



# District of Columbia Sentencing Commission

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## FULL COMMISSION MEETING MINUTES

Tuesday, April 18, 2006  
500 Indiana Ave., N.W., Room 1500  
Washington, DC

Attending	F. Weisberg	B. Forst	R. Johnson
	L. Hankins	D. Rosenthal	P. Riley
	B. Baldwin-White	K. Hunt	C. Chanhatailpa
	S. Vance	R. Buske	S. John

- I. Call to order at 5:10 p.m. The Commission approved the March 21, 2006 meeting minutes pending any changes.

F. Weisberg introduced the Commission's new policy analyst, Synda John, who comes to the Commission while finalizing a Master's Degree from Columbia University. She is currently completing her thesis on sentencing guidelines in Virginia.

F. Weisberg noted the Commission's recent budget hearing, and said that the Council questioned the request for extension of the sixth full-time equivalent position, due to expire in FY 2006. He explained that additional discussion with the Council is needed to explain the time-consuming work remaining after the November 2006 report. [Action Item: Additional documentation should be made available.] Regarding Criminal Code revision and the addition of members, P. Riley suggested that the present Commission recommend some qualified individuals to the Council.

- II. Research Subcommittee report on Missing Sentences Analysis

K. Hunt explained that the Commission's analysis consisted of two components. First, the Commission collected a three-month sample of 630 sentencing guidelines forms (SGFs). The Commission staff received 211 of the forms from Quality Assurance. The remaining 419 sentences were retrieved by staff from QA's computer system or the DCSC database.

The second step involved a more extensive study. Specifically, all of the SGFs that were received or retrieved from QA, coded, and entered into the master database were matched to sentencing data that was made available from Superior Court for the time period September 2004 to October 2005. The cases that were contained in the Superior Court data but were not in the SGF database were then used to

compare to those cases in the SGF data. These sentences were called variant sentences rather than missing sentences, because they contain both legitimate missing guidelines cases and cases that do not belong in the SGF data. (Some cases in the Superior Court database will not have corresponding SGFs because they are misdemeanors, cases sentenced prior to June 2004, etc.) In short, the variant cases are cases in which the Commission has no record of an SGF, and therefore no record that the judge in the case ever saw a guideline recommendation.

K. Hunt discussed tables that summarized the findings. Table 1 showed the difference in the percentages by severity groups between SGF sentences and variant sentences. Table 2 attempted to answer the question “Are the non-SGF cases randomly distributed across crimes?” Each row represents the total felony crimes for the period, and the proportion of the total that are SGF sentences and variant sentences, respectively. The overall variant cases in the Court database are 32.9%, indicating that almost one third of the DCSC cases are not found in the SGF data. For any given crime, that percent may differ randomly from the overall proportion due to small sample sizes and random fluctuations. Statisticians often use a 95% confidence interval to indicate that 95 times out of a hundred, for a given sample size, a sample proportion for that crime could occur by chance within a given margin of error (the 95% confidence intervals). If a sample proportion falls outside the margin of error, one can conclude that there were more (or fewer) variant cases than one could reasonably expect by chance alone.

Based on this analysis, for 14 common offenses, 11 have missing cases that fall within the margin of error for that particular sample size, indicating that the proportion is not unexpected and may differ from the overall average due to random fluctuation. Two crimes (Escape and BRA) have a significantly higher number of variant cases than expected, and one crime (PFCV) has a significantly lower number at variance with the SGF data.

F. Weisberg theorized that judges presiding over Escape and BRA cases may not request PSI’s, and thus they may not be getting guideline forms. Others noted that some counts may go missing in some of the multi-count cases. B. Forst stated that the result for PFCV could still be due to random chance. R. Johnson noted that judges are not universally aware that failure to request a PSI will result in failure to produce a guideline recommendation.

P. Riley stated that there should be less “variant” sentences with more recent Superior Court data. The early guidelines period would have seen more non-guidelines sentences.

The question of the transition to the DCSC’s Courtview information system led to a discussion of the transition from the Court’s earlier information system to the Courtview system. Several members suggested that the Council may not be fully aware of the difficulties agencies have faced making the transition, and the impact this is likely to have on the Commission in the next fiscal year.

B. Forst stated that these tables provide indirect, although imperfect, evidence that there is little bias in the variant or missing sentences. P. Riley suggested that an analysis be conducted by judge and sentence length, and B. Forst agreed this would be helpful, particularly for BRA, Escape and PFCV, and Master Group 9.

It was agreed that the report should contain narrative that describes the missing cases analysis and results but the tables would be in the appendix.

Tables 3 and 4 compared the breakdown of race and gender for SGF sentences and variant sentences. There is little difference across the two samples.

### III. Focus Groups

L. Hankins asked that the full minutes of the focus groups be sent to the commission rather than brief summaries so that there is a better sense of what the focus groups covered.

F. Weisberg suggested that the Commission staff circulate the summaries of all focus groups (PDS, U.S. Attorney, Judges, and CJA) to the full Commission, and that the Commission meet in the future to discuss the issues raised by the focus groups. He would like the Commission to at least address the issues prior to the December report.

D. Rosenthal, F. Weisberg, and P. Riley suggested that the Commission have two meetings in the very near future. One of the meetings can be devoted to determining those issues that will be considered for further deliberation.

### V. 2006 Annual Report

K. Hunt asked whether the Commission members had any comments about any specific aspects of the December report outline. B. Forst asked how it differed from the structure of the 2005 report. K. Hunt responded that this report will focus more on the analysis of the in/out margins (short split and probation sentences), the cases with the larger body of data. At the February 15 Commission meeting, it was agreed that CSOSA would contribute a section or chapter describing the operation of probation.

P. Riley and F. Weisberg asked if it is possible to know how many sentences are in criminal history category E since there is anecdotal evidence that the sentencing guidelines discourage pleas in such cases. *[Note: For the data summarized in the latest Report, there were 156 cases (6%) in Box E.]* It was suggested that plea rates be examined and also the distribution of sentences.

F. Weisberg noted that some judges have asked whether the Commission has considered adding “successful completion of drug court” as a mitigating reason for departure.

F. Weisberg asked that the full Commission review and carefully study the outline of the 2006 report. He also asked the staff to begin drafting the report. P. Riley asked that all sections be written by September, to allow sufficient time for review and revision.

F. Weisberg stressed it is important for the Commission to meet very soon. Probably, an all-day meeting is needed in September or October. B. Forst added that the Commission could have virtual meetings via email, to which F. Weisberg agreed.

F. Weisberg also asked the Commission and the staff to continue thinking about why we might be missing certain cases such as those for PFCV. L. Hankins stated she would be interested in getting the opinions of P. Quander and H. Cushenberry on this issue.

F. Weisberg stated that he would also look for anecdotal feedback on this issue.

Adjourned at 6:25 p.m.

NEXT FULL COMMISSION MEETING:

Tuesday May 16, 2006