began a review of eight offenses against persons and related provisions in the D.C. Code for possible revision:

- Kidnapping (D.C. Code § 22-2001);
- Robbery (D.C. Code § 22-2801);
- Carjacking (D.C. Code § 22-2803);
- Sex Offense Definitions (D.C. Code § 22-3001);
- First degree sexual abuse (D.C. Code § 22-3002);
- Second degree sexual abuse (D.C. Code § 22-3003);
- Third degree sexual abuse (D.C. Code § 22-3004); and
- Fourth degree sexual abuse (D.C. Code § 22-3005).

The CCRC followed a standard code revision procedure for its consideration of revisions to these offenses. Per CCRC agreement in January 2014, the CCRC members revise offenses in a manner that increases their clarity and consistency, but reflects the current state of District law. Where the current state of District law (statutory or case law) is silent or ambiguous, the CCRC seeks to negotiate new language for clarifying and making offenses more consistent—including in many instances specifying mental state elements that are unclear under current law. The CCRC only recommends substantive changes to the law where there is unanimous agreement among CCRC members to do so.

¹⁰³ D.C. Code § 3-101.01(a)(8).

By the end of July 2015, the CCRC had not completed its revision of any offenses against persons. Review was complicated, in part, by pending District and Supreme Court litigation that may affect the elements of first, second, third, and fourth degrees of sexual abuse and carjacking.¹⁰⁴

D. Preparation for Commission review of draft “General Provisions” that would apply to all offenses revised by the CCRC, and subsequent Commission approval of the CCRC’s approach in drafting general provisions

In August and September 2015, the CCRC prepared the General Provisions, on which it had earlier reached preliminary agreement, for review and consideration by the full Commission. These General Provisions represent draft statutory provisions that would specify definitions and legal principles that are generally applicable to all offenses revised by the CCRC. Currently the D.C. Code lacks general provisions of this kind, and they are intended to advance the Project mandate to make criminal statutes “clear and consistent” (D.C. Code § 3-101.01(a)(1)). The CCRC’s preparation of the General Provisions for Commission review included an opportunity to discuss criminal justice agency members’ concerns arising from each agency’s prior review of the provisions.

The CCRC subsequently submitted its draft General Provisions for Commission review, and the Commission voted to approve the basic approach of the draft General Provisions during its November 17, 2015 meeting.

E. Initiation of an agency review by the CCRC’s criminal justice agency members of prior work regarding the revision of certain drug offenses

On September 18, 2015, the CCRC initiated an agency review by its three criminal justice agency members of the draft revisions to controlled substance offenses that the CCRC completed in 2014.

Drug Offenses and Related Provisions:

- Manufacturing, Distribution, and Possession with Intent to Distribute a Controlled Substance, § 48-904.01(a)
- Creation, Distribution, and Possession with Intent to Distribute Counterfeit Substances, § 48-904.01(b)
- Possession of a Controlled Substance, § 48-904.01(d)
- Conditional Discharge for Possession as First Offense, § 48-904.01(e)

¹⁰⁴ See, e.g., *Carrell v. U.S.*, 80 A.3d 163 (D.C. 2013) (*reh’g en banc granted* June 15, 2015); *Corbin v. U.S.*, 120 A.3d 588 (D.C. 2015).

- Charging Provision, § 48-904.01(f)
- Definition of “Offense”, § 48-904.01(g)
- Distribution to Minors, § 48-904.06
- Enlistment of Minors, § 48-904.07
- Drug Free Zones, § 48-904.07A

The agency review materials included a transmittal memorandum on the agency review process, a detailed commentary explaining the CCRC’s work that was synthesized from prior staff memoranda, and the draft revisions in the form of proposed new controlled substance statutes. The Office of the Attorney General for the District of Columbia (OAG) submitted agency review comments on November 4, 2015, which the CCRC subsequently discussed, resulting in changes to one proposed offense.

IV. Project Activities in 2016

On January 19, 2016, the Commission voted to approve the CCRC’s approach of applying draft General Provisions to its revisions of property offenses. At that meeting the Commission also briefly discussed the “Criminal Code Reform Commission Amendment Act of 2015,” a bill co-introduced by Councilmember Kenyan McDuffie and Chairman Phil Mendelson, which would remove the D.C. Sentencing and Criminal Code Revision Commission’s current Project mandate and create a new, independent agency responsible for recommending “comprehensive reform” of the District’s criminal laws by September 2018.¹⁰⁵

Subsequently, at its February 16, 2016 meeting, the Commission approved a new Project Management Plan (ver. 2/16), attached to this report as Appendix F, which describes anticipated activities for 2016. These activities include the following:

- *CCRC draft revisions to, and agency review of, sexual abuse definitions and offenses.* The CCRC will prioritize preparation of draft revisions to first degree, second degree, third degree, fourth degree, and misdemeanor sexual abuse statutes, as well as associated statutory definitions.¹⁰⁶
- *CCRC draft revisions to homicide offenses.* The CCRC will next prioritize review and possible revisions to statutory sections concerning first degree murder, second degree murder, and manslaughter.¹⁰⁷
- *CCRC draft statement on factors for determining penalty proportionality and offense classification.* The CCRC will review research on possible factors in classifying offenses

¹⁰⁵ “Criminal Code Reform Commission Amendment Act of 2015,” B21-0507, 21st Council Period (2015).

¹⁰⁶ D.C. Code §§ 22-3001–22-3006.

¹⁰⁷ D.C. Code §§ 22-2101; 22-2103–22-2104; and 22-2105.

and assessing proportionality of penalties, memorializing points of agreement and disagreement on relevant factors in a joint statement.

The Commission will work towards completing its work on the Project by the September 30, 2016 statutory deadline. By that date, the Commission will deliver to the Council recommendations for criminal code revision as outlined in the Project Management Plan (ver. 2/16), unless directed to do otherwise by the Council.

Appendix A

Table 21: MASTER GRID

		Criminal History Score				
3 Points*	Ranking Group Most Common Offenses	0 to ½ A	¾ to 1¾ B	2 to 3¾ C	4 to 5¾ D	6 + E
	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 +
2 Points*	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 +
	Group 7 Burglary II 3rd degree sex abuse Negligent homicide Assault w/I to commit mayhem 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 long split only.						
Dark shaded/green boxes – prison, long split, or short split permissible.						
Light shaded/yellow boxes – prison, split, or probation permissible.						

Appendix B

Table 22: 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 long split only.						
Dark shaded/green boxes – prison, long split, or short split permissible.						
Light shaded/yellow boxes—prison, split, or probation permissible.						

Appendix C

Group Offense Listings - The top five grouped offenses are comprised of the following crimes:

1. 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

2. Drug, PWID+Dist and Attempted Drug Offenses:

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

3. 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

4. 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)

5. Other Offenses

- A. Any Other Felony
- B. Arson
- C. Bail Reform Act -Felony
- D. Blackmail
- E. Bribery
- F. Conspiracy
- G. Contempt -- Felony
- H. Contributing to the Delinquency of a Minor by a Person w/a Prior Conviction
- I. Credit Card Fraud -- Felony

- J. Criminal Street Gang Affiliation, Felony or Violent Misdemeanor
- K. Cruelty to Animals
- L. Cruelty to Children 1 °
- M. Cruelty to Children 1 ° -- Grave Risk
- N. Cruelty to Children 2 °
- O. Cruelty to Children Grave 2 ° -- Risk
- P. Destruction of Property Over \$200
- Q. Escape From DYRS
- R. Escape (From Officer)
- S. Extortion
- T. Felony Stalking
- U. Flee Law Enforcement Officer
- V. Fraud 1 ° \$1000 or More
- W. Fraud 2 ° \$1000 or More (Felony)
- X. Identity Theft 1 °
- Y. Insurance Fraud 2 °
- Z. Intimidating, Impeding, Interfering, Retaliating Against a Govt. Official or Employee of DC
- AA. Maintaining a Crack House
- BB. Maintaining a Place for Storage and Distribution of Narcotic and Abusive Drugs
- CC. Manufacture or Possession of a Weapon of Mass Destruction
- DD. Negligent Homicide --Felony
- EE. Obstructing Justice
 - Harassment-Reporting
 - Witness or Officer (Influence, Delay)
 - Due Administration
 - Harassment - Arrest
 - Harassment - Institution of Prosecution
 - Injury/Property Damage-Giving Information
 - Injury/Property Damage-Official Duty
 - Witness or Officer (Cause Absence)
- FF. Obtain Controlled Substance By Fraud
- GG. Offenses Committed During Release
- HH. Perjury
- II. Prison Breach
- JJ. Prisoner Escape
- KK. Stalking - Felony
- LL. Tampering With Physical Evidence
- MM. Unlawful Possession of Contraband Into Penal Institution

Appendix D

Additional Data Tables

Table 23: Master Grid - 2015 Analysis of Age, CH Score, and Sentence Length by Severity Group and Sentence Type (Count Level)																										
	Ranking Group	Sentence Type	0 to ½				¾ to 1¾				2 to 3¾				4 to 5¾				6 +				Total			
			A				B				C				D				E							
			% of Counts	Average Age	Average CH Score	Average Sentence Length	% of Counts	Average Age	Average CH Score	Average Sentence Length	% of Counts	Average Age	Average CH Score	Average Sentence Length	% of Counts	Average Age	Average CH Score	Average Sentence Length	Average Sentence Length	Average Age	Average CH Score	Average Sentence Length	% of Counts	Average Age	Average CH Score	Average Sentence Length
3 Points*	M1	Prison	0.2%	25.6	0.0	456.0	0.1%	24.0	0.9	400.0	0.0%	24.0	3.0	360.0	0.0%			0.0%				0.5%	24.9	0.6	414.5	
		Short Split	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
		Probation	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
	M2	Prison	0.3%	21.0	0.1	217.3	0.3%	25.6	1.1	189.4	0.6%	25.8	3.0	241.4	0.2%	29.8	4.8	273.0	0.1%	21.0	6.5	216.0	1.6%	25.9	2.3	226.0
		Short Split	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
		Probation	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
	M3	Prison	0.8%	28.3	0.1	122.3	0.2%	25.5	1.4	121.5	0.7%	32.9	2.4	141.2	0.4%	36.9	5.1	214.2	0.0%	--	--	--	2.3%	30.5	2.0	147.2
		Short Split	0.0%	20.0	0.5	0.0	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.0%	20.0	0.5	0.0
		Probation	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
M4	Prison	0.4%	27.4	0.2	77.9	0.3%	27.8	1.1	99.7	0.3%	38.9	2.6	118.9	0.3%	33.8	4.7	113.2	0.1%	27.3	6.2	122.0	1.5%	31.8	2.3	101.7	
	Short Split	0.0%	22.0	0.0	5.0	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.0%	22.0	0.0	5.0	
	Probation	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--		
M5	Prison	2.7%	22.1	0.1	63.4	1.6%	23.9	1.2	60.0	2.4%	27.4	2.6	68.1	1.1%	28.0	4.7	82.8	0.3%	27.2	6.5	90.2	8.3%	25.0	1.9	67.9	
	Short Split	0.1%	20.7	0.1	3.0	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.1%	20.7	0.1	3.0	
	Probation	0.2%	22.0	0.2	39.6	0.0%	--	--	--	0.2%	20.3	2.1	42.0	0.0%	--	--	--	0.0%	--	--	--	0.4%	21.2	1.0	40.7	
2 Points*	M6	Prison	2.7%	27.4	0.1	33.4	2.4%	24.4	1.2	33.0	2.9%	28.3	2.7	40.9	1.2%	42.0	4.8	49.2	0.6%	33.6	6.8	53.6	10.0%	29.0	2.1	38.6
		Short Split	1.8%	25.0	0.1	3.7	0.2%	17.5	1.0	3.8	0.0%	36.0	2.5	0.0	0.0%	--	--	--	0.0%	--	--	--	2.0%	24.6	0.2	3.7
		Probation	0.5%	28.6	0.2	21.0	0.1%	17.0	1.0	15.0	0.0%	50.0	2.5	36.0	0.0%	--	--	--	0.0%	62.0	8.5	36.0	0.7%	30.6	1.0	22.1
	M7	Prison	1.0%	26.0	0.2	22.0	3.2%	24.8	1.4	27.0	3.5%	28.8	2.7	25.7	1.3%	30.6	4.3	28.2	0.5%	38.0	7.0	36.9	9.5%	27.9	2.4	26.6
		Short Split	0.3%	27.9	0.4	1.4	0.2%	33.2	1.1	3.6	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.5%	30.1	0.7	2.3
		Probation	0.3%	31.8	0.1	24.5	0.1%	22.5	1.4	18.0	0.1%	35.5	2.0	36.0	0.0%	--	--	--	0.0%	24.0	6.0	36.0	0.5%	30.1	1.2	26.5
1 Point*	M8	Prison	4.3%	25.4	0.2	13.0	3.7%	24.4	1.2	14.7	3.9%	29.1	2.7	18.6	2.0%	32.5	4.7	22.1	0.8%	44.7	7.9	23.2	15.2%	28.2	2.1	16.6
		Short Split	3.6%	24.9	0.1	1.7	2.6%	26.2	1.2	2.7	1.8%	30.3	2.5	3.3	0.4%	37.2	4.4	1.8	0.1%	25.5	6.6	0.0	8.7%	27.2	1.2	2.3
		Probation	6.9%	24.9	0.1	17.2	2.5%	26.7	1.1	17.7	0.6%	32.8	2.4	18.3	0.1%	43.7	4.5	12.7	0.0%	24.0	6.0	36.0	10.4%	26.0	0.5	17.4
	M9	Prison	1.3%	28.2	0.1	10.8	1.7%	27.1	1.2	10.6	1.6%	32.2	2.8	11.9	1.0%	33.6	4.5	14.8	0.5%	51.5	7.6	10.5	6.3%	31.8	2.5	11.5
		Short Split	1.1%	31.5	0.1	1.4	0.4%	32.0	1.2	1.7	0.5%	30.2	2.9	3.2	0.1%	34.5	4.9	0.0	0.0%	--	--	--	2.2%	31.3	1.2	1.8
		Probation	1.1%	36.6	0.1	25.1	0.4%	28.2	1.0	16.9	0.3%	23.6	2.5	24.0	0.1%	38.5	4.3	18.0	0.0%	--	--	--	2.1%	32.2	0.9	22.0

*Criminal History Points for prior convictions in these groups.

White/unshaded boxes – prison only.

Dark shaded/green boxes – prison or short split permissible.

Light shaded/yellow boxes – prison, short split, or probation permissible.

Table 24: Drug Grid - 2015 Analysis of Age, CH Score, and Sentence Length by Severity Group and Sentence Type (Count Level)																										
	Ranking Group	Sentence Type	0 to ½				¾ to 1¾				2 to 3¾				4 to 5¾				6 +				Total			
			A				B				C				D				E							
			% of Counts	Average Age	Average CH Score	Average Sentence	% of Counts	Average Age	Average CH Score	Average Sentence	% of Counts	Average Age	Average CH Score	Average Sentence	% of Counts	Average Age	Average CH Score	Average Sentence	% of Counts	Average Age	Average CH Score	Average Sentence	% of Counts	Average Age	Average CH Score	Average Sentence
2 Points*	D1	Prison	0.0%	25.0	0.0	60.0	0.0%	19.0	1.0	48.0	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.1%	22.0	0.5	54.0
		Short Split	0.0%	--	--	--	0.1%	22.0	0.9	3.0	0.0%	--	--	--	0.0%	--	--	--	0.0%	--	--	--	0.1%	22.0	0.9	3.0
		Probation	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
1 Point*	D2	Prison	0.4%	22.7	0.1	11.0	0.6%	29.1	1.2	17.0	0.7%	29.4	2.7	21.2	0.9%	31.9	4.4	29.3	0.2%	55.8	7.6	28.0	2.7%	30.8	2.8	21.8
		Short Split	0.6%	35.6	0.2	1.6	0.3%	32.8	1.3	2.3	0.4%	43.3	2.9	4.0	0.0%	--	--	--	0.0%	61.0	6.3	0.0	1.4%	38.0	1.5	2.5
		Probation	1.2%	34.6	0.2	15.4	0.3%	38.0	1.3	14.0	0.1%	56.3	3.3	12.0	0.0%	52.0	4.3	18.0	0.0%	--	--	--	1.7%	37.2	0.8	15.1
	D3	Prison	0.3%	31.3	0.2	6.0	1.0%	26.4	1.1	10.4	0.7%	33.4	2.9	16.2	0.3%	36.3	4.5	13.7	0.1%	49.5	7.0	22.0	2.6%	31.6	2.2	12.8
		Short Split	0.4%	28.1	0.3	0.9	0.3%	33.4	1.2	1.5	0.5%	33.8	2.7	2.3	0.3%	40.3	4.3	3.4	0.0%	53.0	8.0	1.0	1.6%	34.5	2.2	2.0
		Probation	1.6%	32.9	0.2	14.0	1.0%	34.9	1.1	15.8	1.0%	41.0	2.7	17.1	0.2%	38.4	5.0	15.6	0.1%	69.5	8.3	15.0	3.9%	36.6	1.6	15.4
¾	D4	Prison	0.0%	--	--	--	0.1%	29.0	1.2	6.0	0.2%	28.3	2.3	6.3	0.1%	33.0	4.5	6.0	0.0%	50.0	8.0	11.0	0.5%	31.7	3.1	6.5
		Short Split	0.0%	28.0	0.3	0.0	0.0%	33.0	1.0	0.0	0.0%	34.0	3.5	6.0	0.0%	35.0	5.0	4.0	0.0%	--	--	--	0.2%	32.5	2.4	2.5
		Probation	0.5%	24.7	0.2	12.7	0.5%	36.4	1.2	13.1	0.3%	40.8	2.6	16.8	0.0%	38.0	5.5	12.0	0.0%	--	--	--	1.4%	32.0	1.2	13.5

*Criminal History Points for prior convictions in these groups.

White/unshaded boxes – prison only.

Dark shaded/green boxes – prison or short split permissible.

Light shaded/yellow boxes–prison, short split, or probation permissible.

Table 25a: Average CH Score and Average Sentence Length in Months by Offense Subcategory - Count Level
2010 - 2015

Subcategory	Sentence Type	2010			2011			2012			2013			2014			2015			Total		
		% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length
Assault	Prison	8.3%	2.0	45.2	11.9%	1.9	51.4	10.8%	2.2	63.8	11.7%	1.8	48.0	12.5%	1.6	44.4	0.1	2.2	47.6	11%	1.9	50.6
	Short Split	0.7%	0.5	3.4	0.6%	0.4	3.7	1.2%	0.6	3.3	1.8%	0.8	2.9	1.8%	0.4	2.5	0.0	1.0	2.3	1%	0.7	2.9
	Probation	0.8%	0.1	19.8	0.5%	0.5	24.3	0.6%	0.2	19.6	1.1%	0.3	16.7	1.1%	0.6	20.0	0.0	0.7	18.6	1%	0.5	19.5
	Total	9.9%	1.8	39.9	13.0%	1.8	48.0	12.5%	1.9	56.1	14.6%	1.6	40.2	15.4%	1.5	37.8	0.2	1.7	34.6	13%	1.7	43.4
Attempted drug offenses	Prison	12.8%	2.6	13.6	10.0%	2.7	14.5	6.6%	2.5	14.6	4.5%	2.6	13.2	3.1%	2.5	12.6	0.0	2.6	11.8	7%	2.6	13.8
	Short Split	3.2%	1.7	2.9	2.4%	1.7	2.6	2.2%	1.6	2.6	1.7%	2.1	3.3	1.8%	2.0	3.3	0.0	2.8	2.5	2%	1.9	2.8
	Probation	6.9%	1.0	17.9	5.7%	1.0	17.2	4.0%	1.1	15.7	2.6%	0.9	16.4	3.4%	1.1	15.5	0.0	1.7	14.9	5%	1.1	16.7
	Total	22.9%	1.9	13.4	18.0%	2.0	13.7	12.7%	1.9	12.9	8.8%	2.0	12.2	8.2%	1.8	11.8	0.1	2.1	11.9	14%	1.9	13.1
Burglary	Prison	3.0%	3.3	36.1	3.9%	2.4	40.5	3.8%	3.0	49.8	4.0%	3.1	31.3	4.2%	3.3	33.4	0.1	2.2	34.5	4%	2.9	38.0
	Short Split	0.2%	1.1	3.0	0.4%	0.6	2.4	0.5%	0.8	3.1	0.6%	1.3	3.7	0.7%	0.9	2.3	0.0	1.2	2.2	1%	1.0	2.7
	Probation	0.3%	0.2	24.0	0.5%	0.6	21.5	0.3%	0.8	20.4	0.3%	0.2	18.2	0.9%	0.3	18.5	0.0	0.9	20.9	1%	0.6	20.5
	Total	3.5%	2.9	33.1	4.8%	2.1	35.2	4.6%	2.7	42.8	4.9%	2.7	27.2	5.7%	2.5	27.3	0.1	1.9	28.3	5%	2.4	32.4
Kidnapping	Prison	0.3%	4.4	99.5	0.6%	1.7	104.5	0.9%	1.0	78.4	0.8%	3.3	98.5	1.1%	1.8	94.7	0.0	2.2	83.8	1%	2.0	92.1
	Probation	0.0%			0.0%		12.0	0.1%	0.3	18.0	0.0%	0.0	24.0	0.0%			0.0	0.4	15.0	0%	0.3	17.0
	Total	0.3%	4.4	99.5	0.6%	1.7	100.3	1.0%	1.2	74.9	0.8%	3.2	95.0	1.1%	2.0	94.7	0.0	1.9	75.2	1%	2.1	88.8
Homicide	Prison	2.1%	2.0	243.1	2.8%	2.2	300.2	2.9%	1.5	271.1	3.7%	1.5	239.4	3.2%	2.1	257.6	0.0	1.7	214.2	3%	1.8	257.4
	Short Split	0.0%			0.0%			0.0%		0.0	0.0%			0.0%			0.0			0%		0.0
	Probation	0.0%	0.0	60.0	0.0%	0.8	60.0	0.0%			0.0%			0.0%			0.0			0%	0.4	60.0
	Total	2.1%	1.9	240.7	2.8%	2.2	297.9	2.9%	1.7	268.5	3.7%	1.5	239.4	3.2%	2.1	257.6	0.0	2.0	214.2	3%	1.9	256.2
Other	Prison	8.3%	2.4	18.1	8.0%	2.3	22.7	7.4%	2.2	26.0	7.3%	2.2	21.1	9.5%	1.9	22.3	0.1	2.1	19.3	8%	2.2	21.7
	Short Split	0.8%	2.0	3.4	0.9%	1.3	2.0	1.2%	1.5	1.8	2.2%	1.3	2.3	1.6%	1.3	2.2	0.0	1.3	2.1	1%	1.4	2.2
	Probation	0.7%	1.2	23.1	1.1%	0.6	28.0	1.2%	0.4	32.7	1.7%	0.4	33.7	2.0%	0.6	32.5	0.0	0.7	21.3	2%	0.6	28.7
	Total	9.8%	2.3	17.3	10.0%	2.0	21.4	9.9%	1.9	23.8	11.2%	1.8	19.4	13.1%	1.7	21.5	0.1	1.7	17.0	11%	1.9	20.2
Other-Property	Prison	1.6%	2.1	12.7	1.8%	2.2	13.8	1.9%	2.9	17.3	2.5%	1.9	13.3	1.0%	2.8	16.0	0.0	2.5	16.4	2%	2.4	14.7
	Short Split	0.3%	1.4	3.1	0.1%	1.9	4.7	0.1%	1.2	1.2	0.4%	1.7	1.9	0.4%	1.1	2.0	0.0	1.2	1.5	0%	1.3	2.1
	Probation	0.2%	0.3	27.4	0.4%	0.8	18.4	0.4%	0.8	20.4	0.4%	0.3	17.6	0.3%	1.0	18.8	0.0	1.3	17.4	0%	0.8	19.5
	Total	2.1%	1.9	12.7	2.3%	2.0	14.2	2.5%	2.4	17.0	3.2%	1.7	12.5	1.6%	2.1	13.2	0.0	1.8	12.4	2%	2.0	13.8

Table25b: Average CH Score and Average Sentence Length in Months by Offense Subcategory - Count Level (Cont.)

2010 - 2015

Subcategory	Sentence Type	2010			2011			2012			2013			2014			2015			Total		
		% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length
PWID+Dist	Prison	11.5%	3.0	21.7	9.1%	2.8	20.4	8.2%	2.9	22.3	5.9%	2.6	18.5	5.2%	2.7	18.1	3.6%	2.6	19.5	7.7%	2.8	20.7
	Short Split	3.2%	1.5	3.4	2.6%	1.9	3.5	3.0%	1.3	3.2	2.4%	1.4	3.3	1.9%	1.3	3.3	2.1%	1.5	2.1	2.6%	1.4	3.2
	Probation	3.0%	1.1	20.4	3.7%	0.9	18.1	2.3%	1.0	19.2	2.3%	0.6	17.7	1.9%	0.7	14.7	3.3%	0.8	15.0	2.8%	0.9	17.9
	Total	17.7%	2.3	18.1	15.4%	2.1	17.0	13.5%	2.2	17.6	10.6%	1.8	14.8	8.9%	2.0	14.3	9.0%	1.7	13.8	13.0%	2.1	16.6
Robbery	Prison	8.0%	2.0	45.0	8.1%	1.5	38.3	9.8%	2.0	41.9	11.6%	2.0	34.4	12.3%	2.0	41.6	10.2%	2.1	37.4	9.8%	2.0	39.9
	Short Split	0.8%	0.8	3.6	0.9%	0.4	3.5	1.5%	0.7	2.9	1.6%	0.5	2.8	1.8%	0.4	2.5	3.3%	0.8	3.1	1.5%	0.6	3.0
	Probation	0.6%	0.6	22.4	0.5%	0.2	18.3	2.0%	0.2	18.9	1.6%	0.5	20.7	1.6%	0.4	17.3	2.9%	0.5	17.3	1.4%	0.4	18.8
	Total	9.4%	1.8	40.0	9.5%	1.3	33.9	13.3%	1.6	34.1	14.8%	1.6	29.5	15.7%	1.7	34.7	16.4%	1.6	27.0	12.7%	1.6	33.1
Sex	Prison	1.6%	1.3	91.4	1.6%	2.1	81.3	2.1%	1.8	87.9	2.7%	2.5	75.8	2.6%	1.2	100.0	3.4%	1.6	89.5	2.2%	1.7	87.8
	Short Split	0.2%	0.2	3.6	0.1%	0.1	2.4	0.2%	0.2	3.9	0.2%	0.3	3.5	0.1%	0.5	4.3	0.3%	0.4	3.6	0.2%	0.3	3.5
	Probation	0.1%	0.6	46.8	0.1%	1.0	24.0	0.1%	0.9	22.8	0.2%	0.2	20.0	0.1%	0.1	29.8	0.3%	0.0	31.0	0.2%	0.4	29.1
	Total	1.9%	1.1	79.3	1.8%	1.8	72.9	2.5%	1.7	76.6	3.2%	2.2	66.6	2.8%	1.1	92.9	4.0%	1.4	78.1	2.6%	1.5	77.7
Theft	Prison	2.6%	2.3	16.2	2.3%	2.0	15.6	2.9%	2.9	18.6	3.4%	2.8	18.4	3.0%	2.5	16.3	3.1%	3.1	15.8	2.8%	2.7	16.9
	Short Split	0.5%	1.3	3.3	0.3%	0.8	2.8	0.4%	0.5	1.4	0.9%	0.7	4.4	1.4%	0.8	3.0	1.6%	1.2	3.0	0.8%	0.9	3.1
	Probation	0.4%	0.8	34.1	0.7%	0.4	21.9	0.7%	0.3	34.4	0.7%	1.0	20.2	0.8%	0.5	19.1	1.7%	0.6	22.3	0.8%	0.6	24.8
	Total	3.5%	1.9	16.7	3.3%	1.6	15.7	4.0%	2.2	19.7	5.1%	2.1	16.1	5.2%	1.7	13.2	6.4%	2.0	14.3	4.4%	1.9	15.9
Weapon	Prison	13.4%	2.2	35.5	14.3%	2.0	40.7	17.2%	2.2	45.6	14.7%	2.2	36.5	15.2%	2.4	45.5	10.6%	2.2	32.2	14.4%	2.2	40.2
	Short Split	1.3%	0.6	2.5	1.4%	0.6	2.5	1.3%	0.6	2.8	1.6%	0.5	2.6	1.2%	0.6	2.1	1.7%	0.9	1.5	1.4%	0.6	2.4
	Probation	1.8%	0.3	17.2	2.2%	0.3	15.7	2.0%	0.2	17.5	2.5%	0.3	16.5	2.2%	0.4	15.2	2.6%	0.6	16.4	2.2%	0.4	16.4
	Total	16.5%	1.9	30.9	17.9%	1.7	34.5	20.5%	1.9	40.2	18.9%	1.8	30.9	18.7%	2.1	39.1	14.9%	1.8	25.9	18.0%	1.9	34.4
Drug offenses W/A	Prison	0.4%	1.3	58.6	0.3%	1.8	51.1	0.1%	0.7	45.0	0.2%	1.3	40.3	0.1%	1.2	31.8	0.1%	0.5	54.0	0.2%	1.3	49.8
	Short Split	0.0%		0.0	0.1%	3.0	4.0	0.0%	0.0	6.0	0.1%	0.0	0.5	0.0%	0.3	0.0	0.1%	0.6	2.0	0.1%	0.9	2.1
	Probation	0.1%		18.0	0.0%		36.0	0.0%		30.0	0.0%			0.0%	0.5	24.0	0.0%			0.0%	0.5	25.2
	Total	0.5%	1.3	50.4	0.4%	2.1	43.3	0.2%	0.5	36.0	0.3%	0.9	30.4	0.2%	0.9	25.2	0.2%	0.6	22.8	0.3%	1.2	39.1
Total	Prison	73.9%	2.4	36.0	74.6%	2.2	43.8	74.6%	2.3	49.2	73.0%	2.2	44.0	73.1%	2.2	48.0	61.6%	2.2	43.9	72.4%	2.2	44.0
	Short Split	11.2%	1.3	3.1	10.0%	1.2	3.0	11.6%	1.1	2.8	13.5%	1.1	3.0	12.6%	1.0	2.7	17.1%	1.2	2.4	12.3%	1.1	2.8
	Probation	15.0%	0.9	19.9	15.4%	0.8	18.7	13.8%	0.7	20.0	13.5%	0.6	19.8	14.3%	0.6	18.9	21.3%	0.9	17.8	15.3%	0.7	19.2
	Total	100%	2.0	29.9	100%	1.9	35.9	100%	1.9	39.8	100%	1.8	35.2	100%	1.8	38.1	100%	1.8	31.2	100%	1.9	35.1

Table 26: Type of Drug by Sentence Type - Count Level, 2010-2015

		2010			2011			2012			2013			2014			2015		
		% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length	% of Counts	Average CH Score	Average Sentence Length
Cocaine	Prison	58.6%	1.5	17.1	59.5%	1.6	17.5	58.3%	2.3	19.2	59.1%	2.2	17.5	46.7%	2.2	17.3	42.5%	2.2	16.9
	Short Split	16.5%	1.0	3.4	12.9%	0.9	3.3	19.1%	1.2	3.3	21.3%	1.6	3.8	28.2%	1.8	3.7	16.4%	1.8	2.5
	Probation	24.9%	0.7	18.2	27.3%	0.7	17.3	22.6%	1.0	16.5	18.9%	0.5	16.6	25.1%	1.0	15.8	41.1%	1.5	15.1
	Total	100.0%	1.2	--	99.7%	1.2	--	100.0%	1.8	--	99.3%	1.7	--	100.0%	1.8	--	100.0%	1.8	--
Heroin	Prison	66.6%	1.9	19.3	61.5%	2.2	18.8	71.6%	3.5	23.9	59.5%	3.4	17.8	59.1%	3.8	18.3	46.2%	3.9	18.4
	Short Split	12.7%	1.5	3.8	12.8%	1.1	3.9	14.7%	1.5	3.4	19.0%	2.5	5.3	11.4%	2.3	4.2	28.8%	2.6	3.5
	Probation	20.6%	0.8	21.7	25.7%	1.1	20.2	13.7%	0.8	18.5	19.0%	1.7	22.8	29.5%	1.2	13.4	25.0%	1.5	14.5
	Total	99.9%	1.6	--	100.0%	1.8	--	100.0%	2.8	--	97.5%	2.8	--	99.9%	2.9	--	100.0%	2.9	--
Other	Prison	55.8%	1.8	22.2	50.3%	0.9	17.2	38.1%	2.2	16.7	41.6%	2.5	16.3	41.0%	2.5	13.9	21.1%	2.2	17.8
	Short Split	18.3%	0.9	3.4	24.2%	1.5	3.3	23.8%	2.0	2.6	24.7%	2.0	2.9	11.5%	1.0	3.9	26.3%	1.8	2.7
	Probation	25.8%	0.6	17.5	24.8%	0.4	17.5	38.1%	1.0	17.1	33.8%	0.5	16.1	47.5%	0.5	15.1	52.6%	0.8	14.1
	Total	99.9%	1.3	--	99.3%	0.9	--	100.0%	1.7	--	100.0%	1.7	--	100.0%	1.4	--	100.0%	1.3	--
PCP	Prison	64.4%	1.1	20.6	52.8%	1.3	20.8	49.6%	2.1	16.7	55.4%	2.3	14.8	57.0%	2.0	14.9	35.5%	2.2	18.6
	Short Split	9.2%	1.5	3.8	14.2%	1.0	3.1	23.1%	1.3	3.6	20.3%	1.6	3.8	17.4%	1.2	2.5	18.4%	1.3	2.8
	Probation	26.4%	0.4	19.0	33.0%	0.4	17.5	26.5%	0.7	18.6	24.3%	0.9	18.5	25.6%	1.0	15.5	46.1%	1.3	16.0
	Total	100.0%	1.0	--	100.0%	1.0	--	99.2%	1.5	--	100.0%	1.8	--	100.0%	1.6	--	100.0%	1.6	--

Table 27: Average CH Score and Percent Sentenced to Prison by Year and Offense Type, 2014-2015

	2014		2015	
	CH Score	% sentenced to prison	CH Score	% sentenced to prison
M5	1.8	92.9%	1.8	91.4%
Robbery W/A	1.6	94.3%	2.3	96.4%
Burglary 1	3.8	100.0%	2.3	81.8%
PFDCV	2.3	100.0%	1.6	98.3% ¹⁰⁸
AWIK	0.8	100.0%	1.0	100.0%
M6	1.6	86.4%	1.7	78.3%
ADW	1.3	82.8%	1.6	73.1%
Robbery	2.0	87.3%	1.5	75.2%
Aggravated Assault	0.9	81.3%	1.8	77.8%
Assault W/I Rob	0.6	66.7%	3.3	70.0%
M7	2.7	92.1%	2.2	90.5%
Burglary 2	2.5	80.0%	1.8	84.9%
Unlawful Possession Firearm	2.7	100.0%	2.7	97.6%
M8	1.4	62.9%	1.4	44.1%
ADW	1.2	50.0%	1.1	43.1%
Assault w/ Significant Injury	1.3	63.8%	1.5	52.1%
Attempted Robbery	1.2	63.4%	1.4	44.7%
Burglary 2	1.9	55.6%	2.0	40.4%
Carrying a Pistol w/o License	0.9	63.0%	0.8	18.3%
Theft	1.1	34.0%	1.6	41.7%
UUV	1.7	67.1%	1.8	47.1%
M9	1.6	64.9%	1.9	59.4%
BRA	2.3	54.1%	2.1	64.7%
Prison breach/Escape	2.0	76.5%	1.9	75.0%
Receiving Stolen Property	1.7	72.2%	1.6	35.7%

¹⁰⁸ There was one PFDCV count that received a sentence of probation in 2015. This conviction was sentenced under the YRA. The YRA allows the Court to impose a sentence below the PFDCV mandatory minimum sentence.

Table 28a: 2015 Case Level Characteristics													
	Gender			Race						Sentence Type			Average Age at Offense
	Female	Male	Unknown	American Indian	Black	Hispanic	Other	Unknown	White	Prison	Short Split	Probation	
Drug	21	299	0	0	284	1	0	22	13	105	69	146	34.6
Homicide	2	55	1	0	49	0	0	7	2	56	0	0	25.7
Other	39	172	2	0	188	0	1	10	14	119	36	57	30.3
Property	19	235	1	0	230	0	1	15	9	136	52	67	29.0
Sex	1	61	0	0	48	5	0	5	4	49	7	6	32.1
Violent	34	403	4	1	391	3	1	32	13	252	102	86	26.4
Weapon	15	331	2	0	321	1	0	23	3	212	64	71	27.8
Total	131	1556	10	1	1511	10	3	114	58	929	330	433	29.3

Table 28b: 2015 Count Level Characteristics													
	Gender			Race						Sentence Type			Average Age at Offense
	Female	Male	Unknown	American Indian	Black	Hispanic	Other	Unknown	White	Prison	Short Split	Probation	
Drug	23	352	0	0	333	3	0	24	15	136	77	162	34.1
Homicide	2	74	1	0	67	0	0	8	2	70	0	0	25.6
Other	41	231	2	0	246	0	1	12	15	165	44	64	29.8
Property	20	380	1	0	354	0	1	21	25	239	77	84	28.2
Sex	1	90	0	0	57	5	0	17	12	77	8	6	32.3
Violent	40	557	5	1	542	3	1	40	15	393	114	91	26.7
Weapon	18	466	4	0	449	1	0	33	5	331	72	80	27.9
Total	145	2150	13	1	2048	12	3	155	89	1411	392	487	29.0

**Table 29: Average CH Score and Sentence Length for 2015
Departure Principle by OSG**

Departure Principle	OSG	Average CH Score	N All Sentences	Average Prison Sentence Length (Months)	N for Prison Sentences
M1	M4	5.0	1	--	--
	M6	10.0	1	10.0	1
	<i>Total</i>	7.5	2	10.0	1
M2	M7	12.0	1	12.0	1
	<i>Total</i>	12.0	1	12.0	1
M6	M6	36.0	1	--	--
	<i>Total</i>	36.0	1	--	--
M7	D3	6.0	1	6.0	1
	M2	126.0	2	126.0	2
	M5	31.2	9	19.3	4
	M6	37.0	1	37.0	1
	M7	13.3	14	11.5	13
	M8	26.0	3	6.0	1
	M9	4.0	1	4.0	1
	<i>Total</i>	27.2	31	23.1	23
M9	D3	12.0	1	48.0	1
	M5	48.0	1	11.0	1
	M6	11.0	1	12.0	1
	M7	12.0	1	--	--
	<i>Total</i>	20.8	4	23.7	3
M10	D2	12.0	3	12.0	3
	D3	9.0	1	9.0	1
	M2	156.0	1	156.0	1
	M4	12.0	1	12.0	1
	M5	18.0	2	18.0	2
	M6	9.0	5	11.0	3
	M7	18.0	4	12.0	3
	M8	11.6	7	11.2	5
	<i>Total</i>	18.6	24	19.7	19
A3	M6	72.0	1	72.0	1
	<i>Total</i>	72.0	1	72.0	1
A10	D3	12.0	1	--	--
	<i>Total</i>	12.0	1	--	--
A11	M6	30.0	2	30.0	2
	M8	36.0	1	36.0	1
	<i>Total</i>	32.0	3	32.0	3

Table 30: 2015 Departure Reasons by Offense										
	M1	M2	M6	M7	M9	M10	A3	A10	A11	Total
Aggravated Aslt	0	0	0	0	1	0	1	0	0	2
Aggravated Aslt W/A	1	0	0	0	0	1	0	0	0	2
Assault With A Dangerous Weapon	1	0	1	1	0	2	0	0	0	5
Assault with Significant Bodily Injury	0	0	0	0	0	1	0	0	0	1
Burglary I	0	0	0	2	0	0	0	0	0	2
Burglary II	0	0	0	10	0	1	0	0	0	11
Burglary II - Attempt	0	0	0	0	0	1	0	0	0	1
CPWL	0	0	0	1	0	0	0	0	0	1
Conspiracy	0	0	0	1	0	0	0	0	0	1
Conspiracy to Commit a Crime of Violence W/A	0	0	0	1	0	0	0	0	0	1
Distribution Of a Controlled Substance	0	0	0	0	0	1	0	0	0	1
Distribution Of a Controlled Substance - Attempt	0	0	0	1	1	0	0	0	0	2
Flee Law Enforcement Officer	0	0	0	0	0	1	0	0	0	1
Involuntary Manslaughter	0	0	0	0	0	1	0	0	0	1
Kidnapping	0	0	0	0	0	1	0	0	0	1
Murder II W/A	0	0	0	2	0	1	0	0	0	3
Obstructing Justice	0	0	0	3	0	0	0	0	0	3
Poss W-I to Dist a Controlled Substance	0	0	0	0	0	2	0	0	0	2
Poss W-I to Dist a Controlled Substance - Attempt	0	0	0	0	0	1	0	0	0	1
Robbery	0	0	0	0	0	3	0	0	2	5
Robbery W/A	0	0	0	3	1	0	0	0	0	4
Robbery - Attempt	0	0	0	1	0	2	0	0	0	3
Second Degree Child Sexual Abuse - Attempt	0	0	0	0	0	0	0	0	1	1
Theft First Degree	0	0	0	1	0	0	0	0	0	1
Unauthorized Use of A Vehicle	0	0	0	0	0	2	0	0	0	2
Unlawful Possession of a Firearm - Prior Conviction	0	1	0	4	1	3	0	0	0	9
Unlawful Possession of Liquid PCP	0	0	0	0	0	0	0	1	0	1
Total	2	1	1	31	4	24	1	1	3	68

Figure 28a: Compliance Status for Sentenced Counts
Drug Offenses
2010 - 2015

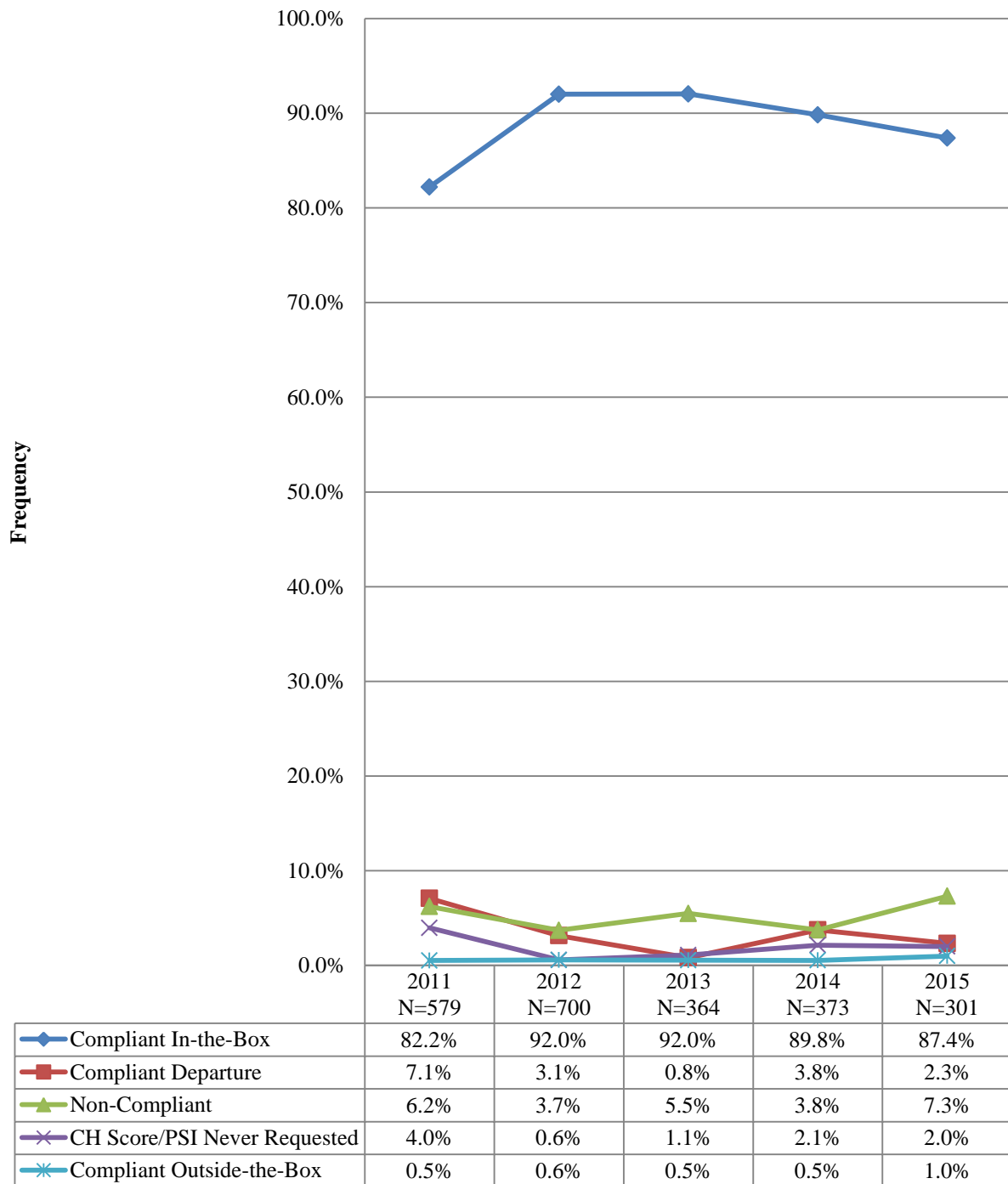


Figure 28b: Compliance Status for Sentenced Counts
Homicide Offenses
2010 - 2015

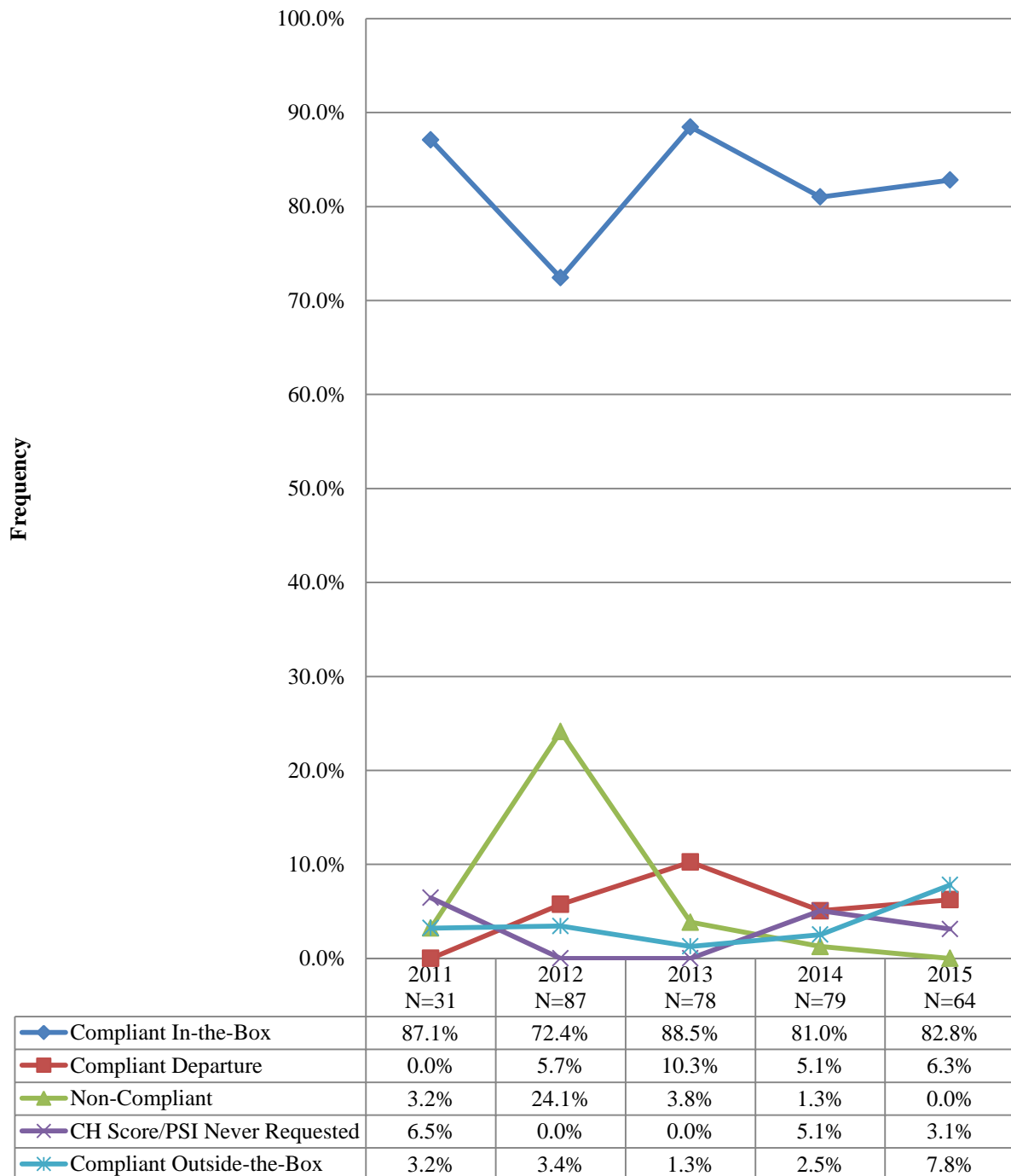


Figure 28c: Compliance Status for Sentenced Counts
Other Offenses
2010 - 2015

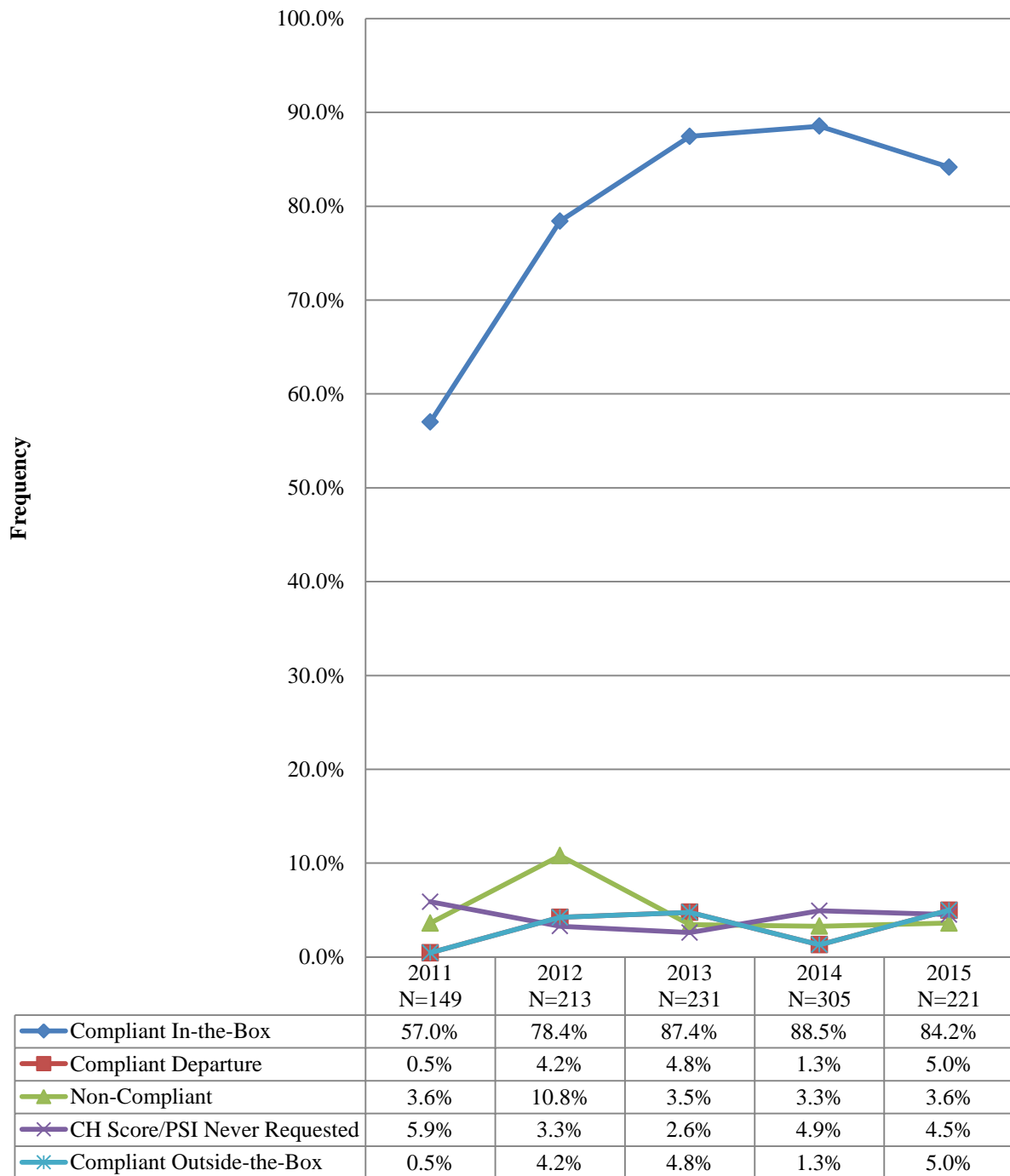


Figure 28d: Compliance Status for Sentenced Counts
Property Offenses
2010 - 2015

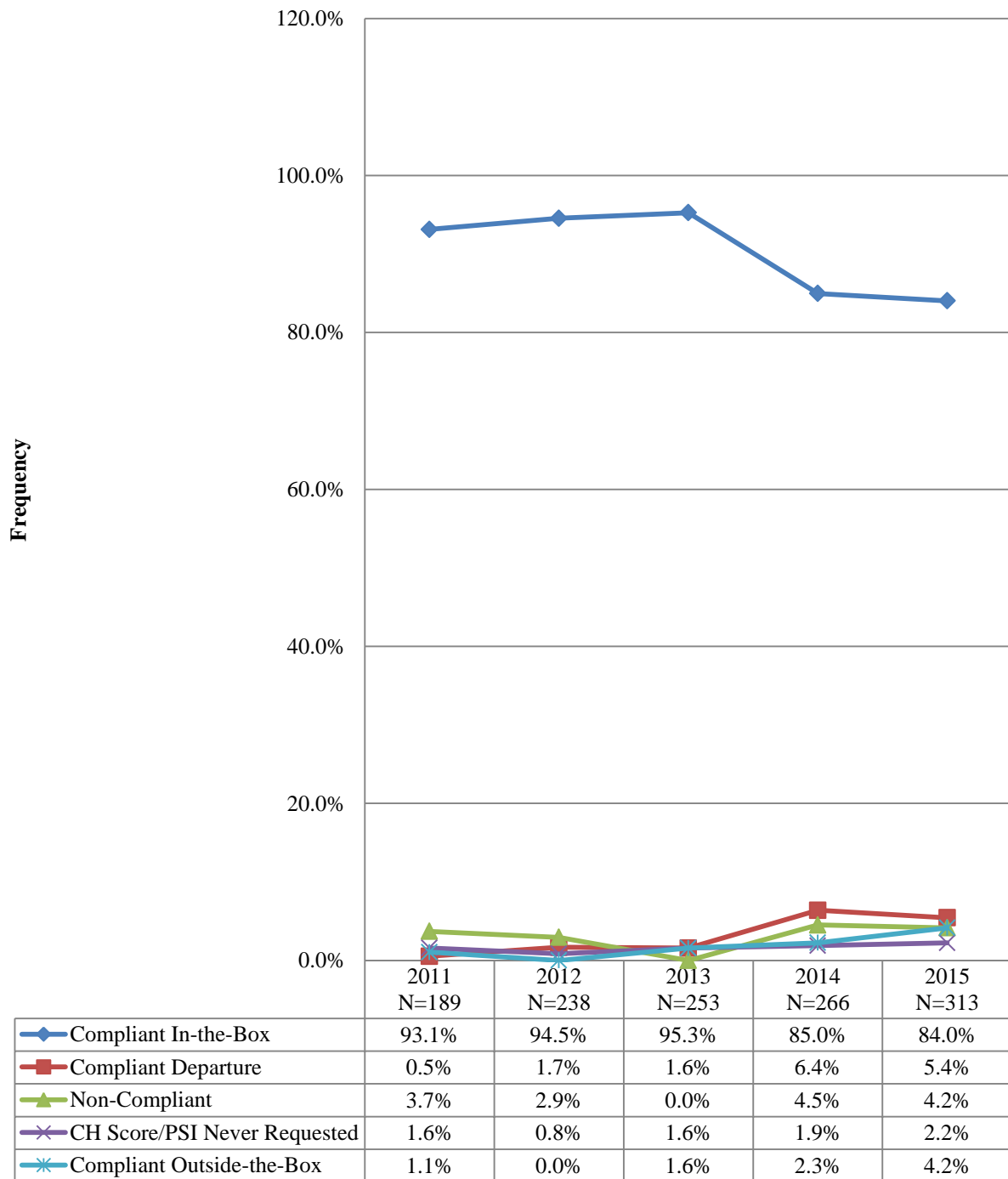


Figure 28e: Compliance Status for Sentenced Counts
Sex Offenses
2010 - 2015

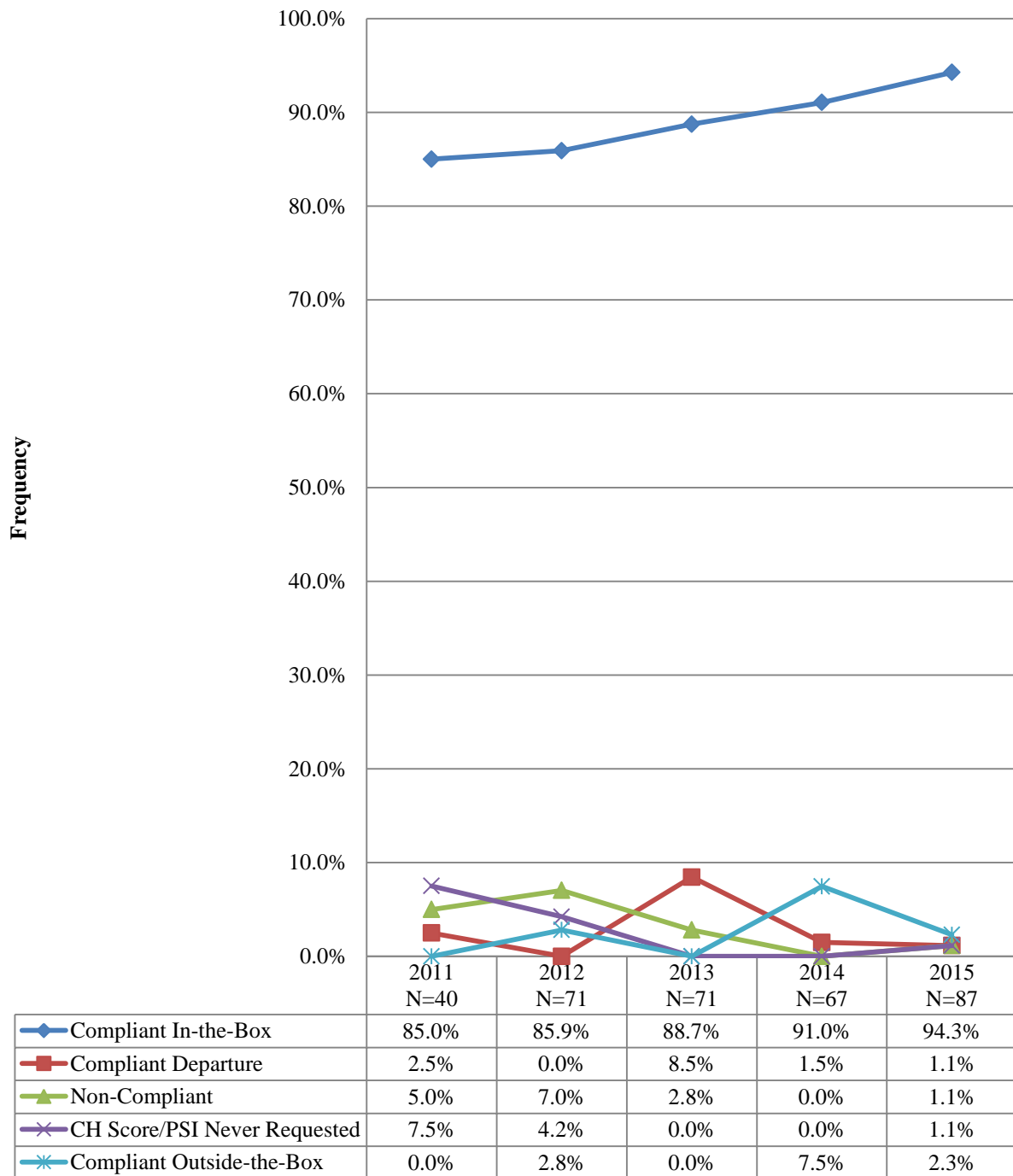


Figure 28f: Compliance Status for Sentenced Counts
Violent Offenses
2010 - 2015

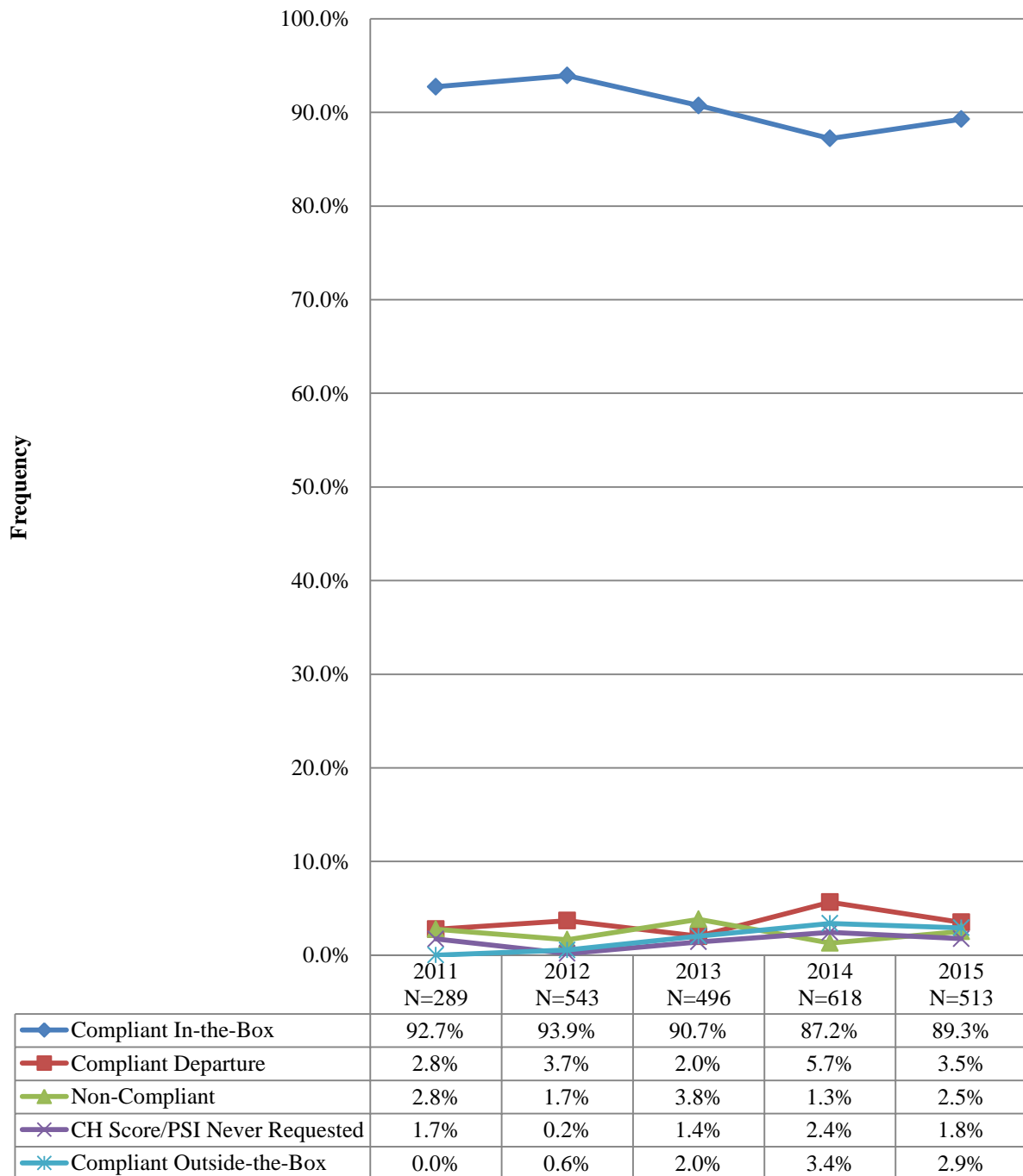
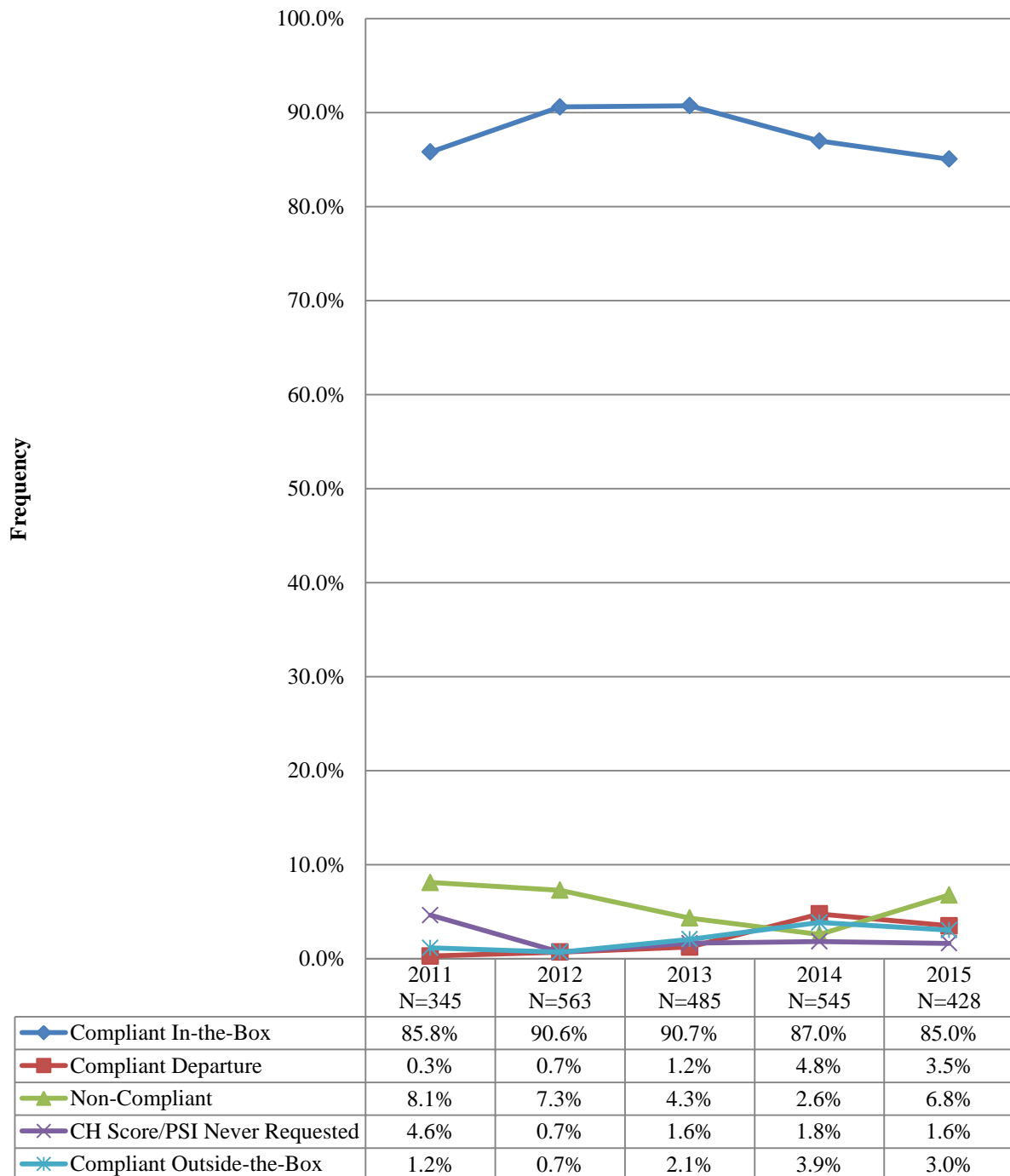


Figure 28g: Compliance Status for Sentenced Counts
Weapon Offenses
2010 - 2015



Appendix E

Guidelines Departure Factors

Aggravating Factors

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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).

(9) 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.

(10) 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.

(11) 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

(1) 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.

(2) 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.

(3) The defendant participated under duress, coercion, threat or compulsion insufficient to constitute a complete defense, but which significantly reduces the defendant's culpability.

(4) 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.

(5) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

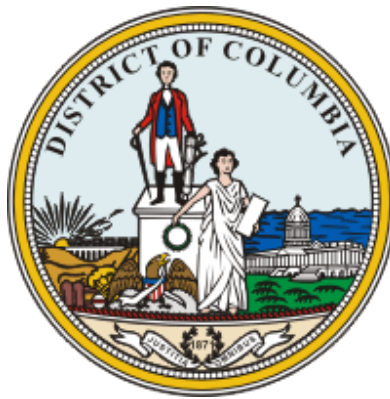
(10) There is any other substantial and compelling basis, as articulated by the sentencing judge, comparable in gravity to those listed in 1 to 9 above, which does not amount to a defense but which substantially mitigates the seriousness of the offense or the defendant's culpability.

Appendix F

Project Management Plan



D.C. Criminal Code Revision Project Management Plan



As Approved February 16, 2016

DISTRICT OF COLUMBIA
SENTENCING AND CRIMINAL CODE REVISION COMMISSION
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Plan Objectives

The Project Management Plan (Plan) outlines the scope, methodology, timeline, milestones, and deliverables involved in the Criminal Code Revision Project (Project) of the DC Sentencing and Criminal Code Revision Commission (Commission) through September 30, 2016. The Plan describes activities of the Commission, its Committee on Criminal Code Revision (CCR Committee), and staff. The Plan serves as the primary tool for managing the Project. This Plan was first approved by the full Commission March 19, 2013 and most recently updated February 16, 2016. The Plan also addresses communications with the Council of the District of Columbia (Council) and describes procedures to manage risks associated with the Project.

Statutory Mandate

The Commission is an independent government agency in the District of Columbia. In 2006, the Council enacted the Advisory Commission on Sentencing Amendment Act, mandating that the Commission examine the D.C. criminal code and make comprehensive recommendations providing for a uniform and coherent body of law. The Council's mandate in D.C. Code § 3-101, et seq., states:

- (a) Beginning January 1, 2007, the Commission shall also have as its purpose the preparation of comprehensive recommendations to the Council and the Mayor that:
 - (1) Revise the language of criminal statutes to be clear and consistent;
 - (2) In consultation with the Codification Counsel in the Office of the General Counsel for the Council of the District of Columbia, organize existing criminal statutes in a logical order;
 - (3) Assess whether criminal penalties (including fines) for felonies are proportionate to the seriousness of the offense, and, as necessary, revise the penalties so they are proportionate;
 - (4) Propose a rational system for classifying misdemeanor criminal statutes, determine appropriate levels of penalties for such classes; and classify misdemeanor criminal statutes in the appropriate classes;
 - (5) Identify any crimes defined in common law that should be codified, and propose recommended language for codification, as appropriate;
 - (6) Identify criminal statutes that have been held to be unconstitutional;
 - (7) Propose such other amendments as the Commission believes are necessary; and
 - (8) Enable the adoption of Title 22 as an enacted title of the District of Columbia Official Code.
- (b) No later than March 31, 2007, the Commission shall submit to the Council and the Mayor a work plan and schedule for carrying out the responsibilities authorized by this section. The work of the Commission under this section shall be completed no later than September 30, 2016.

- (c) The Commission shall submit its recommendations for criminal code revisions in the form of reports. Each report shall be accompanied by draft legislation or other specific steps for implementing the recommendations for criminal code revisions.

This mandate was designed to ensure that the District of Columbia maintain “an effective and fair criminal justice system.”¹ In enacting D.C. Code § 3-101.01, the Council noted that “the existence of overlapping provisions and confusing or outdated language, penalties that are disproportionate to the crime or disparate from penalties of similar crimes, and other inconsistencies impede the fair and just administration of the law.”² To improve the administration of justice, the Council ordered the Commission to analyze the District’s Code and “propose reforms . . . that create a uniform and coherent body of criminal law in the District of Columbia.”³

Project Scope

The scope of the Council’s mandate potentially involves numerous titles, sections, and subsections of the D.C. Code. A preliminary review of the D.C. Code by agency staff has revealed hundreds of statutory sections that potentially fall within the Project’s scope. While the majority of criminal offenses are grouped in Title 22, provisions in over a dozen other titles subject violators to imprisonment. Some of the offenses outside Title 22, such as the District’s controlled substances laws and the Bail Reform Act, are among the most frequently adjudicated.

The Project’s scope is also broad insofar as it entails a review of both the statutory language describing particular criminal offenses, and also the organization and legal status of criminal offenses as enacted provisions. Such a sweeping revision is necessary because the D.C. Code’s criminal provisions have never undergone comprehensive reform. Piecemeal reform efforts in the past, while helpful, have not addressed systemic problems of organization, consistency, and proportionality across offenses. The Code currently uses an unintuitive, alphabetical organization scheme and often describes offenses using opaque and archaic common law terminology. There are no general provisions providing consistent definitions or rules of construction across all offenses, so D.C. Code sections often are repetitious or use language in conflicting ways. Certain offenses derived from the common law—such as manslaughter⁴—are frequently charged but do not even have their basic elements described in the Code.

¹ D.C. COUNCIL, COMM. ON THE JUDICIARY, COMM. REP. 16-172, at 1 (2006).

² *Id.*

³ *Id.* at 1-2.

⁴ D.C. CODE § 22-2105 (“Whoever is guilty of manslaughter shall be sentenced to a period of imprisonment not exceeding 30 years.”).

Project Methodology

Given the broad scope of the Project, the Commission is pursuing priorities that address some or all of each aspect in the Council’s mandate, including:

1. the drafting of new, general provisions to improve the clarity and consistency of language in all revised criminal offenses (for example, new, consistent definitions of mental states that will be used for every offense);
2. the reorganization of criminal offenses listed in Title 22;
3. the revision of the most frequently convicted and serious criminal offenses in the D.C. Code to improve their clarity and consistency and to have proportionate penalties;
4. the identification and revision of outdated references in criminal statutes;
5. the identification of obsolete offenses that should be repealed;
6. the identification of crimes defined in common law that should be codified;
7. the identification of criminal statutes that have been held to be unconstitutional; and
8. enabling the adoption of Title 22 as an enacted title of the D.C. Code.

As described further in the Project Work Schedule (Appendix A), the bulk of the Commission’s work pursuant to this Plan focuses on developing recommendations for revision of offenses in the District’s Code that concern the most serious and/or frequent felony convictions.

Figure 1: Common Felony Offenses Scheduled for Revision

Offense	Code Section
Theft	D.C. Code § 22-3211
Unauthorized Use of Motor Vehicle	D.C. Code § 22-3215
Destruction of Property	D.C. Code § 22-303
Receipt of Stolen Property	D.C. Code § 22-3232
Fraud	D.C. Code § 22-3221
Arson	D.C. Code § 22-301
Burglary	D.C. Code § 22-801
Drug Distribution (Various)	D.C. Code § 48-904.01
Drug Possession with Intent to Distribute (Various)	D.C. Code § 48-904.01
Drug Possession (Various)	D.C. Code § 48-904.01
Murder (Various)	D.C. Code § 22-2101 et seq.
Sexual Abuse (Various)	D.C. Code § 22-3002 et seq.

A complete list of sections of the Code that the Project plans to address is attached in Appendix A. Notably, the Commission also will develop recommendations on revision of numerous misdemeanor crimes related to the offenses listed above.

Project Timeline

The Council has specified that Commission work on this Project shall be completed no later than September 30, 2016. Figure 2, below, provides a graphical overview of the Project's milestones that measure progress toward the Project's completion.

Figure 2: Project Management Plan: Milestones 1-13

Milestone 1:	Drafting of General Provisions	Target Completion: 9/15/13
Milestone 2:	Reorganization of Title 22 Offenses	Target Completion: 10/15/13
Milestone 3:	CCR Committee Draft Revision of Specified Offenses Against Property	Target Completion: 5/15/14
Milestone 4:	CCR Committee Draft Revision of Specified Drug Offenses	Target Completion: 7/30/14
Milestone 5:	CCR Committee Identification of Unconstitutional, Common Law, Obsolete, and Outdated Statutory Provisions; Prepare for Enactment of Title 22	Target Completion: 6/30/15
Milestone 6:	CCR Committee Agency Review of Work for Milestones 4 & 5	Target Completion: 10/30/15
Milestone 7:	CCR Committee Submission of Specified Drug Offenses for Commission Action	Target Completion: 7/15/16 (but contingent on proposed legislation).
Milestone 8:	CCR Committee Submission of Specified Sexual Abuse Offenses for Agency Review and Commission Action	Target Completion: 7/15/16 (but contingent on proposed legislation).
Milestone 9:	CCR Committee Analysis, Review, and Potential Revision of Specified Offenses Against Persons	Target Completion: 7/30/16
Milestone 10:	CCR Committee Identification of Proportionality and Classification Review Factors and Staff Assessment	Target Completion: 7/30/16
Milestone 11:	Preparation and Submission to the Commission of CCR Committee Recommendations and a Summary of Staff Research	Target Completion: 8/20/16
Milestone 12:	Final Commission Review and Action	Target Completion: 9/20/16
Milestone 13:	Presentation to Council and Mayor	Target Completion: 9/30/16

Project Milestone Description

Each Milestone marks progress toward one or more of the Commission's legislative mandates, as described in Figure 3, below.

Figure 3: Project Milestones

No	Milestone	Work Description and Relation of Milestone to Project Mandate	Scheduled Completion
1	Drafting of General Provisions with Commentary	The drafting of general provisions involves creating new code provisions that provide definitions and principles that apply to all specific offenses that are revised. This will advance the Commission's mandate to make criminal statutes more "clear and consistent." The accompanying Commentary will explain the meaning of the draft general provisions and provide supporting authorities as necessary to aid interpretation.	9/15/13
2	Reorganization of Title 22 Specific Offenses	The development of a reorganization scheme for Title 22 includes preliminary analysis of all lesser included offenses, categorization of offenses by general relationship (for example, offenses against property), and potentially the combination of like offenses within one code section. This will organize existing criminal statutes in a logical order. This task will involve consultation with the Codification Counsel in the Office of the General Counsel for the Council of the District of Columbia.	10/15/13
3	CCR Committee Draft Revision of Specified Offenses Against Property	The property offenses are listed in Appendix A. This revision will make criminal offense language more "clear and consistent." Draft Commentary entries will be developed that provide guidance on the meaning of revised offenses as necessary.	5/15/14
4	CCR Committee Draft Revision of Specified Drug Offenses	The drug offenses are listed in Appendix A. This revision will make criminal offense language more "clear and consistent." Draft Commentary entries will be developed that provide guidance on the meaning of revised offenses as necessary.	7/30/14

No	Milestone	Work Description and Relation of Milestone to Project Mandate	Scheduled Completion
5	CCR Committee Identification of Unconstitutional, Common Law, Obsolete, and Outdated Statutory Provisions; Prepare for Enactment of Title 22	This work addresses several legislative mandates for the Project. The CCR Committee will examine statutes held to be unconstitutional by a court of competent jurisdiction. It will also identify crimes defined in “common law,” including both offenses entirely lacking reference in the D.C. Code as well as offenses referenced in the D.C. Code but lacking any statement of the elements that must be proven for conviction. The CCR Committee, by unanimous agreement, will identify criminal statutes that should be repealed because they are obsolete and specific provisions within criminal statutes that refer to outdated institutions specify prosecutorial authority in a manner that is out of date with binding court rulings, or use gender specific language. Preparing for enactment of Title 22 will include consultation with the Codification Counsel in the Office of the General Counsel for the Council of the District of Columbia and provision of legal research to enable Council enactment.	6/30/15
6	CCR Committee Agency Review of Work for Milestone 4 & 5	Agency review helps ensure that any concerns about CCR Committee recommendations developed pursuant to the Project mandate are discovered in advance of the Project completion date. The CCR Committee agency representatives will review the CCR Committee work completed for Milestones 4 and 5 with their respective agencies. Written responses will describe any concerns for further Committee and Commission consideration. The agency review will not take CCR Committee meeting time except, as necessary, to discuss any responses. CCR Committee meetings will be devoted to work on Milestone 9 while agencies perform their reviews.	10/30/15
7	CCR Committee Submission of Specified Drug Offenses for	This Milestone is contingent on enactment of proposed Council legislation concerning the Project, which is expected to be known by June 30, 2016. If the proposed legislation is not enacted, staff shall submit the CCR	7/15/16 but contingent on proposed legislation

No	Milestone	Work Description and Relation of Milestone to Project Mandate	Scheduled Completion
	Commission Action	Committee's draft revisions to drug offenses, along with any agency review responses timely received, to the Commission by July 15 th for its action. The Commission will be asked to approve the CCR Committee approach of applying the draft general provisions in its draft revised drug offenses. The specified drug offenses are listed in Appendix A.	
8	CCR Committee Submission of Specified Sexual Abuse Offenses for Agency Review and Commission Action	This Milestone is contingent on enactment of proposed Council legislation concerning the Project, which is expected to be known by June 30, 2016. If the proposed legislation is not enacted, staff shall submit the CCR Committee's draft revisions to sexual abuse offenses, along with any agency review responses timely received, to the Commission by July 15 th for its action. The Commission will be asked to approve the CCR Committee approach of applying the draft general provisions in its draft revised sexual abuse offenses. The specified sexual abuse offenses are listed in Appendix A. Agency review is intended ensure that any concerns about CCR Committee draft recommendations are discovered in advance of the Project completion date. Written agency review responses will describe any concerns for further CCR Committee and Commission consideration.	7/15/16 but contingent on proposed legislation
9	CCR Committee Analysis, Review, and Potential Revision of Specified Offenses Against Persons	The specified offenses against persons are listed in Appendix A. This analysis, review, and potential revision will seek to make criminal offense language more "clear and consistent." Beginning February 2016 the CCR Committee will prioritize sexual abuse offenses, followed by homicide offenses.	7/30/16
10	CCR Committee Identification of Proportionality and	The CCR Committee will review research on possible factors in classifying offenses and assessing proportionality of penalties, memorializing points of agreement and disagreement on relevant factors in a	7/30/16

No	Milestone	Work Description and Relation of Milestone to Project Mandate	Scheduled Completion
	Classification Review Factors and Staff Assessment	joint statement. Staff assigned to the Project will assess the proportionality of offenses previously reviewed by the CCR Committee or staff, making preliminary determinations of proportionality and offense classification using the factors that will be discussed by the CCR Committee.	
11	Preparation and Submission to the Commission of CCR Committee Recommendations and a Summary of Staff Research	The CCR Committee will develop a statement to accompany and provide context to its draft recommendations that are to be transferred at the end of the Project. Staff will assemble the CCR Committee's draft recommendations and develop a summary of staff research that has not been reviewed by the CCR Committee or Commission for transfer. These materials shall be submitted to the Commission for action.	8/20/16
12	Final Commission Review and Action	All Commissioners are invited to participate in the CCR Committee's work and are regularly updated on CCR Committee work. However, the final presentation to the full Commission will provide members the opportunity to review the CCR Committee's draft recommendations and accompanying statement prior to Commission action at the September meeting. The Commission will vote on providing the CCR Committee's draft recommendations and staff research to the Council without requiring approval of specific language in the draft CCR recommendations or the specifics of staff research.	9/20/16
13	Presentation to Council and Mayor	The Commission will deliver to the D.C. Council and Mayor its recommendations regarding revision of District criminal statutes and other matters legislatively mandated for the Project.	9/30/16

Project Deliverables List

The Commission will issue two types of deliverables with its recommendations: (1) a compilation of draft revised statutes by the CCR Committee with accompanying explanatory materials; and (2) a compilation of staff legal research concerning revision of other District offenses and other code revision matters. In September 2015 the Commission issued recommendations to the Council and Mayor regarding: reorganization of criminal statutes; identification of criminal statutes held to be unconstitutional; identification of crimes defined in common law that should be codified; obsolete offenses that should be repealed; outdated statutory provisions that should be amended; and enactment of Title 22 of the D.C. Code.

Any disagreement in the CCR Committee regarding its draft recommendations for revision of the Code will be specifically noted with brackets. The accompanying explanatory materials will describe the intended meaning and supporting authorities for its recommended revisions as necessary. To further document areas of agreement and disagreement, CCR Committee members involved in drafting revisions to specific offenses may include their individual opinions on specific revisions in the final materials.

Identification of Key Management Personnel

The D.C. Council's mandate is directed to the Commission as a whole. However, five members of the Commission serve on the CCR Committee that has been given primary responsibility for development of the Project. The CCR Committee meets twice monthly to review specific portions of the criminal code and draft revised language. The Commission monitors the CCR Committee's progress through regular status reports and retains final authority to issue recommendations to the Council and Mayor. At any time, the Commission may give input on the CCR Committee's work or request additional information to follow up on a Committee status report.

The five CCR Committee members' diverse and balanced backgrounds ensure recommendations for a comprehensive, fair, and effective criminal code. Mr. Ronald Gainer, a retired attorney formerly employed by the United States Department of Justice, serves as the chairman of the CCR Committee. Chairman Gainer is an established expert in the area of criminal law reform and has written extensively on the topic. The remaining committee members include Professor Donald Braman, an Associate Professor of Law at the George Washington University School of Law; Mr. Dave Rosenthal, Senior Assistant Attorney General for the Public Safety Division of the Office of the Attorney General for the District of Columbia; Ms. Laura Hankins, Special Counsel for the Public Defender Service of the District of Columbia; and Ms. Renata Kendrick Cooper, Special Counsel to the United States Attorney for the District of Columbia (Policy and Legislation).

The agency's day-to-day operation is supervised by a project director, an attorney who oversees assignments of four full-time employees. New funding in FY 2013 allowed the agency to hire its first full-time project director and three additional staff positions (two attorneys and a law clerk). The project director started work at the Commission in November 2012 and other new employees began their employment in January 2013. The increased staffing provides the Commission with research capabilities that are critical to code revision. In addition, the Project has utilized the volunteer services of local law students for certain research projects.

Communications to the Council and Mayor

In addition to providing information on the status of the Project at the agency's annual performance and budget hearings, semi-annual Project updates will be provided to the Council. Each update will include a summary description of the Code sections revised in the past year, the expected revisions for the coming year, and changes to the Management Plan. The semi-annual update will be submitted to the Council by September 30th of every year. An update on the Project also will be part of the overall Commission's annual report that is submitted to the Council by April 30th every year.

By September 30, 2016, the Commission will deliver to the Council and Mayor its recommendations regarding revision of District criminal statutes and other matters legislatively mandated for the Project.

Risk/Issue Management

The Commission will continually monitor the Project's compliance with this Management Plan and take steps to mitigate any risks or issues as they arise. Primary responsibility for monitoring and mitigating risks as they arise lies with the CCR Committee and project director. In its reporting to the full Commission and its semi-annual reporting to the Council and Mayor, any new, significant risks or issues will be noted by the CCR Committee. At this time, several internal and external risks and issues have been identified that could affect the success of this Project.

The internal risks to the Project chiefly consist of:

- (1) the uncertainty of estimates used in developing the Project's timeline; and
- (2) the possibility of stalemate in CCR Committee members' decision making.

Without a recent, comparable model of comprehensive criminal code reform in the District or other states, it is challenging to predict the time and resources required to accomplish a comprehensive review of criminal offenses. Based on prior Project progress and the difficulty of scheduled work, the Commission has provided its best estimates of the time and resources necessary for the Project. However, these estimates are provisional.

Moreover, the Project's success depends significantly on consensus and agreements being reached at the CCR Committee level. There are numerous controversial areas in any code reform effort where consensus may not be reached and a stalemate situation could result. If such a stalemate situation should occur, there quickly could be a corresponding impact on the Project's timeline.

The Commission is already aware of a significant difference of opinion among the agencies represented in the CCR Committee about whether the scope of Project work to-date exceeds the scope intended by the Council in 2006 when it created the Project. This difference of opinion has not been resolved. However, in light of this difference of opinion, in February 2015 the Commission made changes to this Project Management Plan which prioritized work on legislative mandates where Commission member agreement is strongest. All CCR Committee members have agreed to these changes, with the caveat that there will be ongoing conversations at the Committee level concerning the scope of its work.

The external risks to the Project chiefly consist of:

- (1) changes to District criminal law (by judicial or legislative bodies);
- (2) changes to Commission membership or agency staff; and
- (3) legislative changes to the Commission's criminal code revision mandate.

The Commission monitors legislative and judicial decisions that affect its work and, when necessary, will revise its work to ensure that its final recommendations are well-informed and based upon an accurate understanding of the current state of criminal law in the District. Because of the cumulative and comprehensive nature of criminal code revision, any changes to the agency's current staffing or Commission membership could impact progress as well. The CCR Committee's current membership reflects a particularly unique set of experiences with the District's criminal code, criminal code reform, and insights from key institutions. The loss of participation by any member could result in a setback to the Commission's code reform efforts.

Lastly, new legislation concerning the Commission's criminal code revision mandate, such as the "Criminal Code Reform Commission Amendment Act of 2015," may obviate the requirements in this Project Management Plan. For example, this Plan has set the target completion date for Milestone 7 (concerning CCR Committee submission of draft drug offense revisions to the Commission for action) and Milestone 8 (concerning CCR Committee submission of draft sexual abuse revisions to the Commission for action) to July 15, 2016. However, these actions are contingent on pending legislation concerning the Project not being enacted by the Council (which should be known by June 30).⁵

⁵ The pending legislation is expected to be part of the FY 2017 Budget Support Act of 2016 which is scheduled for Council consideration in June 2016. Council Notice of Public Hearings dated January 28, 2016, available online at [http://dcccouncil.us/files/user_uploads/event_testimony/\(2-4-16\)%20FY2017%20Budget%20Oversight%20Schedule\(final\)%20corrected.pdf](http://dcccouncil.us/files/user_uploads/event_testimony/(2-4-16)%20FY2017%20Budget%20Oversight%20Schedule(final)%20corrected.pdf).

Change Management

If the Project does not achieve a scheduled milestone, if it becomes evident that a scheduled milestone will not be achieved, or if new legislation is enacted that changes the Project's statutory mandate, the project director will notify the CCR Committee in writing of the problem and add the matter to the agenda for discussion at the CCR Committee's next scheduled meeting.

Upon notification by the project director of a problem, the CCR Committee, by majority vote, will take action that assures compliance with the Plan. When compliance is not feasible, the CCR Committee will propose an amendment to this Plan to be presented to the full Commission. The CCR Committee will inform the Commission in writing regarding the nature of the problem and its proposed amendment to this Plan. Potential actions or amendments may include: changes to the CCR Committee meeting schedule, alteration of the scope of the staff's legal research, modification of the management responsibilities of the project director, or changes to the selection and sequencing of code offenses being revised.

The Commission will review information related to any problems regarding the Plan and, by majority vote, decide whether to accept or reject any amendments to this Plan proposed by the CCR Committee. Final responsibility for the success of the Project lies with the Commission and it may, on its own authority, make changes to this Plan at any time.

APPENDIX A: PROJECT WORK SCHEDULE

Milestones	Code Section/Topic Reviewed & Recommendations Developed	Target # Committee Meetings	Duration in Months	Target Committee Work	Actual Committee Completi
Milestone 1 – Drafting of General Provisions	Short Title	<i>11</i>	<i>5.5</i>	<i>3/30/13 - 9/15/13</i>	<i>9/15/13</i>
	Effect of Headings and Captions				
	Interaction with Other Code Provisions				
	Burden of Proof for Offense Elements				
	Conduct Requirement				
	Voluntariness Requirement				
	Culpable Mental State Requirement				
	Culpable Mental State Definitions				
	Rules of Construction Governing Culpable Mental States				
	Effect of Ignorance or Mistake				
	Identification of Objective Elements				
	Index of Definitions				
Milestone 2 – Reorganization of Title 22 Offenses	Offenses in Title 22 reorganized into new societal interest categories and unnecessary statutes moved out of Title 22.	<i>2</i>	<i>1</i>	<i>9/15/13 - 10/15/13</i>	<i>10/15/13</i>
Milestone 3 – CCR Committee Draft Revision of Specified Offenses Against Property	§ 22-3201 Theft Related Offense Definitions	<i>14</i>	<i>7</i>	<i>10/15/13 - 5/15/14</i>	<i>5/15/14</i>
	§ 22-3202 Aggregation of Amounts Received to Determine Grade of Offense				
	§ 22-3203 Consecutive Sentences				
	§ 22-3204 Case Referral				
	§ 22-3211 Theft				
	§ 22-3216 Taking Property Without Right				
	§ 22-3215 Unauthorized Use of a Motor Vehicle				
	§ 22-3231 Trafficking in Stolen Property				
	§ 22-3232 Receiving Stolen Property				
	§ 22-3213 Shoplifting				

	§ 22-3221 Fraud				
	§ 22-301 Arson				
	§ 22-303 Malicious burning, destruction, or injury of another’s property				
	§ 22-801 Burglary				
Milestone 4 – CCR Committee Draft Revision of Specified Drug Offenses	§ 48-904.01(a) Manufacturing, Distribution, and Possession with Intent to Distribute a Controlled Substance	5	2.5	5/15/14 - 7/30/14	7/30/14
	§ 48-904.01(b) Creation, Distribution, and Possession with Intent to Distribute Counterfeit Substances				
	§ 48-904.01(d) Possession of a Controlled Substance				
	§ 48-904.01(e) Conditional Discharge for Possession as First Offense				
	§ 48-904.01(f) Charging Provision				
	§ 48-904.01(g) Definition of “Offense”				
	§ 48-904.06 Distribution to Minors				
	§ 48-904.07 Enlistment of Minors				
	§ 48-904.07A Drug Free Zones				
Milestone 5 – CCR Committee Identification of Unconstitutiona l, Common Law, Obsolete, and Outdated Statutory Provisions; Prepare for Enactment of Title 22	Identification of criminal statutes that have been held to be unconstitutional.	8	4	2/28/15 - 6/30/15	6/30/15
	Identification of crimes defined in common law that should be codified.				
	Identification of Obsolete Criminal Offenses that should be repealed.				
	Identification of Outdated references that should be amended.				
	Enable the adoption of Title 22 as an enacted title of the D.C. Code				
Milestone 6– CCR Committee Agency Review of Work for	CCR Committee Members’ Agency Review of Drug Offense Revisions, Identification of Unconstitutional and Common Law Statutes, and Enactment of Title 22.	1 (Discussi on of Results)	4	6/30/15 - 10/30/15	

Milestones 4 & 5					
Milestone 7– CCR Committee Submission of Specified Drug Offenses for Commission Action	If the Council does not enact proposed legislation concerning the Project, staff shall submit the CCR Committee’s draft revisions to drug offenses, along with any agency review responses timely received, to the Commission for subsequent action. The drug offenses are: § 48-904.01(a)-(b); § 48-904.01(d)-(g); 48-904.06; 48-904.07; and 48-904.07A.	0	0	7/15/16 but contingent on proposed legislation	
Milestone 8-- CCR Committee Submission of Specified Sexual Abuse Offenses for Agency Review and Commission Action	Initiation of CCR Committee agency review of draft revisions to the following sexual abuse offenses: §§ 22-3001 - 3006. If the Council does not enact proposed legislation concerning the Project, staff shall submit the CCR Committee’s draft revisions to specified sexual abuse offenses, along with any agency review responses to the Commission for subsequent action.	0	0	7/15/16 but contingent on proposed legislation	
Milestone 9– CCR Committee Analysis, Review, and Potential Revision of Specified Offenses Against Persons	§ 22-2001 Kidnapping	26 (some meetings will also address milestone 10)	13	6/30/15 - 7/30/16	
	§ 22-2801 Robbery				
	§ 22-2803 Carjacking				
	§ 22-3001 Definitions				
	§ 22-3002 First degree sexual abuse				
	§ 22-3003 Second degree sexual abuse				
	§ 22-3004 Third degree sexual abuse				
	§ 22-3005 Fourth degree sexual abuse				
	§ 22-3006 Misdemeanor sexual abuse				
	§ 22-2101 Murder in the first degree—Purposeful killing; killing while perpetrating certain crimes				
	§ 22-2103 Murder in the second degree				

	§ 22-2104 Penalty for murder in first and second degrees				
	§ 22-2105 Penalty for Manslaughter				
Milestone 10– CCR Committee Identification of Proportionality and Classification Review Factors and Staff Assessment	CCR Committee review of research on possible factors in classifying offenses and assessing proportionality of penalties, with memorialization of points of agreement and disagreement on relevant factors in a joint statement. Staff assigned to the Project will assess the proportionality of offenses previously reviewed by the CCR Committee or staff, making preliminary determinations of proportionality and offense classification using the factors that will be discussed by the CCR Committee.	6 <i>(the meetings will also address milestone 9)</i>	3	4/30/16 - 7/30/16	
Milestone 11– Preparation and Submission to the Commission of CCR Committee Recommendations and a Summary of Staff Research	CCR Committee development of a statement to accompany and provide context to its draft recommendations to be transferred at the end of the Project. Staff assembly of CCR Committee’s draft recommendations, development of a summary of staff research that has not been reviewed by the CCR Committee or Commission and submission of materials to the Commission for action.	1	.5	7/30/16 - 8/20/16	
Milestone 12 – Final Commission Review and Action	Presentation to Commission, Resolution of Feedback, and Vote.	0	1	8/20/16 - 9/20/16	
Milestone 13 – Presentation to Council and Mayor	Project Complete.	0	0.5	9/20/16 - 9/30/16	

