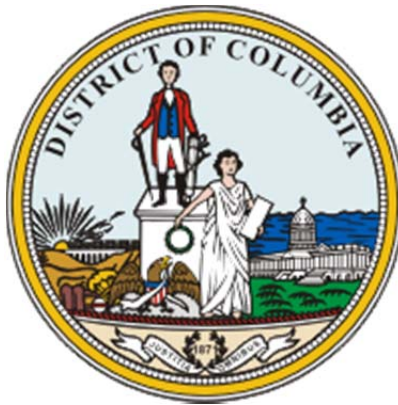




DISTRICT OF COLUMBIA SENTENCING
AND
CRIMINAL CODE REVISION COMMISSION

2014 ANNUAL REPORT



APRIL 27, 2015

DISTRICT OF COLUMBIA SENTENCING AND CRIMINAL CODE REVISION
COMMISSION

441 FOURTH STREET, NW, SUITE 430 SOUTH
WASHINGTON, D.C. 20001

PHONE: (202) 727-8822 FACSIMILE: (202) 727-7929

WEBSITE: <http://sentencing.dc.gov>

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

441 Fourth Street, NW, Suite 430 South, Washington, D.C. 20001
(202) 727-8822 – Fax (202) 727-7929

*Hon. Frederick H. Weisberg,
Chairperson*

*Barbara S. Tombs-Souvey,
Executive Director*

*Donald Braman, Esq.
Paul Butler, Esq.
Renata Cooper, Esq.
Hon. Harold L. Cushenberry
Ronald Gainer, Esq.
Molly M. Gill, Esq.
Laura E. Hankins, Esq.
Cedric Hendricks, Esq.
Hon. Robert E. Morin
William R. Martin, Esq.
David Rosenthal, Esq.
Julie E. Samuels
Marvin Turner
Earl J. Silbert, Esq.*

*Non-voting members:
Maria Amato, Esq.
Michael Anzallo
Thomas R. Kane, Ph.D.
Hon. Kenyan McDuffie
Stephen J. Husk*

April 27, 2015

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 2014 Annual Report. This year's report provides an overview of felony sentences imposed within the District from January 1, 2014, through December 31, 2014.

In 2014, the Commission enhanced the GRID system by developing a bi-directional interface with CSOSA to facilitate the electronic transfer of criminal history scores directly into the agency's data system. With this enhancement, GRID can automatically determine judicial compliance with the Sentencing Guidelines, which once again exceeded 95%. The GRID system was also used to monitor and analyze sentencing information related to the 1,894 individuals and 2,845 felony counts sentenced in 2014.

The Commission implemented two notable policy changes to the Sentencing Guidelines during the past year that revised the definition of a Crime of Violence and addressed how sealed or expunged records should be factored into criminal history scores.

Finally, Commission continued its work on the Criminal Code Revision project by drafting recommendations for revision of property and drug offenses. The Commission determined that it was necessary to modify the Code Revision Management Plan to focus on revision activities for which there was consensus among Commission members to ensure the project moved forward in 2015.

Respectfully Submitted,

Frederick H. Weisberg, Chairman

TABLE OF CONTENTS

Commission Members and Staff	i
Executive Summary	ii
Table of Abbreviations and Acronyms	vii
Chapter One: Commission Profile	1
History of the D.C. Sentencing and Criminal Code Revision Commission	1
Legislative Mandate.....	3
Commission Membership	4
Commission Meetings and Activities	5
Committee Activities	6
Commission Staff Activities	8
Chapter Two: Voluntary Sentencing Guidelines	18
Policy Changes to the Sentencing Guidelines	18
Technical Changes to the Guidelines Manual	19
New Offense Rankings	22
Chapter Three: Overview of Agency Data Collection and Data Sources	27
The Grid System	27
GSS Data System.....	31
Sentencing Data	32
Compliance Data.....	33
Conclusion	37
Chapter Four: Sentencing Data and Analysis	39
Sentencing Structure	40
Felony Sentences Imposed in 2014.....	41
2014 Felony Sentencing Demographics: Gender, Race, and Age of Offenders	56
Homicide Analysis.....	63
Top Five Offense Categories	64
Conclusion	72
Chapter Five: Compliance with the D.C. Voluntary Sentencing Guidelines	75
How the Commission Defines Compliance with the Sentencing Guidelines.....	75
Departures from the Guidelines	76
Data Reporting	78

Compliance Analysis	78
Conclusion	85
Chapter Six: Criminal Code Revision Project	87
Legislative Mandate.....	87
Project History and Background.....	88
Code Revision Committee and Staff Activities in 2014.....	89
Milestones and Deliverables to Date	94
Timeline of Future Deliverables	95
Anticipated Project Completion.....	96
Appendix A – Guidelines Master Grid	I
Appendix B – Guidelines Drug Grid	II
Appendix C – Group Offense Listing.....	III
Appendix D – Additional Data Tables	VI
Appendix E – Guidelines Departure Factors	XV
Appendix F – Criminal Code Revision Project Management Plan.....	XVIII

MEMBERSHIP OF THE DISTRICT OF COLUMBIA SENTENCING AND CRIMINAL CODE REVISION COMMISSION
As of April 30, 2015

The Honorable Frederick H. Weisberg, Chairman
Superior Court of the District of Columbia

The Honorable Harold L. Cushenberry
Superior Court of the District of Columbia

The Honorable Robert E. Morin
Superior Court of the District of Columbia

Donald Braman, Ph.D.
George Washington University School of Law

Ronald Gainer, Esq.
Attorney, Private Practice

Laura E. Hankins, Esq.
Public Defender Service for the District of Columbia

Paul Butler, Esq.
Georgetown University Law Center

Cedric Hendricks, Esq.
Court Services and Offender Supervision Agency

Renata Kendrick Cooper, Esq.
United States Attorney's Office
for the District of Columbia

William R. Martin, Esq.
Attorney, Private Practice

Dave Rosenthal, Esq.
Office of Attorney General, District of Columbia

Julie E. Samuels, M.P.P.
Urban Institute, Justice Policy Center

Molly M. Gill, Esq.
Citizen Member

Marvin Turner
Citizen Member

Earl J. Silbert, Esq.
Attorney, Private Practice

Maria Amato**
District of Columbia Department of Corrections

Michael Anzallo**
D.C. Metropolitan Police Department

Stephen J. Husk**
United States Parole Commission

Thomas R. Kane, Ph.D. **
Federal Bureau of Prisons

The Honorable Kenyan McDuffie **
Council of the District of Columbia

** Non-Voting Member

STAFF OF THE DISTRICT OF COLUMBIA SENTENCING AND CRIMINAL CODE REVISION COMMISSION

Barbara Tombs-Souvey
Executive Director

Linden A. Fry, Esq.
General Counsel

Richard S. Schmechel, Esq.
Criminal Code Revision
Project Director

LaToya Wesley, Ph.D.
Senior Statistician

Michael Serota, Esq.
Attorney Advisor

Rachel Redfern, Esq.
Attorney Advisor

Thurman Sanders IV
Data Management Specialist

Mia Hebb
Staff Assistant

Jinwoo Park, Esq.
Staff Counsel

Bryson Nitta, Esq.
Staff Counsel

EXECUTIVE SUMMARY

In 2014, the District of Columbia Sentencing and Criminal Code Revision Commission continued to focus on improving data quality and data access, enabling the agency to more comprehensively monitor and analyze sentencing trends within the District. This enhanced analytical capability will enable the Commission to conduct a more detailed evaluation of the District of Columbia Voluntary Sentencing Guidelines (Guidelines), moving the Commission towards data driven policymaking. The activities of Criminal Code Revision Project (the Project) targeted developing recommendations for revisions to the property and drug offenses identified in the Project Management Plan. In addition, an “Agency Review” of the Project’s work to date was completed by the institutions represented on the Criminal Code Revision Committee during the fourth quarter of the year to identify concerns regarding the current code revision process.

Data Systems and Collection

The Commission’s new Guideline Reporting Information Data (GRID) system was deployed and utilized as the agency’s primary data source during 2014. The GRID system significantly increases the quality, quantity, and reliability of the data used to analyze felony sentences and to calculate judicial compliance with the Sentencing Guidelines. Offense, conviction, and sentencing-related data from the Superior Court of the District of Columbia (Superior Court) and a defendant’s criminal history score, provided by the Court Services and Offender Supervision Agency (CSOSA), are electronically transferred into the system on a daily basis and merged to create a comprehensive sentencing database. The increased number of data variables available through the Court’s IJIS 12.1 data feed allow for expanded analysis of sentencing practices within the District.

In an effort to improve the accuracy and timely transmission of an offender’s criminal history score, the GRID system was enhanced during 2014 to include a new module – the Grid Scoring System (GSS). Through a bi-directional XML interface between the Commission and CSOSA, an offender’s criminal history score is transferred directly into the GRID system and judicial compliance is automatically calculated. GSS also has the capability to provide CSOSA with any changes made to a criminal history score at the time of sentencing, thus reducing errors in future criminal history score calculations.

With the implementation of both GRID and GSS, the Commission is able to undertake more in-depth monitoring and evaluation of the effectiveness of the Guidelines in order to ensure certainty and consistency in sentencing within the District.

Key Data Findings

In 2014, the D.C. Superior Court sentenced 1,773 offenders in 1,921 felony cases that consisted of 2,844 individual felony counts. There has been a continuing decline in the number of felony cases sentenced from 2,813 in 2010 to 1,953 in 2013; however, it appears that the number of felony cases may have stabilized in 2014 (1,921) with a decline of only 32 cases. The notable 67% decline in the number of felony drug offenses sentenced from 2010 to 2014 has contributed significantly to the overall decline in both felony cases and counts. Of the 1,921 cases sentenced in 2014, the number of single (1,114) and multiple count (807) cases is consistent with cases sentenced in 2013. Drug, Homicide, Property and Weapon Offenses accounted for 67.5% of all multi-count cases. By far the largest number of felony sentences imposed are in Offense Severity Group (OSG) M8 and OSG D3, accounting for 42.2% of all felony sentences in 2014.

Prison remains the most frequent sentence type imposed, followed by probation and short split sentences. Of the felony counts sentenced in 2014, 69.1% resulted in prison sentences. Probation was imposed in 15.8% of all felony counts, with short split sentences imposed in the remaining 15.1% counts. During the past year, there was a 3% decline in the number of prison sentences imposed compared to 2013 and a 2.5% increase in the number of short split sentences. The percentage of probation sentences imposed remained relatively unchanged.

Offender demographics were similar to prior years with males representing 90.9% of offenders sentenced and females representing 9.1% of offenders sentenced. Despite the large difference in the gender of offenders sentenced, the data suggest that there are some offense types where male and female offenders share similar sentencing proportionality. For example, 21.1% of male offenders and 19.5% of female offenders were sentenced for Drug counts. This similarity also occurred for Homicide Offenses, which represented 3.9% of male and 3.0% of female offenders' sentences. However, female offenders were more likely to be sentenced for Voluntary Manslaughter, while male offenders were more likely to be sentenced for First Degree Murder and Second Degree Murder.

Drug offense sentences account for 21.0% of case level and 16.7% of count level felony sentences. This represents a very sharp decline in Drug sentences from the high point in 2010, when Drug sentences represented 39.0% of all felony sentences. Non-drug felony sentences represent the largest proportion of total felony sentences at both the case (79.0%) and count (83.3%) levels. Violent Offenses comprise the largest non-drug category at the case level (26.3%). Robbery was the most common offense within the Violent Offense category, accounting for 39.7% of cases. This marks a change from 2013, when the Weapons Offense category was the most frequent offense at both the case and count level. Consistent with 2013, Sex Offenses was the smallest category of non-drug felony offenses, representing only 1.7% at the case level and 2.1% at the count level.

Assault, Possession with Intent to Distribute and Distribution (PWID + Dist.), Robbery, Weapon and “Other” Offenses, accounted for over 71.7% of all felony sentences imposed in 2014. These top five grouped offenses represent a change from the previous four years in that the “Other” offense category has replaced the Attempted Drug Offenses. In 2014, the “Other” Offense category demonstrated the largest increase in percentage of counts sentenced, followed by the Assault and Robbery categories. The “Other” Offense category saw significant increases in sentences imposed for criminal street gang affiliation and prison breach, which are primarily escapes and failure to return to halfway house placements. These increases were accompanied by a large decline in the Weapons Offense category.

Guideline Compliance

In 2014, the Guideline compliance rate for all felony sentences imposed was 97.4%, consistent with yearly compliance rates in excess of 90% since the inception of the Guidelines. This finding indicates that Superior Court judges are consistently applying the Guidelines and imposing felony sentences within the recommended Guideline structure. The increase compliance rate is due to a combination of factors including: (1) the length of time the guidelines have been in place; (2) modifications to the Guidelines to ensure the recommended sentence is appropriate; and (3) improved data collection and compliance validation practices.

Compliant in-the-box sentences accounted for 84.3% of all sentences imposed, meaning that the sentence imposed was within the recommended range and sentence type. Compliant departures accounted for 4.4% of all sentences imposed during the year. In 2014, there was a decline in the number of compliant in-the-box sentences and a corresponding increase in the number of compliant departures when compared to 2013. This shift can partly be attributed to improved data quality that enables more comprehensive analysis of departures. Although compliant departures represent a small percentage of all sentences imposed, departures provide insight into why judges choose to impose a sentence other than the Guidelines recommended sentence for the typical offense for a particular combination of OSG and criminal history.

There were 11 aggravating (or upward) departures and 96 mitigating (or downward) departures. Aggravating factors represented 10.3% of departure reasons cited, while 89.7% of compliant departures cited mitigating factors. The Violent and Weapons Offense categories had the highest ratio of compliant departures from the Guidelines, whereas, Sex and Homicide Offense categories had the lowest ratio of compliant departures.

In 2014, non-compliant departures constituted 3.1% of all sentences for which compliance was calculated. A sentence is considered a non-compliant departure when the judge imposes an out-of-the-box sentence without citing a departure principle or other guideline factor, such as a

statutory enhancement. The data indicates that the Drug and Violent Offense categories accounted for the greatest proportion of all non-compliant sentences, although non-compliant departure sentences imposed for Property Offenses increased from 1.7% in 2013 to 3.8% in 2014.

Modifications to the Guidelines

The Commission is required to include in its Annual Report any substantive changes it made to the Guidelines during the prior 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 ranked one new offense and adopted two policy changes that altered the substance of the Guidelines.

The Guidelines classify crime of violence (COVs) differently than other offenses and in the past used a Guideline specific set of offenses listed as COVs that was different from the list of COVs contained in D.C. Code § 23-1331(4). The Commission determined that having a distinct list of COVs in the Guidelines was unnecessarily confusing, and that the Commission should defer to the statutory definition. The Commission removed its list of COVs from the Guidelines Manual and adopted D.C. Code § 23-1331(4) as the COV list to be used for Guideline purposes.

Prior to 2014, the Guidelines did not address whether a defendant's prior sealed conviction should be counted as part of his or her prior criminal history score. The Commission modified the rule to specify that a prior D.C. sealed or expunged conviction or adjudication is scored unless it was sealed or expunged on the ground of actual innocence. The revised rule also clarified how prior out-of-District sealed or expunged cases are scored, and provides that prior convictions with Imposition of Sentence Suspended should be counted in a defendant's criminal history score.

Criminal Code Revision Project

During the first three quarters of 2014, the Criminal Code Revision Project focused on developing recommendations for the revision of the property and drug offenses specified in the approved Project Management Plan. The revision approach first sought to 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 Criminal Code Revision Committee (CCRC) agreed to negotiate new language for clarifying and making offenses more consistent, including specifying mental state elements that are unclear in current law. The CCRC agreed to make new, substantive changes to the law only where there is unanimous agreement among the CCRC members.

After developing draft revisions for property offenses over the past year, the CCRC's criminal justice members expressed a desire to conduct a more in-depth, cumulative review of all Project work to date within their respective institutions. The primary goal of the "Agency Review" was to identify any concerns regarding the Committee's current process of code revision. A secondary goal was to illicit agency comments on specific draft revisions. A set of agency review materials including the general provisions, a reorganization scheme for Title 22, and revised property offenses was prepared and released to the CCRC on August 4, 2014. The recommended revisions to drug offenses have not undergone an Agency Review to date.

The result of the Agency Review revealed a notable lack of consensus on the appropriate scope and nature of the Project among the major criminal justice agencies. In order to move the Project forward, the Commission decided to modify the Project Management Plan to focus on select code revision activities, such as the enactment of Title 22, for which consensus can be more readily achieved among Committee members. A revised Project Management Plan, approved by the Commission on March 17, 2015, is included in this report.

Table of Abbreviations and Acronyms

Term	Definition
Advisory Commission	District of Columbia Advisory Commission on Sentencing
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
Evaluation Project	District of Columbia Sentencing Guidelines Evaluation Project
FY	Fiscal Year
Guidelines	District of Columbia Voluntary Sentencing Guidelines
GRID System	The Commission's The Guidelines Reporting and Information Data System
GSS	The Commission's GRID Score 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
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
PSI	Pre-Sentence Investigation
PWID	Possession with Intent to Distribute a Controlled Substance
RFP	Request for Proposal
SGS	Sentencing Guidelines System (the Commission's legacy data system)
Superior Court	Superior Court of the District of Columbia
XML	Extensible Markup Language

CHAPTER ONE

COMMISSION PROFILE

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

A. 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, the Revitalization Act established the Truth-in-Sentencing Commission (the TIS Commission) as an independent agency of the District of Columbia. The mandate of the TIS Commission was to make recommendations to the Council of the District of Columbia (the Council) in the form of amendments to the District's sentencing laws for felony offenses committed on or after August 5, 2000, in order to comply with changes required by the Revitalization Act.

The TIS Commission issued its formal recommendations to the Council, limited to the amendments required by the Revitalization Act, on February 1, 1998.¹ In addition to 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 creating an entity to advise and assist the Council in the development of sentencing policy.

In response to the Comments and Suggestions Report, the Council created the District of Columbia Advisory Commission on Sentencing (the Advisory Commission). The Council tasked the Advisory Commission with making recommendations consistent with the goals of the Revitalization Act, including conducting an annual review of sentencing data, policies, and practices, and suggesting any other policy changes designed to enhance the fairness and effectiveness of criminal sentencing in the District of Columbia.

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

Following its inception, the Advisory Commission conducted extensive research on sentencing practices in the District and in other jurisdictions. In 1999, the Advisory Commission submitted the *Criminal Sentencing Practices in the District of Columbia 1993-1998* Report to the Council.

¹ 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.

Further, in April 2000, the Advisory Commission issued *Sentence Recommendations to the Council of the District of Columbia*. The Advisory Commission's recommendations included a conversion from indeterminate to determinate sentencing for all felony offenses, the elimination of parole, and the imposition of Supervised Release following incarceration. The 2000 report also suggested that the District consider adopting some form of structured sentencing as a way of promoting fairness under the new determinate sentencing system. The Council adopted these recommendations in the Sentencing Reform Amendment Act of 2000.² The legislation gave the Advisory Commission the additional responsibility of surveying structured sentencing systems throughout the country and recommending the type of structured sentencing that would best serve the needs of the District's criminal justice system. The Advisory Commission was also required to continue reporting on the implementation of the new determinate sentencing regime in the District.

In 2003, the Advisory Commission recommended that the District adopt voluntary sentencing guidelines. The Council agreed with the recommendation, and enacted the Advisory Commission on Sentencing Structured Sentencing System Pilot Program Amendment Act of 2004, directing the Advisory Commission to assist the Superior Court of the District of Columbia (the Superior Court) with the implementation of the D.C. Voluntary Sentencing Guidelines (the Guidelines) as a pilot program. In addition to creating the Guidelines, the legislation made the Advisory Commission a permanent D.C. Government agency, renaming it the District of Columbia Sentencing Commission (the Commission). The Guidelines went into effect in June 2004 applicable to all felony pleas or verdicts entered on or after June 14, 2004. The Commission continues to monitor and support the use of the Guidelines in the District.³

C. 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. Prior to this new mandate, the Council expressed concern about the state of the District's criminal code, specifically that the current criminal code contained confusing and outdated statutory language, was insufficiently organized, and might contribute to unfair sentencing practices. After research and input from the public, 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.⁴ This 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

² See D.C. Code § 24-403.01 (2000).

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

⁴ See Advisory Commission on Sentencing Act of 2006, D.C. Code § 3-101.1 (2007).

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 expanded the membership of the Commission and changed the name of the Commission to the District of Columbia Sentencing and Criminal Code Revision Commission. The Council initially scheduled the Commission's Code Revision Project (the Project) to end in 2010. However, it was not until 2012 that the Commission received funding for an additional five full-time staff members to support the work of the Project. The Commission fully staffed the project in early 2013. The Commission's Criminal Code Revision mandate currently expires on September 30, 2016.

To date, the Commission continues to fulfill its mandate to promote fair and consistent sentencing policies. The Commission's work has led to many important reforms, including the development of the District's Sentencing Guidelines, which have consistently yielded high compliance rates. In addition to its Guidelines work, the Commission recently developed and implemented a new data system that enables data driven policy recommendations. The Commission looks forward to continuing its collaboration with the Council, the judiciary, and criminal justice agencies to ensure that the District meets its public safety and criminal justice needs.

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.⁵ 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 each new felony offense or sentencing provision enacted by the Council into the Guidelines structure. 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.

⁵ The legislation governing the D.C. Sentencing and Criminal Code Revision Commission can be found at D.C. Code § 3-101 (2012), *et seq.*

III. Commission Membership

The Commission consists of 20 members: 15 voting members and 5 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 for a wide range of perspectives in the development of sentencing and criminal law policy recommendations for the Council.

The voting members of the Commission are:

- Three judges of the Superior Court of the District of Columbia, appointed by the Chief Judge of the Superior Court;
- The United States Attorney for the District of Columbia or his or her designee;
- The Director of the Public Defender Service for the District of Columbia or his or her designee;
- The Attorney General for the District of Columbia or his or her designee;
- The Director of the Court Services and Offender Supervision Agency for the District of Columbia 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 of the District of Columbia;
- Two citizens of the District of Columbia, 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 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;
- The Chairperson of the United States Parole Commission or his or her designee; and
- The Chairperson of the Council committee that has oversight of the Commission.

There were several changes in Commission membership during 2014. Marvin Turner replaced Anne Seymour as the Commission's citizen member appointed by the Mayor. The Honorable Robert Morin replaced the Honorable Ramsey Johnson as one of the three Superior Court judges appointed by the Chief Judge of the Superior Court. The Chief Judge made an additional appointment in early 2015, when he, in consultation with the President of the District of Columbia Bar, selected William R. Martin, Esq., to succeed Michele Roberts, Esq. as the Commission's member of the District of Columbia Bar who specializes in the private practice of criminal defense. Finally, when the Honorable Kenyan McDuffie became Chairman of the D.C. Council Committee on the Judiciary, he joined the Commission as a non-voting member.

IV. Commission Meetings and Activities

The Commission meets throughout the year to address a variety of Guidelines, criminal justice, and agency issues. The issues taken up by the Commission in 2014 included: discussing sentencing data and research; considering modifications to the Guidelines; ranking new or previously unranked offenses; evaluating developments in sentencing policy in the District; monitoring the Commission's data collection techniques and implementing the Commission's new data system; reviewing proposed amendments to the Criminal Code; and addressing the agency's administrative policies. Unless the Commission goes into closed session, meetings are open to the public, and interested parties are encouraged to attend. The Commission publishes meeting dates in advance in the D.C. Register, on the D.C. Board of Ethics and Government Accountability's website, and on the Commission's website. The Commission's website also includes an agenda for each upcoming meeting.

In 2014, the Commission met six times on the following dates:

February	18	September	16
April	15	October	21
June	10	November	18

The minutes of the Commission's public meetings are available online at the Commission's website, located at <http://sentencing.dc.gov>. Commission meetings are usually held on the third Tuesday of each month and convene in Suite 430 South, One Judiciary Square, 441 4th Street, NW, Washington, D.C. 20001.

Over the past year, the Commission enacted changes to the Guidelines, ranked a new felony offense, and discussed possible modifications to the list of factors that allow a judge to depart from the Guidelines. The Agency released several publications during 2014. The publications included the 2013 Annual Report, the 2014 Guidelines Manual, a Guidelines Alert, and a semi-

annual report to the Council on the status of the Criminal Code Revision Project. In addition, in 2014, the Commission implemented its new data system, named the Guidelines Reporting and Information Data System (GRID system),⁶ and continues its work on the Criminal Code Revision Project.⁷

V. Committee Activities

In addition to the meetings of the full Commission, several working committees meet on a regular basis to formulate recommendations on specific sentencing 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

This committee evaluates the District's criminal statutes and makes recommendations to the Commission on code revision. This activity advances the Commission's legislative mandate to prepare comprehensive criminal code revision recommendations for the Council and the Mayor.

The current Criminal Code Revision Committee (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.

The CCRC's work in 2014 followed a Project Management Plan approved by the Commission and submitted to the Council in April 2013. In the first three quarters of 2014, the Commission drafted preliminary revisions to fourteen sections of the D.C. Code concerning property crimes and revisions to an additional five drug offenses. In the fourth quarter of 2014, the United States Attorney's Office for the District of Columbia, the Public Defender Service for the District of Columbia, and the Office of the Attorney General for the District of Columbia undertook an agency review of select Project work completed to-date. In the course of its 2014 work, the

⁶ The GRID system is discussed in detail in Chapter Three.

⁷ Chapter Six provides details on the Criminal Code Reform Project.

Criminal Code Revision Committee held 21 in-person meetings and reviewed hundreds of pages of legal research prepared by agency staff.

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 District of Columbia Sentencing Guidelines Evaluation Project (the Evaluation Project). The Evaluation Project is a two-year research project, which includes three major components related to the Guidelines. The first component of the evaluation is to complete a summative evaluation of sentencing data from 2010 through 2014 in order to assess whether the Guidelines are achieving their statutory goals (i.e., certainty, consistency, and adequacy of punishment). The second component is to perform a comparative analysis of sentencing practices both pre- and post-implementation of the Guidelines. The final component of the study is to develop research-based recommendations regarding possible modifications to the Guidelines for review by Commission members. Each component of the evaluation will be included in a final report to the Commission that will be completed by September 2016.

C. Guidelines Implementation Committee

The primary aim of the Guidelines Implementation Committee is to submit proposals for new or modified criminal offense rankings and other possible Guidelines rule changes to the Commission. The Committee also evaluates potential policy changes that may affect the Guidelines and other sentencing issues. The Committee oversees all changes to the D.C. Voluntary Sentencing Guidelines Manual. The Commission recently changed the name of this Committee from the Ranking Committee to the Guidelines Implementation Committee to reflect more accurately the role of the Committee and to indicate that it does more than rank new offenses.

The full Commission selects the topics that the Guidelines Implementation Committee addresses. Membership on this Committee is not permanent or set by the Commission. Any Commission member may participate in the Guidelines Implementation Committee's work on a specific issue. Commission representatives from the Office of the Attorney General, Public Defender Service, and the United States Attorney's Office are regular participants.

The 2014 work of the Guidelines Implementation Committee is reflected in the changes to the Guidelines discussed in Chapter Two of this Report. The Committee also studied possible modifications to the Guidelines Aggravating and Mitigating Departure Factors.⁸ After considering the issue and presenting it to the full Commission, the Commission decided to delay making any modifications to the Departure Factors until after the Research Committee has completed the Evaluation Project.

D. Public Outreach Committee

The Public Outreach Committee focuses on educating the public, serving as a resource to the community, and collecting information that will inform the Commission's efforts to evaluate sentencing policy in the District of Columbia. Recently, the Committee made extensive changes to the Commission's website to improve public access to the Commission's resources. Changes to the Commission website include self-guided trainings, access to information about the Commission and Guidelines, and user-friendly charts displaying sentencing and criminal justice data. The details regarding recent changes to the website are discussed later in this chapter.

VI. Commission Staff Activities

A. Staffing Developments

Until 2012, the Commission's staff consisted of an executive director, a research analyst, a data manager, a staff attorney, and a staff assistant. The agency's staff increased in 2012, when the Commission received funding for an additional five full-time staff members to undertake the work of the Criminal Code Revision Project. The Criminal Code Revision Project was fully staffed and operational by early 2013.

⁸ Departure Factors allow a judge to impose a sentence Guidelines compliant sentence that is above or below the offender's Guidelines sentencing range.

On December 31, 2014, 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
Thurman Sanders, IV Data Management Specialist	Mia Hebb Staff Assistant	Jinwoo Park, Esq. Staff Counsel
	Bryson Nitta, Esq. Staff Counsel	

Supporting Criminal Justice Practitioners, Decision Makers, and the Public

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

1. Guidelines Training and Education Sessions

Commission staff holds Guidelines training sessions for interested parties throughout the year. The subject area and scope of each training/education session varies depending on the needs and interests of the audience. For members of the public or individuals interested in general information about the Guidelines, Commission staff offers a basic introduction and overview of the Guidelines and sentencing in the District of Columbia. For legal practitioners, the Commission provides basic or in-depth trainings that review the Guidelines rules, discuss practical application issues, and note any recent changes to the Guidelines. Judicial training sessions focus on issues that may be of concern to the Superior Court or particular judges, Guidelines departure procedures, and scenario-based training exercises. The Commission also offers individually tailored trainings for other criminal justice agencies, which focus on their specific needs. In calendar year 2014, Commission staff provided in-person Guidelines training to more than 120 individuals. Anyone interested in arranging an individual or group-training session should contact the Commission.

In addition to conducting in-person training sessions, in 2014 the Commission redesigned a significant portion of its website to include Guidelines educational materials and online trainings. As part of the redesigned website, Commission staff recently added two self-guided Guidelines trainings and a narrated presentation to the website. The self-guided trainings include a basic introduction and overview of the Guidelines for members of the public and new practitioners, as well as a more detailed training on how to calculate an offender's prior criminal history score. The narrated presentation reviews basic information about what happens before, during, and after a sentencing in the District. All of the Commission's trainings finish by directing users to other useful materials, and provide information about how to contact the Commission with specific questions. The Commission intends to expand its online training offerings in 2015.

2. Printed Publications

In 2014, the Commission released two major publications: the 2013 Annual Report and the 2014 Guidelines Manual. The Commission also submitted a semi-annual report regarding the progress of the Criminal Code Revision Project to the Council. Each of these 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 reforming the Criminal Code. The Commission displays official publications and submissions on its website, and digital copies are distributed 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). The 2013 Annual Report, submitted in April 2014, contained a comprehensive overview of the Commission's recent work, a breakdown of felony sentences imposed in Superior Court during calendar year 2013, an analysis of judicial compliance with the Guidelines, and an update on the work of the Criminal Code Revision Project. The Commission also used the Report to provide an overview of the development and implementation of the GRID system. As in previous years, the Annual Report detailed the Commission's data collection and review methods, as well as substantive changes made to the Guidelines in 2013. The Report also provided an in-depth assessment of felony sentencing data based on offense type, sentence type, criminal history score, and offender demographics. Finally, the Annual Report contained a semi-annual update on the progress of the Criminal Code Revision Project.

In June 2014, the Commission published its annual revisions to the Guidelines Manual, which went into effect on June 30, 2014. The 2014 changes to the Guidelines Manual are outlined in Chapter Two of this report. Hard copies of the 2014 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.

The Commission submitted a Criminal Code Revision Semi-Annual Update to the Council in September 2014. The update discussed the Project's progress towards its mandate and the goals identified in the 2013 Project Management Plan. The Update informed the Council that the Project was currently on schedule as outlined in the Project Management Plan. Another Semi-Annual update of the Code Revision Project is included in Chapter Six of this Report.

3. The Website

The Commission uses its website as an integral part of its ongoing effort to increase public access to current sentencing data, the Commission, and the Guidelines. In 2014, Commission staff entirely reformatted the Commission's website to make it easier for visitors to locate and access information. Visitors can now find a wealth of materials and Guidelines resources at <http://sentencing.dc.gov>.

The Commission's website resources include:

- Sentencing Commission updates, press releases, and news;
- Data and charts displaying information about sentencing 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 and 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, 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;

- Contact information for Commission staff members to discuss specific questions or schedule in-person training sessions; and
- Open Government and Freedom of Information Act materials.

The Commission designed the website to allow people unfamiliar with the Guidelines to gain a basic understanding of the history, purpose, and scope of the Guidelines. This includes the newly added self-guided and narrated 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.

Moving forward, Commission staff will continue to expand and update features on the agency's website. More than ever, the website is now a convenient place for practitioners and the public to access information about the Commission and learn how the Guidelines operate. The improvements and additions to the Commission's website over the past several years have resulted in a steady increase in web traffic since 2011.⁹ In calendar year 2014, website visits rose to 5,005,¹⁰ a 50% increase from 2013 and an over 500% increase since 2011.

Over the past several years, Commission has also utilized the website as a means of disseminating published materials such as the Sentencing Guidelines Manual, the Annual Report, and Issues Papers. This has allowed the Commission to reduce printing costs while simultaneously promoting wider distribution of the Commission's work.

4. Responding to Inquiries

Commission staff is available on a daily basis to provide general and specific information about the substance and application of the Guidelines. The Commission responds 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. Practitioners usually request advice or direction in applying the Guidelines in a specific case, help with the calculation of an offender's criminal history score, or the scoring of a specific out-of-District conviction. Guidelines support is available by e-mailing the Commission, calling the Commission, or contacting the Commission via a direct link on the Commission's website.

⁹ The Commission defines website visits as unique website visitors; it does not count repeat page hits by the same visitor.

¹⁰ Some of the increased web traffic in 2014 may be the result of the Commission recruiting applicants for two open positions.

Commission staff responded to 568 Guidelines and information inquiries in fiscal year (FY) 2014, up slightly from 548 in FY 2013. More than 95% of the inquiries made to the Commission involved the scoring of a defendant's prior criminal history, identifying the applicable sentencing range, or determining whether a specific sentence was compliant with the Guidelines. Staff responded to more than 99% of all 2014 Guidelines inquiries within 24 hours or the next business day. The less-than-one-percent of Guidelines inquiries requiring more than one day to respond involved either complex legal analysis, detailed research, or consultation with Commission members.

It is important to note that Commission staff only provides Guidelines advice and guidance; they do not 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 that case. For example, if a practitioner would like to know how a defendant's prior out-of-District conviction would factor into his or her total prior criminal history 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 present 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.

5. Data Requests

In addition to the research and analysis conducted for the Commission's Annual Report and research papers, the Commission also responds to data requests from Commission members, Councilmembers, the Mayor's office, other government agencies, organizations, educational institutions, legal practitioners, and individuals. The Commission accepts data requests submitted in writing. To simplify the data request process, last year, the Commission developed a standardized form for all data requests. The form is available on the Commission's website, and Commission staff is always available to help with 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. Individual defendant sentencing information is available on the Superior Court's website (www.dccourts.gov).

After approving a data request, the Commission makes every effort to provide the information requested in a timely and accurate manner. The following are examples of data requests the Commission received and responded to in 2014:

- Sentences imposed for manslaughter and negligent homicide;
- Percentage of drug versus non-drug sentences by year;
- Number of felony sentences imposed by offense type and year;
- Number of single count felony arson cases sentenced by average term of incarceration;
- Average sentence imposed by sentence type for offense types (property, drug, violent etc.);
- Distribution of sentence type imposed for drug offenses between 2010 and 2014; and
- Number of adult offenders above 25 years old at the time of sentencing who received Youth Rehabilitation Act sentences.

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 working to make the city safe for all of its residents and visitors. This effort includes participation in several citywide work groups or committees. These groups include:

- Information Technology Advisory Committee (ITAC) – This committee sets the direction, policies, and goals for the 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.

B. Sentencing Review and Analysis

As presented in later chapters of this Report, reviewing and analyzing Guidelines usage and sentencing trends in the District of Columbia is one of the primary functions of the Commission. In FY 2014, Commission staff once again focused on improving its data collection and analysis capabilities to ensure the validity and reliability of the data presented. Compared to previous years, Commission staff spent less time in 2014 retrieving, cleaning, and validating sentencing data due to the implementation of the GRID system. The time saved allowed Commission staff to focus on research and data analysis.

C. CSOSA Criminal History Information

The Commission considers a sentence compliant with the Guidelines if it falls within the recommended sentencing options and sentencing range set forth in the Guidelines Manual or meets certain recognized exceptions. The recommended sentencing options and sentencing range are based primarily on the offense of conviction and the offender's criminal history score. For the Commission to assess overall compliance with the Guidelines and to analyze sentencing trends in Superior Court, the Commission must have accurate information regarding the convictions sentenced and the offender's prior criminal history score. The latter has proved more of a challenge to acquire than the former. However, over the past two years, due in large part to collaborative efforts by CSOSA, Commission staff has made major strides in ensuring that the Commission receives criminal history score calculations from CSOSA for every felony sentence it receives from the Court. As a result, there has been a significant improvement in the quality and availability of criminal history data. In 2011, the Commission received criminal history score calculations in 92% of all felony cases; in 2012, it increased to more than 98%. In both 2013 and 2014, the Commission received criminal history score calculations in more than 99% of all felony cases, missing only those cases in which a judge imposed a sentence without an updated presentence report or did not request CSOSA to calculate the offender's criminal history score.

D. Development of a New Data System

Over the past several years, the Commission designed, developed, and implemented a new criminal justice data system, called the Guidelines Reporting and Information Data (GRID) system. The Commission began using the GRID system as its primary data system in January 2014. Prior to the implementation of the GRID system, the Commission received sentencing and criminal justice data through its legacy data system called the Sentencing Guidelines System ("SGS"). The SGS received a limited amount of filtered sentencing data from the Superior Court through an XML interface with the Criminal Justice Coordinating Council's ("CJCC") Justice Information System ("JUSTIS"). In 2011, the Superior Court announced that it was changing the manner in which it disseminated information to the Commission and other criminal justice agencies. Instead of providing filtered information to the Commission via the CJCC JUSTIS system, the Superior Court would provide unfiltered data through the IJIS 12.1 data feed to CJCC's JUSTIS system, which would then disseminate the data to all recipient agencies, including the Commission.

In response to the Superior Court's new data sharing process, in early 2012, the Commission assessed the most effective and cost efficient manner to continue receiving and consuming Superior Court data. The Commission concluded the most efficient approach was to develop a

new data system capable of receiving and analyzing every unfiltered data element in the IJIS 12.1 feed. The Commission held a competitive bid to select a vendor to build the system in the fall of 2012. In the spring of 2013, the Commission began designing and developing the new data system. Commission members and staff spent thousands of hours working with the vendor and other D.C. government agencies to design, build, test, and deploy a data system with advanced reporting and analytic capabilities not otherwise available in the District of Columbia. Through the intensive work of staff and oversight by the Commission, the GRID system exceeded its base functional requirements and was completed on schedule and under budget. For more information on the GRID system capabilities, see Chapter Three of this Report.

As discussed above, the Commission needs three primary pieces of information to calculate whether an offender's sentence is compliant with the Guidelines: the offense of conviction, the offender's criminal history score and the sentence imposed. Upon completion, the GRID system receives offense and sentencing information automatically from the Superior Court as part of the IJIS 12.1 feed. However, the GRID system could not automatically receive and consume criminal history data from CSOSA. For the GRID system to receive and consume CSOSA data, pre-sentencing report writers were required to fill out an electronic form and forward it to the Commission to be matched with the corresponding offense and sentence data for each felony case.

In 2013, the Commission and CSOSA agreed to collaborate on an enhancement to the GRID system that would allow both agencies to share data electronically without the need for e-mailed forms. In early 2014, the Commission and CSOSA began the development of the GRID Scoring System (GSS) as an enhancement to the GRID system. CSOSA users directly input CH information into GSS. GSS then calculates and electronically transfers criminal history scores from CSOSA to the GRID system. The GRID system next matches GSS information to the appropriate felony case and automatically calculates judicial compliance with the Guidelines. The Commission designed GSS to reduce the workload of CSOSA users by prepopulating offender information from CSOSA's SMART data system and the Superior Court's IJIS 12.1 data feed. This process has the added benefit of reducing discrepancies between Superior Court and CSOSA information, while ensuring that all CSOSA criminal history scores instantly transfer to the Commission without the need for further staff intervention.

GSS also provides information to CSOSA. After a judge sentences an offender, GSS notifies CSOSA about any modifications to the offender's criminal history score so that CSOSA can properly adjust the offender's record. In addition, GSS informs CSOSA whether the judge followed CSOSA's sentencing recommendation in a specific case. This will enable CSOSA to monitor how judges are using their sentencing recommendations.

The Commission and CSOSA completed the design and development of GSS in December 2014, and the system went into pilot testing for two months to ensure all technical and business processes were operating correctly. The Commission deployed GSS into full production on March 1, 2015. Both GRID and GSS are now operational. With the system in place, the Commission and CSOSA will benefit from both improved data quality and efficiency in the transfer of criminal history scores.

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. This includes any changes to offense severity rankings, the Guidelines' recommended sentencing options or prison ranges, and the rules for calculating a defendant's prior criminal history score. If the Council enacted legislation during the preceding year that created new offenses or changed penalties for existing offenses, the report must explain how the Commission incorporated those changes into the Guidelines.¹¹

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 two policy changes that altered the substance of the Guidelines as well as technical changes that modified the Guidelines Manual. The Commission also ranked one new offense and published ranking for new offenses from 2013 that became effective in 2014.

I. Policy Changes to the Sentencing Guidelines

A. Crimes of Violence – Guidelines Section 7.4

The Guidelines treat offenses classified as crimes of violence (COVs) differently than other offenses. The COV designation affects whether a sentence should be imposed concurrently with or consecutive to another sentence.¹² Prior to 2014, the Guidelines had a unique list of offenses considered COVs that was different from the list of COVs contained in D.C. Code § 23-1331(4). This discrepancy meant that certain crimes were COVs under the D.C. Code, but not the Guidelines, and that certain crimes were COVs under the Guidelines, but not the D.C. Code. After discussing the issue, the Commission decided that having a distinct list of COVs in the Guidelines was unnecessarily confusing, and that the Commission should defer to the statutory definition. The Commission removed its list of COVs from the Guidelines Manual and replaced it with a list of COVs enumerated in D.C. Code § 23-1331(4).

The Commission's adoption of the D.C. Code statutory definition of COVs affected six specific offenses. Assault with significant bodily injury, gang recruitment, and involuntary manslaughter

¹¹ 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."

¹² See D.C. Voluntary Sentencing Guidelines Chapter 6.

became COVs under the Guidelines. The change removed negligent homicide, possession of a firearm during the commission of a COV, and rioting as COVs under the Guidelines.

B. Sealed or Expunged Convictions or Adjudications – Guidelines Section 2.2.9

The Guidelines did not previously address whether CSOSA or the court should count a defendant's prior sealed convictions as part of his or her prior criminal history score.¹³ The Commission modified the rule to specify that a prior D.C. sealed or expunged conviction or adjudication should be scored unless it was sealed or expunged on the ground of actual innocence. The revised rule also clarified how prior out-of-District sealed or expunged cases should be scored, and provides that prior convictions with Imposition of Sentence Suspended should be counted in a defendant's criminal history score.

The new rule states that:

D.C. sealed or expunged convictions are counted like any other conviction.

D.C. sealed or expunged adjudications are counted like any other adjudication.

However, convictions or adjudications sealed or expunged on the ground of actual innocence, whether in D.C. or in a foreign jurisdiction, shall not be counted, nor shall convictions or adjudications sealed or expunged in foreign jurisdictions if the effect of such sealing or expungement is that the conviction or adjudication cannot be used or counted against the defendant in that jurisdiction at sentencing for a new offense. The defendant shall bear the burden of showing, by a preponderance of the evidence, that the foreign sealing or expungement exists and has such an effect.

II. Technical Changes to the Guidelines Manual

A. Substantive Amendments to the Guidelines and Guidelines Manual

The Commission made the following substantive amendments to the 2014 Guidelines Manual, which the Commission published in June 2014. All references contained in this chapter pertain to the Guidelines Manual.

¹³ Previously, Guidelines section 2.2.9 stated that "Youth Rehabilitation Act and Federal Youth Corrections Act sentences are counted like any other conviction, whether the conviction has been set aside or not."

Chapter 2

1. Section 2.2.1, paragraph two. The Commission clarified this section by adding, “cases that are dismissed before a judgment of guilt or a sentence is imposed are not scored.” Additionally, the Guidelines now contain a new footnote that provides two examples of unscored dispositions.
2. Section 2.2.3, paragraph one. The Commission added footnote eight to address how an offense taking place over a period of time should be handled; it now states that “if the instant offense took place over several dates, calculate the ten-year window based on the date the criminal activity began.”
3. Section 2.2.4, paragraph one. Practitioners and judges expressed confusion regarding how to determine if a defendant’s prior juvenile adjudication lapsed when the original juvenile sentence included a period of supervision, supervision was subsequently revoked, and a new sentence was imposed that did not include time in a locked facility. The Commission modified the section to specify that the five-year window before a juvenile adjudication lapses run from “the date of initial disposition” unless the defendant is committed to a locked facility. The Commission also added more examples to clarify the distinction and assist practitioners with the application of this rule.
4. Section 2.2.6(a)(5). This section addresses how CSOSA should initially score a defendant’s prior out-of-District conviction that does not match a D.C. statute. The Commission clarified the section by making the following changes:
 - a. Reordering the subsections.
 - b. Adding a new subsection stating that CSOSA should “not score convictions that are classified as misdemeanors by the other jurisdiction and have a maximum punishment of less than 90 days of incarceration.”
 - c. Clarifying the rules for scoring out-of-District juvenile adjudications with no comparable D.C. statute. The rule now states that CSOSA should “apply ½ point for all juvenile adjudications for offenses the other jurisdiction classifies as felonies if committed by an adult; do not score juvenile adjudications for offenses the other jurisdiction classifies as misdemeanors if committed by an adult.”
5. Section 2.2.8(c). In keeping with the overall intent of section 2.2.8, that the defendant receive a benefit from, but not be penalized by, any statutory change, two new subsections were added:

- a. Subsection 6: “Convictions for an offense that had a maximum penalty of less than 90 days of incarceration when the prior offense was committed, but subsequently had the maximum penalty increased to 90 days or more of incarceration, should not be scored.”
- b. Subsection 7: “Convictions for an offense that had a maximum penalty of 90 days or more of incarceration when the prior offense was committed, but subsequently had the maximum penalty decreased to less than 90 days of incarceration, should not be scored.”

Chapter 6

1. Section 6.3. The Commission added an example to the end of Chapter 6 to help clarify when non-violent offenses should run concurrent to each other. The example reads:

The defendant sold heroin and cocaine to an undercover narcotics officer as part of a “buy – bust” operation. The defendant was not apprehended at the time of the transaction and a warrant was issued for her arrest. The defendant was arrested three days later. A search of the defendant’s person at the time of her arrest uncovered liquid PCP. The defendant was convicted of distribution of heroin, distribution of cocaine, and possession of liquid PCP. The sentences imposed for distribution of heroin and distribution of cocaine should run concurrently because they are non-violent crimes that arose from the same event. The court has the discretion to impose a sentence for possession of liquid PCP that runs either concurrently or consecutively to the sentences imposed for the distribution of heroin and distribution of cocaine convictions because they are not part of the same event.

Chapter 7

1. Section 7.11. The Commission created a definition for the term “felony offense.” The definition provides that: “A felony offense is any offense specified by the applicable code as a felony or, if undefined, an offense that is punishable by a term of imprisonment that exceeds one year.”
2. Section 7.20. The Commission created a definition for the term “misdemeanor offense.” The definition provides that: “A misdemeanor offense is any offense that is not a felony offense.”

Chapter 8

1. Section 8.5. The Commission modified the FAQ section to address how the Guidelines score a prior conviction listed as “attempted crime not listed.” The new language states:

A D.C. Superior Court conviction for “attempted crime not listed” should be scored as a misdemeanor unless the sentence imposed is greater than a year or the judgment and commitment order, or other reliable evidence, shows that the conviction was for an attempt offense that constitutes a felony, in which case it would be scored as “any other felony.” The burden is on the government to produce such evidence. The normal lapsing rules apply.

Appendix C/C-I:

1. The Commission recalculated all fines in accordance with the Fine Proportionality Act, D.C. Code § 22-3571.01.
2. The Commission removed all references to the offense of Firearm, Presence in a Motor Vehicle because the Court of Appeals ruled that the offense was unconstitutional.

Appendix H:

1. Section II(3). The Commission removed all references to the offense of Firearm, Presence in a Motor Vehicle because the Court of Appeals ruled that the offense was unconstitutional.

III. New Offenses Rankings¹⁴

The Commission ranked the following new offense in 2014:

1. Assault With Significant Bodily Injury While Armed, D.C. Code §§ 22-404(a)(2), 22-4502, is ranked in Master Group 6.

¹⁴ The Guidelines sentencing options and sentencing range for each listed offense can be determined by placing the listed Master Group number into the Guidelines Grid contained in Appendix A.

The Commission ranked the following offenses in 2013; however, the rankings did not become effective until 2014:

1. Weapon of Mass Destruction, Manufacture or Possession, D.C. Code § 22-3154(a), is ranked in Master Group 3
2. Weapon of Mass Destruction, Manufacture or Possession – Attempt or Conspiracy to Commit, D.C. Code § 22-3154(b), is ranked in Master Group 5.
3. Weapon of Mass Destruction, Use, Dissemination, or Detonation, D.C. Code § 22-3155(a), is ranked in Master Group 2.
4. Weapon of Mass Destruction, Use, Dissemination, or Detonation – Attempt or Conspiracy to Commit, D.C. Code § 22-3155(b), is ranked in Master Group 3.
5. Murder in the First Degree as Part of an Act of Terrorism, D.C. Code § 22-3153(a), is ranked in Master Group 1.
6. Murder in the First Degree as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153(a), 22-4502, is ranked in Master Group 1.
7. Murder in the First Degree as Part of an Act of Terrorism – Attempt or Conspiracy to Commit, D.C. Code § 22-3153(j), is ranked in Master Group 4.
8. Murder in the First Degree as Part of an Act of Terrorism While Armed – Attempt or Conspiracy to Commit, D.C. Code §§ 22-3153(j), 22-4502, is ranked in Master Group 3.
9. Murder in the First Degree of a Law Enforcement Officer as Part of an Act of Terrorism, D.C. Code § 22-3153(b), is ranked in Master Group 1.
10. Murder in the First Degree of a Law Enforcement Officer as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153 (b), 22-4502, is ranked in Master Group 1.
11. Murder in the First Degree of a Law Enforcement Officer as Part of an Act of Terrorism – Attempt or Conspiracy to Commit, D.C. Code § 22-3153(j), is ranked in Master Group 3.

12. Murder in the First Degree of a Law Enforcement Officer as Part of an Act of Terrorism While Armed – Attempt or Conspiracy to Commit, D.C. Code §§ 22-3153(j), 22-4502, is ranked in Master Group 2.
13. Murder in the Second Degree as Part of an Act of Terrorism, D.C. Code § 22-3153(c), is ranked in Master Group 2.
14. Murder in the Second Degree as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153(c), 22-4502, is ranked in Master Group 2.
15. Manslaughter as Part of an Act of Terrorism, D.C. Code § 22-3153(d), is ranked in Master Group 4.
16. Manslaughter as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153(d), 22-4502, is ranked in Master Group 3.
17. Kidnapping as Part of an Act of Terrorism, D.C. Code § 22-3153(e), is ranked in Master Group 4.
18. Kidnapping as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153(e), 22-4502, is ranked in Master Group 3.
19. Kidnapping as Part of an Act of Terrorism – Attempt or Conspiracy to Commit, D.C. Code § 22-3153(j), is ranked in Master Group 5.
20. Kidnapping as Part of an Act of Terrorism While Armed – Attempt or Conspiracy to Commit, D.C. Code §§ 22-3153(j), 22-4502, is ranked in Master Group 4.
21. Assault with Intent to Kill as Part of an Act of Terrorism, D.C. Code § 22-3153(f), is ranked in Master Group 4.
22. Assault with Intent to Kill as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153(f), 22-4502, is ranked in Master Group 3.
23. Mayhem/Malicious Disfigurement as Part of an Act of Terrorism, D.C. Code § 22-3153(g), is ranked in Master Group 5.
24. Mayhem/Malicious Disfigurement as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153(g), 22-4502, is ranked in Master Group 4.

25. Mayhem/Malicious Disfigurement as Part of an Act of Terrorism – Attempt or Conspiracy to Commit, D.C. Code § 22-3153(l), is ranked in Master Group 6.
26. Mayhem/Malicious Disfigurement as Part of an Act of Terrorism While Armed – Attempt or Conspiracy to Commit, D.C. Code §§ 22-3153(l), 22-4502, is ranked in Master Group 5.
27. Arson as Part of an Act of Terrorism, D.C. Code § 22-3153(h), is ranked in Master Group 5.
28. Arson as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153(h), 22-4502, is ranked in Master Group 4.
29. Arson as Part of an Act of Terrorism – Attempt or Conspiracy to Commit, D.C. Code § 22-3153(l), is ranked in Master Group 6.
30. Arson as Part of an Act of Terrorism While Armed – Attempt or Conspiracy to Commit, D.C. Code §§ 22-3153(l), 22-4502, is ranked in Master Group 5.
31. Destruction of Property (>\$500,000) as Part of an Act of Terrorism, D.C. Code § 22-3153(i), is ranked in Master Group 5.
32. Destruction of Property (>\$500,000) as Part of an Act of Terrorism While Armed, D.C. Code §§ 22-3153(i), 22-4502, is ranked in Master Group 4.
33. Destruction of Property (>\$500,000) as Part of an Act of Terrorism – Attempt or Conspiracy to Commit, D.C. Code § 22-3153(l), is ranked in Master Group 6.
34. Destruction of Property (>\$500,000) as Part of an Act of Terrorism While Armed – Attempt or Conspiracy to Commit, D.C. Code §§ 22-3153(l), 22-4502, is ranked in Master Group 5.
35. Providing Material Support or Resources for an Act of Terrorism, D.C. Code § 22-3153(m), is ranked in Master Group 5.
36. Providing Material Support or Resources for an Act of Terrorism While Armed, D.C. Code §§ 22-3153(i), 22-4502, is ranked in Master Group 4.
37. Soliciting Material Support or Resources for an Act of Terrorism, D.C. Code § 22-3153(n), is ranked in Master Group 6.

38. Soliciting Material Support or Resources for an Act of Terrorism While Armed, D.C.
Code §§ 22-3153(n), 22-4502, is ranked in Master Group 5.

CHAPTER THREE

OVERVIEW OF AGENCY DATA SOURCES AND COLLECTION PROCEDURES

The Commission's Guidelines Reporting Information Data (GRID) system enables the Commission to analyze criminal justice data more efficiently and automatically determines judicial compliance with the Guidelines. The GRID system utilizes data from three sources: the Superior Court of the District of Columbia (Superior Court), the Court Services and Offender Supervision Agency (CSOSA), and individual Superior Court judges. The Superior Court provides the Commission with all offense, conviction, and sentencing-related data via a daily electronic transmission. CSOSA provides the Commission with offender criminal history information electronically through the GRID Scoring System (GSS). Finally, individual judges provide the Commission with information relating to felony sentences that Commission staff initially classify as non-compliant with the Guidelines.

I. The GRID System

Prior to 2012, the Commission utilized 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 XML interface via the Justice Information System (JUSTIS).¹⁵ Using SGS, the Commission received data related to Superior Court convictions and sentencings after a plea or verdict. The Commission then imported the case data and integrated it into the appropriate offender/case record. Information on felony cases prior to a plea or verdict was not available to the Commission.

In the fall of 2011, the Superior Court announced that it was changing the manner by which it would share data with partner criminal justice agencies. The Superior Court implemented a new information sharing system, the Integrated Justice Information System (IJIS) Outbound 12.1. 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. As a result, recipient agencies were required to make technical changes to their respective data systems to continue receiving Superior Court data.

The Commission designed the SGS data system to consume the 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 transfer system. In order to maintain data sharing

¹⁵ JUSTIS is a data-sharing network operated by the Criminal Justice Coordinating Council (CJCC).

capabilities with the Superior Court, the Commission was required to overhaul or replace its SGS system.

A. Development and Implementation of the GRID System

Because of the change to the court's technology, retaining compatibility with the agency's primary data source became a priority for the Commission. Consuming 508 data variables and attributes also enables the agency to undertake more comprehensive analysis of sentencing trends and practices, and evaluate the effectiveness of the Guidelines. Thus, the Commission undertook a three-phase approach in developing a new data system.

Phase I – Needs Assessment

During the spring of 2012, 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 communication; or, alternatively, whether the agency should contract to build a 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 data needs of the agency.

Phase II – Design and Development of a New Data System

In May 2012, the Commission, with the assistance of an IT Project Manager, began developing a request for proposal (RFP) that identified both the business needs and technical requirements for the Commission's new data system. The Commission released the RFP for competitive bidding in September 2012. After receiving and evaluating submitted proposals, the agency awarded a fixed price contract to Blueprint Consulting Services on December 21, 2012.

The construction of the data system officially began on January 10, 2013. Funding for the project was provided through a FY 2013 Capital Budget request. To minimize the costs, the Commission entered into an inter-agency agreement with the Pretrial Services Agency (PSA) to utilize PSA's 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 for the XML used to extract Superior Court data. 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 is 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 utilizing a four-step process to ensure the functionality of each individual component of the system prior to the completion and deployment of the entire system. The data system was designed to incorporate an agile development process that allowed for the continual testing of technical and functional issues and incorporated agency feedback throughout the development and implementation process.

The four steps of implementation included:

1. Base technical and business processes, which included providing case and offender information, base statistical analysis capabilities, and administrative security controls;
2. 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;
3. Automated transfer of criminal history information from CSOSA through an XML interface and integration of data directly into the GRID system, including the automatic calculation of judicial compliance; and
4. Full system functionality with tested and verified enhancements.

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

B. Description of Data system Capabilities

The Grid system has four essential core capabilities:

1. *Receives and sends data.* The Superior Court sends IJIS 12.1 data containing sentencing information to the GRID system. CSOSA transfers criminal history data to the GRID system while the GRID system sends sentencing data to CSOSA. A more detailed explanation of how the Commission receives data from, and sends data to, CSOSA is provided in Part II).
2. *Stores, displays, and exports data.* The GRID system merges and stores the data received from the Court with the data entered by CSOSA and the Commission staff through a Microsoft SQL database. Data are viewed using an interactive web base display/interphase. Data can also be downloaded through the display into Microsoft Excel or SPSS formats.
3. *Calculates compliance.* The GRID system computes compliance for any new or up-dated cases in the GRID system on a nightly basis.
4. *Performs analytics/analysis.* The GRID system was built to perform numerous custom and ad hoc statistical functions, which can be saved and edited for future use, allowing staff undertake a variety of analyses.

C. Calibrating the GRID System

Although the GRID system became was fully operational in 2014, the system required several adjustments to achieve optimal performance. The three major steps taken to calibrate the GRID system included: (1) creating security protocols and training users; (2) programming charge codes; and (3) adjusting the compliance rule engine.

The Commission developed and implemented security policies before the system was fully deployed. Users were tested and certified prior to receiving authorization to use the GRID system. The system includes a set security protocols that allows users to access only the GRID capabilities related to their specific responsibilities. After implementing the security policies and protocols, Commission staff identified all appropriate Superior Court felony charge codes to be programmed into the GRID system. Finally, the staff created a series of custom data queries that are used to monitor the sentencing guidelines. The Commission anticipates that these calibrations will enable the GRID system to be more effective and efficient in monitoring and analyzing sentencing data.

II. GSS Data System

The Grid Scoring System (GSS) revolutionized the manner in which Commission receives criminal history scores from CSOSA. GSS is bi-directional XML interface, which fully utilizes the multiple functions of the new GRID system. This system will improve the quality and timeliness data received from CSOSA. In addition, it allows the Commission to provide CSOSA with the most accurate sentencing information available when the court modifies a defendant's criminal history score (CH) Score after the Pre-Sentence Investigation Report (PSI) is completed.

A. Description of Criminal History Data

An offender's CH Score is one of two primary factors the Guidelines use to determine his or her recommended Guidelines-compliant sentence for any felony conviction. CSOSA prepares each defendant's criminal history score as part of the PSI. CSOSA calculates a defendant's CH Score based on his or her prior criminal convictions within and outside of the District of Columbia. Prior felony and most misdemeanor convictions, as well as recent juvenile adjudications, factor into each defendant's CH Score.

B. The need for the GSS

Prior to the implementation of the GRID system, CSOSA transferred CH Scores to the Commission through a digital form called the Sentencing Guideline Form, which CSOSA e-mailed to the Commission. 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.¹⁶ The GRID system is able to automatically match the offender's CH Score to the appropriate case number and merge the CH Score with the IJIS 12.1 data from Superior Court to create a complete sentencing record.

The transfer of criminal history scores through a single directional XML interface was a notable improvement over the previous email system because it allowed the Commission to receive criminal history score information from CSOSA through the GRID system. Unfortunately, however, the one directional XML interface and previous email base system did not allow for two-way transmission of information between the agencies. The Commission and CSOSA decided that a bi-directional XML interface was necessary to fully utilize the multiple functions of the GRID system and to provide CSOSA with the timeliest and most accurate sentencing information available.¹⁷ This technology would reduce CH Score errors and maximize the

¹⁶ Single directional means that information or data is only transferred in one direction.

¹⁷ Bi-directional means that information can be sent in two directions, as in between two agencies.

number of CH Scores received by the Commission. As noted earlier, the Commission named the new bi-directional interface the Grid Scoring System.

C. Development and Design of the GSS system

In early 2014, the Commission initiated a request for proposal (RFP) that identified both the business needs and technical requirements of the Commission's new bi-directional XML interface: the GSS. The vendor submitted a proposal in late February 2014 and after reviewing and evaluating the proposal, the Commission entered into a fixed price contract with Blue Print Consulting for the design and implementation of GSS. Development of GSS began on March 11, 2014, and was funded through a FY 2015 Capital Budget request.

D. Timeline for Implementation

In December 2015, the Commission and its vendor finished the development of GSS. Pre-production and pilot user testing took place during January and February 2015. CSOSA users began testing GSS system for both technical and business issues related to functionality. Testing also included CSOSA and the Commission using GSS and the one direction XML simultaneously to ensure no CH data was lost. Based on CSOSA user feedback, the Commission modified GSS to improve usability. Management from both agencies also reviewed GSS and verified that the deployed system met all the technical and business requirements for each agency. The Commission deployed GSS into full production on March 1, 2015, within the stated contract period and budget. At that time, the one- directional XML interface was discontinued.

E. Benefits of the GSS System

GSS is a bi-directional information exchange, allowing information to be transmitted in both directions between CSOSA and the Commission. This process facilitates a seamless exchange of data between the Commission and CSOSA. GSS also provides the Commission and CSOSA with enhanced data accuracy and reliability regarding CH Scores and sentencing and Guideline compliance data.

III. Sentencing Data

The Commission captures 508 parameters that include 232 unique data elements from the Superior Court's IJIS 12.1 data feed through the JUSTIS interface to the GRID system. 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, 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 level. 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 identify the impact of policy changes and to develop modifications to the Guidelines.

In 2014, the Commission also created historic data functionality within the GRID system to analyze data captured during each calendar year. The historic data functionality provides an end-of-year dataset representing the sentencing events for a particular year. The historic data is 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 is used for statistical analysis, more general 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 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. While the GRID system still 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 a sentence falls within the recommended Guidelines range and options, 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 range and available sentencing options based upon the defendant's CH Score and the offense of conviction. If a felony sentence is initially assessed to be non-compliant, the sentence is evaluated further using a number of different factors to assess if the sentence may be compliant for other reasons. The Commission uses a seven-step process to determine if the sentence imposed is actually compliant with the Guidelines. The GRID system automatically performs the first five steps of the Commission's seven-step compliance process. The two remaining steps, which were necessary in fewer than 7% of all counts sentenced in 2014, are still performed by staff.

A. The Seven-Step Process to Determine Judicial Compliance

Step One - Identify Felony Offenses

The Guidelines only apply to felony convictions; therefore, compliance is not calculated for misdemeanor 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 the case contains at least one felony count, the process then proceeds to step two.

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 drug-related. Each grid uses the predetermined severity level for the offense of conviction and the defendant's CH Score to determine the recommended type of sentence and recommended sentence length. If a sentence falls within the appropriate 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.

Step Three - Determine if the Sentence Runs Concurrently with an Equal or Longer Compliant Sentence on another Count

An otherwise non-compliant sentence may still be compliant with the Guidelines if it runs concurrently with another greater or equal compliant sentence within the same case. For this to happen, 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 a defendant will serve. If the sentence does not run concurrent to another sentence or if the longest sentence is non-compliant, the process then proceeds to step four.

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.

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 does not specify if the sentence must run concurrent or consecutive to another sentence, the discretion is left to the sentencing judge.

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. 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.

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(e)(1)(C) pleas: The Guidelines and the GRID system classify all Rule 11(e)(1)(C) sentences as compliant, regardless of whether the agreed upon sentence would otherwise be compliant for the particular offender and offense. In Rule 11(e)(1)(C) pleas, the sentence is agreed to before the defendant's criminal history score is calculated.

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

Indeterminate sentences: Most indeterminate sentences are deemed "non-guideline applicable" sentences because the District of Columbia changed from an indeterminate to a determinate system of sentencing²¹ for all felonies committed after August 5, 2000.²² The Guidelines were designed primarily for the new determinate system. However, a very few number of pleas or verdicts entered after June 14, 2004, are cases in which an

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 gun 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 defendant'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 defendant's initial release date. For example, a sentence of 30 to 90 months incarceration is an indeterminate sentence.

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).

indeterminate sentence must be imposed because the offense was committed before August 5, 2000. If the plea or verdict was entered on or after June 14, 2004, the Guidelines apply regardless of when the offense was committed – i.e., whether the offense was committed before or after August 5, 2000. Commission staff manually evaluates the small number of indeterminate sentences that occasionally appear in the data.

The GRID system detects and labels remand sentences. A remand is a case sent back to the sentencing court for re-sentencing by the Court of Appeals. The Commission does not currently evaluate Guidelines compliance for remand sentences.

On rare occasions, a count in a case will have a sentence stating that it has merged with another count within that case. For example, “count 5 has merged with count 6.” In these instances, the merged sentence’s compliance will be the same as the sentence for the count with which it is merged. The only exception to this rule is when a count is merging with a compliant-in-the-box count. In these instances, the merging count is considered compliant outside-the-box.

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 compliance rate.²³ If one of the above conditions does not apply, the process then proceeds to step six.

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 defendant’s information is manually reviewed 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. If the sentence still appears to be non-compliant after the information is verified, one final step must be taken.

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.

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 defendant 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 regarding the case. For example, if the defendant's CH Score was changed during the sentencing hearing, the judge may provide the updated CH Score. The sentencing judge may also provide a reason for intentionally imposing a non-compliant sentence or may identify one of the approved departure factors the judge relied on but neglected to record in the docket, which would cause the Commission to reclassify the case as a compliant departure. Once the submit button is pressed, the form automatically emails back to Commission staff where the information is entered into the GRID system to complete the record.

V. Conclusion

With the implementation of the GRID system and GSS, the Commission has significantly improved and expanded both the quality and quantity of information it uses to analyze sentences and to calculate compliance with the Guidelines. Use of the GRID system ensures that the Commission can consume the IJIS 12.1 data necessary to monitor and analyze sentencing trends. In the future, the increased number of data elements available will allow for an enhanced statistical analysis of sentencing practices in the District. It will also provide the basis for the comprehensive evaluation study of the impact and effectiveness of the Guidelines.

The ability of the GRID system to electronically consume CH Score information from CSOSA through GSS further enhances the Commission's capacity to develop a comprehensive sentencing record for each defendant convicted of a felony offense and automatically calculate judicial compliance with the Guidelines. Since the implementation of the GRID system and GSS, there has been a significant overall improvement in the Commission's data collection, processing, and analysis capabilities.

With the comprehensive data now available to the Commission, along with the notable improvements to its analytical capabilities, comparison between the data and findings in this year's report and those in past years may not be appropriate. Findings from prior years, made with the limited data available through the agency's legacy SGS system, may be incompatible with data presented in this year's Report. With the comprehensive data now available for analysis directly from the IJIS 12.1 data feed, the Commission is able to reflect sentencing practices with greater precision. The implementation of the GRID system also provides the ability to undertake more in-depth analysis. The implementation of the GRID system and the

creation of the GSS illustrate the Commission's commitment to improving the validity and reliability of sentencing data reported.

CHAPTER FOUR

SENTENCING DATA AND ANALYSIS

This chapter provides an overview of felony sentences imposed in the District of Columbia during 2014. The data used for the analysis in this chapter include all felony convictions sentenced in Superior Court from January 1, 2014, through December 31, 2014, 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 offender characteristics, sentence type, and offense type. It does not analyze sentences for misdemeanor or traffic offenses because the Sentencing Guidelines apply only to felony sentences.

In addition to the 2014 sentencing data, this chapter includes felony sentencing trends from 2010 through 2014. As with the 2014 sentencing data, the felony sentencing trends analysis will provide a synopsis of sentencing practices in the District of Columbia. The trend analysis from 2010 through 2014 reflects any modifications made to the Sentencing Guidelines during this timeframe.

In order to analyze all 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 when considering the most severe count for a case. Lastly, offender level analysis detects 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 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. However, in 2013 the Commission decided to categorize long split

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

sentences as prison sentences because a long split sentence requires the offender to serve at least the minimum Guidelines compliant sentence, and is available in prison-only grid boxes. By including long split sentences with prison sentences, the Commission now classifies three types of sentences for purpose of analysis: prison, probation and short split 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 2014 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 clearer, more accurate summary of sentencing in the District of Columbia. Data collection from prior years was not as comprehensive due to data coming 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 Criminal History Score (CH Score) of the offender, and the other 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 may be classified, with "A" representing the lowest criminal history score and "E" representing the highest.²⁸ In order to determine offense severity, the grid classifies offenses into nine OSGs represented on the vertical axis of the Master Grid, which decrease in severity from M1 to M9, and four OSGs from D1 to D4 on the Drug Grid. The Commission places 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 2014

The Commission recorded 1,773 felony offenders sentenced in calendar year 2014. These felony offenders were sentenced in 1,921 cases, consisting of 2,844 felony counts. Of the 1,921 felony cases sentenced in Superior Court, 1,114 cases involved a single felony count and 807 cases involved multiple felony counts. The total number of felony cases in 2014 remained relatively consistent with a slight decrease of 32 cases compared to 2013. The proportion of single and multiple count cases in 2014 is also consistent with the proportion of single and multiple cases sentenced in 2013, 1,078 and 885 respectively. The number of cases sentenced in 2014 and 2013 does represent a marked decline from the 2,813 felony cases sentenced in 2010.

**Figure 1: Types of Disposition in 2014
by Case**

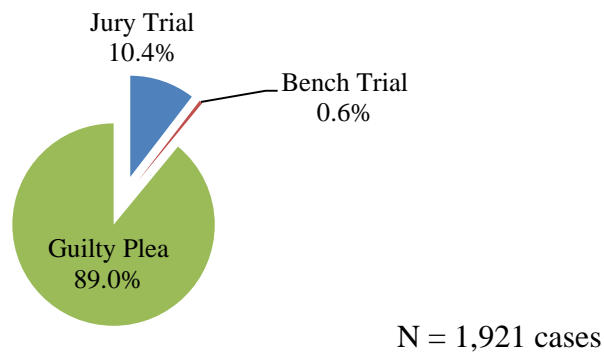
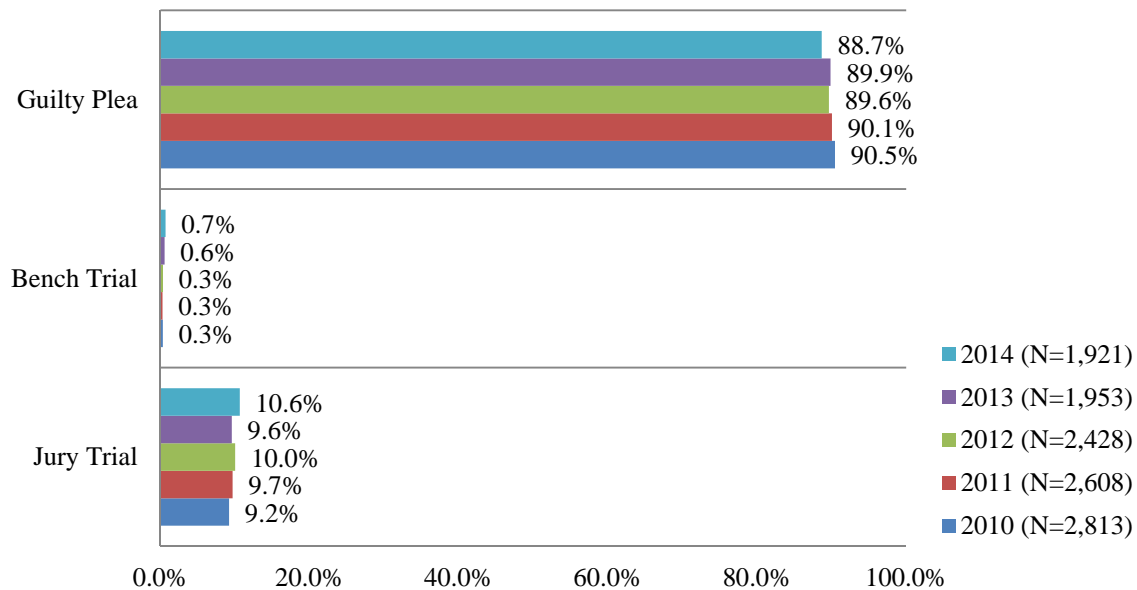


Figure 1 demonstrates the dispositions for felony cases sentenced in calendar year 2014. As expected in comparison to disposition rates from previous years, the majority of felony cases (89.0%) were disposed of through guilty pleas. The remaining cases sentenced were disposed of through jury trials (10.4%) and bench trials (0.6%). This is consistent with the previous four years in which the percentage of guilty pleas was approximately 90% of all felony case dispositions, jury trials represented about 9-10% of all felony case dispositions, and bench trials constituted less than 1% of all felony case dispositions as shown in Figures 2.

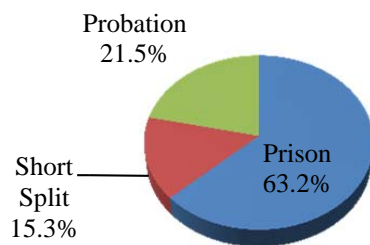
Figure 2: Disposition Trends 2010-2014
Case Level



A. Sentence Type

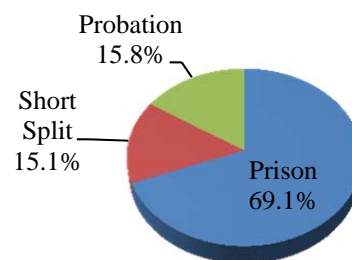
The Commission's categorization of sentence type includes three specific groupings: prison, short split, and probation. Prison sentences represent the majority of sentence types imposed for felony cases and felony counts (Figures 3a and 3b). Probation is the second most common sentence type, followed by short split sentences.

**Figure 3a: Sentence Type
by Case in 2014**



N = 1,921

**Figure 3b: Sentence Type
by Count in 2014**

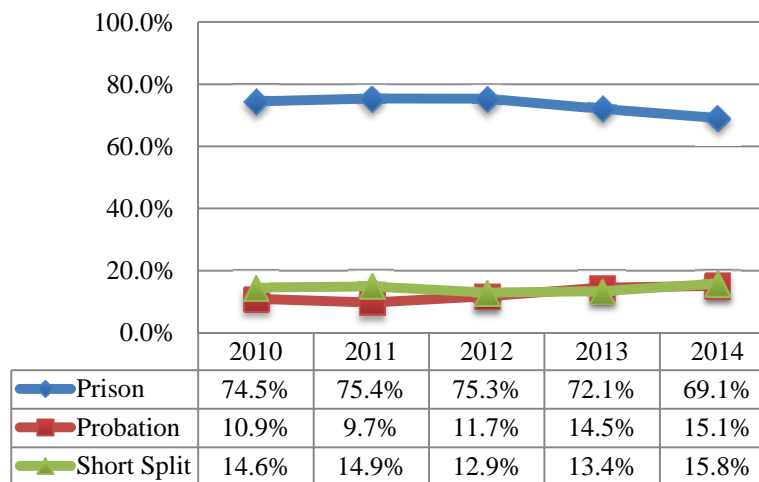


N = 2,844

The percentage of sentence types imposed is similar to previous years (Figure 4); with prison sentences representing the most frequently imposed sentence type. This consistency is expected

given the structure of the Sentencing Guidelines, which gives the option of a prison sentence in every box of the Master and Drug Grids.²⁹ Compliant short split and probation sentences can only be imposed in 24 of the 65 boxes in the Master and Drug Grids. Compliant short split and probation sentence options are also generally reserved for less severe offenses and/or for offenders with limited criminal history. In addition, some offenses are subject to mandatory minimum sentencing provisions, which require a specified prison term.

**Figure 4: Sentence Type in 2014
Count Level**



The number of felony counts sentenced to prison in 2014 (1,965) remained constant with the number sentenced to prison in 2013 (1,969). However, this was a decline from the 2,736 prison sentences imposed in 2012. The rate of proportional decline is clearer when comparing the percentage prison sentences imposed for felony counts from 2012 (75.3%) to 2014 (69.1%).

B. Offense Severity Group³⁰

Figure 5 displays a count level distribution of sentence types imposed for each OSG on the Master (M) and Drug (D) Grids. Consistent with sentencing data from previous years, prison is the most common sentence for every OSG except D4. By far, the largest number of felony sentences imposed on the Master Grid is OSG M8, representing 40.2% of felony non-drug sentences. Similarly, OSG D3 has largest number of felony drug sentences, representing 52.4% of felony drug sentences on the Drug Grid. Combined, OSGs M8 and D3 represent 42.2% of all felony sentences in 2014.

²⁹ See page 40 for a detailed explanation of the Sentencing Guidelines structure.

³⁰ See Tables 16 and 17 in Appendix D, page VI-VII, detailing each grid box by CH Score, sentence type, and sentence length.

Figure 5: Sentences by Offense Severity Group in 2014

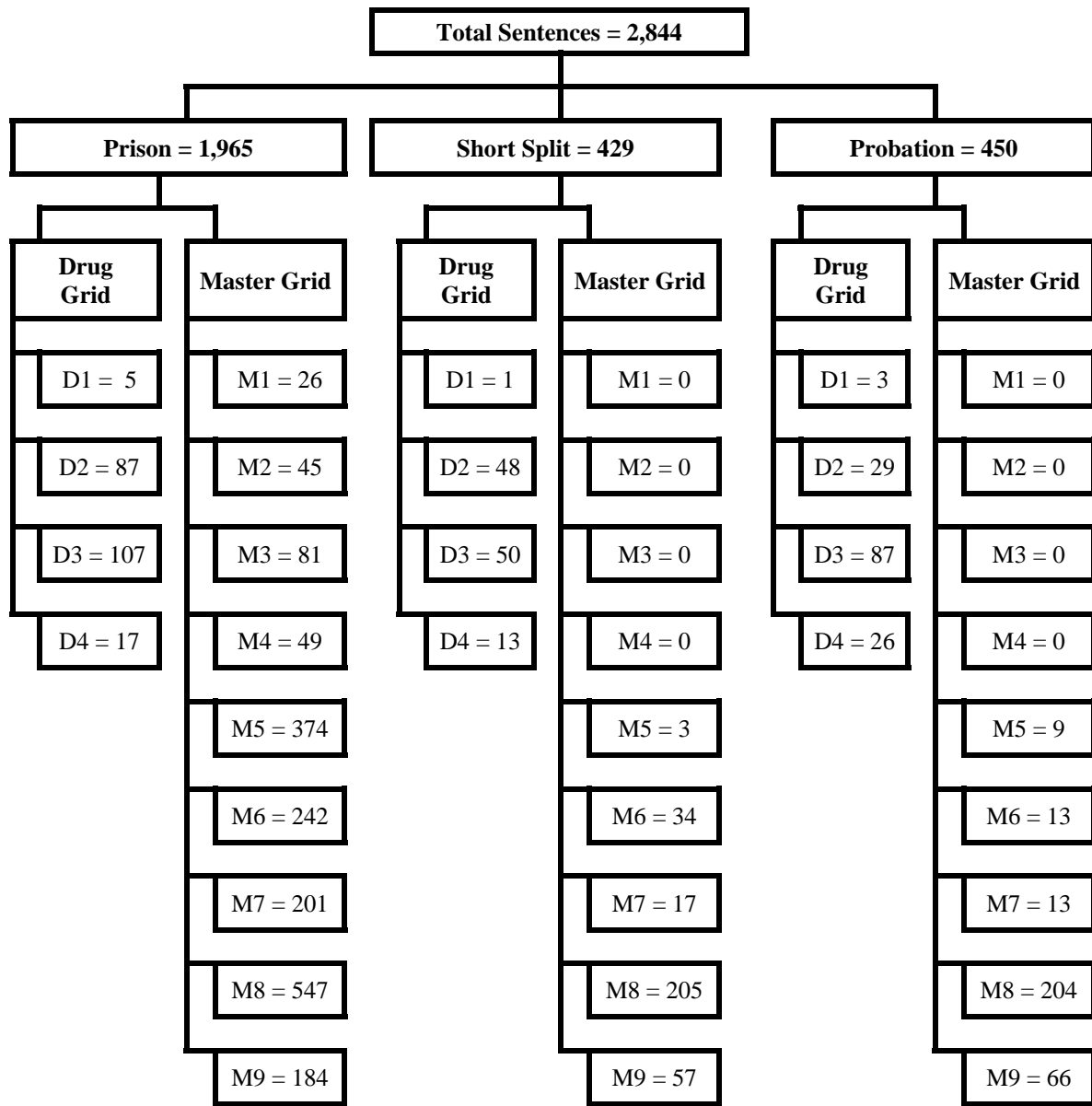


Table 1 presents the average sentence type and length by severity group for felony counts sentenced in 2014. This table also highlights the areas where short split and probation sentences were not imposed.

Table 1: Average CH Score and Sentence Length by Offense Severity Group and Sentence Type in 2014 (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	Average Sentence Length (Months)
D1	55.6%	2.3	29.6	11.1%	0.3	18.0	33.3%	0.3	20.7	100.0%	1.5	25.3
D2	53.0%	3.0	21.0	29.3%	1.3	17.6	17.7%	0.7	17.8	100.0%	2.1	19.4
D3	44.0%	2.5	14.8	20.6%	1.8	15.8	35.4%	0.9	13.0	100.0%	1.8	14.4
D4	30.4%	2.2	12.3	23.2%	1.7	11.2	46.4%	1.5	11.3	100.0%	1.7	11.6
M1	100.0%	3.2	504.6	-	-	-	-	-	-	100.0%	3.2	504.6
M2	100.0%	2.0	505.5	-	-	-	-	-	-	100.0%	2.0	505.5
M3	98.8%	2.0	137.3	1.2%	3.3	180.0	-	-	-	100.0%	2.0	137.8
M4	100.0%	2.1	96.7	-	-	-	-	-	-	100.0%	2.1	96.7
M5	96.9%	2.0	67.8	.8%	1.2	42.0	2.3%	0.0	33.3	100.0%	1.9	66.8
M6	83.7%	1.8	39.2	11.8%	0.2	25.1	4.5%	1.2	29.1	100.0%	1.5	37.1
M7	87.0%	3.0	33.0	7.4%	0.9	22.9	5.6%	0.5	20.6	100.0%	2.7	31.6
M8	57.2%	1.9	19.3	21.4%	0.8	13.6	21.3%	0.4	11.9	100.0%	1.4	16.5
M9	59.9%	2.3	17.4	18.6%	1.0	9.7	21.5%	0.7	8.6	100.0%	1.7	14.1
Total	69.1%	2.2	56.4	15.1%	1.0	15.6	15.8%	0.7	13.2	100.0%	1.7	43.4

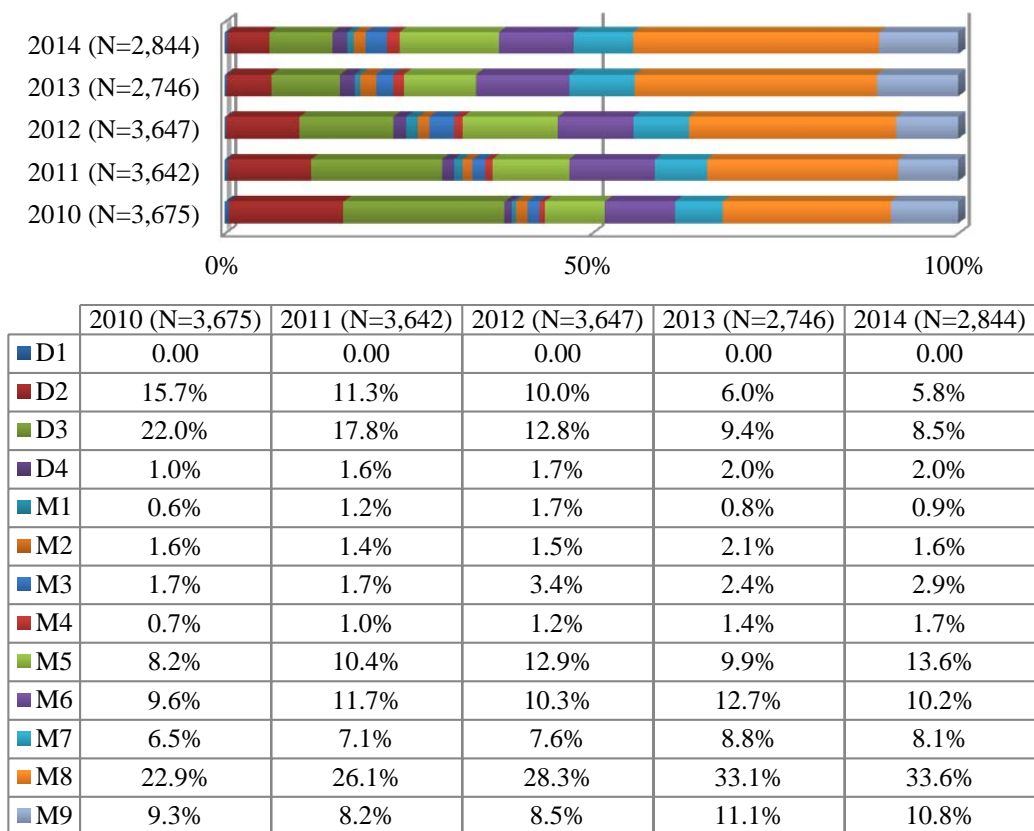
Figure 6 shows that the percentage of D2 and D3 offenses sentenced from 2010 to 2014. D2 offenses dramatically decreased from 15.7% of all felony offenses sentenced in 2010 to only 5.8% of felonies sentenced in 2014. This decline is related to the decrease in the number of D2 offenses sentenced for distribution of a controlled substance from 2010 (379) to 2014 (64)³¹ and the possession with the intent to distribute a controlled substance (PWID) from 2010 (196) to 2014 (99). Similarly, there was a decline in D3 offenses sentenced from 2010 (22.0%) to 2014 (8.5%) due to a notable decrease in the attempted PWID offenses sentenced.

A large decline occurred in the number of felony counts sentenced for OSG D3, distribution of a controlled substance, decreasing from 569 in 2010 to 74 in 2014. There was a similar decrease in PWID offenses sentenced from 2010 (223) to 2014 (102). This pattern may be partially attributed to the Commission's changes to the Drug Grid in 2011, when many D3 attempted drug

³¹ The decline in OSG D2 may be partially attributable to changes in the Drug Grid, and changes in policing patterns.

offenses were moved to the new D4 OSG. Since 2012, the first full year OSG D4 was utilized, the number of attempted PWID counts sentenced in OSG D4 has consistently declined.

Figure 6: Offense Severity Group 2010-2014
Count Level



There was an increase in the percentage and proportion of OSG M8 offenses sentenced between 2010 and 2014 (Figure 6). The variation within the OSG M8 offenses was primarily linked to an increase in the number of counts sentenced for attempt to commit robbery and criminal street gang affiliation.

The OSG M7 displays a similar pattern of fluctuation; however, a portion of the variation in percentage of OSG M7s may be related to an increase in the number of second degree burglary counts sentenced from 2010 to 2014. In addition, there was a slight decrease in the number of defendants sentenced for unlawful possession of a firearm (felon in possession) between 2013 and 2014.

There was some fluctuation in OSG M5 sentences from 2010 to 2013 followed by a large increase in 2014. Several offenses contribute to the percentage increase in the number of OSG M5 sentences imposed in 2014: the number of sentences for kidnapping increased from 2010 (6) to 2014 (17); armed robbery offenses in OSG M5 increased from 55 sentenced in 2010 to 104

sentenced in 2014. Assault with intent to kill was another offense that contributed to the increase in the number of sentences for OSG M5.

C. Classification of Offense Types

All felony offenses reported by the Commission are categorized as either drug or non-drug offenses. Drug offenses include all offenses specifically related to the possession and/or distribution of a controlled substance. Non-drug offenses include all of the remaining offenses, and are grouped into offense types. The definitions for all offenses types categorized by the Commission are outlined below:

- Drug offenses: distribution or possession with intent to distribute a controlled substance; attempted distribution or attempted possession with intent to distribute a controlled substance; drug offenses while armed; and possession of liquid PCP.
- Non-Drug offenses:
 - Homicide Offenses: first degree premeditated murder, first degree 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 crimes;
 - 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: escape, fleeing law enforcement, obstruction of justice, and bail reform act (“BRA”) violations.³³

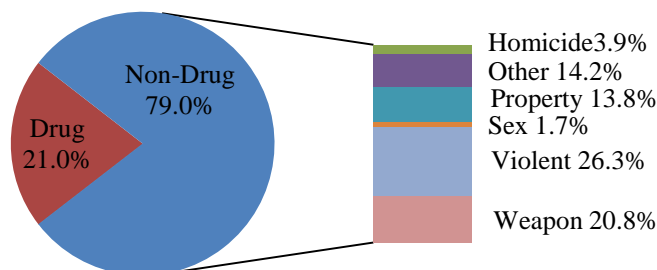
As demonstrated in figures 7a and 7b, felony drug offense sentences represent 21.0% of case level sentences and 16.7% of count level felony sentences. Non-drug felony sentences represent the largest proportion of total felony sentences at both the case (79.0%) and count (83.3%) levels. Violent Offenses comprise the largest non-drug category at the case level (26.3%) and at the count level (27.7%). Robbery was the most common offense in the Violent Offense

³²A PFDCV conviction has a 60-month mandatory minimum prison sentence. Because the statutory mandatory minimum sentences are considered compliant under the Guidelines, sentences imposed for PFDCV increase the compliance rate as well as the incarceration rate for Weapon Offenses. Among all sentences imposed by count for Weapon Offenses, 30% were for PFDCV.

³³ A BRA conviction is the result of a defendant failing to return to court as required. D.C. Code § 23-1327(a) (2013); most “escape” convictions involve violations of halfway house custodial restrictions.

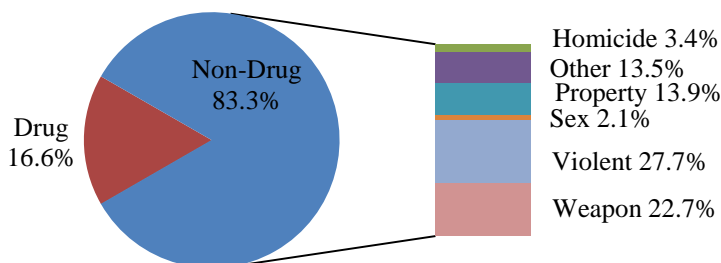
category, accounting for 39.7% of cases and 40.0% of counts within this category. This marks a change from 2013 when the Weapons category was the most frequent at both the case and count level. Consistent with 2013, Sex Offenses was the smallest category of non-drug felony offenses, representing only 1.7% at the case level and 2.1% at the count level.

Figure 7a: Offense Type by Case in 2014



N=1,921

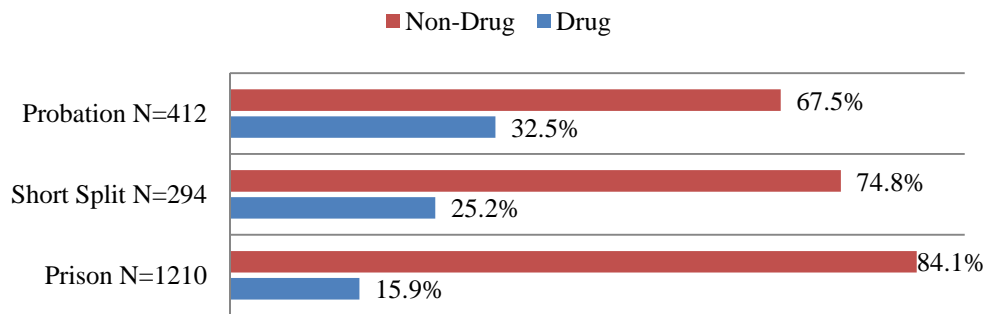
Figure 7b: Offense Type by Count in 2014



N=2,844

The number of sentences for felony Drug offenses has stabilized when comparing 2013 and 2014. Despite a 66.2% decline in Drug offenses sentenced from 2010 to 2013, there was only a 2.7% decline between 2013 and 2014. Figures 8a and 8b demonstrate the proportion of each sentence type for sentenced Drug and Non-Drug offenses in 2014. The percentage of drug and non-drug offenses receiving a prison, short split, or probation sentence remained relatively consistent.

**Figure 8a: Drug and Non-Drug Sentence Types in 2014
Case Level**



**Figure 8b: Drug and Non-Drug Sentence Types in 2014
Count Level**

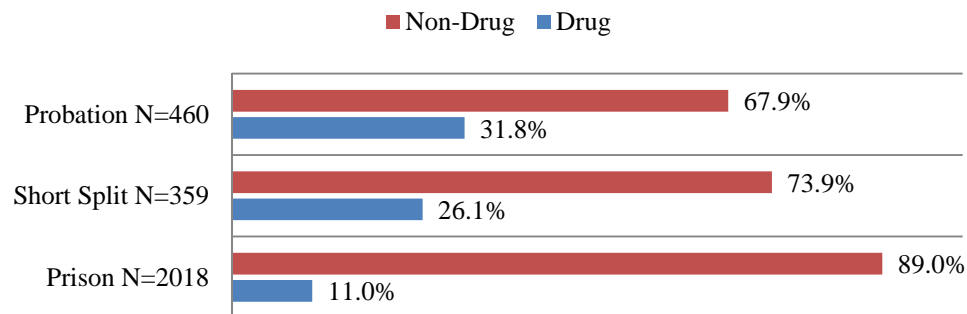


Table 2 below shows the distribution of prison, short split, and probation sentences imposed across the various drug types.³⁴

Sentence Type	Cocaine		Heroin		PCP		Other	
	Case	Count	Case	Count	Case	Count	Case	Count
	(N=196)	(N=229)	(N=42)	(N=42)	(N=79)	(N=94)	(N=20)	(N=26)
Prison	51.0%	45.4%	52.4%	54.3%	53.2%	52.1%	30.0%	26.9%
Short Split	20.4%	28.4%	14.3%	15.2%	16.5%	21.3%	5.0%	11.5%
Probation	28.6%	26.2%	33.3%	30.4%	30.4%	26.6%	65.0%	61.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

A drug type was reported for 339 of the 403 Drug cases, and 395 of the 472 Drug counts sentenced in 2014. Drug offenders were sentenced most frequently for distribution or possession with intent to distribute cocaine offenses in 2014. Cocaine was involved in 84.1% of felony drug

³⁴ Drugs categorized as “Other” include: alprazolam, amphetamine, clonazepam, ecstasy, marijuana, methamphetamine, methadone, methylone, morphine, oxycontin, oxycodone, percocet, prescription drugs, psilocybin, vicodin, and xanax.

cases and 83.7% of felony drug counts. The average age of offenders sentenced for a cocaine offense was 33.2 years, which was consistent with the average age for all drug offenders (33.7 years). Cocaine, heroin, PCP distribution/PWID offenses are ranked higher and treated as more serious offenses under the Guidelines than Schedule III, IV, or V drug offenses, which partially accounts for the percentage of this population sentenced to prison.³⁵

Sentences imposed for heroin offenses declined 77.3% from 2010 (203) to 2013 (42), and remained relatively constant in 2014 (46). In 2014, heroin offenses were frequently sentenced to prison (52.4% of cases and 54.3% of counts). Heroin was also the drug with the oldest offender population, with the average age of 44.3 years in both 2013 and 2014.

PCP offenses were sentenced to prison (53.2% of cases and 52.1% of counts) at about the same rate as offenses involving heroin. The average age for offenders sentenced for PCP offenses was 30.9 years, lower than the average age of 33.7 years for all drug offenders. The average age for offenders sentenced for distribution, possession with the intent distribute, and possession of PCP varied from 30 to 32 years.³⁶

The Other drug category included drugs such as marijuana, codeine, ecstasy, and Xanax. Other drug offenders showed significant variation in average age when compared to the cocaine, heroin, and PCP drug offense groups. The average age of this group fluctuated from early 40s from 2010 to 2012, down to an average of 30 years in 2013 and 32 years in 2014. Offenders in this drug offense group were much more likely to receive probation sentences (65% case level, 59% count level) than any other drug group. This is partially explained by the lower placement of these drugs on the Drug Grid and the Drug Schedule (i.e., Schedule III and lower).

Figures 9a and 9b present the percentage of prison, short split, and probation sentences imposed at the case and count level for each offense type. The percentage of sentences for felony drug cases sentenced to prison decreased from 2013 (54.4%) to 2014 (48.0%), with a corresponding increase in probation sentences. Prison sentences imposed for Property cases declined by 14.9 percentage points between 2013 (73.9%) and 2014 (58.5%). The proportion of cases receiving a prison sentence has been constant for Sex, Weapon, and Other Offense categories.

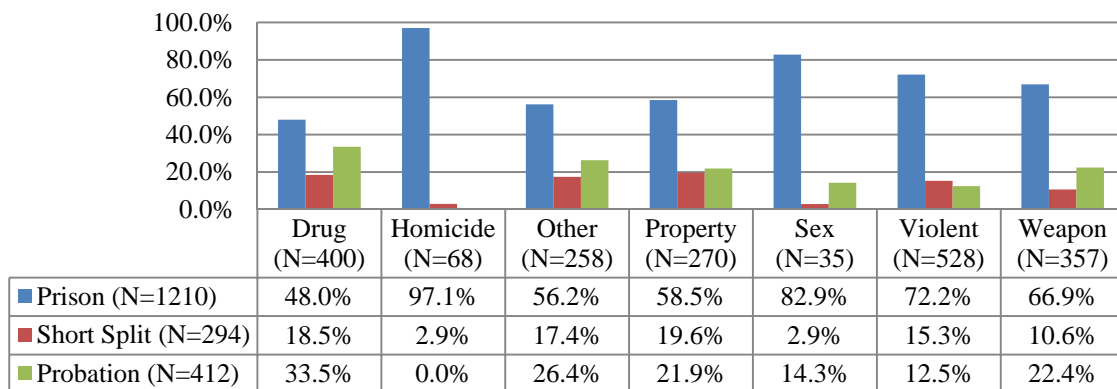
Probation and prison sentences for Property counts also changed between 2013 and 2014. The percentage of Property probation sentences for 2014 increased by nearly eight percentage points, while the percentage of prison sentences in this category declined by 15 percentage points. At the count level, the percentage change in sentencing for the Property category is more apparent. Property counts sentenced to prison declined by 12.9% in 2014, while short split sentences

³⁵ See Table 21 in Appendix D, page XI, which presents CH Scores by type of drug involved from 2010 to 2014.

³⁶ Possession of liquid PCP is the only felony possession offense.

increased by 7.3 percentage points, and probation sentences increased by 5.6 percentage points. The change in Property Offenses sentenced to prison at the count level relates to decreases in destruction of property and receiving stolen property convictions, down 61.9% and 48.3% from 2013 respectively. Counts sentenced to probation increased from 2013 (37) to 2014 (53) and are likely related to an increase in second degree burglary counts sentenced to probation from 2013 (8) to 2014 (27). The average CH Score for offenders sentenced for Property Offense convictions also declined from 2.2 in 2013 to 2.0 in 2014.

**Figure 9a: Sentence Type Imposed on Offense Category in 2014
Case Level**



**Figure 9b: Sentence Type Imposed on Offense Category in 2014
Count Level**

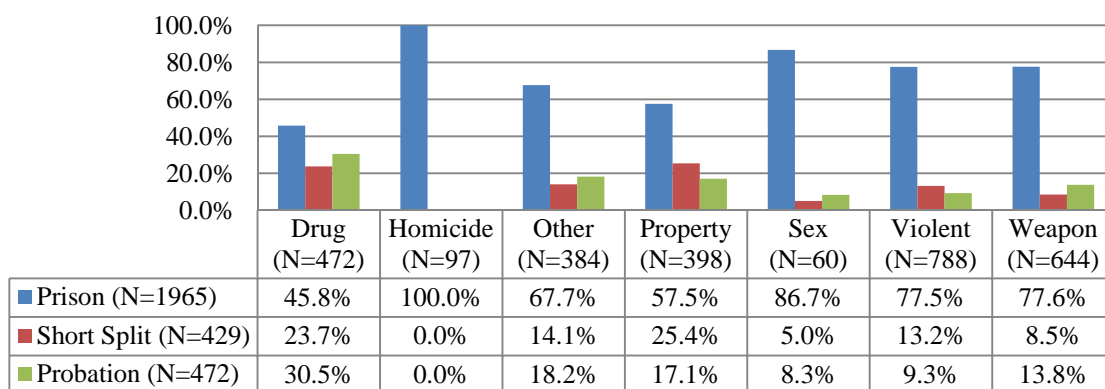
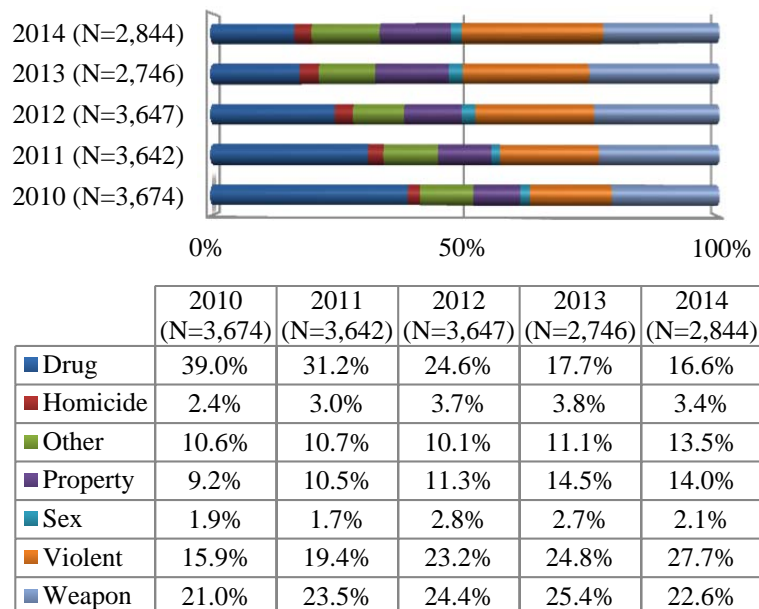


Table 3 provides an overview of the sentence type and length associated with each offense group, as well as the average CH Score for each group. The table also shows that no short split

or probation sentences were imposed for felony Homicide Offenses, which include voluntary and involuntary manslaughter.³⁷

Table 3: 2014 Offense Type by Sentence Type - Count Level												
<i>Sentence Type</i>	Prison			Short Split			Probation			Total		
<i>Offense Type</i>	%	Average CH Score	Average Sentence Length (Months)	%	Average CH Score	Average Sentence Length (Months)	%	Average CH Score	Average Sentence Length (Months)	%	Average CH Score	Average Sentence Length (Months)
Drug	45.8%	2.6	17.4	23.7%	1.6	16.0	30.5%	1.0	13.8	100.0%	1.9	16.0
Homicide	100.0%	2.2	380.3	-	-	-	-	-	-	100.0%	2.2	258.5
Other	67.7%	2.0	22.0	14.1%	1.2	9.5	18.2%	0.6	10.0	100.0%	1.6	18.0
Property	57.5%	2.8	28.2	25.4%	1.0	16.1	17.1%	0.6	13.0	100.0%	2.0	22.5
Sex	86.7%	1.2	105.8	5.0%	1.7	16.0	8.3%	0.1	13.2	100.0%	1.1	93.6
Violent	77.5%	1.9	49.6	13.2%	0.4	17.8	9.3%	0.4	16.3	100.0%	1.5	42.3
Weapon	77.6%	2.2	44.3	8.5%	0.5	15.4	13.8%	0.4	12.4	100.0%	1.8	37.4
Total	69.1%	2.2	56.4	15.1%	1.0	15.6	15.8%	0.7	13.2	100.0%	1.7	39.2

**Figure 10a: Offense Type 2010-2014
Count Level**



³⁷ Negligent Homicide is not included in the homicide category. Felony counts for Negligent Homicide resulted in 10 prison sentences imposed, and one short split sentence.

Figure 10b highlights two offense types that had significant changes in the number of counts sentenced between 2010 and 2014. Sentences for Drug counts declined 66.2% from 2010 to 2013, and plateaued between 2013 and 2014. Conversely, sentences for Violent Offenses increased 44.5% from 2010 to 2012, then decreased by 19.5% in 2013. This was followed by a 15.5% increase in Violent counts sentenced in 2014.

**Figure 10b: Sentenced Drug and Violent Felony Counts
2010-2014**

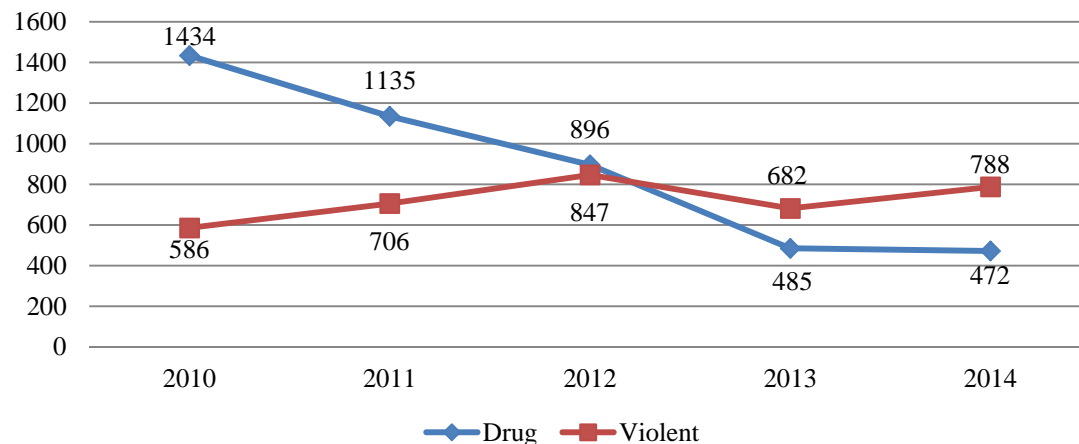


Table 4 demonstrates the average CH Score from 2010 to 2014 for each offense category, as well as the percentage of felony counts sentenced for each offense category.

	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
Drug	2.1	39.0%	2.1	31.2%	2.0	24.6%	1.8	17.7%	1.9	16.6%
Homicide	1.9	2.4%	2.1	3.0%	1.8	3.7%	1.5	3.8%	2.2	3.4%
Other	2.2	10.6%	2.1	10.7%	1.9	10.1%	1.7	11.1%	1.6	13.5%
Property	2.2	9.2%	1.9	10.5%	2.4	11.3%	2.1	14.5%	2.0	14.0%
Sex	1.7	1.9%	1.8	1.7%	1.8	2.8%	2.2	2.7%	1.1	2.1%
Violent	1.9	15.9%	1.6	19.4%	1.6	23.2%	1.6	24.8%	1.5	27.7%
Weapon	1.8	21.0%	1.7	23.5%	2.0	24.4%	1.6	25.4%	1.8	22.6%
Total	2.0	100.0%	1.9	100.0%	1.9	100.0%	1.8	100.0%	1.7	100.0%

The proportion of sentenced felony offenses in the Violent category increased from 15.9% in 2010 to 27.7% in 2014. Sentences for assault with intent to kill accounted for some of the change in this category, more than doubling from 34 counts sentenced in 2013 to 72 in 2014. Robbery and attempt to commit robbery also contributed to the increase in the proportion of Violent Offenses sentenced from 2013 to 2014, increasing by 12.5% and 14.9% respectively.

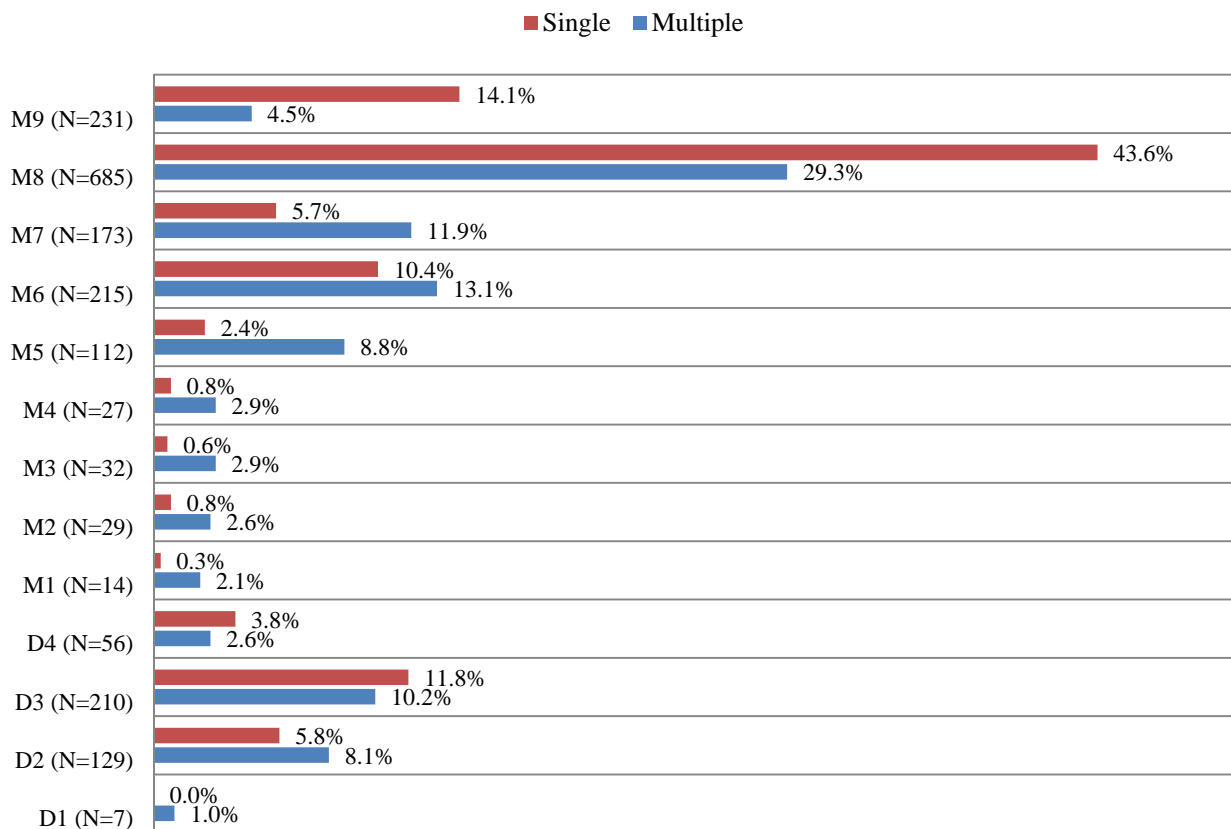
Another offense contributing to the increases seen for Violent offense sentences was kidnapping, which increased by 54.5% from 2013 (22) to 2014 (34).

Sentencing rates for Weapon Offenses declined from 2013 to 2014, accounting for 22.6% of the offenses sentenced in 2014, down from 25.4% in 2013. Conversely, the Other Offense category increased from 11.1% in 2013 to 13.5% in 2014.

C. Single vs. Multiple Count Cases

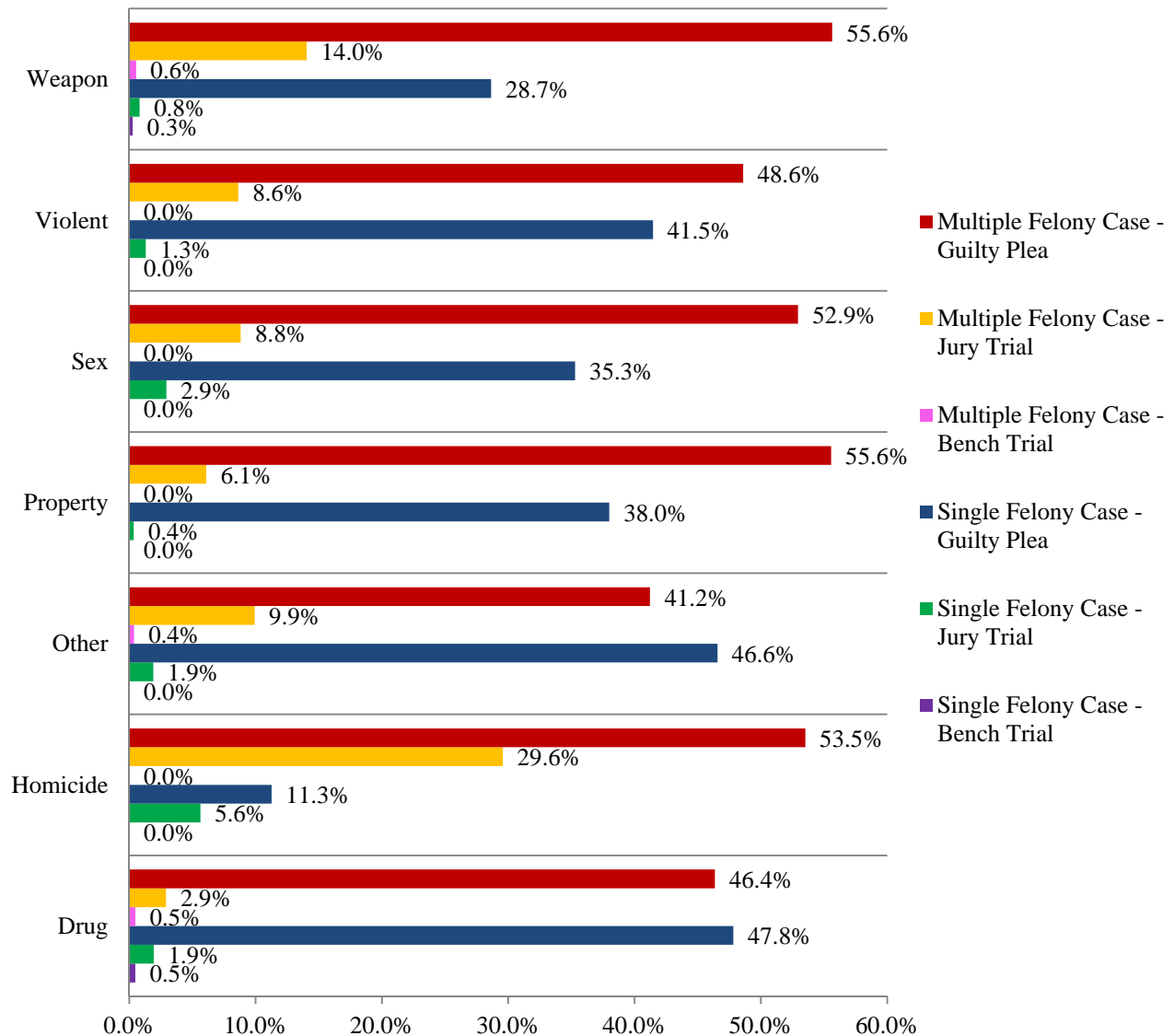
This section compares cases with one felony count (single count) to cases with more than one felony count (multiple count). Figure 11 presents the percentage of cases in terms of single or multiple felony counts by OSG. As in previous years, the OSG D3 contains the most single and multiple count cases on the Drug Grid, and OSG M8 contains the largest percentage of both single and multiple felony count cases on the Master Grid. Figure 11 demonstrates that single count cases typically surpass multiple count cases in OSGs M8, M9, and D4; while the reverse takes place in the remaining OSGs.

**Figure 11: Single vs. Multiple Felony Count Cases in 2014
by Offense Severity Group**



When considering offense type in Figure 12, the majority of Homicide (83.5%), Property (63.6%), Sex (61.7%), Violent (57.6%), and Weapon (81.8%) Offenses involved multiple count cases. These cases account for 60.3% of all multiple count cases and frequently involve jury trials, whereas most single count cases involve Drug, Other, and Property Offenses and are often disposed of through pleas.

Figure 12: Single vs. Multiple Felony Count Cases by Offense Type in 2014

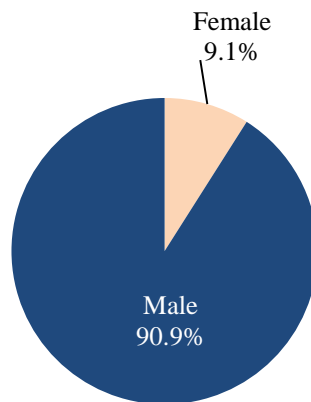


III. 2014 Felony Sentencing Demographics: Gender, Race, and Age of Offenders³⁸

A. Gender by Offense Categories

Gender was recorded for 1,697 of the 1,773 offenders sentenced in 2014 (Figure 13). As in previous years, male offenders significantly exceeded female offenders sentenced in 2014; 90.9% of offenders sentenced were male (N=1,543), and 9.1% were female (N=154).

Figure 13: Gender at Offender Level 2014

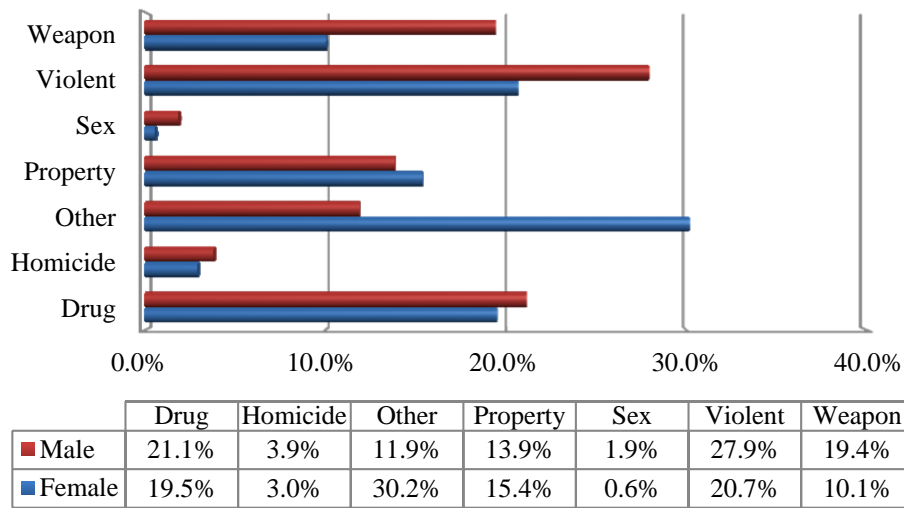


N=1,697

Despite the large difference in the number of males and females sentenced in 2014 (Figure 13), the data suggest that there are some offense types where male and female offenders share similar proportionality (Figure 14). For example, 21.1% of male offenders and 19.5% of female offenders were sentenced for Drug cases. This similarity also occurred for Homicide sentences, which represented 3.9% of male offenders' sentences and 3.0% of female offenders' sentences. However, within Homicide Offenses, female offenders were more likely to be sentenced for voluntary manslaughter, while male offenders were more likely to be sentenced for first degree Murder and second degree Murder. For Property crimes the picture is similar: 13.9% of male offenders and 15.4% if female offenders were sentenced for property Offenses. In the "Other" category is the one category where females are represented at a significantly higher percentage than males; 30.2% of females were sentenced for "Other" felonies, such as escape and BRA, while only 11.9% of males were sentenced for "Other" crimes.

³⁸ See Table 22a and 22b in Appendix D, page XII, detailing offense type by demographic information and sentence type.

**Figure 14: Gender by Offense Category in 2014
Case Level**



For male offenders, the largest percentage of felony cases sentenced was for Violent Offenses (27.9%), while Violent Offense sentences represented only 20.7% of cases for female offenders. Male offenders were also more likely to be sentenced for Weapon Offenses than their female counterparts, with 19.4% and 10.1%, respectively. Female offenders were more likely to be sentenced for Other Offenses (30.2%), while Other Offenses only represented 11.9% of sentenced felony counts for male. Female offenders proportionally exceeded the percentage of male offenders in Property Offense sentences imposed, 15.4% to 13.9% respectively.

Table 5a: Offense & Sentence Types by Gender in 2014 Case Level				
Offense Type	Sentence Type	2014		
		Male	Female	Unknown
Drug (N=400)	Prison	49.4%	35.5%	28.6%
	Short Split	18.2%	19.4%	28.6%
	Probation	32.3%	45.2%	42.9%
	Total	100.0%	100.0%	100.0%
Homicide (N=69)	Prison	100.0%	100.0%	100.0%
	Short Split	0.0%	0.0%	0.0%
	Probation	0.0%	0.0%	0.0%
	Total	100.0%	100.0%	100.0%
Other (N=258)	Prison	63.6%	26.5%	33.3%
	Short Split	16.5%	20.4%	33.3%
	Probation	19.9%	53.1%	33.3%
	Total	100.0%	100.0%	100.0%
Property (N=270)	Prison	62.2%	23.1%	66.7%
	Short Split	19.3%	26.9%	0.0%
	Probation	18.5%	50.0%	33.3%
	Total	100.0%	100.0%	100.0%
Sex (N=35)	Prison	84.8%	0.0%	100.0%
	Short Split	3.0%	0.0%	0.0%
	Probation	12.1%	100.0%	0.0%
	Total	100.0%	100.0%	100.0%
Violent (N=529)	Prison	74.2%	58.0%	46.7%
	Short Split	14.6%	24.0%	33.3%
	Probation	11.3%	18.0%	20.0%
	Total	100.0%	100.0%	100.0%
Weapon (N=357)	Prison	67.7%	56.3%	57.1%
	Short Split	10.8%	12.5%	0.0%
	Probation	21.6%	31.3%	42.9%
	Total	100.0%	100.0%	100.0%

Table 5a suggests 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 the type of offenses male and female offenders were sentenced for during 2014. Female offenders were more frequently sentenced for “Other” Offenses, which include contempt, felony BRA violations, and prison breach,³⁹ which are ranked in less severe OSGs on the sentencing grid and are probation eligible. However, males were more often sentenced for Weapon and Robbery Offenses ranked in more severe OSGs on the grid where the recommend Guidelines sentence is prison only, and had higher CH Scores on average (Table 5b). When

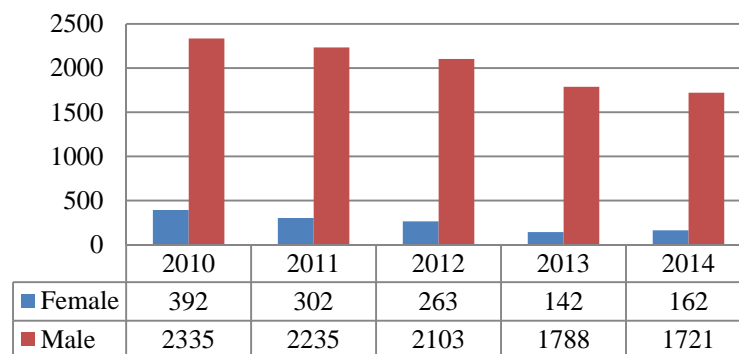
³⁹ Prison Breach is the unlawful exit of an institution to which an offender is lawfully confined. This includes failure to return to a halfway house.

examining Homicide sentences, females were more often sentenced for manslaughter, whereas, males were sentenced for murder offenses, often involving guns.

Table 5b: Gender by Sentence Year and Average CH Score										
	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
Female	1.3	11.2%	1.2	9.4%	1.0	7.7%	0.7	6.0%	0.8	7.0%
Male	2.1	85.7%	2.0	87.9%	2.0	90.0%	1.8	93.0%	1.8	91.1%
Unknown	2.3	3.1%	1.9	2.7%	3.7	2.3%	1.4	1.0%	1.8	1.8%
Total	2.0	100.0%	1.9	100.0%	1.9	100.0%	1.8	100.0%	1.7	100.0%

As demonstrated by Figure 15, the number of offenders in cases sentenced between 2010 and 2013 declined in a manner consistent with the decline in total number of felony cases sentenced. However, the number of cases with female offenders shows a slight increase between 2013 and 2014, despite a 63.8% decline from 2010 to 2013. The number of cases with male offenders continued to steadily decline over the five-year period.

**Figure 15: Offender Gender 2010-2014
Case Level**



B. Race by Offense Categories

Of the 1,773 offenders sentenced in 2014, race was reported for 1,552 offenders. Consistent with previous years, the vast majority of offenders sentenced in 2014 were Black (97.1%). The remaining offender populations included American Indian, Hispanic, Other,⁴⁰ or White offenders. The following data was evaluated within each race, but could not be evaluated across races because the number of White Hispanic, Asian, and American Indian offenders in too many offense categories are either not statistically significant for comparison purposes or are unknown.

⁴⁰ The Other category for race includes all individuals not identified or reported as American Indian, Asian, Black, Hispanic, or White.

Table 6 demonstrates the average CH Score for felony counts sentenced by race. While relevant to sentencing research, comparisons cannot accurately be made across groups due to the small number of offenders in the American Indian, Hispanic, White, Asian, Other, and Unknown groups.

Table 6: Race by Sentence Year and Average CH Score										
	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
American Indian	-	-	-	-	-	-	-	-	0.3	0.0%
Asian	-	-	0.6	0.1%	2.4	0.2%	0.1	0.1%	-	-
Black	2.0	91.2%	1.9	90.4%	2.0	87.1%	1.8	87.1%	1.8	87.1%
Hispanic	0.0	0.1%	1.8	0.1%	0.1	0.2%	0.2	0.5%	0.6	0.5%
Other	0.0	0.1%	-	-	-	-	4.0	0.1%	0.6	0.1%
Unknown	2.8	5.1%	1.8	5.9%	1.5	10.3%	1.5	8.5%	1.3	8.5%
White	0.9	3.5%	0.8	3.4%	1.2	2.2%	1.3	3.7%	1.2	3.7%
Total	2.0	100.0%	1.9	100.0%	1.9	100.0%	1.8	100.0%	1.7	100.0%

C. Age by Offense Categories⁴¹

Age was calculated for 1,714 of the 1,773 offenders sentenced in cases in 2014. Just over 50% of cases sentenced involved offenders age 18-21 (22.4%) and age 22-30 (28.7%). Figure 16 also shows that 1.3% of cases also involved offenders over the age of 60; which is consistent with the offenders sentenced in 2013.

⁴¹ The age of each offender refers to his or her age at the time the offense was committed.

**Figure 16: Age Group
Case Level**

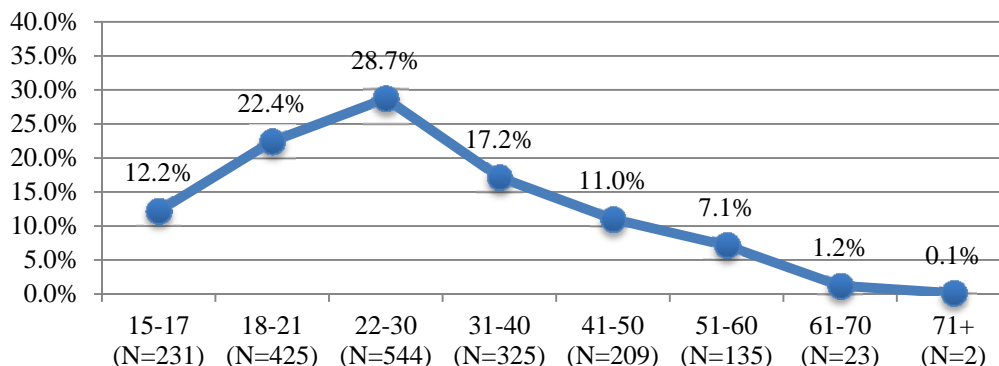
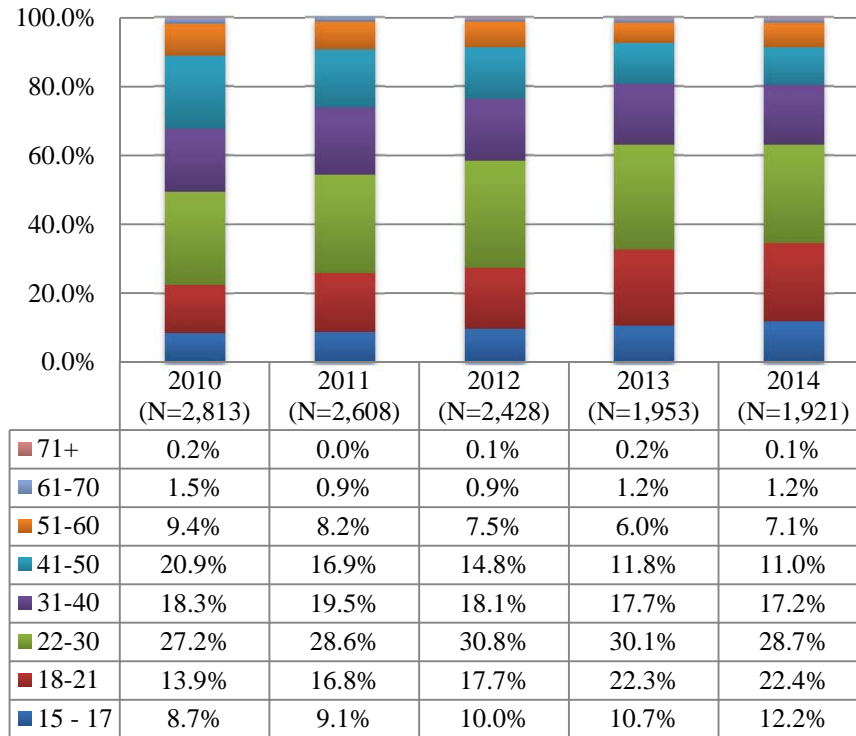


Figure 17 presents the trend in age groups for offenders in cases sentenced from 2010 to 2014. The percentage of offenders ages 15 to 17 increased from 2010 to 2014.⁴² The group 18 to 21 years of age increased from 2010 to 2013, and plateaued in 2014. Age group 22 to 30 displayed an increase from 2010 to 2012, followed by a period of decline for 2013 and 2014. This decline was also accompanied by a decline in the average CH Score for the age group.⁴³ Figure 17 also highlights a steady decline in sentences imposed for age groups 31-40 and 41-50. However, offenders 51 to 60 years of age increased from 6.0% in 2013 to 7.1% in 2014 after four years of consistent decline.

⁴² In the District, under specific circumstances, a 15 to 17 year old charged with any delinquency offense can be transferred from the Family Court to the Criminal Division upon a motion and hearing, for prosecution as an adult. See D.C. Code § 16-2307. In addition, a 16 and 17 year old who commits certain enumerated offenses (murder, first degree sexual abuse, burglary in the first degree, armed robbery, or assault with intent to commit any of these offenses) may be prosecuted as an adult in the Superior Court Criminal Division. See D.C. Code § 16-2301(3). Separately,

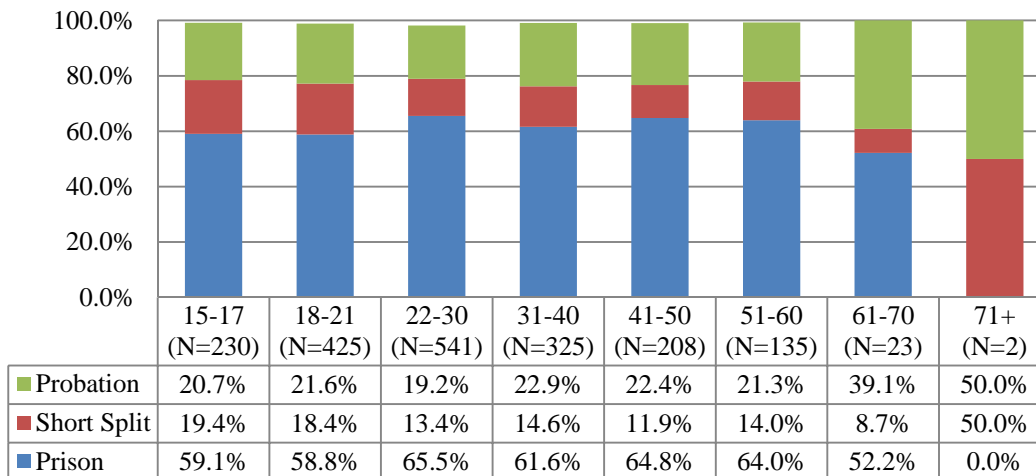
⁴³ See Table 20 in Appendix D, page X, detailing age group by CH Score, sentence type, and sentence length.

**Figure 17: Age Group 2010-2014
Case Level**



In line with previous years, the majority of offenders in all age groups were sentenced to prison (Figure 18). With the exception of individuals over age 60, nearly 60% of offenders in each age group were sentenced to prison. Of the two offenders that were over 70 years of age, one received a probation sentence and the other received a short split sentence.

**Figure 18: Sentence Type by Age Group in 2014
Case Level**



Despite the distribution of age groups outlined in Figure 17, the average (mean) age across offense types ranged from 22 to 39 years of age, while the median age ranged from 20 to 37 years of age. According to Table 7, offenders sentenced for Homicide, Violent, and Weapon Offenses tend to be younger offenders. Those sentenced for Drug, Other, and Sex Offenses tend to be slightly older offenders. The age of offenders sentenced for Property Offense sentences demonstrates the highest variability.

Table 7: 2014 Average Age of Offenders by Sentence Type and Offense Category								
		Drug	Homicide	Other	Property	Sex	Violent	Weapon
Prison	Mean Age	33.3	25.6	26.2	29.8	34.4	25.5	27.1
	Median Age	32.0	22.0	23.0	26.0	34.0	22.0	24.0
Short Split	Mean Age	32.8	--	30.9	24.2	35.0	23.7	26.8
	Median Age	30.0	--	27.0	20.0	35.0	20.0	23.0
Probation	Mean Age	35.1	--	32.5	26.2	39.2	22.3	26.2
	Median Age	33.0	--	30.0	21.0	37.0	20.0	22.0

IV. Homicide Analysis

There were 69 Homicide cases and 97 Homicide counts sentenced in 2014, which is an approximate 4.0% decline from 2013. Of the 69 Homicide cases, 39 were multiple count cases and 30 were single count cases. The distribution of Homicide sentences imposed is reflected below in Figure 19. The leading types of Homicide cases were voluntary manslaughter (39.1%) and second degree murder (34.8%).

Figure 19: 2014 Homicide Cases

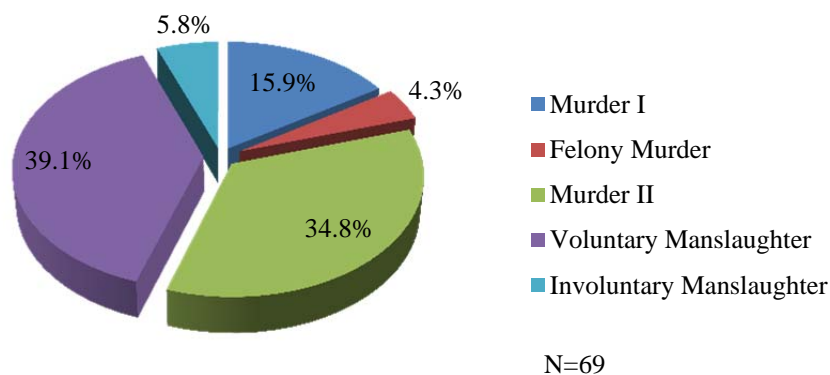


Figure 20 represents the number of counts represented by each type of Homicide within the Homicide Offense category.

Figure 20: Homicide Counts Sentenced in 2014

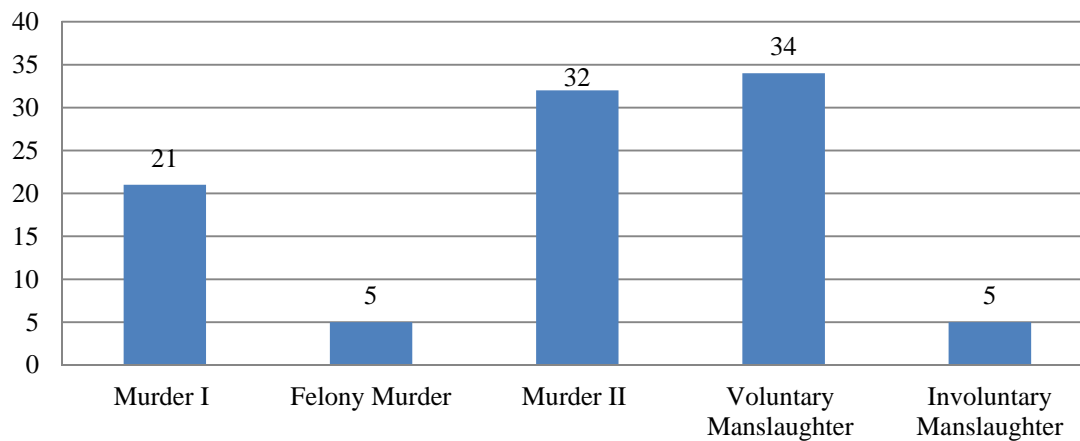


Table 8 presents the average CH Score associated with offenders sentenced for Homicide counts in 2014. All Homicides sentenced in 2014 resulted in prison sentences. The table highlights the number of counts for each type of Homicide, the average sentence length, and the minimum and maximum sentence lengths imposed for each type of Homicide.

	# of Counts	Average CH Score	Average Sentence (months)	Minimum	Maximum
Murder I	21	2.7	457.4	360	780
Felony Murder	5	4.9	626.4	372	840
Murder II	32	2.1	246.2	84	660
Voluntary	34	1.6	109.0	33	216
Involuntary	5	1.0	64.8	24	108
Total	97	2.2	240.9	24	840

V. Top Five Offense Categories⁴⁴

The Commission designates all felonies into one of seven offense types.⁴⁵ These offense types are further broken down into 13 categories.⁴⁶ This section examines the top five offense categories, which are based on the number of felony counts sentenced within each category. Figure 21 demonstrates the distribution of the 2014 top five offenses categories over the past five

⁴⁴ See Appendix C for a list of all offense categories.

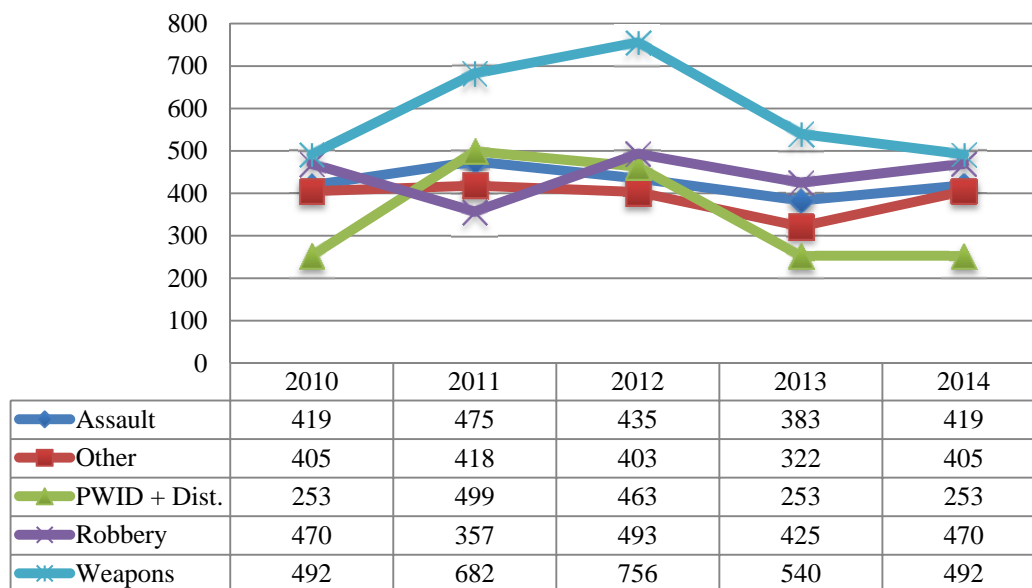
⁴⁵ The seven offense types include: Drug, Homicide, Property, Sex, Violent, and Weapon.

⁴⁶ The 13 offense categories include: Assault, Attempted Drug, Burglary, Kidnapping, Murder, Other-Non-Property, Other-Property, PWID + Dist., Robbery, Sex, Theft, Weapons, and While Armed Drug Offenses.

years. These top five offense categories accounted for 71.7% of all felony offenses sentenced in 2014. These offenses included:

1. Weapons⁴⁷
2. Robbery⁴⁸
3. Assault⁴⁹
4. Possession with Intent to Distribute a Controlled Substance or Distribution of a Controlled Substance (PWID+Dist.)⁵⁰
5. Other Offenses.⁵¹

**Figure 21: Top Five Offense Categories from 2010 to 2014
by Count**



A. Weapon Offenses

Weapon Offenses were the most common offense category sentenced at the count level in 2014, representing 3.1% of all felony cases, and 17.3% of all felony counts sentenced. Carrying a pistol/carrying a pistol without a license, possession of a firearm during a crime of violence, and

⁴⁷ 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.

⁴⁸ The Robbery Offense category includes: armed robbery, attempt to commit robbery, carjacking, and armed carjacking.

⁴⁹ The Assault Offenses category includes: assault with a dangerous weapon, assault with intent to kill, assault on a police officer, mayhem, etc.

⁵⁰ The PWID+Dist. Offense category is comprised of distribution of controlled substances and possession with the intent to distribute controlled substances.

⁵¹ The Other Offense category includes a variety of offenses including: Bail Reform Act, fraud, obstructing justice, prison breach, fleeing a law enforcement officer, etc.

unlawful possession of a firearm (felon in possession), comprised 91.7% of felony counts sentenced in this offense category. Even so, there was a decrease of 2.4 percentage points in the Weapon Offense category between 2013 and 2014. Carrying a Pistol was the charge that accounted for the largest decline in Weapons Offense category from 2010 (300) to 2014 (177). In addition, there was a decline in Possession of a Firearm during a Crime of Violence from 2012 (241) to 2014 (158).

Table 9: Weapon - Average CH Score (Count Level)										
	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
M5 Possession of a firearm during a crime of violence	2.1	24.6%	2.0	25.6%	2.1	31.3%	2.1	22.8%	2.4	31.0%
M7 Distributing firearm/destructive device/ammunition Unlawful possession of a firearm (felon in possession)	2.8	25.1%	2.5	26.7%	2.7	24.8%	2.5	29.3%	2.9	25.6%
M8 Carrying a dangerous weapon (felony) Carrying a pistole outside of home or business/CPWL	1.3	50.1%	1.1	47.7%	1.4	44.0%	1.0	48.0%	1.1	43.2%
M9 Possession of prohibited weapon (second offense) Possession of an unregistered weapon (second offense)	4.5	0.2%	--	--	--	--	--	--	6.0	0.2%
Total	1.9	100.0%	1.7	100.0%	1.9	100.0%	1.7	100.0%	2.0	100.0%

Of the total number of Weapon Offense counts sentenced, 98.4% were male offenders. The age groups with the largest percentage of Weapon Offense counts were 18 to 21 (25.2%) and 22 to 30 (34.6%), with an overall average age of 26.1 years.

B. Robbery Offenses

Robbery Offenses were the second most common offense category. These offenses represented 18.4% of all felony cases, and 16.5% of total felony counts sentenced. Approximately 45.7% of Robbery Offenses were part of a multiple felony count case in 2014. The leading offenses were robbery and attempted robbery, which accounted for 94.5% of the Robbery Offenses. The majority of counts for Robbery in 2014 received a prison sentence (77.7% of cases and 73.8% of counts); very similar to the overall prison sentence proportions for 2013 (76.3% of cases and 76.0% of counts). The average CH Score for offenders sentenced for Robbery Offenses was 1.5 (Table 10), which contributes to a large percentage of these felony counts receiving prison

sentences because under the Guidelines, a robbery conviction with a CH Score of 1.5 falls a prison only box.

Table 10: Robbery - Average CH Score (Count Level)										
	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
M3 Armed carjacking	2.0	2.7%	1.3	1.5%	0.0	0.2%	3.4	0.7%	2.3	1.8%
M5 Armed robbery Carjacking	1.7	20.8%	1.4	16.3%	2.1	15.5%	1.3	14.6%	1.7	23.1%
M6 Assault with intent to rob Attempted robbery w/armed Robbery	2.0	42.1%	1.3	39.4%	2.0	31.8%	1.9	39.5%	1.8	30.1%
M8 Attempt to commit robbery	1.6	34.4%	1.3	42.9%	1.2	52.5%	1.3	45.2%	1.2	45.1%
Total	1.8	100.0%	1.3	100.0%	1.6	100.0%	1.5	100.0%	1.5	100.0%

In terms of demographics, the percentage of Black offenders sentenced for Robbery Offenses remained stable between 2013 (92.0%) and 2014 (91.6%). However, the percentage of female offenders sentenced for Robbery Offenses nearly doubled from 3.3% in 2013 to 6.2% in 2014. This represented a significant increase in the percentage of female offenders sentenced for robbery, attempted robbery, and assault with intent to commit robbery counts between 2013 and 2014. The majority (79.3%) of offenders sentenced for Robbery Offense counts were in age groups 15 to 17 (24.9%), 18 to 21 (28.7%), and 22 to 30 (25.7%); with an average age of 23.3 years.

C. Assault Offenses

Assault Offenses accounted for 12.8% of felony cases sentenced in 2014, and 14.7% of felony counts sentenced in that year. These offenses were predominantly multiple felony count cases (70.5%), an increase of 2.1 percentage points from 2013 (68.4%). The leading felony counts sentenced in the Assault Offense category included assault with a dangerous weapon, assault with significant bodily injury, and assault with intent to kill, representing 77.1% of all offenses in this category.

Table 11: Assault - Average CH Score (Count Level)										
	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
M3 Assault with intent to kill w/armed	3.5	4.4%	1.8	3.6%	1.8	12.9%	1.9	7.3%	2.2	6.9%
M4 Aggravated assault w/armed	2.3	5.9%	2.0	5.5%	2.1	6.9%	1.1	6.5%	2.5	7.9%
M5 Assault on a police officer w/armed Assault with intent to kill Mayhem w/armed	1.5	4.7%	2.0	5.1%	1.7	7.4%	1.3	3.7%	1.2	12.4%
M6 Aggravated assault Assault with intent to rob Assault with a dangerous weapon Assault with significant bodily injury w/armed Malicious Disfigurement Mayhem	1.6	38.4%	1.8	42.9%	2.2	32.0%	1.5	36.0%	1.3	31.7%
M7 Assault on a police officer (felony)	2.3	4.7%	2.3	3.4%	2.5	2.8%	1.8	2.3%	1.8	2.4%
M8 Attempted aggravated assault Attempted assault with a dangerous weapon Assault with intent to commit any other offense Assault with significant bodily injury Threat to kidnap or injure a person	1.7	41.9%	1.8	39.6%	1.7	38.2%	1.6	44.1%	1.3	38.7%
Total	1.8	100.0%	1.8	100.0%	1.9	100.0%	1.6	100.0%	1.4	100.0%

Due to a wide variety of criminal behaviors that may be involved in felony assault cases, the Master Grid boxes for Assault Offenses ranges from M3 to M8. Twenty-four of the possible 30 boxes for the six OSGs in this range are prison-only boxes, which contributes to the large percentage of Assault counts sentenced to prison (78.8%). Only 12.6% of Assault Offenses received short split sentences, and 8.6% received probation sentences.

Similar to previous years, offenders' demographic characteristics remained relatively unchanged. Black offenders represented 84.2% of all offenders sentenced for Assault counts compared to 83.5% in 2013. Male offenders represented 91.5% of offenders sentenced for Assault counts in 2014, similar to 89.3% in 2013. The most common age group sentenced for Assault counts in 2014 were offenders 18 to 21 years (25.8%), followed by offenders 22 to 30 years (23.7%).

D. Possession with Intent to Distribute a Controlled Substance or Distribution of a Controlled Substance Offenses (PWID+Dist.)

PWID+Dist. Offenses represented 8.9% of all felony counts and 10.1% of all felony cases sentenced in 2014. Possession with intent to distribute a controlled substance and possession of liquid PCP represent 79.2% of PWID+Dist Offenses sentenced during the year. Although there were significant declines in PWID+Dist. Offenses sentenced from 2010 to 2013, the number of sentenced offenses in this category remained relatively constant between 2013 and 2014.

The majority (53.0%) of PWID+Dist. counts sentence received prison terms in 2014 and were much less likely to receive short split (24.1%) or probation (22.9%) sentences (Table 12a).⁵² The overall average CH Score for all PWID+Dist. counts was 1.9; however, those sentenced to prison had a CH Score (2.7) that was significantly higher on average than those receiving a short split (1.2) or probation (0.7) sentence.

Table 12a: PWID+Dist. - Average CH Score (Count Level)										
	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
D2 Distribution or PWID (Schedule I or II narcotic/ abusive drug)	2.3	94.0%	2.2	82.3%	2.3	78.3%	1.9	64.4%	2.1	64.7%
D3 Distribution or PWID (except Schedule I or II narcotic/ abusive drug) Possession of liquid PCP	2.5	6.0%	2.1	17.7%	1.8	21.7%	1.5	35.6%	1.5	34.9%
Total	2.3	100.0%	2.1	100.0%	2.2	100.0%	1.7	100.0%	1.9	100.0%

In 2014, 91.0% of PWID+Dist. offenders were Black versus 87.0% in 2013, showing a slight percentage increase. However, the percentage of female offenders sentenced for PWID+Dist. declined between 2013 (8.7%) and 2014 (4.8%). The most frequent age groups sentenced for PWID+Dist. were 31 to 40 (26.9%) and 22 to 30 (26.5%), with an average age of 33.0 years.

Table 12b provides an overview of the Attempted Drug Offenses category.⁵³ The table is included in this section to provide context for a more comprehensive presentation of all drug offenses sentenced in 2014.

⁵² In previous years, there were no convictions for attempted possession of liquid PCP. Table 12a does not include attempted distribution or attempted possession with intent to distribute convictions.

⁵³ 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.

Table 12b: Attempted Drug Offenses- Average CH Score (Count Level)										
	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
D3 Attempt distribution or PWID (Schedule I or II narcotic/ abusive drug)	1.9	95.3%	2.1	90.5%	1.9	84.8%	2.0	76.0%	1.9	73.0%
D4 Attempt distribution or PWID (except Schedule I or II narcotic/ abusive drug) Attempt Possession of Liquid PCP	1.8	4.7%	1.4	9.5%	1.9	15.2%	2.0	24.0%	1.7	27.0%
Total	1.9	100.0%	2.0	100.0%	1.9	100.0%	2.0	100.0%	1.9	100.0%

E. Other Offenses

Offenses categorized as Other Offenses represented 14.1% of felony cases, and 14.0% felony counts sentenced. Due to the numerous offenses within this category, Other Offenses are ranked in a variety of boxes across both Grids. This variation also explains the range of non-sequential CH Scores represented in this offense category.

Table 13: Other - Average CH Score (Count Level)										
	2010		2011		2012		2013		2014	
	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%	Average CH Score	%
D3 Maintaining a place for storage and distribution of narcotic and abusive drugs Obtaining controlled substance by fraud	0.0	0.8%	--	--	1.8	0.6%	--	--	--	--
M5 Obstruction of justice	2.0	14.6%	2.1	15.8%	1.8	19.3%	2.2	10.1%	1.5	7.1%
M6 1st degree cruelty to children Arson	2.6	1.0%	1.4	1.4%	0.7	1.7%	0.0	0.4%	0.7	2.5%
M7 Negligent Homicide	2.0	0.8%	0.0	0.4%	1.6	1.6%	--	--	0.0	0.3%
M8 2nd degree cruelty to children Bribery Criminal street gang affiliation Extortion Fleeing law enforcement officer Intimidating, impeding, interfering, retaliation against a government official or employee of DC Perjury Unlawful possession of contraband into penal institution	1.5	14.9%	1.4	18.9%	1.9	19.3%	2.0	25.8%	1.6	31.6%
M9 Escape/prison breach BRA Conspiracy Contempt	2.5	67.4%	2.4	62.7%	2.1	56.8%	1.8	63.7%	2.0	58.8%
Total	2.2	100.0%	2.1	100.0%	1.9	100.0%	1.9	100.0%	1.8	100.0%

The majority of counts sentenced in this group involved conspiracy (10.3%), bail reform act (10.6%), fleeing a law enforcement officer (10.6%), criminal street gang affiliation (13.6%), and prison breach/prison escape (13.3%).⁵⁴ These counts represented about 58.5% of all felony sentences in the Other category. Although felony counts in the Other category demonstrated a consistent decline from 2010 to 2013, the category increased 20.7% between 2013 and 2014. The charge most likely accountable for this change is the charge of “criminal street gang affiliation,” which increased from 2.2% of all Other counts sentenced in 2013 to 13.2% in 2014.

In 2014, 88.2% of the offenders in this category reported as Black, which is consistent with previous years. However, the gender demographics differ significantly, as 7.0% of counts

⁵⁴ Virtually all of the offenses of “prison breach” and “escape” involved violations of halfway house custodial restrictions.

sentenced for this category were for female offenders. In fact, 27.9% of all 2014 counts sentenced for female offenders were sentenced for offenses within the Other category. The average age of offenders sentenced for Other offenses was 27.9 years. The most frequent age group were offenders age 22-30 years, representing 33.1% of all offenders in this group.

VI. Conclusion

Sentencing Highlights:

- In 2014, there were 1,773 offenders sentenced in 1,921 felony cases. These cases were comprised of 2,844 felony counts.
- The number of cases involving female offenders increased from 142 in 2013 to 162 in 2014, ending a period of steady decline. This was associated with an increase in the percentages of female offenders sentenced in Burglary, Other (Non-Property), Other (Property), Robbery, and Theft felony cases.
- After a sharp decline in felony drug counts sentenced from 2010 (1,434) to 2013 (485), drug offense counts were relatively stable in 2014 (472).
- Violent counts increased by 44.5% from 2010 (586) to 2012 (847), and decreased by 19.5% in 2013. In 2014 (788), sentences for violent counts began to increase again by 15.5%.
- The number of felony counts sentenced in the PWID+Dist. category stabilized at 253 felony counts between 2013 and 2014, after consistently declining from 2010 (609) to 2013 (253).
- The Other Offense category replaced the Attempted Drug Offenses category in the list of the top five grouped offenses.
- Of the felony counts sentenced in 2014, 69.1% resulted in prison sentences. Short split sentences were imposed in 15.1% of felony counts sentenced, and probation was given for 15.8% of felony counts sentenced.
- For the Homicide Offense type, female offenders were proportionally more likely to be sentenced for voluntary manslaughter, while male offenders were more likely to be sentenced for second degree Murder.

The D.C. Superior Court imposed felony sentences for 1,773 offenders involved in 1,921 felony cases. The data used for comparisons in this report demonstrate that there had been a consistent decline in the number of cases sentenced in the Superior Court from 2010 (2,813) to 2013 (1,953). However, the number of cases sentenced appears to have stabilized in 2014 at 1,921.

The total number of sentenced felony counts has decreased from 2010 (3,638) to 2014 (2,844), which has been accompanied by a change in all sentence types imposed under the Guidelines.

The types of dispositions remained relatively unchanged from previous years. About 89% of all cases were disposed of through guilty pleas, while jury trials represented about 10.4% of cases disposed. Bench trials accounted for less than one percent of all cases disposed.

When examining individual offense categories, both Violent and Other Offense categories increased between 2013 and 2014. In 2014, Violent Offenses represented 27.5% of all felony cases, and increase from 25.9% in 2013. Other Offenses also increased from 10.0% in 2013 to 13.4% in 2014. There was also a significant decrease in the proportion of Weapon cases sentenced from 2013 (22.2%) to 2014 (18.6%), which may be due, in part, to changes in criminal justice policies related to gun registration and licensing in the District from 2012 through 2014.

The proportion of short split and probation sentences increased slightly during 2014, while the proportion of prison sentences showed a corresponding decline relative to 2013. The rate of prison, short split, and probation sentences fluctuated from 2010 to 2014. For most felony counts, the percentage of prison sentences imposed remained relatively unchanged; however, this was not the case for Attempted Drug, Other, and Property Offenses. Felony counts for these four types of offenses had a lower percentage of counts sentenced to prison than in previous years.

The demographic characteristics for felony offenders sentenced in 2014 remained similar to previous years. Of the 1,773 offenders sentenced in 2014, 97.1% of offenders were Black, 90.9% were male, and 80.1% were Black males. Offenders 22 to 30 years of age formed the largest percentage of felony offenders sentenced in 2014. Since 2011, probation sentences for female offenders increased as did short split sentences for male offenders. However, it is important to consider that this difference is partially a function of the differences in the types of offenses for which male and female offenders are sentenced. Male offenders are sentenced most often for offenses in the Violent, Drug, and Weapon Offense categories while female offenders are more often sentenced to Other, Property, and Drug Offense categories.

The top five offense categories, which accounted for almost 72% of all felony sentences imposed, changed slightly in 2014. The grouped offense categories Assault, PWID+Dist., Robbery, and Weapon remained in the top five; however, the category of Other Offenses replaced Attempted Drug Offenses.

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. Prison sentences were generally imposed for violent and serious criminal behavior and for crimes committed by chronic offenders. These sentences were imposed to protect public

safety and incapacitate chronic offenders. Short split and probation sentences were typically reserved for less serious criminal offenses and offenders with minimal criminal histories. These less severe sentences were also imposed to increase public safety; however, they were also expected to promote the rehabilitation of the offender, while still holding the offender accountable for his or her criminal offense.

CHAPTER FIVE

COMPLIANCE WITH THE DISTRICT OF COLUMBIA VOLUNTARY SENTENCING GUIDELINES

The Commission monitors and analyzes judicial compliance with the Sentencing Guidelines as a part of its statutory mandate. This serves as a measure of sentencing practices in the Superior Court, and enables the Commission to determine how well the Sentencing Guidelines are meeting the goals of promoting fair and consistent sentencing in the District. Monitoring and evaluating compliance also allows the Commission to uncover sentencing patterns that may suggest a need to modify or adjust the Sentencing Guidelines.

Judicial compliance with the Sentencing Guidelines remains very high, consistently near or above 90% since 2010. In 2014, more than 97% of all felony counts sentenced were compliant with the Guidelines.

I. How the Commission Defines Compliance with the Sentencing Guidelines

The Commission evaluates compliance with the Sentencing Guidelines by determining if the actual sentence imposed by the judge falls within the sentencing options and sentencing range recommended by the Guidelines. Two primary factors determine the Guidelines compliant sentencing options and range for each count sentenced: the offense severity group (OSG) and the defendant'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). Similarly, the Guidelines 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 calculates a defendant's CH Score by researching each defendant's complete criminal history and translating that history into a numerical CH Score for each defendant by applying a series of Guidelines rules.⁵⁵ The CH Score primarily accounts for the type, number, and severity of the defendant'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.

⁵⁵ On rare occasions, such as when the court sentences the defendant immediately after a plea or verdict, CSOSA does not have the opportunity to produce a complete criminal history for a defendant.

The intersection of a defendant's OSG and CH Score category on either the Master Grid or the Drug Grid identifies the grid box containing the defendant's Guidelines compliant sentence type and range.⁵⁶ There are three types of sentences allowed under the Guidelines: prison, short split, and probation.

Of the 45 boxes on the Master Grid, 35 are white/unshaded, "prison only" boxes,⁵⁷ four are dark shaded (or green) short split sentence permissible boxes,⁵⁸ and six are light shaded (or yellow) probation eligible boxes.⁵⁹ 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. 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 defendant is a repeat offender, or other statutory aggravating factors.⁶⁰

II. Departures from the Guidelines

The Guidelines were designed to promote consistency in sentencing among similar offenders convicted of similar crimes. However, there will always be unusual or exceptional cases that cannot be accounted for by a broad set of sentencing principles such as the District's Guidelines. In order to address atypical cases or offenders, the Guidelines allow judges to depart from the recommended sentencing 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 applicable Guidelines. 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

⁵⁶ See Appendix A and B for copies of the Master Grid and Drug Grid

⁵⁷ 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 defendant's sentence; however, the time to be served in prison must still fall within the appropriate Guidelines range.

⁵⁸ 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.

⁵⁹ 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.

⁶⁰ Statutory minimum and mandatory minimum sentencing provisions do not change a defendant'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 minimum, even if lower sentences are otherwise available in the appropriate box.

from the applicable guidelines, the sentence is considered a “compliant departure.”⁶¹ The Guidelines are voluntary. Therefore, a judge can impose any legal sentence, whether or not it is compliant with the Guidelines, and he or she may choose not to cite a mitigating or aggravating factor. The Commission characterizes these as “non-compliant departure” sentences.

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

- **In-the-Box Sentences**—sentences that fall within the appropriate sentence type (prison only, short split, or probation) and sentence range based on the defendant’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 defendant, 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.⁶²
- **Rule 11(e)(1)(C) Sentences**—sentences that are based upon a 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.⁶³
- **Compliant Departures**—sentences that do not fall within the appropriate sentence type or Guidelines range given a defendant’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 sentence range given a defendant’s offense of conviction and CH Score, and the judge does not cite a valid 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.

⁶¹ See Appendix E for a full list of departure principles under the Guidelines.

⁶² 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.

⁶³ Under Criminal Rule 11(e)(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(e)(1)(C) plea are classified as compliant Rule 11(e)(1)(C) sentences regardless of whether the sentence imposed would have otherwise been compliant with the applicable Guidelines range and/or sentencing options.

III. Data Reporting

The first step in measuring judicial compliance with the Sentencing Guidelines is identifying the appropriate sentencing option and range for every felony conviction in a case, and then comparing that to the sentence imposed by the judge. The Superior Court provides offense and sentencing information to the Commission and CSOSA provides criminal history information for each offender. The GRID system uses the data to automatically assess compliance with the Sentencing Guidelines, which is reported at the count level.

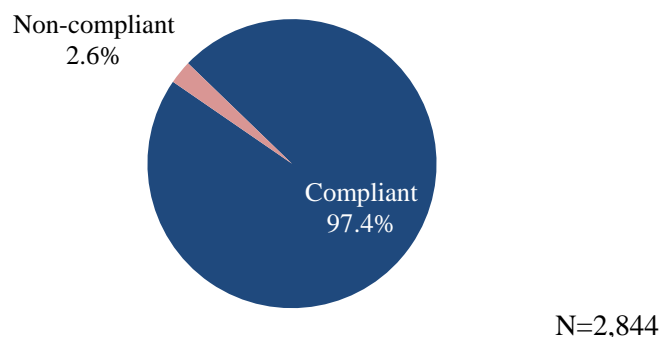
If, after a multi-step validation process, a sentence still appears to be non-compliant, a departure letter is forwarded to the judge to verify offense, offender, and sentence information in the case. Departure letters also provide the sentencing judge the opportunity to identify inaccuracies in the 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 98.2% of all felony counts sentenced in 2014. The Commission received complete sentencing data for all cases for which CSOSA calculated the defendant's CH Score (consisting of a CH Score, a conviction charge, and a sentence). Less than two percent of felony counts sentenced involved cases where the court did not request the defendant's criminal history score or the judge sentenced the defendant without a presentence report.

IV. Compliance Analysis

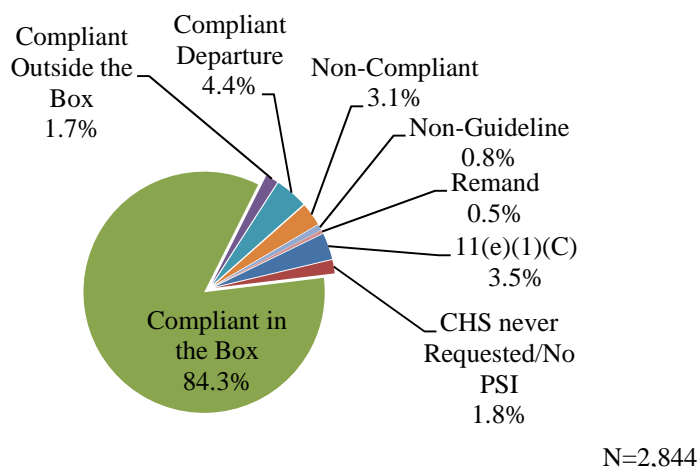
In 2014, there were 2,844 felony counts sentenced in the Superior Court. As in previous years, the rate of judicial compliance with the Sentencing Guidelines was greater than 95% (Figure 22).

Figure 22: Overall Judicial Compliance Rate in 2014



This section examines sentences imposed for felony counts sentenced in 2014 in relation to the following categories - Rule 11(e)(1)(C), Compliant in-the-box and outside-the-box, Compliant Departure, and Noncompliant sentences. As shown in Figure 23, 84.3% of all sentenced felony counts were compliant-in-the-box sentences, meaning that that the sentence imposed fell within the type and the range recommended by the Sentencing Guidelines.

Figure 23: Judicial Compliance Rate in 2014



This was a significant decline from 2013, when 91.6% of sentences were determined to be compliant in-the-box. This decline can be partially attributed to an increase in the number of sentences involving Rule 11(e)(1)(C) pleas,⁶⁴ which increased from 2.4% in 2013 to 3.5% in 2014. Another factor contributing to the decline of compliant in the box sentences was the increase in the number of compliant departures from 2013 (1.7%) to 2014 (4.4%).

Table 14 outlines judicial compliance statuses from 2010 to 2014.⁶⁵

Table 14: Judicial Compliance Status 2010 - 2014					
Compliance Status	2010	2011	2012	2013	2014
11(e)(1)(C)	0.3%	0.1%	0.7%	2.4%	3.5%
CHS never Requested/No PSI	1.4%	1.2%	0.5%	0.9%	1.8%
Compliant in the Box	62.3%	53.4%	82.7%	87.6%	84.3%
Compliant Outside the Box	0.0%	0.0%	0.2%	0.7%	1.7%
Compliant Departure	0.1%	0.9%	1.2%	1.7%	4.4%
No CH Score	23.6%	37.5%	5.1%	0.7%	0.0%
Non-Compliant Sentence	8.5%	4.0%	6.5%	3.7%	3.1%
Other	3.7%	2.9%	3.2%	2.3%	1.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%

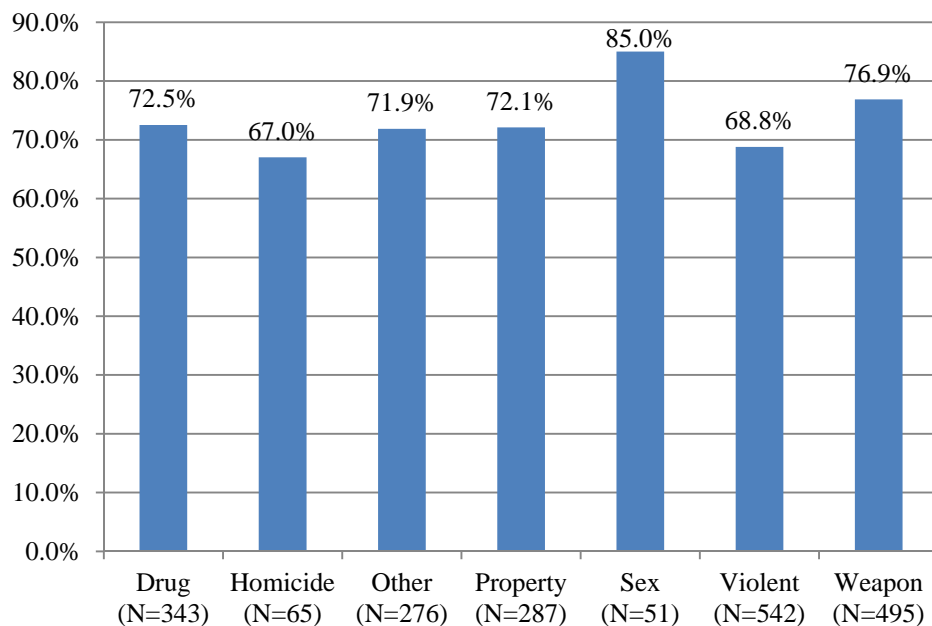
⁶⁴ The use of the GRID system has improved the identification of Rule 11(e)(1)(C) pleas.

⁶⁵ The “Other” compliance statuses include remand and non-guideline compliance statuses.

A. Compliant-in-the-Box Sentences

Figure 24 demonstrates that Sex Offenses (85.0%) had the highest frequency of compliant-in-the-box sentences, followed closely by Weapon Offenses (76.9%). Homicide Offenses (67.0%) had the lowest number of compliant-in-the-box sentences. The largest change in the rate of compliant in-the-box sentences was in the Drug Offense type, which increased from 61.6% in 2013 to 72.5% in 2014. The figure below displays the number of compliant in-the-box sentences imposed for felony counts within each offense category in 2014.

Figure 24: Percentage of Compliant In-The-Box Sentences in Each Offense Type in 2014



B. Compliant Departures⁶⁶

A judge may assess factors related to the offense, the offender, the victim, or the offender's criminal history that warrant a departure from the sentence recommended by the Sentencing Guidelines. Compliant Departures occurred in 3.8% (107 counts) of all felony counts sentenced in 2014. 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. Judges cited the following aggravating (A) and mitigating (M) factors for departures in 2014:

⁶⁶ See Table 23 in Appendix D; page XIII, detailing departure reason by OSG, CH Score, and sentence length.

- A3 - A victim sustained a devastating injury;
- A7 - The defendant attempted to obstruct justice;
- A10 - The consecutive/concurrent sentencing policy results in an excessively lenient sentence;
- 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 defendant's culpability is substantially less than that typically associated with the offense;
- M2 - Before detection in a crime other than a crime of violence, the defendant compensated or made a good faith effort to compensate the victim(s) for any damage or injury sustained;
- M6 - The defendant could not appreciate the wrongfulness of his or her conduct;
- M7 - The defendant has provided substantial assistance to law enforcement;
- M8 - The Guidelines sentence calls for incarceration but the defendant 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.

Table 15 displays the departure reasons reported to the Commission for sentences in 2014. There were 11 felony counts with aggravating factors reported, where the judge imposed sentences above the recommended sentencing range. The most frequent aggravating factor cited was A11 which represents the catch-all aggravating factor (6 counts). There were 96 mitigating departures reported, where judges imposed sentences below the recommended sentencing range. The most common mitigating departure reason cited was also M10, the catch-all departure (37 counts). This departure factor is followed closely by M7, which is used when a defendant has provided substantial assistance to law enforcement.

Table 15: Departure Reasons by Severity Group											
	A3	A7	A10	A11	M1	M2	M6	M7	M9	M10	Total
D2			1				3			4	8
D3				2			1	1		2	6
M2								1			1
M3					2			2			4
M4								4	1		5
M5	1				1			8	11	9	30
M6		1						7	1	8	17
M7			1	1			2	1	5	5	15
M8			1	3		1	1	2	2	9	19
M9								2			2
Total	1	1	3	6	3	1	7	28	20	37	107

The 96 mitigating departures were imposed using six mitigating factors; with M7, M9, and M10 representing the most common mitigating factors reported. Robbery and Attempted Robbery convictions most frequently received a departure, receiving one aggravating departure and 20 mitigating departures. Other Offenses where judges departed include distribution of a controlled substance, possession of a firearm during a crime of violence, and unauthorized possession of a firearm-prior conviction, with each having eight departure sentences imposed.⁶⁷

Figure 25 displays the composition of total compliant departure sentences based on offense category. The Violent and Weapon Offense categories were the offense categories with the highest ratio of compliant departures from the Guidelines. In 2014, the Violent Offense category (35) was the most frequent offense category for compliant departures; followed closely by sentences for Weapon Offenses (26). The Weapon category also made up the largest percentage of compliant departures with aggravating factors cited, although they only represented 4 counts. Sex and Homicide categories represented the groups with the lowest ratio of compliant departures. Sex Offenses accounted for only one compliant departure with a mitigating factor cited. Homicide Offenses accounted for eight compliant departures with mitigating factors, which all included downward departures for second degree Murder (1 count), voluntary manslaughter (6 counts), and involuntary manslaughter (1 count).

⁶⁷ See Table 24 in Appendix D; page XIV, which provides a cross-tabulation of offenses and departure reasons.

Figure 25: Percentage of Total Compliant Departures in 2014

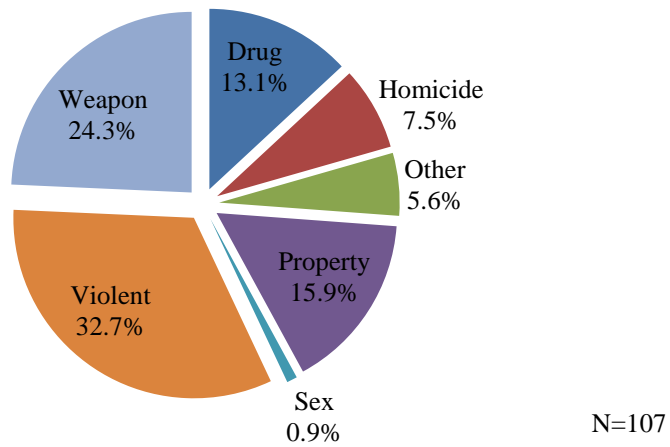
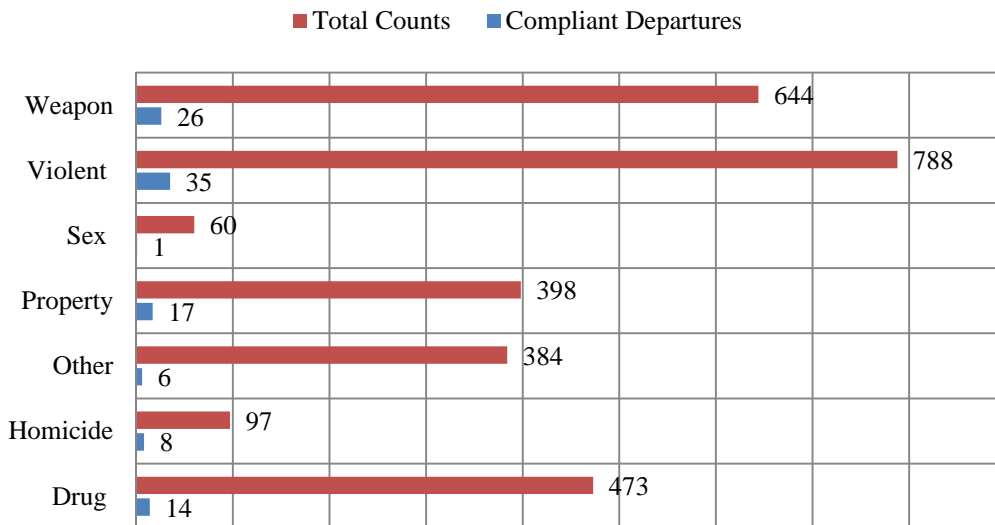


Figure 26 displays the number of compliant departure sentences imposed for felony counts within each offense category in 2014.

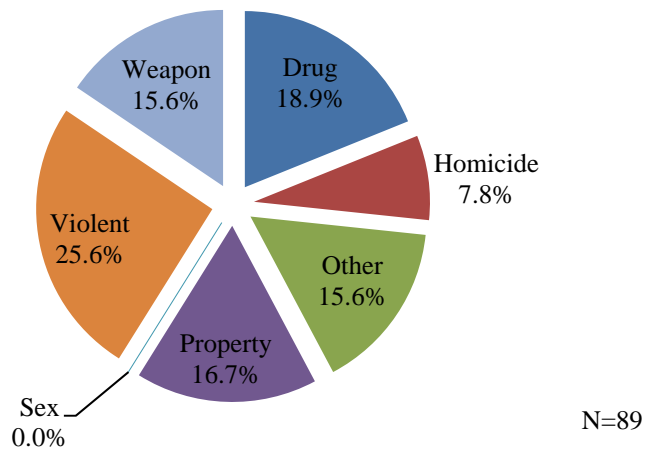
Figure 26: Number of Total Compliant Departures in 2014



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. Non-Compliant departures represented only 3.1% of felony counts sentenced in 2014, compared to 3.0% in 2013. Drug and Violent Offenses comprised the majority of non-compliant departure sentences imposed, as displayed in Figure 27.

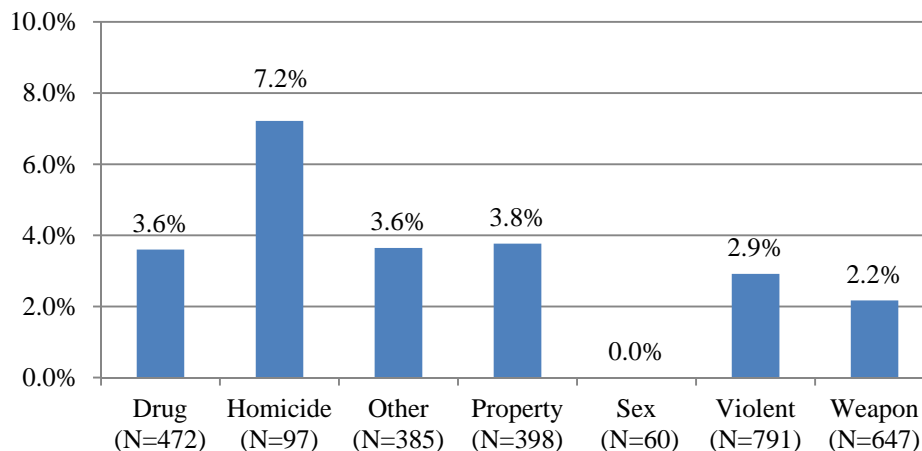
Figure 27: Non-Compliant Departures in 2014



The proportion of offense types receiving non-compliant departures changed between 2013 and 2014. In 2014, Violent Offenses (25.6%) had the largest proportion of non-compliant sentences, followed by Drug (18.9%) and Property (16.7%) Offenses (Figure 27). The Weapon Offense type (15.6%) accounted for the most non-compliant departures in 2014. The percentage of Homicide Offenses that received sentences that were non-compliant departures increased from 1.9% in 2013 (2 second degree Murder counts) to 7.8% in 2014 (7 voluntary manslaughter counts). Sex Offenses continued to represent the smallest percentage of non-compliant departures imposed, with zero non-compliant departures imposed in 2014.

Figure 28 presents the number of non-compliant departure sentences imposed for felony counts within each offense type in 2014.

Figure 28: Percentage of Non-Compliant Departures within Each Offense Type in 2014



V. Conclusion

Judicial Compliance Highlights:

- The judicial compliance rate was 97.4%, with only 2.6% of felony sentences labeled as non-compliant. However, 85.3% of sentenced felony counts were considered compliant in-the-box, a decline of 3.7 percentage points from 2013.
- Rule 11(e)(1)(c) pleas increased from 2013 (2.4%) to 2014 (3.5%).
- Compliant departures increased from 1.7% in 2013 to 4.4% in 2014. Aggravating factors represented 10.3% of departure reasons cited, while 89.7% of compliant departures cited mitigating factors.
- Factor A11 was the most frequently cited aggravating factor, cited in 54.5% of upward departures (6 out of 11 counts)
- Factor M10 was the most frequently cited mitigating factor, cited in 38.5% of downward departures in 2014. However departure factors M7 (29.2%) and M9 (20.8%) were also frequently cited.
- Sentenced felony counts categorized as Homicide (7.5%), Other (5.6%), and Sex (0.9%) represented the lowest percentage of compliant departures.
- Non-compliant departure sentences imposed for Property Offenses increased from 1.7% of all Property counts sentenced in 2013 to 3.8% in 2014.

The compliance rate for the Sentencing Guidelines has remained consistently at or above 90% since their inception. In 2014, the overall compliance rate for felony counts was 97.4%, which is fairly consistent with compliance rates from 2010 (93.4%) through 2013 (97.0%). However, the 2014 in-the-box compliant sentence rate was approximately 84.3% compared to 91.6% in 2013, indicating a decline from the previous year. The high compliance rate may be attributed, in part, to the level of comfort and familiarity Superior Court judges now have using the Sentencing Guidelines. However, the high compliance rate may also be a function of the wide sentence ranges available within each box on the Master and Drug Grids, as well as the flexibility to exercise discretion by utilizing aggravating and mitigating principles built into the Guidelines methodology. See Appendix A, showing the sentencing ranges available on both grids.

Last year there was a significant increase in compliant departures (107 last year compared to 38 in 2013). Of the compliant departures reported in 2014, 10.3% were based on aggravating factors. By comparison, 89.7% of compliant departures were based on mitigating factors. This is a notable difference from 2013, where 35.7% of departures were the result of aggravating

factors. This difference may be related to the significant increase in the number of departure reasons captured when sentences were imposed. As the number of departure reasons captured increases, assessment of the aggravating and mitigating principles utilized by the judge can become more robust. In the future, as the number of mitigating and aggravating factors cited for cases that depart from the Sentencing Guidelines increases, the ability to attempt to predict sentencing will improve. In addition, there may be an opportunity to re-examine aggravating and mitigating factors to determine whether they are meeting the needs of the court when imposing atypical sentences under the Sentencing Guidelines.

Drawing a firm conclusion about the mitigating and aggravating departures continues to be a challenge for the Commission. While more departure factors were selected compared to previous years, the leading departure factor continues to be the catch-all factor M10 for mitigating factors and catch-all factor A11 for aggravating factors. As in years past, the majority of departures were downward departures, with 39.8% of these departures reported as M10 catch-all departures. The second most frequent mitigating factor reported was M9, which refers to consecutive/concurrent sentencing policy resulting in a Guidelines sentence deemed too severe in relation to the seriousness of the offense and the history of the defendant. However, it should be noted that 19 out of 20 M9 departures in 2014 resulted from two particular cases, each with multiple counts.

The 2014 data suggest that sentencing patterns may be shifting, possibly indicating the need for new approaches to research and analysis. Moving forward, the Commission will continue to use the GRID system to identify and analyze trends related to the imposition of sentences and compliance with the Sentencing Guidelines. The GRID system, together with the new GSS enhancement, will improve the timeliness and accuracy of compliance calculations by allowing CSOSA officers to enter CH Scores directly into the GRID system through GSS. The Commission will continue to use compliance and departure information to make informed decisions regarding potential modifications to the Sentencing Guidelines to further the goal of promoting fair and consistent sentencing in the District.

CHAPTER SIX

CRIMINAL CODE REVISION PROJECT

The Council of the District of Columbia has directed the Commission to review and develop recommendations for revisions to the District of Columbia's criminal laws. This chapter provides an overview of the Criminal Code Revision Project (the Project) and describes the Commission's 2014 activities related to the Project.

The Project's work in 2014 followed a Project Management Plan that was first approved by the Commission and submitted to the Council in April 2013.⁶⁸ In the first three quarters, the Commission developed preliminary recommendations on revision to fourteen sections of the D.C. Code concerning property crimes and five sections concerning drug crimes. In the fourth quarter, the three major criminal justice agencies represented on the Commission undertook an agency review of all Project work to-date. This review resulted in a modified Management Plan that was approved by the Commission and is included in this Report as Appendix F.

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;
 - (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;

⁶⁸ The Project Management Plan originally approved by the Commission in March 2013 had a different sequence, placing revision of weapon offenses after drug offenses for the last quarter of 2014. However, pursuant to a Commission vote on September 16, 2014, revision of offenses against persons was re-sequenced ahead of weapons revisions to allow for resolution of pending litigation and legislation affecting weapons regulation.

- (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.⁶⁹

II. Project History and Background

In response to the Council's mandate to revise the District's criminal statutes, the Commission established a Criminal Code Revision Committee (CCRC) and tasked it with primary responsibility for developing code revision recommendations. The CCRC is comprised of five Commission members with diverse and balanced backgrounds.⁷⁰ Overall responsibility and final approval of all recommendations to the Council remain with the full Commission.

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,

⁶⁹ 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).

⁷⁰ 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 Kendrick 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 CCR Committee before she was succeeded in 2012 by Ms. Renata Kendrick Cooper.

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 of imprisonment, ensuring a system of proportionate fines within the District. The new fine structure went into effect June 1, 2013.⁷¹

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, 2016.⁷² Subsequently, in March 2013, the Commission developed and approved a Project Management Plan to guide future activities.

Pursuant to the Project Management Plan, in 2013, the CCRC staff produced working drafts of general provisions that would be applicable to all criminal offenses. These general provisions set out common definitions and principles of liability across criminal statutes. These provisions would improve the clarity and consistency of offenses and make criminal law more accessible to the public by incorporating the binding (but difficult to find) judge-made criminal law into the D.C. Code. In 2013, the CCRC also created a reorganization scheme for criminal offenses in Title 22 of the D.C. Code. This reorganization aims to create a logical, user-friendly structure that groups similar offenses together and moves extraneous information outside of Title 22.

III. Code Revision Committee & Staff Activities in 2014

In the first three quarters of 2014, Project activity focused on developing recommendations for revision of the property and drug offenses specified in the Project Management Plan. A thorough “agency review” of Project work to-date was completed by institutions on the CCRC in the fourth quarter and the Committee discussed the agency feedback. Based on the agency feedback, the Commission approved a modified Project Management Plan, which is included in Appendix F of this Report.

A. Revision Approach/Scope

In January 2014, the CCRC agreed on an approach to the revision of property offenses. This approach first seeks to 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 agreed to negotiate new language for clarifying and

⁷¹ 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).

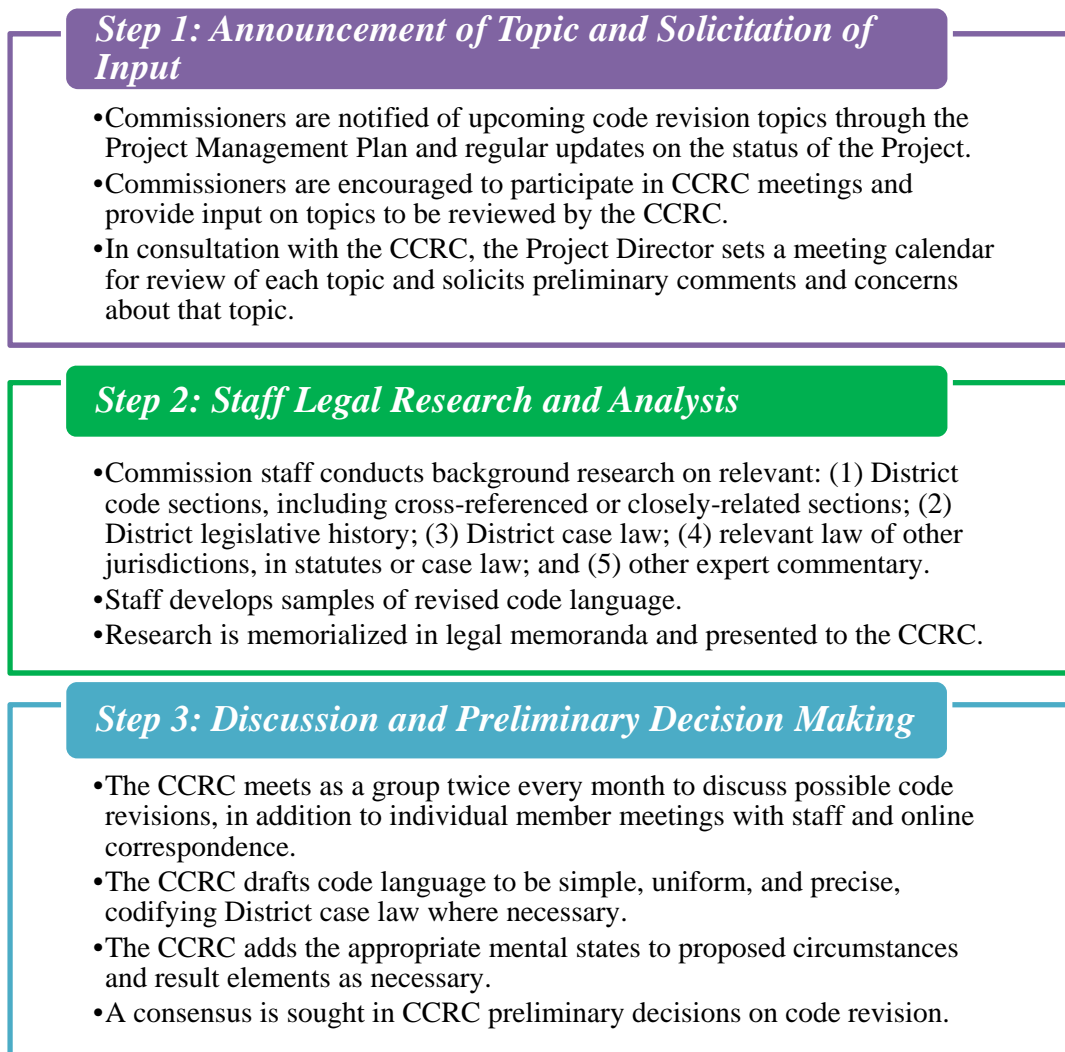
⁷² Sentencing and Criminal Code Revision Modification Clarification Amendment Act of 2012, Subtitle of Fiscal Year 2013 Budget Support Act of 2012, 2012 D.C. Laws 19-168, A19-385, Sec. 3031-32 (2012); Fiscal Year 2013 Budget Request Act of 2012, 2012 D.C. Laws A19-381, Sec. 2 (2012).

making offenses more consistent—including in many instances specifying mental state elements that are unclear under current law. The CCRC agreed to make new, substantive changes to the law only where there is unanimous agreement among the CCRC members to do so. Once a group of related offenses has been preliminarily revised using this approach, the group will be reviewed by the Committee again as a whole and then will be independently reviewed by the three criminal justice agencies represented on the Committee. This same approach was used in the development of revisions to drug offenses.

B. Revision Procedure/Process

In addition to this agreed-upon approach to revision, the CCRC established and followed a standard code revision procedure for revision of offenses. The process is described in Figure 29, below.

Figure 29: Criminal Code Revision Procedure



Once tentative agreement is reached with respect to revisions for each offense, those recommendations are compiled with the general provisions and other draft revisions previously developed by the CCRC. All draft revisions must be approved by the full Commission before being forwarded as recommendations to the Council. An accompanying commentary will provide clarification about the intended effect of the recommended revisions and, as necessary, will identify supporting authorities for changes or provide commentary explaining why changes are not necessary. It is the Commission's intent that this commentary serve as part of the legislative history of any criminal code revision legislation, which may be passed by the Council based on the Commission's recommendations.

C. Revision of Property and Drug Offenses

Following the agreed-upon scope of revision and the above three-step process, the CCRC developed preliminary recommendations for revision of each of the below-listed property and drug offenses. As identified in the Project Management Plan, these offenses are among the most common and serious felonies in the District, or they are so closely related to such common and serious felonies that they logically must be revised at the same time.

Figures 30a and 30b: Property and Drug Offenses Recommended for Revision in 2014

<i>Revised Property Offenses and Related Provisions</i>	<i>Revised Drug Offenses and Related Provisions</i>
<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

It should be noted, however, that these draft revisions to theft and property offenses do not reflect unanimous or final agreement by the CCRC for two reasons. First, several language choices in the revised property and drug offenses did not receive consensus agreement in the CCRC. In such instances, the CCRC uses brackets to indicate specific language that was not unanimously agreed upon. 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.

D. Agency Review

After developing draft revisions for property offenses this past year, the criminal justice agencies represented in the CCRC expressed a desire to conduct a more in-depth, cumulative review of all Project work to-date within in their respective institutions. Staff accordingly prepared a set of “agency review” materials including the general provisions, reorganization scheme for Title 22,

and revised property offenses, along with a transmittal memorandum and relevant explanatory materials. The agency review materials were released to the CCRC August 4, 2014.

As described on page one of the Transmittal Memorandum accompanying the agency review materials, there were two goals for the agency review process:

“The primary goal of this agency review process is to identify any concerns about the Committee’s current process of code revision. As a secondary goal, agency comments on specific revisions are welcome and will be considered by the Committee.”

As the agency review proceeded among the institutional members, the CCRC drafted preliminary revisions to drug offenses and began discussion of revision to certain “offenses against persons” as described in the Project Management Plan. However, in early October 2014 some CCRC members expressed concern that it was not feasible to undertake new code revision work pending completion of the thorough agency review process, which was expected to take until December. Consequently, the CCRC met only monthly in the fourth quarter of 2014 and new code revision work was suspended during that time. However, Staff assigned to the Project continued to prepare legal research for revision of offenses against persons pending completion of the agency review.

By December 18, 2014, the three agencies represented on the Committee—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)—had submitted responses to the agency review. Based on these responses, it became clear that there was disagreement among the criminal justice agencies regarding the scope and direction of the Project to date. It was decided that a modified Project Management Plan might help narrow the area of disagreement between the agencies as to the approach and help the Committee and ultimately the Commission reach consensus on more of the specific statutory mandates related to the Project. Accordingly, the Committee prepared a modified Project Management Plan, which was approved by the Commission in early 2015 and is included in this Report as Appendix F.

E. Early 2015 Project Work

This new Plan was developed to prioritize work on legislative mandates⁷³ where Commission member agreement is strongest, keeping the Project moving forward. The modified Plan also makes changes regarding the future work of the Project.

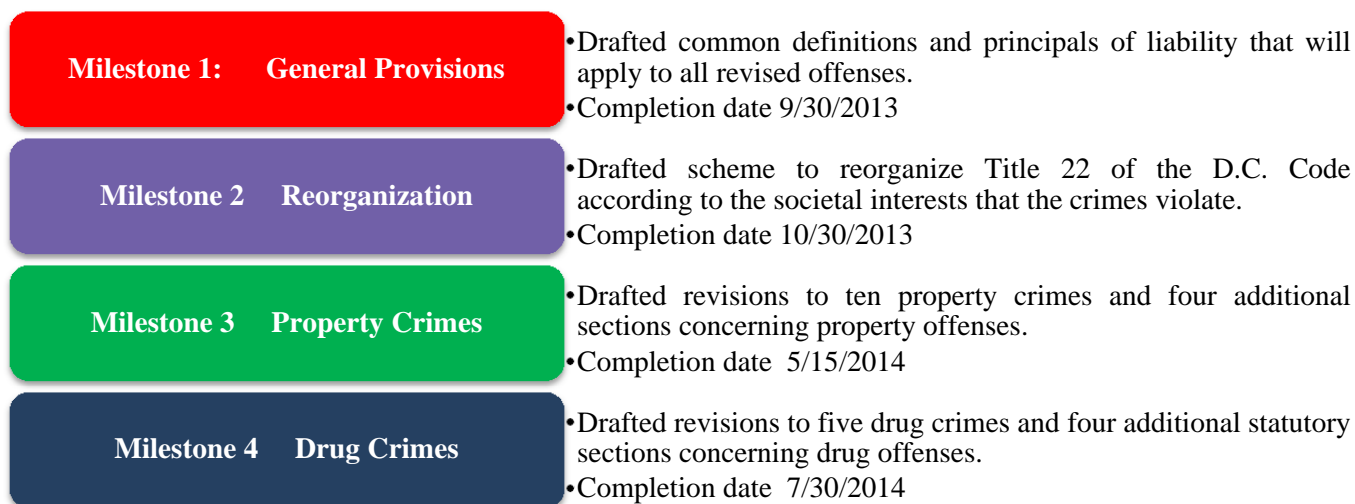
⁷³ D.C. CODE § 3-101.01 (a)(5), (a)(6), and (a)(8).

Specifically, the Commission added and prioritized CCRC development of draft recommendations for adoption of a revised Title 22 as an enacted Title of the District of Columbia Official Code and identification of offenses that are unconstitutional, exist only in common law, or are obsolete. The new plan also adds two additional agency reviews to allow for cumulative reviews of ongoing work. To offset the time spent on these additional activities the Project intends to focus on revision of offenses other than weapon offenses, inchoate offenses, and crimes involving government operations described in the prior Project Management Plan. However, apart from these changes, this new Plan is otherwise consistent with the prior version and includes analysis, review, and recommendations for revision to many of the District’s most serious felonies.

IV. Milestones & Deliverables to Date

Since March 2013, the Project’s progress has been measured against a schedule of Milestones and deliverables described in the Project Management Plan. To date, the CCRC has met the first four Milestones, although the Commission has yet to give its final approval of that work.

Figure 31: Project Management Plan Milestones Achieved



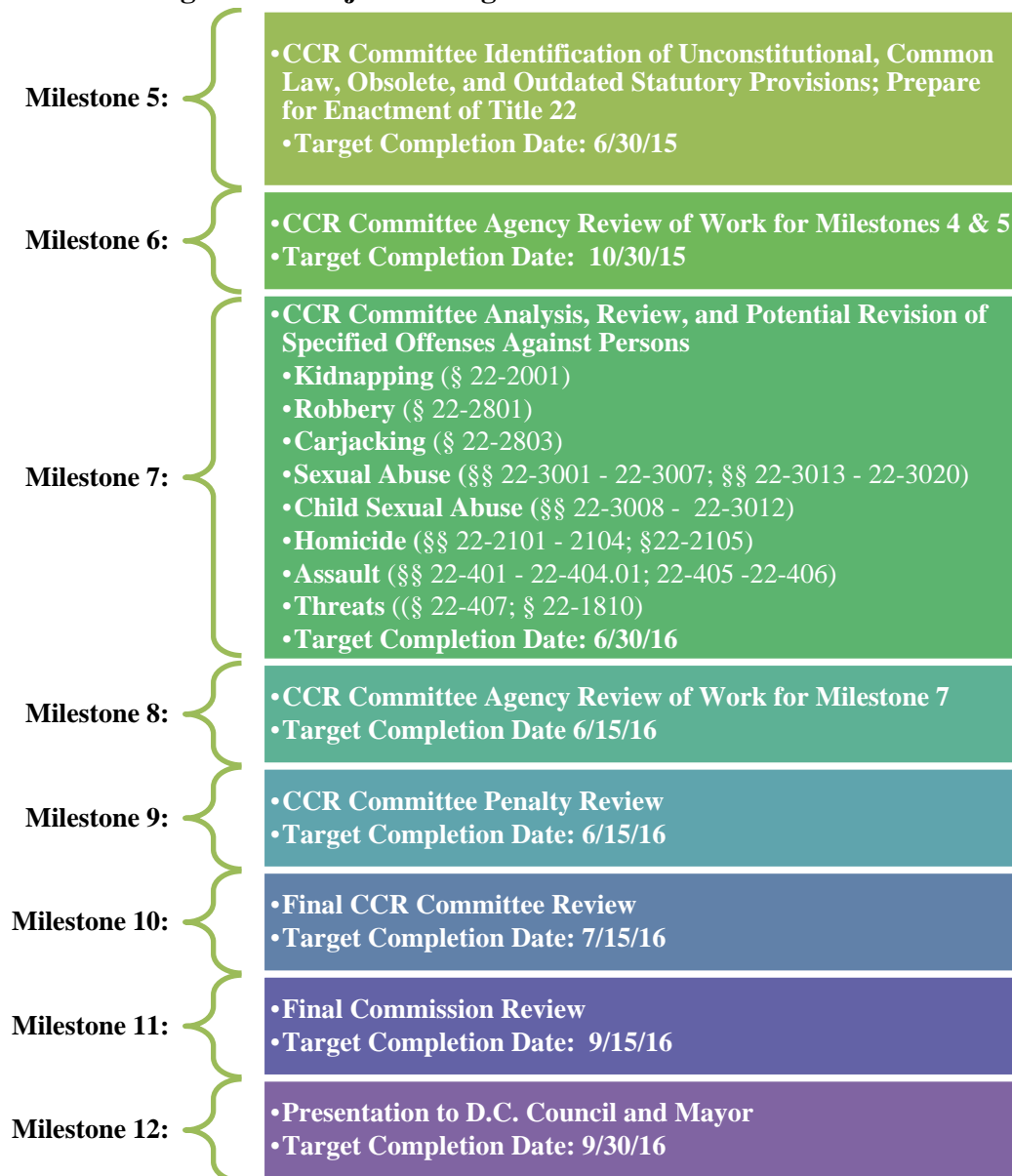
Project work corresponding to the first three of these Milestones was part of the CCRC’s agency review in 2014 and was provided to the Commission in December 2014.

-
- (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;
 - (8) Enable the adoption of Title 22 as an enacted title of the District of Columbia Official Code.

V. Timeline of Future Deliverables

Future Commission work on the Project will proceed according to the new Project Management Plan approved by the Commission on March 17, 2015, described briefly in section III, above and included in Appendix F of this Report. The Project Management Plan sets Milestones to measure progress in 2015 and 2016.

Figure 32: Project Management Plan: Milestones 5-13



The CCRC is currently working to identify offenses that are unconstitutional, in whole or in part; exist only in common law or are obsolete; and preparing for enactment of Title 22 of the D.C.

Code, in consultation with the Council's Codification Counsel. That work, Milestone 5 in Figure 32, is expected to continue through June 2015.

VI. Anticipated Project Completion

The Commission intends to complete work on the Project by the September 30, 2016 statutory deadline. By that date, the Commission will deliver to the Council comprehensive recommendations for criminal code revision as outlined in the current Project Management Plan. These recommendations will include:

- A compilation of all the District statutes for which there are recommended revisions by the Commission;
- An accompanying commentary that will clarify the intended effect of the recommended revisions and, as appropriate, identify supporting authorities for changes; and
- Other aspects of the agency's legislative mandate, such as identification of criminal statutes that have been held to be unconstitutional and identification of crimes defined in common law that should be codified.

Timely and successful completion of the Project will depend critically on the ability of Commission members to reach agreement on recommendations for revision. In 2014, as the Project has shifted to revision of specific offenses, the CCRC's work has increasingly involved issues where there are established statutes, court decisions, and institutional positions making agreement among the Committee members more difficult to achieve. These additional factors have complicated the revision process, and led to delays in the last quarter of 2014 and the first quarter of 2015. In response, the Commission has adjusted the Project Management Plan for the remainder of the Project to prioritize work on legislative mandates where Commission member agreement is strongest. Nonetheless, it is reasonable to assume that reaching agreement on specific code revisions will be increasingly challenging in the Project's remaining months. The Commission is carefully monitoring the Project's progress and will take all necessary steps to ensure its timely completion.

Appendix A

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

Appendix B

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

Appendix C

The top five grouped offenses are comprised of the following crimes:

1. Weapons:

- 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

2. Robbery:

- A. Robbery -- while armed
- B. Robbery
- C. Robbery -- Attempt while armed
- D. Robbery -- Attempt

3. Assault:

- A. Aggravated Assault while armed
- B. Aggravated Assault
- C. Aggravated Assault -- Attempt
- D. Aggravating Circumstance
- E. Assault with a Dangerous Weapon (ADW)
- F. Assault on Police Officer (APO) while armed
- G. Assault on Police Officer (APO)
- H. Assault on Police Officer (APO) w/ deadly weapon -- 2nd+ offense or prior felony
- I. Assault with Intent to Kill or Poison while armed
- J. Assault with Intent to Kill or Poison
- K. Assault with Intent to Rob while armed
- L. Assault with Intent to Rob
- M. Assault with Intent to 1^o or 2^o Sexual Abuse or Child Sex Abuse while armed
- N. Assault with Intent to 1^o or 2^o Sexual Abuse or Child Sex Abuse
- O. Assault with Intent to Commit any other Felony while armed
- P. Assault with Intent to Commit any other Felony

- Q. Assault with Intent to Commit Mayhem while armed
- R. Assault with Intent to Commit Mayhem
- S. Assault with Significant Injury

4. 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 Children 1 °
- L. Cruelty to Children 1 ° -- Grave Risk
- M. Cruelty to Children 2 °
- N. Cruelty to Children Grave 2 ° -- Risk
- O. Destruction of Property Over \$200
- P. Escape (From Officer)
- Q. Extortion
- R. Flee Law Enforcement Officer
- S. Fraud 1 ° \$1000 or More
- T. Fraud 2 ° \$1000 or More (Felony)
- U. Identity Theft 1 °
- V. Insurance Fraud 2 °
- W. Intimidating, Impeding, Interfering, Retaliating Against a Govt. Official or Employee of DC
- X. Maintaining a Place for Storage and Distribution of Narcotic and Abusive Drugs
- Y. Manufacture or Possession of a Weapon of Mass Destruction
- Z. Negligent Homicide --Felony
- AA. 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)

- BB. Obtain Controlled Substance By Fraud
- CC. Offenses Committed During Release
- DD. Perjury
- EE. Prison Breach
- FF. Prisoner Escape
- GG. Stalking - Felony
- HH. Tampering With Physical Evidence
- II. Unlawful Possession of Contraband Into Penal Institution

5. Drugs, PWID+Dist:

- A. Drugs -- Distribution or PWID: Schedule I, II Narcotic and abusive drugs (heroin, cocaine, PCP, methamphetamine, etc.)
- B. Drugs -- Distribution or PWID: Schedule I, II, III Non-narcotic and non-abusive drugs (including marijuana -- 2nd offense or > ½ pound)
- C. Drugs -- Distribution or PWID: Schedule IV
- D. Drugs -- Possession of Liquid PCP
- E. Drugs -- Distribution to Minors

Appendix D

Additional Data Tables

**Table 16: Master Grid - 2014 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 1¼				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	% of Counts	Average Age	Average CH Score	Average Sentence Length	% of Counts	Average Age	Average CH Score	Average Sentence Length	
3 Points*	M1	Prison	32.0%	25.8	0.2	442.5	12.0%	20.3	1.3	392.0	24.0%	23.7	2.8	420.7	16.0%	36.5	5.3	645.0	16.0%	48.8	8.9	720.0	100.0%	30.0	3.2	508.0	
		Short Split	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
		Probation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
	M2	Prison	41.0%	26.1	0.1	216.0	15.4%	25.8	1.1	276.0	28.2%	31.3	3.0	252.0	7.7%	28.0	5.1	282.0	7.7%	32.5	7.4	258.0	100.0%	28.1	2.0	243.7	
		Short Split	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
		Probation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
	M3	Prison	34.2%	27.4	0.1	121.4	22.4%	25.6	1.3	127.8	26.3%	21.7	2.5	145.5	11.8%	32.6	4.6	185.3	5.3%	46.8	8.9	120.0	100.0%	27.1	2.0	136.7	
		Short Split	-	-	-	-	-	-	-	-	100.0%	24.0	3.3	180.0	-	-	-	-	-	-	-	-	100.0%	24.0	3.3	180.0	
		Probation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
	M4	Prison	33.3%	27.9	0.1	81.9	20.8%	22.8	1.1	93.6	25.0%	26.8	2.6	103.7	14.6%	32.6	4.6	99.4	6.3%	39.0	8.7	128.0	100.0%	27.9	2.1	95.2	
		Short Split	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
		Probation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
M5	Prison	35.3%	23.3	0.1	48.4	19.2%	23.8	1.2	62.8	26.6%	24.8	2.4	59.8	13.3%	31.3	4.4	101.1	5.6%	45.5	8.5	147.0	100.0%	26.1	2.0	66.8		
	Short Split	33.3%	18.0	0.0	18.0	33.3%	20.0	1.5	48.0	33.3%	38.0	2.0	60.0	-	-	-	-	-	-	-	-	100.0%	25.3	1.2	42.0		
	Probation	100.0%	19.8	0.0	32.0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100.0%	19.8	0.0	32.0		
2 Points*	M6	Prison	33.0%	23.9	0.1	33.5	31.8%	27.9	1.1	36.7	24.5%	30.2	2.9	46.1	6.0%	40.6	4.5	48.4	4.7%	41.2	7.8	51.0	100.0%	28.4	1.8	39.3	
		Short Split	94.1%	28.8	0.1	25.1	5.9%	16.0	1.0	24.0	-	-	-	-	-	-	-	-	-	-	-	100.0%	28.0	0.2	25.1		
		Probation	83.3%	25.6	0.2	26.4	-	-	-	-	-	-	-	-	8.3%	28.0	4.5	36.0	8.3%	42.0	7.8	42.0	100.0%	27.2	1.2	28.5	
	M7	Prison	9.8%	30.1	0.2	22.6	20.6%	26.0	1.2	21.5	43.3%	29.7	2.7	29.1	14.4%	29.9	4.5	46.4	11.9%	43.6	7.6	61.4	100.0%	30.6	3.0	33.2	
		Short Split	50.0%	28.6	0.3	23.3	43.8%	21.9	1.2	24.9	6.3%	32.0	3.0	24.0	-	-	-	-	-	-	-	-	100.0%	25.9	0.9	24.0	
		Probation	61.5%	24.1	0.1	18.5	38.5%	28.6	1.2	24.0	-	-	-	-	-	-	-	-	-	-	-	-	100.0%	25.8	0.5	20.6	
1 Point*	M8	Prison	33.1%	23.3	0.2	17.8	26.4%	24.6	1.2	16.3	23.9%	28.2	2.6	21.2	10.0%	34.8	4.5	20.7	6.6%	39.8	7.5	32.5	100.0%	27.0	1.9	19.5	
		Short Split	61.6%	23.7	0.2	12.4	24.6%	23.8	1.1	15.0	13.3%	30.8	2.5	16.4	-	-	-	-	5%	58.0	8.0	16.0	100.0%	24.9	0.8	13.6	
		Probation	78.4%	24.6	0.1	11.1	16.5%	24.4	1.1	15.3	5.2%	32.7	2.6	18.5	-	-	-	-	-	-	-	-	100.0%	25.0	0.4	12.1	
	M9	Prison	25.6%	24.1	0.2	15.7	30.4%	30.1	1.1	10.2	25.6%	28.6	2.7	16.8	8.9%	32.7	4.7	33.3	9.5%	45.5	7.9	39.2	100.0%	30.0	2.3	18.1	
		Short Split	43.1%	33.0	0.2	8.6	37.3%	28.6	1.2	9.6	17.6%	35.0	2.4	12.7	2.0%	52.0	5.0	12.0	-	-	-	-	100.0%	32.1	1.0	9.7	
		Probation	67.2%	38.7	0.1	8.5	18.0%	24.6	0.9	7.0	13.1%	33.3	2.8	12.3	1.6%	48.0	5.3	7.0	-	-	-	-	100.0%	35.5	0.7	8.7	
*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 17: Drug Grid - 2014 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	% of Counts	Average Age	Average CH Score	Average Sentence Length	% of Counts	Average Age	Average CH Score	Average Sentence Length
2 Points*	D1	Prison	40.0%	37.0	0.0	12.0	20.0%	20.0	1.0	60.0	20.0%	34.0	3.5	42.0	-	-	-	-	20.0%	35.0	6.8	22.0	100.0%	32.6	2.3	29.6
		Short Split	100.0%	27.0	0.3	18.0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100.0%	27.0	0.3	18.0
		Probation	100.0%	22.5	0.3	31.0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	100.0%	22.5	0.3	31.0
1 Point*	D2	Prison	15.9%	26.9	0.2	16.3	17.1%	32.5	1.3	16.2	36.6%	33.0	3.0	21.4	22.0%	38.2	4.6	29.6	8.5%	53.9	7.1	25.4	100.0%	34.9	3.0	21.8
		Short Split	31.9%	28.8	0.3	14.9	40.4%	27.1	1.0	16.3	27.7%	38.9	2.8	22.5	-	-	-	-	-	-	-	-	100.0%	30.9	1.3	17.6
		Probation	60.7%	33.2	0.1	13.7	25.0%	45.4	1.1	28.9	14.3%	38.3	2.6	20.0	-	-	-	-	-	-	-	-	100.0%	37.0	0.7	18.4
	D3	Prison	21.0%	24.3	0.2	9.2	20.0%	29.5	1.3	12.8	42.0%	32.5	2.7	16.6	10.0%	40.3	4.4	20.9	7.0%	49.3	8.4	25.0	100.0%	32.2	2.5	15.3
		Short Split	24.5%	36.3	0.1	11.3	30.6%	29.5	1.2	14.5	34.7%	36.5	2.8	18.6	8.2%	44.5	4.1	19.5	2.0%	44.0	6.0	36.0	100.0%	35.1	1.8	16.0
		Probation	57.1%	33.2	0.2	11.0	27.4%	34.0	1.1	15.3	13.1%	40.3	2.9	16.4	1.2%	35.0	4.0	24.0	1.2%	44.0	8.0	22.0	100.0%	34.5	0.9	13.2
¾ Point*	D4	Prison	18.8%	29.0	0.3	4.3	31.3%	35.8	1.2	11.4	31.3%	29.8	2.4	15.4	12.5%	43.0	4.4	11.0	6.3%	45.0	8.0	22.0	100.0%	34.1	2.2	11.9
		Short Split	38.5%	29.2	0.1	7.6	7.7%	27.0	1.0	12.0	53.8%	34.9	2.9	13.7	0.0%	-	-	-	-	-	-	-	100.0%	32.1	1.7	11.2
		Probation	23.1%	35.2	0.1	6.8	46.2%	28.8	1.1	12.8	19.2%	40.0	2.4	13.6	11.5%	33.0	4.3	10.7	-	-	-	-	100.0%	32.9	1.5	11.3

*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 18: Average CH Score and Average Sentence Length in Months by Offense Subcategory - Count Level

		2010			2011			2012			2013			2014		
		% 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	Average Sentence Length (months)	% of Counts	Average CH Score	Average Sentence Length (months)
Assault	Prison	83.2%	2.1	46.7	91.7%	1.9	51.3	85.5%	2.2	63.7	79.4%	1.8	48.8	78.8%	1.7	44.8
	Short Split	7.9%	0.5	19.5	4.7%	0.4	18.0	9.4%	0.6	21.1	12.9%	1.0	16.6	12.6%	0.4	17.0
	Probation	8.8%	0.1	19.9	3.6%	0.5	18.0	5.1%	0.2	20.7	7.7%	0.3	17.9	8.6%	0.6	15.8
	Total	100.0%	1.8	42.1	100.0%	1.8	48.5	100.0%	1.9	57.5	100.0%	1.6	42.3	100.0%	1.4	38.8
Attempted drug offenses	Prison	55.7%	2.5	13.8	55.6%	2.7	14.9	53.6%	2.5	15.1	52.0%	2.6	13.8	36.2%	2.6	14.0
	Short Split	14.2%	1.7	15.9	13.0%	1.7	15.2	16.7%	1.5	13.9	20.2%	2.1	14.2	23.8%	2.1	14.7
	Probation	30.2%	1.0	13.5	31.4%	1.0	12.3	29.6%	1.0	12.4	27.8%	0.9	12.8	40.0%	1.2	12.3
	Total	100.0%	1.9	14.0	100.0%	2.0	14.1	100.0%	1.9	14.1	100.0%	2.0	13.6	100.0%	1.9	13.5
Burglary	Prison	86.8%	3.1	38.7	81.5%	2.4	41.4	82.4%	3.0	53.0	81.6%	3.1	34.5	65.3%	3.2	35.5
	Short Split	4.7%	1.1	30.0	8.7%	0.6	15.1	11.5%	0.9	22.0	11.8%	1.0	18.1	18.2%	1.0	18.0
	Probation	8.5%	0.3	22.3	9.8%	0.6	14.8	6.1%	0.8	28.4	6.6%	0.2	14.1	16.5%	0.4	16.3
	Total	100.0%	2.8	36.9	100.0%	2.1	36.5	100.0%	2.7	48.0	100.0%	2.7	31.3	100.0%	2.3	29.1
Kidnapping	Prison	100.0%	4.5	102.3	95.5%	1.7	104.5	94.3%	1.0	77.0	95.2%	3.3	98.5	97.1%	2.0	91.8
	Probation	0.0%			4.5%		24.0	5.7%	0.3	37.5	4.8%	0.0	432.0	2.9%	0.0	24.0
	Total	100.0%	4.5	102.3	100.0%	1.7	100.8	100.0%	1.0	74.7	100.0%	3.2	114.4	100.0%	2.0	89.9
Homicide	Prison	98.8%	1.9	248.3	99.1%	2.1	300.0	99.2%	1.8	238.0	100.0%	1.5	251.6	100.0%	2.2	258.5
	Short Split	-	-	-	-	-	-	0.8%	-	120.0	-	-	-	-	-	-
	Probation	1.3%	-	80.0	0.9%	0.8	24.0	-	-	-	-	-	-	-	-	-
	Total	100.0%	1.9	246.2	100.0%	2.1	297.4	100.0%	1.8	237.1	100.0%	1.5	251.6	100.0%	2.2	258.5
Other	Prison	83.9%	2.3	24.6	78.9%	2.4	26.6	75.3%	2.1	30.1	67.1%	2.3	26.2	68.9%	2.0	27.7
	Short Split	9.0%	1.6	17.9	9.6%	1.1	15.2	13.0%	1.4	18.0	18.3%	1.2	12.6	13.8%	1.2	13.4
	Probation	7.1%	1.2	10.9	11.5%	0.5	11.6	11.7%	0.4	15.0	14.6%	0.4	12.6	17.3%	0.6	10.0
	Total	100.0%	2.2	23.0	100.0%	2.1	23.8	100.0%	1.8	26.8	100.0%	1.8	21.8	100.0%	1.6	22.7
Other-Property	Prison	76.9%	1.9	12.6	78.8%	2.4	14.2	75.3%	2.9	17.1	72.2%	1.9	13.3	51.7%	2.6	16.3
	Short Split	14.1%	1.4	15.0	3.8%	1.9	14.7	6.7%	1.3	7.7	17.5%	1.0	14.1	25.9%	1.2	12.3
	Probation	9.0%	0.3	10.6	17.5%	0.8	12.3	18.0%	0.8	9.3	10.3%	0.3	8.7	22.4%	1.1	10.8
	Total	100.0%	1.7	12.7	100.0%	2.1	13.9	100.0%	2.4	15.1	100.0%	1.6	13.0	100.0%	1.9	14.0

Table 19: Average CH Score and Average Sentence Length in Months by Offense Subcategory - Count Level

		2010			2011			2012			2013			2014		
		% 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	Average Sentence Length (months)	% of Counts	Average CH Score	Average Sentence Length (months)
PWID+Dist	Prison	65.8%	2.9	22.4	58.7%	2.9	21.5	61.3%	2.9	22.6	54.2%	2.4	19.4	53.0%	2.7	19.0
	Short Split	17.4%	1.5	20.0	17.4%	1.9	22.0	22.7%	1.2	19.2	22.9%	1.3	17.3	24.1%	1.2	17.1
	Probation	16.8%	1.2	20.5	23.8%	0.9	17.0	16.0%	1.0	16.9	22.9%	0.7	14.8	22.9%	0.7	15.5
	Total	100.0%	2.3	21.7	100.0%	2.1	20.5	100.0%	2.2	20.9	100.0%	1.7	17.9	100.0%	1.9	17.7
Robbery	Prison	85.3%	2.0	40.5	84.6%	1.5	36.1	73.6%	2.0	41.3	76.0%	1.9	35.1	73.8%	1.9	41.7
	Short Split	8.2%	0.9	23.7	9.8%	0.4	20.5	11.8%	0.7	18.0	13.1%	0.5	21.3	14.9%	0.4	16.9
	Probation	6.5%	0.5	21.4	5.6%	0.2	14.8	14.6%	0.2	11.5	10.9%	0.6	20.6	11.3%	0.4	17.5
	Total	100.0%	1.8	37.9	100.0%	1.3	33.4	100.0%	1.6	34.2	100.0%	1.5	31.7	100.0%	1.5	35.3
Sex	Prison	87.3%	1.9	95.9	89.4%	2.2	84.7	85.0%	1.9	87.4	87.8%	2.5	79.1	86.7%	1.2	105.8
	Short Split	7.0%	0.3	19.8	7.6%	0.1	15.6	10.0%	0.2	16.2	5.4%	0.4	24.3	5.0%	1.7	16.0
	Probation	5.6%	0.6	28.0	3.0%	0.0	15.0	5.0%	0.9	18.8	6.8%	0.2	14.4	8.3%	0.1	13.2
	Total	100.0%	1.7	86.7	100.0%	1.9	77.3	100.0%	1.7	76.9	100.0%	2.2	71.8	100.0%	1.1	93.6
Theft	Prison	74.2%	2.3	16.3	69.1%	2.0	16.3	72.1%	2.9	18.6	59.1%	2.8	18.5	51.2%	2.4	23.0
	Short Split	12.9%	1.0	17.1	9.8%	0.8	18.5	10.0%	0.5	12.7	24.7%	0.6	17.7	32.5%	0.9	15.2
	Probation	12.9%	0.8	15.5	21.1%	0.4	12.3	17.9%	0.3	18.1	16.2%	0.9	13.6	16.3%	0.6	10.6
	Total	100.0%	1.8	16.3	100.0%	1.6	15.7	100.0%	2.2	17.9	100.0%	1.9	17.5	100.0%	1.7	18.4
Weapons	Prison	82.1%	2.2	37.8	80.5%	2.0	41.3	84.3%	2.2	46.0	76.3%	2.1	40.4	78.3%	2.4	47.3
	Short Split	7.5%	0.7	17.4	7.7%	0.6	16.6	6.4%	0.6	14.7	10.0%	0.5	13.1	7.1%	0.7	12.3
	Probation	10.4%	0.3	13.7	11.8%	0.3	13.8	9.3%	0.2	13.9	13.7%	0.3	13.6	14.6%	0.4	10.7
	Total	100.0%	1.9	33.8	100.0%	1.7	36.1	100.0%	1.9	41.0	100.0%	1.7	34.0	100.0%	2.0	39.5
While armed drug offenses	Prison	82.4%	1.3	58.6	80.0%	1.8	47.3	66.7%	0.7	45.0	77.8%	1.2	41.4	66.7%	1.9	26.7
	Short Split	5.9%	-	41.0	13.3%	3.0	19.0	16.7%	0.0	45.0	22.2%	0.0	60.0	11.1%	0.3	18.0
	Probation	11.8%	-	30.0	6.7%	-	84.0	16.7%	-	60.0	0.0%	-	-	22.2%	0.3	31.0
	Total	100.0%	1.3	54.2	100.0%	2.1	45.9	100.0%	0.5	47.5	100.0%	0.9	45.6	100.0%	1.4	26.7
Total	Prison	74.5%	2.3	37.7	75.4%	2.2	45.4	75.3%	2.3	50.4	72.1%	2.1	47.0	69.1%	2.2	50.4
	Short Split	10.9%	1.3	18.5	9.7%	1.2	17.9	11.7%	1.0	17.7	14.5%	1.0	16.4	15.1%	1.0	15.6
	Probation	14.6%	0.8	15.9	14.9%	0.8	14.1	12.9%	0.6	14.7	13.4%	0.5	15.8	15.8%	0.7	13.2
	Total	100.0%	2.0	32.4	100.0%	1.9	38.0	100.0%	1.9	41.9	100.0%	1.8	38.3	100.0%	1.7	39.2

Table 20: Average CH Score and Average Sentence Length in Months by Age Group - Count Level																
		2010			2011			2012			2013			2014		
		% of Counts	Average CH Score	Average Sentence	% of Counts	Average CH Score	Average Sentence	% of Counts	Average CH Score	Average Sentence	% of Counts	Average CH Score	Average Sentence	% of Counts	Average CH Score	Average Sentence
15 - 17	Prison	90.0%	1.6	52.8	83.7%	0.9	43.0	82.2%	1.0	52.6	70.0%	0.6	46.3	69.3%	1.1	56.4
	Short	5.2%	0.6	20.4	8.7%	0.2	18.8	8.2%	0.6	22.3	17.8%	0.3	18.3	16.7%	0.5	14.3
	Probation	4.7%	0.5	17.1	7.6%	0.2	14.3	9.6%	0.1	12.4	12.2%	0.5	30.9	14.1%	0.3	15.6
	Total	100.0%	1.5	49.4	100.0%	0.8	38.7	100.0%	0.9	46.3	100.0%	0.6	39.4	100.0%	0.9	43.7
18-21	Prison	85.0%	1.2	37.9	78.1%	1.4	46.9	81.0%	1.5	63.1	71.2%	1.4	45.2	63.4%	0.9	37.9
	Short	7.3%	0.9	20.4	10.3%	0.6	17.2	8.6%	0.8	18.6	13.6%	0.7	16.9	19.6%	0.7	15.3
	Probation	7.7%	0.3	20.6	11.6%	0.4	14.0	10.4%	0.3	15.2	15.2%	0.3	14.0	17.0%	0.4	12.2
	Total	100.0%	1.1	35.3	100.0%	1.2	40.0	100.0%	1.4	54.3	100.0%	1.2	36.6	100.0%	0.8	29.1
22-30	Prison	78.6%	2.5	40.0	80.6%	2.0	55.7	73.7%	2.0	46.1	72.2%	2.2	52.3	75.1%	2.1	45.4
	Short	10.4%	1.0	18.8	7.7%	0.9	16.9	13.9%	0.9	17.5	14.6%	1.1	15.9	11.4%	0.8	16.4
	Probation	11.0%	0.7	17.0	11.7%	0.5	14.3	12.5%	0.4	14.0	13.2%	0.6	14.4	13.5%	0.7	13.7
	Total	100.0%	2.1	35.3	100.0%	1.7	47.9	100.0%	1.6	38.1	100.0%	1.9	42.0	100.0%	1.8	37.8
31-40	Prison	75.5%	2.7	38.4	74.9%	2.7	41.4	74.8%	2.8	45.3	73.4%	2.4	41.7	67.0%	2.8	54.3
	Short	11.9%	1.9	18.4	9.4%	1.3	17.1	10.4%	1.2	16.0	14.3%	1.5	15.5	15.4%	1.4	15.7
	Probation	12.7%	1.3	17.9	15.6%	0.8	14.3	14.8%	0.8	16.1	12.3%	0.8	14.4	17.6%	1.0	13.8
	Total	100.0%	2.4	33.4	100.0%	2.3	34.9	100.0%	2.3	37.9	100.0%	2.1	34.6	100.0%	2.3	41.2
41-50	Prison	66.2%	3.3	26.7	70.1%	3.5	31.5	76.1%	3.7	46.5	76.2%	3.5	52.2	70.7%	3.9	76.4
	Short	13.9%	1.4	17.5	10.6%	2.1	17.7	11.8%	1.3	16.9	12.4%	1.3	15.2	11.7%	1.8	15.2
	Probation	19.9%	1.0	15.5	19.2%	1.2	14.6	12.2%	1.2	13.7	11.4%	0.9	14.8	17.7%	1.2	12.1
	Total	100.0%	2.6	23.2	100.0%	2.8	26.8	100.0%	3.1	39.0	100.0%	2.9	43.4	100.0%	3.2	57.9
51-60	Prison	58.8%	2.9	23.2	57.5%	3.6	29.6	69.4%	4.7	47.4	72.9%	3.8	36.8	60.9%	4.4	54.8
	Short	10.2%	1.7	15.4	13.2%	2.0	19.5	13.1%	1.4	17.2	12.5%	2.3	16.3	20.5%	1.6	17.1
	Probation	31.0%	1.0	13.0	29.4%	1.2	13.1	17.6%	1.3	15.0	14.6%	0.7	13.3	18.6%	0.7	12.6
	Total	100.0%	2.2	19.2	100.0%	2.6	23.4	100.0%	3.6	37.8	100.0%	3.2	30.8	100.0%	3.1	39.2
61-70	Prison	26.1%	2.9	16.9	50.0%	3.5	19.1	44.0%	5.6	21.2	58.6%	3.8	29.2	52.0%	5.1	32.3
	Short	21.7%	1.7	15.8	3.8%		36.0	32.0%	1.6	20.5	17.2%	1.1	13.2	12.0%	0.3	19.0
	Probation	52.2%	0.6	14.4	46.2%	0.7	13.5	24.0%	0.9	11.0	24.1%	0.6	9.0	36.0%	0.3	8.8
	Total	100.0%	1.4	15.3	100.0%	2.4	17.2	100.0%	3.2	18.5	100.0%	2.5	21.6	100.0%	2.9	22.2
71+	Prison	0.0%	-	-	-	-	-	-	-	-	100.0%	1.5	20.7	-	-	-
	Short	40.0%	1.0	18.0	-	-	-	100.0%	5.7	34.0	-	-	-	50.0%	0.0	6.0
	Probation	60.0%	0.1	12.0	-	-	-	-	-	-	-	-	-	50.0%	0.0	12.0
	Total	100.0%	0.4	14.4	-	-	-	100.0%	5.7	34.0	100.0%	1.5	20.7	100.0%	0.0	9.0
Unknown	Prison	33.6%	1.1	25.6	43.9%	1.1	33.4	48.0%	2.1	32.8	60.8%	0.7	39.0	84.8%	2.2	50.6
	Short	28.0%	0.9	20.3	25.5%	1.8	21.8	22.0%	0.5	13.0	25.5%	0.4	18.5	7.6%	0.3	14.8
	Probation	38.3%	0.5	12.2	30.6%	0.4	12.5	30.0%	0.2	17.1	13.7%	0.2	12.0	7.6%	0.2	13.4
	Total	100.0%	0.8	19.0	100.0%	1.1	24.1	100.0%	1.2	23.7	100.0%	0.6	30.0	100.0%	1.8	45.0
Total	Prison	74.5%	2.3	37.7	75.4%	2.2	45.4	75.3%	2.3	50.4	72.1%	2.1	47.0	69.1%	2.2	50.4
	Short	10.9%	1.3	18.5	9.7%	1.2	17.9	11.7%	1.0	17.7	14.5%	1.0	16.4	15.1%	1.0	15.6
	Probation	14.6%	0.8	15.9	14.9%	0.8	14.1	12.9%	0.6	14.7	13.4%	0.5	15.8	15.8%	0.7	13.2
	Total	100.0%	2.0	32.4	100.0%	1.9	38.0	100.0%	1.9	41.9	100.0%	1.8	38.3	100.0%	1.7	39.2

Table 21: Type of Drug by Sentence Type - Count Level																
		2010			2011			2012			2013			2014		
		% 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	Average Sentence Length (Months)	% of Counts	Average CH Score	Average Sentence Length (Months)
Cocaine	Prison	58.7%	2.61	17.54	59.3%	2.7	17.9	58.7%	2.6	19.6	58.4%	2.3	18.1	45.4%	2.5	18.3
	Short Split	16.4%	1.53	17.58	13.5%	1.5	18.7	18.7%	1.3	17.4	22.1%	1.6	17.2	28.4%	1.7	16.8
	Probation	25.0%	1.04	14.90	27.2%	1.0	14.3	22.6%	1.0	14.5	19.5%	0.6	14.2	26.2%	1.0	14.9
	Total	100.0%	1.98	16.89	100.0%	2.0	17.1	100.0%	2.0	18.0	100.0%	1.8	17.2	100.0%	1.8	17.0
Heroin	Prison	66.5%	3.51	20.02	61.5%	3.4	19.5	70.8%	3.7	23.9	61.9%	3.7	20.5	54.3%	3.9	19.4
	Short Split	12.8%	1.93	20.50	12.8%	2.1	23.6	15.6%	1.4	18.7	19.0%	2.5	18.1	15.2%	2.3	19.1
	Probation	20.7%	1.29	17.29	25.7%	1.9	17.1	13.5%	1.0	13.9	19.0%	1.7	17.0	30.4%	1.1	13.1
	Total	100.0%	2.73	19.52	100.0%	2.9	19.4	100.0%	3.0	21.7	100.0%	3.1	19.4	100.0%	2.9	17.4
Other	Prison	57.7%	2.72	27.10	45.7%	2.2	23.5	43.3%	2.1	23.4	34.5%	2.7	20.1	26.9%	3.0	18.3
	Short Split	19.2%	1.30	22.40	34.8%	3.1	21.4	30.0%	2.6	20.3	24.1%	3.0	30.3	11.5%	0.3	12.0
	Probation	23.1%	0.50	15.67	19.6%	0.2	13.9	26.7%	1.0	20.5	41.4%	0.1	13.8	61.5%	0.3	10.3
	Total	100.0%	2.05	23.56	100.0%	2.0	20.9	100.0%	2.0	21.7	100.0%	1.6	19.9	100.0%	1.1	12.6
PCP	Prison	64.0%	1.85	21.36	52.3%	2.4	21.6	49.2%	2.4	16.6	53.2%	2.5	14.9	52.1%	2.1	15.2
	Short Split	9.3%	2.04	14.13	15.0%	1.5	14.8	25.4%	1.2	16.4	20.8%	1.7	14.4	21.3%	1.3	14.1
	Probation	26.7%	0.61	21.26	32.7%	0.7	13.7	25.4%	0.8	13.4	26.0%	0.9	13.6	26.6%	1.3	13.1
	Total	100.0%	1.50	20.66	100.0%	1.7	18.0	100.0%	1.7	15.7	100.0%	1.9	14.4	100.0%	1.7	14.4

Table 22a: 2014 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	31	365	7	0	367	0	1	27	8	192	74	134	34.24
Homicide	4	64	1	0	58	0	0	9	2	66	2	0	25.13
Other	49	206	3	0	226	0	0	23	9	145	45	68	30.64
Property	26	238	6	0	242	1	0	20	7	158	53	59	28.90
Sex	1	33	1	0	22	0	0	13	0	29	1	5	34.74
Violent	35	481	13	1	449	3	1	71	4	381	81	66	25.55
Weapon	16	334	7	0	318	1	0	28	10	239	38	80	28.23
Total	162	1721	38	1	1682	5	2	191	40	1210	294	412	29.18

Table 22b: 2014 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	32	431	10	0	425	0	1	39	8	216	112	144	33.75
Homicide	7	89	1	0	83	0	0	11	3	97	0	0	25.42
Other	53	325	6	0	340	0	0	33	11	260	54	70	28.71
Property	31	360	7	0	346	1	0	43	8	229	101	68	28.45
Sex	1	52	7	0	36	0	0	24	0	52	3	5	36.02
Violent	50	723	15	1	685	4	2	91	5	611	104	73	26.03
Weapon	26	612	6	0	579	1	1	50	13	500	55	89	27.67
Total	200	2592	52	1	2494	6	4	291	48	1965	429	449	28.60

Table 23: Average CH Score and Sentence Length for 2014 Departure Reasons by OSG				
Departure	OSG	Average CH Score	Average Sentence	N
A3	M5	1.0	120.0	1
	<i>Total</i>	1.0	120.0	1
A7	M6	1.8	1.0	1
	<i>Total</i>	1.8	1.0	1
A10	D2	1.3	84.0	1
	M7	6.5	20.0	1
	M8	6.5	20.0	1
	<i>Total</i>	4.8	41.3	3
A11	D3	3.0	27.5	2
	M7	0.8	6.0	1
	M8	1.3	67.3	3
	<i>Total</i>	1.8	43.8	6
M1	M3	1.8	60.0	2
	M5	2.3	48.0	1
	<i>Total</i>	1.9	56.0	3
M2	M8	2.3	9.0	1
	<i>Total</i>	2.3	9.0	1
M6	D2	3.0	13.0	3
	D3	3.0	13.0	1
	M7	1.0	24.0	2
	M8	2.0	6.0	1
	<i>Total</i>	2.3	15.1	7
M7	D3	8.0	22.0	1
	M2	0.0	84.0	1
	M3	1.8	60.0	2
	M4	2.3	54.0	4
	M5	1.2	34.6	8
	M6	2.4	25.7	7
	M7	3.0	18.0	1
	M8	0.4	4.5	2
	M9	0.3	36.0	2
	<i>Total</i>	1.8	35.6	28
M9	M4	4.0	72.0	1
	M5	4.6	60.0	11
	M6	4.0	30.0	1
	M7	4.9	28.8	5
	M8	3.0	14.0	2
	<i>Total</i>	4.5	46.7	20
M10	D2	3.4	11.3	4
	D3	2.8	9.5	2
	M5	0.4	41.3	9
	M6	0.7	19.5	8
	M7	1.7	17.0	5
	M8	1.1	15.8	9
	<i>Total</i>	1.3	22.1	37

Table 24: Average CH Score and Sentence Length for 2014 Departure Reasons by Offense											
	A3	A7	A10	A11	M1	M2	M6	M7	M9	M10	Total
1st Degree Cruelty to Children	0	0	0	0	0	0	0	0	0	1	1
Aggravated Assault Knowingly	0	0	0	0	0	0	0	0	1	0	1
Assault On A Police Officer	0	0	0	0	0	0	0	0	1	0	1
Assault W/I to Commit Robbery	0	0	0	0	0	0	0	1	0	3	4
Assault W/I to Kill	0	0	0	0	2	0	0	0	0	0	2
Assault With A Dangerous Weapon	0	1	0	0	0	0	0	2	1	1	5
Assault with Significant Bodily Injury	0	0	0	0	0	1	0	0	0	2	3
Attempt to Commit Robbery	0	0	0	1	0	0	0	0	0	1	2
Bail Reform Act -Felony	0	0	0	0	0	0	0	1	0	0	1
Burglary One	1	0	0	0	0	0	0	0	3	0	4
Burglary Two	0	0	0	0	0	0	2	0	2	1	5
Carry Dang Weapon-Outside Home/Business	0	0	0	0	0	0	0	1	0	0	1
Carry Rifle or Shotgun Outside Home/Business	0	0	0	0	0	0	0	0	0	1	1
Carrying a Pistol	0	0	1	1	0	0	0	0	0	1	3
Conspiracy	0	0	0	0	0	0	0	1	0	0	1
Destruction of Property \$1000 or More	0	0	0	0	0	0	0	0	1	0	1
Distribution Of a Controlled Substance	0	0	0	0	0	0	4	1	0	3	8
First Degree Child Sex Abuse	0	0	0	0	0	0	0	0	0	1	1
Flee Law Enforcement Officer	0	0	0	0	0	0	0	0	1	0	1
Involuntary Manslaughter	0	0	0	0	1	0	0	0	0	0	1
Kidnapping	0	0	0	0	0	0	0	0	0	1	1
Murder II	0	0	0	0	0	0	0	1	0	0	1
Obstructing Justice	0	0	0	0	0	0	0	2	0	0	2
Obstruction Justice (Due Administration)	0	0	0	0	0	0	0	0	0	1	1
Poss Firearm During Crime of Violence	0	0	0	0	0	0	0	0	8	0	8
Poss W/I to Dist a Controlled Substance	0	0	1	1	0	0	0	0	0	2	4
Robbery	0	0	0	0	0	0	0	10	0	9	19
Theft First Degree	0	0	0	0	0	0	0	1	0	2	3
Threat to Kidnap or Injure a Person	0	0	0	1	0	0	0	0	0	0	1
Unauthorized Use of Vehicle	0	0	0	0	0	0	1	0	0	1	2
Unauthorized Use of Vehicle - Crime of Violence	0	0	0	0	0	0	0	0	2	0	2
Unlawful Possession of a Firearm (Prior	0	0	1	1	0	0	0	1	0	5	8
Unlawful Possession of Liquid PCP	0	0	0	1	0	0	0	0	0	1	2
Voluntary Manslaughter	0	0	0	0	0	0	0	6	0	0	6
Total	1	1	3	6	3	1	7	28	20	37	107

Appendix E

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 defendant, 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

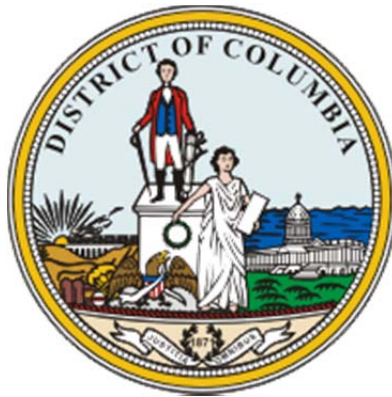
factor shall not result in a sentence that is less than the sentence that would result if all guideline sentences were concurrent.

(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



D.C. Criminal Code Revision Revised Project Management Plan



February 27, 2015

DISTRICT OF COLUMBIA SENTENCING AND CRIMINAL CODE REVISION
COMMISSION

441 FOURTH STREET, NW, SUITE 430 SOUTH
WASHINGTON, DC 20001

PHONE: (202) 727-8822 FACSIMILE: (202) 727-7929

WEBSITE: <http://sentencing.dc.gov>

Contents

Plan Objectives	1
Statutory Mandate	1
Project Scope	2
Project Methodology	3
Project Timeline	4
Project Milestone List	6
Project Deliverables	9
Identification of Key Management Personnel	9
Communications to the Council and Mayor	10
Risk/Issue Management	10
Change Management	12
Appendix A: Project Work Schedule	

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 serves as the primary tool for managing the Project, and has been approved by the full Commission and its Committee on Criminal Code Reform (Committee). The Plan also addresses communications with the Council of the District of Columbia (Council) and describes procedures to manage risks associated with the Project.

This Plan was developed to prioritize work on legislative mandates where Commission member agreement is strongest and makes several changes regarding future work. Specifically, as described below, in this Plan the Commission has added, and prioritized the work in Milestone 5 which consists of CCR Committee development of draft recommendations for enactment of Title 22 and identification of offenses that are unconstitutional, exist only in common law, or are obsolete. Milestones 6 and 8 were also added to the Project Management Plan, consisting of two additional agency reviews that will allow for cumulative reviews of work to-date. To offset the time spent on these activities added to the Project Management Plan, the Project no longer intends to revise certain weapon offenses, inchoate offenses, and crimes involving government operations described in the prior Project Management Plan. Apart from these changes, this Plan is otherwise consistent with the prior version and includes analysis, review, and recommendations for revision to many of the District's most serious felonies.

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.”⁷⁴ 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.”⁷⁵ 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.”⁷⁶

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.

⁷⁴ D.C. COUNCIL, COMM. ON THE JUDICIARY, COMM. REP. 16-172, at 1 (2006).

⁷⁵ *Id.*

⁷⁶ *Id.* at 1-2.

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 manslaughter⁷⁷—are frequently charged but do not even have their basic elements described in the Code.

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 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. The offenses listed in Figure 1, below, accounted for over 69% of total adult felony convictions and 60% of total adult misdemeanor convictions in 2014 when their different degrees, attempt, and closely related offenses are tallied.⁷⁸

⁷⁷ D.C. CODE § 22-2105 (“Whoever is guilty of manslaughter shall be sentenced to a period of imprisonment not exceeding 30 years.”).

⁷⁸ This analysis by Project staff is based on a review of 2014 adult felony conviction data.

Figure 1: Common Felony Convictions

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
Robbery	D.C. Code § 22-2801
Carjacking	D.C. Code § 22-2803
Threats	D.C. Code § 22-1810
Assault	D.C. Code § 22-404
Murder	D.C. Code § 22-2101
Sex Abuse	D.C. Code § 22-3002
Child Sex Abuse	D.C. Code § 22-3008
Kidnapping	D.C. Code § 22-2001

A complete list of sections of the Code that will be addressed by the Project is attached in Appendix A.

Notably, the Commission also will develop recommendations on revision of numerous misdemeanor crimes related to the offenses listed above. For example, the Commission will not only address the felony offenses of aggravated assault and assault with significant bodily injury, but also the misdemeanor offenses of assault on a police officer and simple assault.

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 1-12

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 Analysis, Review, and Potential Revision of Specified Offenses Against Persons	Target Completion: 4/30/16
Milestone 8:	CCR Committee Agency Review of Work for Milestone 7	Target Completion: 6/15/16
Milestone 9:	CCR Committee Penalty Review	Target Completion: 6/15/16
Milestone 10:	Final CCR Committee Review	Target Completion: 7/15/16
Milestone 11:	Final Commission Review	Target Completion: 9/15/16
Milestone 12:	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 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 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 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 7 while agencies perform their reviews.	10/30/15

No	Milestone	Work Description and Relation of Milestone to Project Mandate	Scheduled Completion
7	CCR Committee Analysis, Review, and Potential Revision of Specified Offenses Against Persons	The 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.” Draft Commentary entries will be developed that provide guidance on the meaning of revised offenses as necessary.	4/30/16
8	CCR Committee Agency Review of Work for Milestone 7	Agency review is intended ensure that any concerns about CCR Committee draft recommendations are discovered in advance of the Project completion date. The CCR Committee agency representatives will review the Committee work completed for Milestones 7 with their respective agencies. This review will occur in two stages. All Offenses Against Persons completed as of 12/30/15 will be submitted for review in the first stage, with remaining offenses following as they are completed. 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 Milestones 7 and 9 while agencies perform their reviews.	6/15/16
9	CCR Committee Penalty Review	This review will involve a comparison of all statutes revised by the CCR Committee to determine appropriate levels of penalties and ensure proportionality for both felonies and misdemeanors.	6/15/16
10	Final CCR Committee Review	This review will provide the Committee an opportunity to evaluate its draft recommendations in totality. The Committee will also confirm that its draft Commentary adequately explains the intended meaning of all revisions and cites appropriate authorities.	7/15/16

No	Milestone	Work Description and Relation of Milestone to Project Mandate	Scheduled Completion
11	Final Commission Review	Commissioners are all 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 Committee's work products and discuss any desired changes to the recommendations.	9/15/16
12	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 Project will create two major external deliverables comprising its recommendations to the Council and Mayor for revision of specific offenses. These two documents will include: (1) a compilation of revised statutory sections; and (2) an accompanying "Commentary." Additional documents will contain other Commission recommendations 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.

If there is disagreement in the Commission regarding its recommendations for revision of the Code, the specific contested code language will be bracketed. The Commentary will describe the Commission's intended meaning and supporting authorities for its recommended revisions as necessary. To further document areas of agreement and disagreement, Committee members involved in drafting revisions to specific offenses may include their individual opinions on specific revisions in the Commentary.

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 Criminal Code Revision Committee that has been given primary responsibility for development of the Project. The Committee meets twice monthly to review specific portions of the criminal code, draft revised language, and explain its revised language in a draft Commentary. The Commission monitors the 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 Committee's work or request additional information to follow up on a Committee status report.

The five 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 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 manages a staff 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 is utilizing 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 first semi-annual update will be submitted to the Council by September 30th of every year. The second semi-annual update on the Project 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 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 Committee. At this time, several internal and external risks and issues have been identified that could impact 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 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 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 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 directed creation of this new Project Management Plan which prioritizes work on legislative mandates where Commission member agreement is strongest. All Committee members have agreed to this new Plan, with the caveat that there will be ongoing conversations at the Committee level concerning the scope of its work. It is reasonable to expect that there will be continued disagreements about the proper scope of revision that could cause delay in Committee decision making and Project progress on Milestone 7 (Analysis, Review, and Potential Revision of Offenses Against Persons).

The external risks to the Project chiefly consist of:

- (1) the possibility of legal changes (by judicial or legislative bodies); and
- (2) changes to Commission membership or agency staff.

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 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.

Change Management

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

Upon notification by the project director of a problem, the Committee, by majority vote, will take action that assures compliance with the Plan. When compliance is not feasible, the Committee will propose an amendment to this Plan to be presented to the full Commission. The 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 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 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 Completion
Milestone 1 – Drafting of General Provisions	Short Title	11	5.5	3/30/13 - 9/15/13	9/15/13
	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.	2	1	9/15/13 - 10/15/13	10/15/13
Milestone 3 – CCR Committee Draft Revision of Specified Offenses Against Property	§ 22-3201 Theft Related Offense Definitions	14	7	10/15/13 - 5/15/14	5/15/14
	§ 22-3202 Aggregation of Amounts Received to Determine Grade of Offense				
	§ 22-3203 Consecutive Sentences				
Milestones	Code Section/Topic Reviewed & Recommendations Issued	Target # Committee Meetings	Duration in Months	Target Committee Work	Actual Committee Completion
(continued)	§ 22-3204 Case Referral	(continued)	(continued)	(continued)	(continued)
	§ 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 § 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	5	2.5	5/15/14 - 7/30/14	7/30/14
Milestones	Code Section/Topic Reviewed & Recommendations Issued	Target # Committee Meetings	Duration in Months	Target Committee Work	Actual Committee Completion
Milestone 5 – CCR Committee Identification of Unconstitutional, Common Law, Obsolete, and Outdated Statutory Provisions; Prepare for Enactment of Title 22	Identification of criminal statutes that have been held to be unconstitutional. 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	8	4	2/28/15 - 6/30/15	
Milestone 6– CCR Committee Agency Review of Work for	Committee Members' Agency Review of Drug Offense Revisions, Identification of Unconstitutional and Common Law Statutes, and Enactment of Title 22.	1 (Discussion of Results)	4	6/30/15 - 10/30/15	

Milestones 4 & 5					
Milestone 7– CCR Committee Analysis, Review, and Potential Revision of Specified Offenses Against Persons	§ 22-2001 Kidnapping	18 (Two meetings during this time period are apportioned to Milestones 6 & 8)	10	6/30/15 - 4/30/16	
	§ 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				
	§ 22-3007 Defense to sexual abuse				
	§ 22-3008 First degree child sexual abuse				
	§ 22-3009 Second degree child sexual abuse				
Milestones	Code Section/Topic Reviewed & Recommendations Issued	Target # Committee Meetings	Duration in Months	Target Committee Work	Actual Committee Completion
(continued)	§ 22-3009.01 First degree sexual abuse of a minor	(continued)	(continued)	(continued)	
	§ 22-3009.02 Second degree sexual abuse of a minor				
	§ 22-3009.03 First degree sexual abuse of a secondary education student				
	§ 22-3009.04 Second degree sexual abuse of a secondary education student				
	§ 22-3010 Enticing a child or minor				
	§ 22-3010.01 Misdemeanor sexual abuse of a child or minor				
	§ 22-3011 Defenses to child sexual abuse and sexual abuse of a minor				
	§ 22-3012 State of mind proof requirement				
	§ 22-3013 First degree sexual abuse of a ward, patient, client, or prisoner				
	§ 22-3014 Second degree sexual abuse of a ward, patient, client, or prisoner				
	§ 22-3015 First degree sexual abuse of a patient or client				
	§ 22-3016 Second degree sexual abuse of a patient or client				

	§ 22-3017 Defenses to sexual abuse of a ward, patient, client § 22-3018 Attempts to commit sexual offenses § 22-3019 No immunity from prosecution for spouses or domestic partners § 22-3020 Aggravating circumstances § 22-2101 Murder in the first degree— Purposeful killing; killing while perpetrating certain crimes § 22-2102 Murder in the first degree— Placing obstructions upon or displacement of railroads				
Milestones	Code Section/Topic Reviewed & Recommendations Issued	Target # Committee Meetings	Duration in Months	Target Committee Work	Actual Committee Completion
(continued)	§ 22-2103 Murder in the second degree § 22-2104 Penalty for murder in first and second degrees § 22-2105 Penalty for Manslaughter § 22-401 Assault with intent to kill, rob, or poison, or to commit first degree sexual abuse, second degree sexual abuse or child sexual abuse § 22-402 Assault with intent to commit mayhem or with a dangerous weapon § 22-403 Assault with intent to commit any other offense § 22-404 Assault or threatened assault in a menacing manner; stalking § 22-404.01 Aggravated Assault § 22-405 Assault on member of police force, campus or university police, or fire department § 22-406 Mayhem or maliciously disfiguring § 22-407 Threats to do bodily harm § 22-1810 Threatening to kidnap or injure a person or damage his property	(continued)	(continued)	(continued)	
Milestone 8— CCR Committee Agency Review	Committee Members’ Agency Review of Offenses Against Persons. (This review will occur in two stages. All Offenses	1 (Discussion of Results)	4	12/30/15 - 6/15/16	

of Work for Milestone 7	Against Persons completed as of 12/30/15 will be submitted for review in the first stage, with remaining offenses following as they are completed.)				
Milestone 9– CCR Committee Penalty Review	Committee Members’ Review of Penalties and Proportionality of Revised Offenses.	3	1.5	4/30/16 - 6/15/16	
Milestones	Code Section/Topic Reviewed & Recommendations Issued	Target # Committee Meetings	Duration in Months	Target Committee Work	Actual Committee Completion
Milestone 10– Final CCR Committee Review	Committee Members’ Review of Recommended Draft Code and Commentary.	2	1	6/15/16 - 7/15/16	
Milestone 11 – Final Commission Review	Presentation to Commission, Resolution of Feedback, and Approval.	4	2	7/15/16 - 9/15/16	
Milestone 12– Presentation to Council and Mayor	Project Complete.	1	0.5	9/15/16 - 9/30/16	