

D.C. Sentencing and Criminal Code
Revision Commission

FELONY SENTENCING IN THE DISTRICT OF COLUMBIA

THE BASICS



DISCLAIMER

- ▶ This PowerPoint presentation is designed to give individuals a basic understanding of the felony sentencing process in the District of Columbia Superior Court. The presentation is not intended to serve as legal advice or guidance. It does not cover every possible situation or occurrence. It is for educational purposes only.
- ▶ This presentation should not be referenced, used, introduced, or quoted in any proceeding. It may not be reproduced without the expressed permission of the D.C. Sentencing and Criminal Code Revision Commission.



WHAT IS SENTENCING?

- ▶ Announcement of the defendant's official punishment
- ▶ Usually takes place at or following a sentencing hearing
- ▶ After sentencing, the court will issue a Judgment and Commitment Order
 - ▶ Official record of conviction and sentence



WHAT HAPPENS DURING A SENTENCING HEARING?

- ▶ During a sentencing hearing the court may take in evidence or hear testimony about
 - ▶ The facts about the offense
 - ▶ The effect of the offense on any victims
 - ▶ The effect of the offense on the community
 - ▶ The defendant



WHEN DOES SENTENCING OCCUR?

- ▶ A sentencing occurs after an official determination of a defendant's guilt
 - ▶ A guilty jury verdict
 - ▶ A judge finding the defendant guilty
 - ▶ A plea bargain
 - ▶ A plea of non-contest
- ▶ Sentencing normally occurs 2 – 4 months after the determination of the defendants guilt



WHAT HAPPENS BETWEEN THE PLEA OR VERDICT AND THE SENTENCING HEARING?

- ▶ The Court Service and Offender Supervision Agency (CSOSA) conducts a presentence investigation (PSI) and creates a PSI Report
 - ▶ Takes at least 8 weeks
- ▶ Victims and community members are contacted
- ▶ Monetary damages from the offense are calculated
- ▶ Attorneys may write and file presentence
- ▶ Other individuals may write the court



THE PRESENTENCE INVESTIGATION (PSI)

- ▶ Conducted by a CSOSA Court Supervision Officer
- ▶ The CSOSA officer will:
 - ▶ Review the offense
 - ▶ Interview the defendant
 - ▶ Meet with the defendant's friends, family members, or employers
 - ▶ Develop a criminal, social, family, medical, educational, and employment history of the defendant
 - ▶ Calculate the defendant criminal history score
 - ▶ Create a report including
 - ▶ The sentencing recommendation
 - ▶ The defendant's Voluntary Sentencing Guidelines Range



TYPES OF SENTENCES A DEFENDANT MAY RECEIVE

- ▶ Incarceration or Prison – 85% or more of the sentence will be served
- ▶ Suspended sentence (probation)
- ▶ Split sentence
- ▶ Fine only sentence
- ▶ Time served
- ▶ Community service
- ▶ Another type of sentence the court deems appropriate



SUSPENDED SENTENCES

- ▶ Sentences where the court suspends the entire sentence
 - ▶ Often called “Back-up time”
 - ▶ If the defendant successfully completes probation, then the suspended sentence will not be enforced
 - ▶ If the defendant violates his or her probation conditions, the court may revoke the defendant’s probation



SPLIT SENTENCES

- ▶ Split sentences are a combination of some time incarcerated and some time suspended
- ▶ Short split sentences are split sentences where the time incarcerated (not suspended) is 6 months or less



PROBATION

- ▶ Term of up to five years
 - ▶ The term of probation can be greater for a few offenses, such as sex offenses
- ▶ Supervised by CSOSA and the court
- ▶ Can be revoked by the Court for violations
- ▶ Committing a new offense
 - ▶ Technical violations
- ▶ If probation is revoked, the court may resentence the defendant
- ▶ If revoked, the time spent on probation is NOT credited towards his or her new sentence



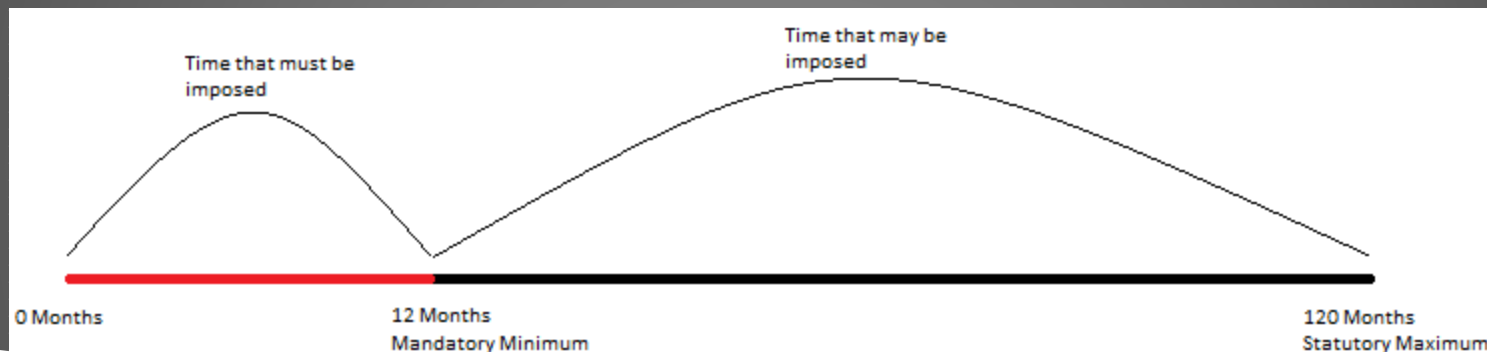
SUPERVISED RELEASE

- ▶ Different from probation
 - ▶ Follows release from incarceration
 - ▶ Supervised by the U.S. Parole Commission
- ▶ Must be given for any felony conviction sentenced to incarceration
 - ▶ Period of up to five years
- ▶ If supervised release is revoked, imprisoned for up to an additional five years
- ▶ The Court may suspended the period of supervised release



WHAT IS A MANDATORY MINIMUM SENTENCE?

- ▶ For certain offenses, the court must sentence the defendant to at least the set period of incarceration.
- ▶ The court may not give a less severe sentence
- ▶ The court cannot suspended the mandatory minimum sentence
- ▶ Example: Offense has 10 year maximum and 1 year mandatory minimum



WHAT IS A STATUTORY MINIMUM SENTENCE

- ▶ Same as a mandatory minimum except that some or all of the sentence may be suspended.
- ▶ Example: An offense may have a three year statutory minimum. The court could sentence the defendant to three years, but suspend the entire sentence and place the defendant on probation.



HOW LONG OF A SENTENCE WILL THE DEFENDANT RECEIVE?

- ▶ Sentencing factors the court must follow
 - ▶ The maximum sentence allowed by law (set forth in the statute)
 - ▶ Any applicable mandatory minimum sentence
 - ▶ Any applicable statutory minimum sentence (non-mandatory)
 - ▶ Any statutory enhancements
 - ▶ Any law that requires a sentence to run consecutive or concurrent to another sentence



OTHER FACTORS THE COURT MAY CONSIDER AT SENTENCING

- ▶ The defendant's D.C. Voluntary Sentencing Guidelines range
- ▶ The PSI writer's recommendation
- ▶ The defendant's criminal history
- ▶ Victim or community impact statement
- ▶ Recommendation of the prosecutor
- ▶ Recommendation of the defense attorney
- ▶ Other relevant information



WHAT ARE THE D.C. VOLUNTARY SENTENCING GUIDELINES

- ▶ Provide the court with a recommended sentencing range
- ▶ The Guidelines are 100% voluntary
 - ▶ A defendant cannot appeal a sentence because the court did not follow the Guidelines
- ▶ In recent years, over 95% of all felony sentences imposed complied with the Guidelines



HOW IS A DEFENDANT'S GUIDELINES SENTENCING RANGE CALCULATED?

- ▶ A defendant's Guidelines sentencing range is based primarily on two factors:
 - ▶ The offense the defendant was convicted of
 - ▶ The defendant's prior criminal history score



DEFENDANT'S CRIMINAL HISTORY SCORE

- ▶ Score is based upon the number and type of a defendant's convictions
 - ▶ Arrests, dismissed cases, and not guilty cases do not count
 - ▶ Old offenses can lapse and not be counted
 - ▶ Recent misdemeanors and juvenile offense are counted
 - ▶ Traffic and minor offenses do not count (max penalty >90 days)
- ▶ The defendant will fall into one of five criminal history score categories (A-E)



OFFENSE RANKING GROUP

- ▶ The Commission has ranked most felony offenses in one of 13 groups based upon the severity of the offense
 - ▶ Nine groups for regular felonies – Master Group 1 is the most severe, Master Group 9 is the least severe
 - ▶ Four groups for drug felonies – Drug Group 1 is the most severe, Drug Group 4 is the least severe.



DETERMINING THE DEFENDANT'S SENTENCING RANGE

- ▶ The Master or Drug Grid determines the defendant's Guidelines sentencing range based upon
 - ▶ Criminal history score and
 - ▶ Offense severity ranking



Appendix A -- MASTER GRID

June 17, 2013

		Criminal History Score				
Ranking Group Most Common Offenses		0 to 1/4 A	1/4 to 1/2 B	2 to 3/4 C	4 to 5/4 D	6 + E
3 Points*	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 +
	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 +
2 Points*	Group 7 Burglary II 3rd degree sex abuse Negligent homicide Assault w/ to commit mayhem Unlawful Poss. of a Firearm (prior fel.)	12 - 36	18 - 42	24 - 48	30 - 54	36 +
	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 +
1 Point*	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 A -- MASTER GRID

June 17, 2013

		Criminal History Score				
Ranking Group Most Common Offenses		0 to ½ A	¾ to 1¼ B	2 to 3¾ C	4 to 5¾ D	6 + E
3 Points*	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 +
	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 +
2 Points*	Group 7 Burglary II 3rd degree sex abuse Negligent homicide Assault w/l to commit mayhem Unlawful Poss. of a Firearm (prior fel.)	12 - 36	18 - 42	24 - 48	30 - 54	36 +
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1 Point*	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.

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Appendix B -- DRUG GRID

June 17, 2013



		Criminal History Score				
	Ranking Group Most common offenses	0 to ½ A	¾ to 1¼ 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	9-14	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.



DETERMINING THE DEFENDANT'S SENTENCING RANGE

- ▶ Example:
 - ▶ Defendant has a criminal history score of 2 points
 - ▶ Falls in Criminal History Column C
 - ▶ Defendant is convicted of Robbery
 - ▶ Ranked in Master Group 6



		Criminal History Score				
Ranking Group Most Common Offenses		0 to ¼ A	¼ to 1¼ B	2 to 3¼ C	4 to 5¼ D	6 + E
3 Points	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/ intent 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.						



		Criminal History Score				
Ranking Group Most Common Offenses		0 to ¼ A	¼ to 1¼ B	2 to 3¼ C	4 to 5¼ D	6 + E
3 Points	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 +
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		Criminal History Score				
Ranking Group Most Common Offenses		0 to ¼ A	¼ to 1½ B	2 to 3½ C	4 to 5½ D	6 + E
3 Points	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 +
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	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.						



		Criminal History Score				
Ranking Group Most Common Offenses		0 to ¼ A	¼ to 1¼ B	2 to 3¼ C	4 to 5¼ D	6 + E
3 Points	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 +
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Light shaded/yellow boxes – prison, short split, or probation permissible.						



DETERMINING THE DEFENDANT'S SENTENCING RANGE

- ▶ As indicated on the Master Grid, the Guidelines sentencing range in the example is 30 to 72 months
- ▶ To be compliant with the Guidelines, the Court can impose a sentence
 - ▶ As low as 30 months incarceration
 - ▶ As hi as 72 months incarceration
- ▶ Remember: the defendant will usually serve at least 85% of the sentence imposed



SENTENCING OPTIONS UNDER THE GUIDELINES

- ▶ Shading Guidelines Grid represents the different sentencing options available
- ▶ 100% Incarceration is permitted in every box
- ▶ White boxes are incarceration only
- ▶ Dark grey boxes are incarceration or short split eligible
- ▶ Light grey boxes are incarceration, short split, or probation eligible

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/l to commit mayhem Unlawful Poss. of a Firearm (prior fel.)	12 - 36	18 - 42	24 - 48	30 - 54	36 +
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 +



OTHER FACTORS THE EFFECT THE GUIDELINES SENTENCING RANGE

- ▶ Statutory Enhancements
- ▶ Accessory After the Fact
- ▶ Compliant Departures
- ▶ Plea Agreements
- ▶ Concurrent/Consecutive Sentencing Requirements



ADDITIONAL QUESTIONS

- ▶ The D.C. Sentencing and Criminal Code Revision Commission is available to answer general questions about the Voluntary Sentencing Guidelines
- ▶ The Commission can be reached at:
 - ▶ www.sentencing.dc.gov
 - ▶ 202-727-8822
 - ▶ sentencing@dc.gov

