



# District of Columbia Sentencing and Criminal Code Revision Commission

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## FULL COMMISSION MEETING MINUTES

Thursday, March 31, 2011  
Judiciary Square, Room 1117  
Washington, DC

### Attendance:

Frederick Weisberg  
Ramsey Johnson  
Adele Harrell  
Harold Cushenberry  
Nancy Ware  
Laura Hankins  
Barbara Tombs-Souvey

Dave Rosenthal  
Jennifer Seltzer Stitt  
Michael Anzallo  
Julie E. Samuels  
Cedric Hendricks  
Patricia Riley

Courtnei Burleson  
Megan Collins  
Thurman Sanders  
Mia Hebb

- I. Call to order at 5:00 p.m.
- II. New Offense Ranking Committee Report –Action Item, Courtnei Burleson

***Change in Misdemeanor Rule:*** Courtnei Burleson and Judge Weisberg discussed the Ranking Committee's recommendation for misdemeanor scoring, including a review of the options which were presented at the last meeting. The Committee reached consensus on a variation of one of the proposals. The current proposal is to score all misdemeanor offenses based on the maximum penalty as follows:

90 days or greater: ¼ point  
Less than 90 days: Not scored  
Only 1 point or 4 misdemeanors contribute to the criminal history score

This new rule would also repeal the provision in § 2.2.11 of the Guidelines Manual that exempts traffic offenses from criminal history scoring.

Commission Vote: The Commission voted on the changes to the misdemeanor scoring rule set forth in the memo. The vote was 8-0 in favor of approving the changes. (H. Cushenberry, L. Hankins, F. Weisberg, P. Riley, D. Rosenthal, J. Samuels, J. Seltzer Stitt, C. Hendricks).

***Criminal History Scoring for New Drug Grid:*** Courtni Burleson and Judge Weisberg discussed the Ranking Committee’s recommended changes to the criminal history scoring for the revised Drug Grid adopted at the previous meeting. The revised Drug Grid as adopted would require that modifications be made to the criminal history columns to accommodate new eighths fractions for juvenile adjudications and lapsed/revived convictions. It also implicated the Commission’s previous concerns about the complexity of incorporating eighths in the criminal history score. The Committee proposed to re-assign criminal history points for juvenile adjudications and lapsed and revived adult convictions under the revised Drug Grid as follows:

Adult Convictions:	¾ point
Juvenile Adjudication	½ point
Lapsed/Revived Convictions	¼ point

Commission Vote: The Commission voted on the changes to the criminal history scoring for the new Drug Grid set forth in the memo. The vote was 8-0 in favor of approving the changes. (H. Cushenberry, L. Hankins, F. Weisberg, P. Riley, D. Rosenthal, J. Samuels, J. Seltzer Stitt, C. Hendricks).

***New Rankings of Offenses:*** Courtni Burleson and Judge Weisberg discussed information set forth in the memo regarding individual rankings for all “While Armed” offenses and the new Human Trafficking statute. The Committee recommended ranking these offenses as follows:

- Assault with Intent to Commit Mayhem w/a Master Group 5
- Assault with Intent to Commit Any Other Felony w/a Master Group 5
- First Degree Cruelty to Children w/a Master Group 5
- Human Trafficking—Forced Labor (§ 22-1832)  
20 year max imprisonment, \$200,000 max fine Master Group 5
- Human Trafficking—Labor or Commercial Sex Acts (§ 22-1833)  
20 year max imprisonment, \$200,000 max fine Master Group 5
- Human Trafficking—Sex Trafficking of Children (§ 22-1834)  
20 year max imprisonment, \$200,000 max fine Master Group 5
- Human Trafficking—Documents (§§ 22-1835)  
5 year max imprisonment, \$5,000 max fine Master Group 8
- Human Trafficking—Benefitting financially (§§ 22-1836, 22-1837)  
Same as principal Same as principal
- Attempt Human Trafficking—Forced Labor (§§ 22-1832, 22-1837)  
10 year max imprisonment, \$100,000 max fine Master Group 7
- Attempt Human Trafficking—Labor or Commercial  
Sex Acts (§§ 22-1833-22-1837)  
10 year max imprisonment, \$100,000 max fine Master Group 7
- Attempt Human Trafficking—Sex Trafficking of Children  
(§§ 22-1834, 22-1837)  
10 year max imprisonment, \$100,000 max fine Master Group 7
- Attempt Human Trafficking—Documents (§§ 22-1835, 22-1837)

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|---|---------------------------|
| 2 ½ year max imprisonment, \$2,500 max fine                               | Master Group 9            |
| • Attempt Human Trafficking—Benefitting Financially (§§ 22-1836, 22-1837) |                           |
| Same as principal attempt   | Same as principal attempt |
| • Human Trafficking—Enhancement (§§ 22-1837)                              |                           |
| (victim held/provides services >180 days)                                 | 1 ½ x the term/fine       |

The listing for Armed Crime of Violence (not otherwise specified) would be removed.

**Commission Vote:** The Commission voted on the new rankings of offenses set forth in the memo. The vote was 10-0 in favor of approving the rankings. (H. Cushenberry, L. Hankins, F. Weisberg, P. Riley, D. Rosenthal, J. Samuels, J. Seltzer Stitt, C. Hendricks, A. Harrell, R. Johnson).

Courtnei Burleson stated that all changes will be updated in the Guidelines Manual and published the following week for notice purposes. Judge Weisberg had concerns about training and Courtnei Burleson clarified that training was being offered and had already been discussed with CSOSA. Reference materials have also been created to assist with the new misdemeanor rule. Pat Riley expressed concerns about how these changes may impact new sentencing cases for pleas and verdicts before the effective date. Barbara Tombs-Souvey cautioned that employing the changes before the effective date could have a negative impact on the reliability of the Commission's data. Judge Weisberg and Laura Hankins suggested that it should be made very clear that new changes to the Guidelines are effective on or after June 15<sup>th</sup>. However, there is the option of using a Rule 11(e)(1)(c) plea for cases disposed of prior to that date.

III. Minutes from the February 15, 2011 meeting were approved.

IV. Director's Report – Informational Item, Barbara Tombs-Souvey

**Budget Issues:** Barbara Tombs-Souvey discussed the performance hearing before the Council on February 15<sup>th</sup>. The topics of discussion included the understaffing of the Criminal Code Revision Project and the electronic data transfer of sentencing information from the court. She was pleased to report that the agency's operating budget was not reduced for FY 2012. However, the Mayor's proposed budget removed Ken Cowgill's position and the funding associated with that position. Dave Rosenthal asked if there was mention of the Fine Proportionality Act of 2011. Judge Weisberg stated that the Council may move on this soon based on comments from Councilmember Mendelson.

**Database Modification:** Ms. Tombs-Souvey informed the Commission about efforts to make modifications to criminal history in the SGS application. She stated that staff is working with the Office of Contracting Procurement (OCP) to acquire the sole source contracts to complete this work. She commended Courtnei Burleson for keeping on top of OCP, ensuring that the paperwork is processed in a timely manner.

**Issues Paper #4:** Barbara Tombs-Souvey informed the Commission that the next Issues Paper will highlight "Assaults" and a copy of the draft will be ready next week. She

stated that it will include discussion of sentencing information and demographics of offenders for several types of assault offenses. The Commission discussed several clarifications regarding the various types of assault offenses that should be included in the analysis. Megan Collins provided some preliminary findings from her analysis.

V. Public Outreach Committee Update- Informational Item, Courtni Burleson

Courtni Burleson briefly updated the Commission on the development of a “Needs Survey” to identify the areas to focus outreach efforts. The survey will be distributed to target populations to help design the nature and extent of the Commission’s outreach strategy. She also distributed a revised draft survey that may be used to develop informational and training resources that are most relevant to groups or organizations in the District. Dave Rosenthal and Pat Riley offered recommendations for improving the clarity for several questions. Judge Weisberg suggested that CSOSA may have additional contacts and Pat Riley offered the addition of neighborhood associations to the target audience list. Michael Anzallo also offered to be a resource for connecting with MPD contacts. Additional feedback from the Commission should be forwarded to Courtni by next week.

VI. Timeline for Annual Report Review – Information Item, Barbara Tombs-Souvey

Barbara Tombs-Souvey stated that she was pleased with Megan Collins’ data analysis portion of the report and how it raised some new data issues and questions. Barbara Tombs-Souvey requested that all comments or revisions are due on by April 13, 2011.

Barbara Tombs-Souvey discussed conducting a five year analysis with the improved data the Commission is now collecting. The Commission also identified some potential changes to the usual reported information that might prove useful to the community, such as showing changes in sentencing practices, tracking legislation changes and capturing alternatives to incarceration.

Adjourn: 6:45 pm

NEXT MEETING:

Tuesday, May 24, 2011, One Judiciary Square (441 4<sup>th</sup> St., NW), 11<sup>th</sup> Floor.