



District of Columbia
Sentencing and Criminal Code Revision Commission

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April 30, 2008

The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia
1350 Pennsylvania Avenue
Washington, DC 20004

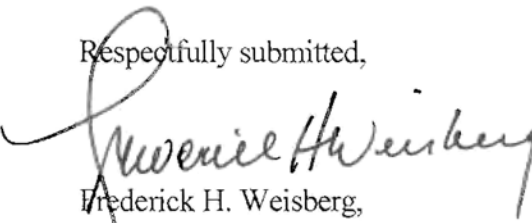
Re: Annual Report to the Council of the District of Columbia

Non-voting members:
Maria Amato, Esq.
Alfred Durham
Thomas R. Kane, Ph.D.
Hon. Phil Mendelson
Cranston J. Mitchell

Dear Mr. Gray:

Pursuant to the District of Columbia Sentencing and Criminal Code Revision Commission Amendment Act of 2007, I am pleased to submit the 2008 Annual Report of the District of Columbia Sentencing and Criminal Code Revision Commission, which includes the Commission's analysis of judicial compliance with the voluntary sentencing guidelines since the period covered by our last report, issued on November 30, 2006. This report covers the period July 1, 2006 through December 31, 2007. I am pleased to report that the voluntary sentencing guidelines continue to enjoy a high level of acceptance. This report also identifies the substantive changes that have been made to the sentencing guidelines during calendar year 2007. Finally, the report includes a brief discussion of our progress on criminal code revision.

Respectfully submitted,



Frederick H. Weisberg,
Chairman

cc:

April 30, 2008

The Honorable Yvette Alexander
The Honorable Marion Barry
The Honorable Muriel Bowser
The Honorable Kwame R. Brown
The Honorable David Catania
The Honorable Mary M. Cheh
The Honorable Jack Evans
The Honorable Jim Graham
The Honorable Phil Mendelson
The Honorable Carol Schwartz
The Honorable Harry Thomas Jr.
The Honorable Tommy Wells
Brian Flowers
Cynthia Brock-Smith
Eric Goulet
The Honorable Rufus King
The Honorable Adrian Fenty

SUPERIOR COURT COMPLIANCE WITH THE SENTENCING GUIDELINES

The sentencing guidelines were introduced as a pilot program to apply to all felony guilty pleas and guilty verdicts entered on or after June 14, 2004. The District of Columbia Sentencing and Criminal Code Revision Commission Amendment Act of 2007 (Law 17-25) made the guidelines a permanent feature of sentencing in the Superior Court and required the Commission to submit a report on April 30 of each year, beginning in 2008. The annual reports are to include an analysis of the sentences imposed during the period, showing the rate of compliance with the guidelines, the number and extent of any departures from the guidelines, and the reasons given for those departures.

The evidence continues to show an exceptionally high rate of compliance with the guidelines, and compliance has increased since the period of the pilot program, detailed in the Commission's last report dated November 30, 2006.

Guideline and Compliance Terminology

The sentencing guidelines are voluntary. A judge may elect not to follow the guidelines in a particular case. Before discussing the results for the present period, the following sections recap the guideline structure and data collection.

As explained in our previous reports, the Master and Drug Grids were designed with a recommended sentencing range for each of sixty boxes corresponding to a particular offense severity level and criminal history score. In some boxes, a prison sentence is the only option

consistent with the guideline recommendation. In some boxes, either a prison sentence or a short split sentence – where a prison sentence is partially suspended, the defendant is required to serve a sentence of six months or less, and is then released to a period of probation – is an option. In the remaining boxes, a prison sentence, a short split sentence or probation are all options permitted by the guideline recommendation. Statutory enhancements are accommodated by adjusting the numbers in the box to reflect the increased maximum sentence permitted by the enhancement. Because there are *extraordinary* cases, where a sentence within the box would not serve the ends of justice, the guidelines contain a non-exclusive list of aggravating and mitigating factors, which permit sentencing above or below the prison range in a given box or the imposition of probation or a split sentence in a prison-only box. The judge must state on the record the aggravating or mitigating factor(s) on which he or she relied in sentencing “outside the box.”¹ A judge may also opt not to follow the guidelines in a case, but when this occurs the judge is encouraged to explain his or her reasons to the Commission.

Given the wide array of available options and relatively broad prison ranges, which are designed to preserve the judge’s discretion to serve the ends of justice in individual cases, the Commission continues to see a high rate of compliance. In order to be considered “compliant,” as we use the term, a sentence must be consistent with the applicable guideline in

¹ As noted, because the system is voluntary and the lists of aggravating and mitigating factors are non-exclusive, a judge may sentence outside the box based on a factor that is not one of the listed aggravating and mitigating factors. If the judge finds a *comparable*, non-listed, aggravating or mitigating factor substantial and compelling in a given case and says so, the sentence is deemed to be outside the box but compliant with the guidelines. Over time, a recurrence of these cases may cause the Commission to add to the lists of aggravating or mitigating factors. Even if the judge finds no compelling reason to depart and simply elects not to follow the guideline in a particular case, the judge is encouraged to state why he or she

all respects. For example, a sentence to probation complies with the guidelines only if (1) the sentence falls within a box for which probation is one of the recommended options and the suspended prison sentence also falls within the range or (2) the judge expressly relies on one of the mitigating factors to depart. Similarly, a prison sentence is compliant only if it is within the prison range set forth in the applicable box or the judge expressly relies on one of the mitigating or aggravating factors to depart.

To summarize, the following sentences are considered compliant:

- a) a sentence within the appropriate box;
- b) a sentence within the appropriate box as expanded by a statutory enhancement;
- c) a sentence outside the box where there is an enumerated aggravating or mitigating reason or another substantial and compelling reason of like gravity; and
- d) a sentence imposed pursuant to a guilty plea entered under Superior Court Criminal Rule 11(e)(1)(C).²

Sentencing Guideline Forms

The analysis in this section is based on data collected since the Commission's last report of November 30, 2006, which covered cases from the inception of the guidelines through June 30, 2006. During the period from July 1, 2006 through December 31, 2007, the Commission

departed; and if similar departures happen with some frequency in the same category of cases, the Commission may reexamine the appropriateness of the guideline recommendations for that category.

² Criminal Rule 11(e)(1)(C) permits the parties to agree upon the terms of a sentence and provides that the judge may agree to be bound to those terms once the plea is accepted. Criminal Rule 11 (e)(1) states that "The prosecutor and the attorney for the defendant ... may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty or *nolo contendere* to a charged offense or to a lesser or related offense, the prosecutor will ... (C) Agree that a specific sentence or sentencing range

collected 2,663 Sentencing Guideline Forms (SGF), representing guideline recommendations and actual sentences in felony cases. A separate form is prepared for each felony count in a multi-count case. The SGF provides the offense severity group and the criminal history score, the guideline options and prison range, the actual sentence imposed, whether or not the sentence complied with the recommendation, the reason for departure if applicable, and certain other information about the offender and the offense.

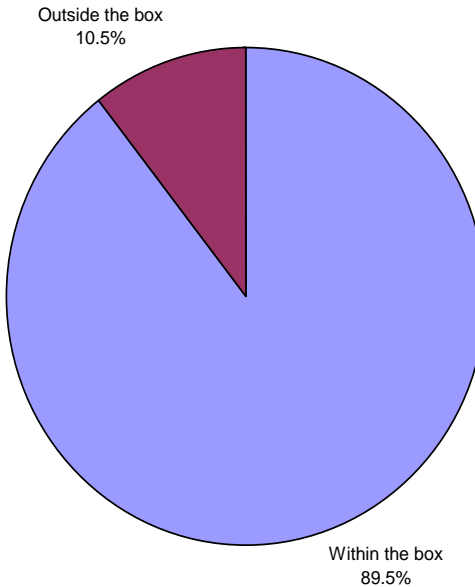
During this reporting period, Sentencing Guideline Forms representing counts that fell in probation-eligible boxes on both grids accounted for 67.2% (1,789 SGF) of the total number, down slightly from 65.1% in the previous period. Conversely, 19.7% (524 SGF) of the total fell in prison-only boxes, which typically represent more serious crimes and/or offenders with more serious prior criminal records.³ This also represents a slight decrease from 22.1% in the previous period. 13.1% of all cases (350 SGF) fell in boxes permitting a short split sentence, compared to 12.7% in the previous period. Approximately 46% (1230 SGF) of the sentences in the current period were drug charges, the same proportion as previously. However, a slightly higher percentage of these drug sentences fell in the probation eligible boxes (90.5%, up from 87%). This means that judges had the discretion to impose probation, a short split sentence, or a prison sentence in the vast majority of drug cases. Conversely, only 47% of SGF on the Master Grid fell in probation-eligible boxes.

is the appropriate disposition of the case. Such a plea agreement is binding on the Court once it is accepted by the Court.”

³ It is not unusual for one count in a multi-count case to fall in a prison-only box while another falls in a probation-eligible or short-split-eligible box. In such a case, the judge can impose a compliant sentence only by imposing a prison sentence within the range on the count that falls in the prison-only box (absent a departure based on an aggravating or mitigating factor), although the judge could suspend all or part of the sentence on any count that falls in a box permitting probation or a short-split sentence.

Sentences “Within the Box” and Sentences “Outside the Box”

Figure 3-1: Percentage of All Sentences that are "Within the Box" and "Outside the Box"
(N = 2,663)



As shown in Figure 3-1, of the 2,663 SGF collected since the inception of the guidelines, 89.5% (2,383 SGF) of all sentences are sentenced “within the box.” The remaining 10.5% (280 SGF) are “outside the box.” It is important to note that “outside the box” is not synonymous with non-compliant. Some “outside the box” sentences are compliant with the guidelines because the judge has articulated aggravating or mitigating reasons for departing or the sentence was imposed pursuant to a Rule 11(e)(1)(C) plea. When these are added to the “within the box” sentences, the overall compliance rate increases to 89.7%.

The Commission's guideline rules recognize three types of sentencing dispositions, prison sentences (including "long split sentences"),⁴ short split sentences, and probation sentences.⁵

While most sentences of each type are "within the box" and compliant with the guidelines, a clearer picture of guideline compliance can be seen when sentences are broken down by type.

Within the Box Sentences in Prison Cases

The analysis in this section focuses on prison sentences, and the next section focuses on probation and short split sentences.

⁴ For guideline purposes, "long split sentences" are considered prison sentences. A long split sentence is one where the court imposes a sentence within the applicable prison range, suspends execution of all but a term that also falls within the applicable prison range, requires the defendant to serve the initial prison term, and places the defendant on probation thereafter for a period up to five years. When both the sentence imposed and the term to be served initially fall within the applicable prison range, the sentence is compliant with the guidelines. As each box on the Master Grid and the Drug Grid has a prison range recommendation, a long split can be a compliant sentence in any box. If either the number of months that the judge imposes or the number of months the judge orders the defendant to serve before being placed on probation does not fall within the applicable prison range for that box, such a sentence would not be compliant absent an authorized departure.

⁵ In the *unshaded* boxes on the Master Grid and the Drug Grid, prison is the only permissible and compliant option, absent a mitigating factor. Altogether there are 35 unshaded boxes on the Master Grid and 5 unshaded boxes on the Drug Grid. *Dark-shaded* boxes on the Master Grid and the Drug Grid permit a short split sentence or a prison sentence within the indicated range, but an entirely suspended sentence with probation would not be compliant, absent a departure. There are four dark-shaded boxes on the Master Grid and three dark-shaded boxes on the Drug Grid. *Light-shaded* boxes on the Master Grid and the Drug Grid permit probation, a short split sentence, or a prison sentence. There are five light-shaded boxes on the Master Grid and seven light-shaded boxes on the Drug Grid.

**Figure 3-2: Percentage of Prison Sentences that are "Within the Box" and "Outside the Box"
(N = 1,676)**

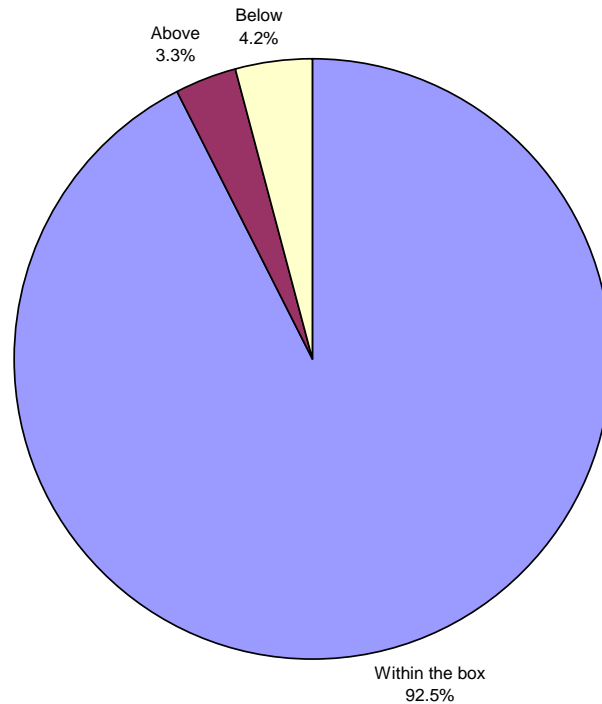


Figure 3-2 shows the breakdown of prison sentences within the box and outside the box. Prison sentences were imposed in 62% of the SGF collected during the current period (1,651 out of 2,663). Of these, 92.5% (1,527 SGF) of all prison sentences are sentenced within the box.⁶ The remaining 7.5% (124 SGF) are outside the box (3.3% above the range; and 4.2% below the range).

⁶ The meaning of “within the box” is unambiguous for prison sentences; either the imposed sentence is within the guideline range or it is not. For long split sentences, it can become slightly less intuitive. For purposes of this analysis, a long split sentence is considered within the box if the sentence imposed, before part of it is suspended, is within the range for that box. This has the virtue of simplicity. But if the judge suspends enough of the sentence so that the time the defendant is required to serve before being placed on probation is shorter than the minimum prison term in the range for that box, the sentence is technically

Outside the Box Sentences in Prison Cases

Of the 124 SGF (7.5% of prison sentences) that are outside the box, we know that four were compliant with the guidelines because the judge provided a mitigating or aggravating reason for departing in an exceptional case or the sentence was dictated by a Rule 11 (e)(1)(C) plea.⁷ This small number of outside the box compliant sentences raises the compliance rate from 92.5% to 92.7%. Without an explanation to the contrary or a correction to the SGF to bring the sentence into compliance, we must assume that the remaining outside the box prison sentences are not compliant.⁸ The outside-the-box prison sentences are about evenly split between sentences that are above the top of the prison range (3.3%) and those that are below the bottom of the range (4.2%).

Compliance in Probation and Short Split Sentence Cases⁹

noncompliant. Similarly, if the entire sentence before suspension of part of it exceeds the maximum that can be imposed in that box, but the time the defendant is required to serve before going on probation is within the range allowed by that box, the sentence is counted as outside the box even though the defendant will serve a prison term that is within the box. The “within the box” figures vary only slightly no matter how one cuts it. For example, the “within the box” percentage drops by 1% to 90.5% when considering both the imposed full term and the part of the term that is not suspended.

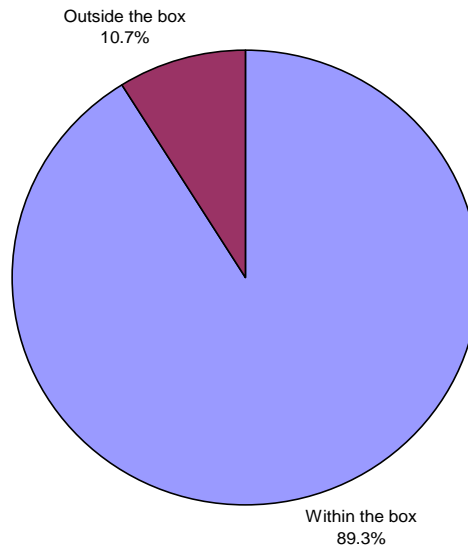
⁷ Among the reasons given for departure were: deliberate cruelty to the victim, victim vulnerability, and devastating injury to the victim.

⁸ There are a number of SGF that appear to represent sentences outside the box, but for which the Commission was unable to obtain an explanation from the sentencing judge. Based on the explanations the Commission obtained in other cases, it is probable that some of these unexplained cases are cases in which a correction to the SGF was made in court but not communicated to the Commission, bringing the sentence within the box, and others are cases in which the judge had a substantial and compelling reason to depart, but the reason got lost in the transmission between the Court and the Commission.

⁹ For probation and short split sentences, “within the box” means that probation or a short split sentence was a permitted option in the particular box. However, there are some technically noncompliant sentences counted as “within the box” in probation-eligible and short-split-eligible boxes. For example, if the suspended prison sentence in a probation-eligible box is above or below the guideline range, then the sentence is technically noncompliant, although probation was a permissible sentence. Using the sentence

A probation sentence is one where the judge imposes a prison sentence within the applicable range, suspends execution of all of it, and places the defendant on probation for any period up to five years. There were 606 SGF with probation sentences, 22.7% of the total. Under guideline rules, a short split sentence is one where the judge imposes a prison sentence within the applicable range, suspends execution of all but six months or less (but not all) of it, requires the defendant to serve the part of the sentence that is not suspended, and places the defendant on probation up to five years. Absent a departure, it can be used only in the shaded boxes. There were 407 SGF with short split sentences, 15.3% of the total.

Figure 3-3: Percentage of Probation Sentences that are "Within the Box" and "Outside the Box" (N = 606)



after suspension has little impact on compliance results, is simpler, and makes discussion of “outside the box” sentences more straightforward.

Figure 3-3 shows that 89.3% (541 SGF) of all probation sentences are sentenced within the box. The remaining 10.7% (65 SGF) of probation sentences that are outside the box are sentences to probation in a non-probation-eligible box.

Figure 3-4: Percentage of Short Split Sentences that are "Within the Box" and "Outside the Box" (N = 407)

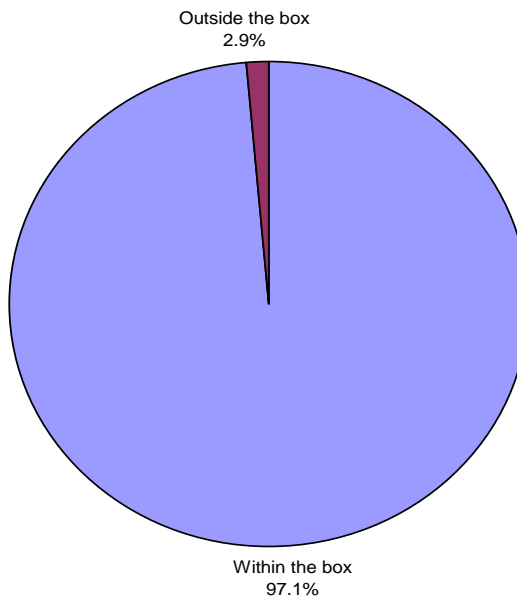


Figure 3-4 shows that 97.1% (395 SGF) of short split sentences were in boxes that permitted short splits. The remaining 2.9% (12 SGF) are short split sentences in a non-short-split eligible box.

Comparison of Within the Box Sentences: Current and Previous Periods

The previous report analyzed 5,454 forms, representing sentences imposed during the period from the inception of the guidelines (June 14, 2004) through June 30, 2006, while this report

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analyzes 2,663 sentences imposed from July 1, 2006 through December 31, 2007. Prison sentences comprised 62% of SGF during the present period, down slightly from 65% for the previous period. Probation sentences also decreased slightly, from 24.7% to 22.7%. The percentage of short split sentences increased from 10.3% to 15.3%.

Overall, compliance has generally increased from the last report. The percentage of sentences within the box grew from 87.9% in the previous period to 89.5% in the period covered by this report. 92.5% of prison sentences were within the box in the current period, compared to 89.7% in the previous period. However, the percentage of probation sentences that were within the box decreased slightly from 91% in the previous period to 89.3% in the current period, and the percentage of short split sentences within the box also decreased slightly from 98.6% to 97.1%.

Monitoring the Guidelines: Continued Improvement Needed

The Commission receives sentencing guideline forms (SGF) from CSOSA on all felony convictions by verdict or by guilty plea. . If the judge orders a presentence investigation report (PSI), CSOSA has seven weeks to produce the PSI with the SGF, which includes the applicable guideline recommendation. The PSI and the SGF are submitted to the Commission at the same time they are sent to the judge. The Commission holds the SGF until the sentence is imposed and appears in the Court's automated records. When the sentence is one that appears to be non-compliant with the guidelines and a reason for departure has not been provided in the SGF, the Commission attempts in all such cases to follow up with the sentencing judge for an explanation of the apparently non-compliant sentence. Unfortunately,

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some SGF cannot be matched up with Court records, and a small percentage of cases are missed. However, based on sampling the Commission has done, we are confident that these missing cases have not distorted in any way the picture of compliance we are reporting. By the end of this fiscal year, we expect to be able to download cases covering the period of this report (and capture all records going forward) directly from the Superior Court and audit the SGF records, using the technology discussed below.

The Commission continues to move toward full automation, which should improve timeliness, accuracy, and completeness of records. Currently, an interface is nearly operational between the Commission's new information system, the Sentencing Guideline Web ("SGW"), and the Superior Court CourtView database, using the JUSTIS network to link the systems. CSOSA is developing its own link, which when finished (projected complete by the end of this fiscal year), will link all three systems. This will insure the transmission of Court and CSOSA information to the Commission more accurately and efficiently and will allow more timely inquiries to judges regarding sentences that require a further explanation. This process will also allow the Commission to supplement its database with cases that may have been missed prior to the activation of these interfaces. Automation and concomitant improvement in the business process is crucial because it will not only improve monitoring of the guidelines, but will also allow more time for the Commission's staff to focus on potential modifications of the guidelines, as well as criminal code revision.

The Commission expects to revisit this compliance analysis, as well as analysis of sentencing trends, once the interfaces are completed and the information systems of the Superior Court,

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CSOSA, and the Commission are fully linked. Also, the Commission intends to study whether any of the existing guideline recommendations may be in need of revision based on experience to date. The Commission will update its reports on overall sentencing trends when the Superior Court's automated records are fully integrated into the Commission's database. If the automated links are fully functional well before next April's reporting period, the Commission may issue an interim report. In any event, we expect our next report to be considerably expanded to include our customary report on overall sentencing trends year to year.

2007 AMENDMENTS TO THE SENTENCING GUIDELINES

The District of Columbia Sentencing and Criminal Code Revision Commission Amendment Act of 2007 requires the Commission to include in its annual reports any substantive changes made to the guidelines during the preceding year, including changes in offense severity rankings, the recommended sentencing options or prison ranges, or rules for scoring criminal history. If legislation during the year created new offenses or changed the penalties for existing offenses, the report must explain how the changes were incorporated into the guidelines.

The following substantive amendments to the sentencing guidelines became effective as of November 1, 2007:

1. Section 2.2.10, Military and Foreign Convictions, second paragraph, is amended to state:

Federal convictions from the U.S. territories are scored. Other convictions from the U.S. territories are presumptively scored, unless it is shown their criminal justice systems do not provide procedural protections comparable to those afforded under the U.S. Constitution. For instance, preliminary research of the Commission shows that non-federal convictions from the U.S. Virgin Islands, Puerto Rico, and Guam should be scored like state convictions, while non-federal convictions from the Northern Mariana Islands should be scored as misdemeanors unless the sentence imposed was more than five years.

2. A new section 2.2.12, "Scoring Contempt Convictions," is added, which states:

Convictions for violations of conditions of release (D.C. Code §23-1329) are misdemeanors and scored as 1/4 point. All other contempt convictions, including those pursuant to D.C. Code §11-944, also are scored as 1/4 point, unless the presentence report writer or the prosecutor can verify to the Court that the sentence actually imposed was longer than one year, in which case the contempt conviction would be a felony and should be scored as one point. Of course, the normal lapsing rules apply.

3. Chapter Four, "Adjusting the Box," second paragraph, is amended to state:

If enhancement papers have been filed or if a statutory enhancement has been proved to the fact finder, the top of the guideline range is increased by the same percentage or amount as the statutory multiplier or cap. For example, if the statute states that the punishment may be 1 ½ times the maximum otherwise authorized for the offense, then the top of the guideline range is increased by 1 ½. However, if the statute increases the maximum term of imprisonment from 5 to 10 years, for example, the top of the prison range is doubled. See Appendix H for a list of multiplier and cap enhancements. Note that the bottom of the range does not change, only the top.

4. Chapter Four, “Adjusting the Box,” last paragraph, is amended to state:

Note: A conviction for accessory after the fact reduces by one-half both the top and the bottom of the prison range available in the box applicable to the underlying offense. To determine whether a suspended sentence with probation or a short split sentence is compliant, drop to the box immediately below the box in which the defendant falls for determining the prison range. For example, a defendant with no criminal history convicted of Accessory After the Fact to a Robbery (unarmed) has a guideline prison range of 9 to 30 months (one-half of Robbery in Box 6A), but that defendant may receive a suspended sentence with probation because his or her eligibility for probation is determined by reference to Box 7A, which is light shaded and therefore probation-eligible.

5. In Chapter 8, a new section 8.4 is added, which states:

When calculating criminal history, how do you score prior D.C. Superior Court convictions for “any other felony”?

D.C. Superior Court convictions for “any other felony,” an imprecise term sometimes found in computerized court records, should be scored as 1 point, unless the judgment and commitment order or other reliable evidence shows that the conviction was for a 2- or 3-point offense. The burden is on the government to produce such evidence. The normal lapsing rules apply.

6. The following offenses and severity rankings are added to Appendix C and C-I:

- Armor Piercing Ammunition (§7-2507.06(3)) Master Group 7
- Assault on a Police Officer
 - Ten-year maximum (§22-405(c)) Master Group 7
 - Thirty-year maximum (§23-1331(4)) Master Group 5
- Assault with significant injuries (§22-404(a)(2)) Master Group 8
- Criminal Abuse or Neglect of a Vulnerable Adult

- Ten-year maximum (§22-936(b)) Master Group 7
- Twenty-year maximum (§22-936(c))
 - If permanent bodily harm results Master Group 6
 - If death results Master Group 5
- Contributing to the Delinquency of a Minor
 - Three-year maximum (§22-811(b)(2)) Master Group 9
 - Five-year maximum (§22-811(b)(3), (4)) Master Group 8
 - Ten-year maximum (§22-811 (b)(5)) Master Group 6
- Drug Paraphernalia (§48-1103(e)(4)) Master Group 9
- Felon in Possession of a Firearm (§22-4503(b)) Master Group 7
- Gang Recruitment, Retaliation or Participation
 - Five-year maximum (§22-951(b)(2)) Master Group 8
 - Ten-year maximum (§22-951(c)(2)) Master Group 7
- Prostitution Offenses (§§22-2701.01, 22-2705, 22-2706, 22-2707, 22-2722)
 - Twenty-year statutory maximum Master Group 5
 - Fifteen-year statutory maximum Master Group 6
 - Five-year statutory maximum Master Group 9
- Sex Crimes (§§22-3009.01, 22-3009.02, 22-3010)
 - Enticing (Five-year statutory maximum) Master Group 8
 - First degree sexual abuse of a minor (Fifteen-year statutory maximum) Master Group 6
 - Attempt first degree sexual abuse of a minor (7 1/2-year maximum) Master Group 7
 - Second degree sexual abuse of a minor (7 1/2 -year statutory maximum) Master Group 7
 - Attempted second degree sexual abuse of a minor (3 ¾ -year maximum) Master Group 9
- Solicitation for Murder or Other Crime of Violence
 - 20-year maximum (§22-2104.02(a)) Master Group 4
 - 10-year maximum (§22-2104.02(b)) Master Group 6

- Tampering with a VIN (§22-3233(b)(2)) Master Group 9
- Threatening Government Officials
 - Five-year maximum (§22-851(b)) Master Group 8
 - Three-year maximum (§22-851(c), (d)) Master Group 9
- Voyeurism §22-3531(f)(2) Master Group 8

7. In Appendix H, the following enhancements are added:

CPWL – 2d offense

First offense	5 years
Second offense	10 years

Ratio 2:1 = 2x

Enlisting minors to distribute drugs – 2d offense

First offense	10 years
Second offense	20 years

Ratio 2:1 = 2x

Insurance fraud

First offense	5 years
Second offense	10 years

Ratio 2:1 = 2x

Molotov cocktails

First offense	5 years
Second offense	15 years
Third offense	30 years

Ratios: 3:1 = 3x and 6:1 = 6x

Sex performance using minors – 2d offense

First offense	10 years
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Second offense 20 years

Ratio 2:1 = 2x

Stalking

Second offense 1 ½ years

Third offense 3 years

Ratio 2:1 = 2x

Three strikes for any felony

30 years or 3x upper bound of guideline with a cap of 30 years

Three strikes for violent felonies

LWOR

First degree murder, second degree murder, first degree sexual abuse, first degree child sexual abuse

LWOR

CRIMINAL CODE REVISION

The Advisory Commission on Sentencing Amendment Act of 2006 (Law 16-126) requires that the Commission make recommendations to the District of Columbia Council in the following areas:

- (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.

On March 30, 2007, the Commission submitted its criminal code revision work plan to the Council. The work plan discussed the efforts of the District of Columbia Law Revision Commission to revise certain portions of the D.C. Code during the 1970s and 1980s. The plan also noted similar law revision efforts in Arizona and Illinois. As the work plan made clear, criminal code revision is a daunting task that will require significant manpower and time.

Given the necessary resources for code revision and the Commission's other ongoing statutory responsibilities enumerated in D.C. Code § 3-101(b), the work plan proposed to focus first on misdemeanor crimes before turning to the more complex, and potentially divisive work on felonies. This proposal was based largely on the belief that the need to restructure the criminal

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code is greater with respect to misdemeanors. Moreover, the Commission believes that misdemeanors are likely to be less contentious and more amenable to consensus within the timeframe of the 2006 Act.

Over the past year, the Commission and its staff have spent many hours studying and discussing the most efficient process for tackling reorganization and revision of the misdemeanors, which include many offenses spread throughout the Code that are prosecuted exclusively by the Office of the Attorney General. With the cooperation of the U.S. Senate Judiciary Committee, the Commission was able to obtain from archives the original reports of the Law Revision Commission. In addition, the Commission has been in contact with architects of code revision projects in Illinois and Arizona and has received technical assistance from experts at the D.C. Office of the Chief Technology Officer and from legal research providers at Lexis and Westlaw.

On March 18, 2008, the Commission held its first full meeting since its new members were appointed by the Council. The members engaged in a lengthy discussion about the technological and logistical issues surrounding the identification of misdemeanor crimes and their organization into a database. The Commission agreed there are numerous complex legal, technological, bureaucratic, and resource-related issues that would be best addressed at a half-day retreat, which is currently scheduled for a date in late May. Following this meeting, the Commission expects to be in a better position to discuss the resource needs and timetable for the code revision project, which were briefly addressed in our recent performance oversight and budget hearings.