



# District of Columbia Sentencing and Criminal Code Revision Commission

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Frederick J. Weisberg, Chairman

Barbara Tombs-Souvey, Executive Director

March 4, 2015

The Honorable Kenyan McDuffie, Chairman  
Committee on Public Safety and the Judiciary  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Dear Chairman McDuffie:

Provided below, respectfully find the D.C. Sentencing and Criminal Code Revision Commission's responses to your Performance Oversight Hearing Questions of February 11, 2015.

1. **Please provide, as an attachment to your answers, a current organizational chart for the agency with the number of vacant, frozen, and filled FTEs marked on each box. Include the names of all senior personnel, if applicable. Also include the effective date on the chart.**

Please see Attachment #1

2. **Please provide, as an attachment, a Schedule A for the agency, which identifies all employees by title/position, current salaries, fringe benefits, and program office, as of January 30, 2015. This Schedule A should also indicate any vacant or frozen positions in the agency. Please do not include social security numbers.**

Please see Attachment #2

3. For fiscal year 2014 and 2015 (to date), please list each employee whose salary is \$110,000 or more. Provide the name, position title, and salary. Also, state the amount of any overtime and also any bonus pay for each employee on the list.

Name	Position Title	Salary	Overtime	Bonus
Barbara Tombs-Souvey	Executive Director	\$138,139	None	None
Richard Schmechel	Project Director	\$123,064	None	None

4. **For fiscal year 2014 and 2015 (to date), please provide a list of employee bonuses or special award pay granted that identifies the employee receiving the bonus or special pay, the amount received, and the reason for the bonus or special pay.**

The agency has no employees who have received a bonus or special pay during FY 2014 or FY 2015 to date.

5. For fiscal year 2014 and 2015 (to date), please list all intra-District transfers to or from the agency.

FY 2014 List of Intra District Transfers -To Date FZO as Buyer (Transfers to Other Agencies)					
Agency Name : DC Sentencing and Criminal Code Revision					
SELLING AGENCY	PROJECT CODE	DESCRIPTION OF SERVICES PROVIDED	AMOUNT	Start Date	End Date
OFRM	Various	PURCHASE/TRAVEL CARD - FZO	49,830	10/1/2013	9/30/2014
TOO	Various	Agency Shared IT Assessment	17,072	10/1/2013	9/30/2014
TOO	Various	Agency RTS Voice and Data Services	2,645	10/1/2013	9/30/2014
TOTAL			69,547		

FY 2015 List of Intra District Transfers -To Date FZO as Buyer (Transfers to Other Agencies)					
Agency Name : DC Sentencing and Criminal Code Revision					
SELLING AGENCY	PROJECT CODE	DESCRIPTION OF SERVICES PROVIDED	AMOUNT	Start Date	End Date
OFRM	Various	PURCHASE/TRAVEL CARD - FZO	34,621	10/1/2014	9/30/2015
TOO	Various	Agency Shared IT Assessment	42,225	10/1/2014	9/30/2015
TOO	Various	Agency RTS Voice and Data Services	4,072	10/1/2014	9/30/2015
TOTAL			80,918		

6. For fiscal year 2014 and 2015 (to date), please identify any special purpose revenue funds maintained by, used by, or available for use by your agency. For each fund identified, provide: (1) the revenue source name and code; (2) the source of funding; (3) a description of the program that generates the funds; (4) the amount of funds generated by each source or program; and (5) expenditures of funds, including the purpose of each expenditure.

**There is no special purpose revenue funds maintained by, used by or available for use by the agency in FY 2014 and FY 2015 to date.**

7. Please list all memoranda of understanding (MOU) entered into by your agency during fiscal year 2014 and 2015 (to date). For each, indicate the date entered, and the termination date.

MOU Agency	Purpose	Amount	Start Date	End Date
OCTO (TO0)	IT Project Director	\$41,132.20	10-1-13	9-30-14
OCTO (TO0)	Printing	\$2,200.00	10-1-13	9-30-14
OCTO (TO0)	Printing	\$3,000.00	10-1-14	9-30-15

8. **Please provide, as an attachment, a list of all budget enhancement requests (including, but not limited to capital improvement needs), for fiscal years 2014 and 2015 (to date). For each, include a description of the need and the amount of funding requested.**

The agency submitted one FY 2015 budget enhancement in the amount of \$55,000. See Attachment #3.

9. **Does the Commission anticipate any new budgetary needs for FY 2016? Specifically, has SCCRC been able to secure funding for the development and maintenance of GRID's bi-directional XML interface?**

The agency does anticipate the two new budgetary needs for FY 2016:

(1) The Agency has sufficient funds for operations and maintenance of the GRID system, however, the Guideline Scoring System (GSS), which provides the GRID system with offender criminal history scores is not funded in FY 2016 for ongoing operations and maintenance costs that are projected to be \$87,723 annually.

At the time the agency's FY 2015 budget was formulated, Capital Funding decisions had not been made. The agency's request for additional funds for operations and maintenance would only be necessary and appropriate if the agency was awarded Capital Funds for development and implementation of the new GSS. The agency was eventually awarded Capital funding for the GSS, which was deployed in full production on March 1, 2015. Operations and maintenance is not an authorized use of Capital funds, however, the agency was provided \$53,000 in FY 2015 through a one-time reprogramming to cover a partial year of operations and maintenance costs facilitated by the Office of the Deputy Mayor of Public Safety.

At this time, the agency's FY 2016 budget does not contain the requested \$87,723 for operations and maintenance of GSS. The agency has submitted a Technical Enhancement to its FY 2016 budget request to secure the necessary funding.

(2) In FY 2016, the agency is requesting an enhancement of \$ 83,433 in salary and benefits for a new Research Analyst II FTE position. With the increased analytic capabilities of GRID and GSS, the number of data requests has significantly increased. In addition, the Commission is undertaking a comprehensive two year research project to evaluate the effectiveness sentencing guidelines in achieving their statutory goals of certainty, consistency and adequacy of punishment. Currently the agency has only one Statistician on staff that is responsible for doing the research for the guideline evaluation study, in addition to providing research and analysis for the Annual Report, all ad hoc research requested by the Commission itself, and all agency data requests. The lack of adequate staff resources to respond and complete data analysis in a timely manner is directly impacting the Commission's ability to fulfill its statutory mandate and fully utilize the capabilities of GRID and GSS. **Please see Attachment #4**

10. **Please list in chronological order every reprogramming in fiscal year 2014 and 2015 (to date) of funds into and out of the agency. Include a "bottom line" – the revised, final budget for your agency. For each reprogramming, list the date, the amount, the rationale, and the reprogramming number. Also, please indicate if SCCRC anticipates any delayed hiring of employees for fiscal year 2015.**

**Reprogramming #1: October 24, 2013 – Operating Budget to Capital Budget**

From	To	Amount	Budget Impact	Rational
PS (111,147,135) NPS (408,405,702)	Pay-Go Capital Project #FZ038C	\$250,000	FY13 Revised Budget \$1,138,813  FZ038C \$258,324	To begin the design and development of the bi-directional XML project (GSS) in FY 2014.

**Reprogramming #2: June 2, 2014 – PS Operating Budget to NPS Operating Budget**

From	To	Amount	Budget Impact	Rational
FZ0 PS: (111,147)	FZ0 NPS: (409, 408)	\$85,000	FZ0 operating budget for FY 2014 remains unchanged at \$1,406,555	To fund necessary enhancements to the GRID System

**Reprogramming #3: December 9, 2014 – Operating Budget to Capital Budget**

From	To	Amount	Budget Impact	Rational
FA0 NPS: Fund 1000 (409)	FZ0 NPS: Fund 1000 (409)	\$53,000	FZ0 Operating Budget for FY2015 is increased from \$1,401,315 to 1,401,368	To Fund partial year of operations and maintenance for GSS (7 months)

**Reprogramming #4: January 21, 2015 – Capital Budget to Capital Budget**

From	To	Amount	Budget Impact	Rational
KE0 SA311C WMATA Fund-PRIIA	SCCRC FZ0 FZ038C IT Upgrade – DC IJIS	\$21,562	No Impact – Restores Original Capital Budget Amount	Replenish prior approved Capital budget that was inadvertently reprogrammed.

**Reprogramming #5: January 21, 2015 – Capital Budget to Operating Budget**

From	To	Amount	Budget Impact	Rational
SCCRC Pay Go Capital Project FZ0 FZ038C IT Upgrade- DC IJIS Integration	SCCRC Fund 1000 (409)	\$11,760	Increases agency NPS operating budget (409) by \$11,760	Purchase non-capital eligible equipment required for GSS – change server configurations..

The agency does not have any vacant positions at this time and does not intend to delay hiring for any positions that may become vacant during the remainder of FY 2015.

11. **(a) Please list each grant or sub-grant received by your agency in fiscal year 2014 and FY 2015 (to date). List the date, amount, and purpose of the grant or sub-grant received.**

In FY 2014 and FY 2015 to date, the agency has received no grant or sub-grant funds.

- (b) How many FTEs are dependent on grant funding? What are the terms of this funding? If it is set to expire, what plans (if any) are in place to continue funding?**

In FY 2014 and FY 2015 to date, the agency has no employees dependent on grant funding.

12. **Please provide a detailed description for each open capital project (including, but not limited to projects within the master equipment lease and projects that are managed or overseen by another agency or entity), from fiscal year 2015, or prior. Also include the budgeted funds and the funds spent by fiscal year. Please also provide the timeline for each project.**

At the current time, SCCRC has one open FY 2015 Capital Project - # FZ037C

During FY 2013 and FY 2014, the agency had two active Capital Funding projects that financed GRID:

- FZ037C "IT/IJIS Integration" with an approved FY 2015 Capital Budget of \$425,000 from the Master Lease (ELC) Budget
- FZ038C "IT Upgrade-DC IJIS Integration," with an approved budget of \$354,553 from Pay-Go Capital Funds.

In FY 2013, Capital Project FZ037C and FZ038C funded the development and implementation of the agency's new data system, Guideline Reporting Information Data (GRID), which interfaces with JUSTIS to receive the IJIS 12.1 data feed from the D.C. Superior Court. The GRID system also includes a one-way XML interface with CSOSA for the transfer of offender criminal history information, which is merged with court data. The GRID system was completed and fully operational on December 20, 2013

Capital funding for the GRID system project included: (1) development of an XML interface with JUSTIS to consume IJIS 12.1 data (2) development of a new database and web application, (3) one-way XML interface CSOSA, and (4) establishment of a development environment within OCTO. A contract award was made on December 12, 2012 to Blue Print Consulting to develop and implement the new data system. The project began on January 10, 2013 and was completed on December 20, 2013.

During the development of the GRID system, the agency encountered specific technical and security issues relating to the conversion and transfer of criminal history related data from our federal partner agency, CSOSA. An interim solution was identified and implemented to enable the timely completion of the GRID project.

However, the long term technical solution required the development and implementation of a bi-directional XML interface between the Commission and CSOSA. The agency reprogrammed \$258,324 in FY 2013 operational funds to Capital Project FZ038C to begin the design and

development work on the Guideline Scoring System (GSS) in FY 2014. The agency submitted and was approved for FY 2015 Capital Funds in the amount of \$425,000. The development and implementation of GSS was completed in December 2014, followed by a two month period of pilot testing. GSS was fully deployed and operation on March 1, 2015.

**Capital Project Overview**

<b>Fiscal Year</b>	<b>Capital Project #</b>	<b>Allotment</b>	<b>Expenditures</b>	<b>Encumbrances</b>	<b>Balance</b>
2013	FZ037C	845,447	630,496	0	214,951
	FZ038C	354,552	127,778	0	226,774
2014	FZ037C	0	214,951	0	0
	FZ038C	0	193,453	0	33,322
<b>2015 YTD</b>	<b>FZ037C</b>	<b>347,690</b>	<b>320,821</b>	<b>26,870</b>	<b>\$31,408 YTD</b>
	<b>FZ038C</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$33,322 YTD</b>

13. Please list all pending lawsuits that name the agency as a party. Please identify which cases on the list are lawsuits that potentially expose the city to significant liability in terms of money and/or change in practices and their current status. We are not asking for your judgment as to the city’s liability; rather, we are asking about the extent of the claim. For those identified, please include an explanation about the issues for each case.

There are no pending lawsuits against the agency.

14. Please list and describe any ongoing investigations, audits, or reports of your agency or any employee of your agency, or any investigations, studies, audits, or reports on your agency or any employee of your agency that were completed in fiscal year 2014 and 2015 (to date).

In FY 14, an Equal Employment Opportunity Counselor from outside the agency completed a pre-complaint EEO investigation initiated by a terminated employee. To date there has been no further action on this issue; the agency has not been served with or notified by OHR that a formal complaint was filed.

15. Please list the following information in table format regarding the agency’s use of SmartPay (credit) cards for agency purchases: individuals (by name) authorized to use the cards in fiscal year 2014 and 2015 (to date); purchase limits (per person, per day, etc.); total spent in fiscal year 2014 and 2015 (to date) (by person and for the agency).

**SMARTPAY CREDIT CARD PURCHASES**

**FY 2014 (10/1/2013-9/30/14)**

<b>Cardholder</b>	<b>Purchase Limit*</b>	<b>Per Transaction Limit</b>	<b>Total Spent</b>
Mia Hebb	\$10,000 to \$20,000	\$2,500 to \$5,000	\$24,700.93
Linden Fry	\$10,000 to \$20,000	\$2,500 to \$5,000	\$ 3,088.80
Anu Shrestha	\$10,000	\$2,500	\$0.0
<b>FY 2013 Agency Total</b>			<b>\$27,789.73</b>

\* Purchase and transaction limit was increased on September 24, 2014

**FY 2015 (10/1/2014-To Date)**

<b>Cardholder</b>	<b>Purchase Limit</b>	<b>Per Transaction Limit</b>	<b>Total Spent</b>
Mia Hebb	\$20,000.00	\$5,000.00	\$6,151.43
Linden Fry	\$20,000.00	\$5,500.00	\$ 15.89
<b>FY 2015 Agency Total (as of Jan. 24, 2015)</b>			<b>\$6,167.32</b>

16. (a) What procedures are in place to track individuals or units assigned to possess mobile communications and mobile devices (including, but not limited to smartphones, laptops, and tablet computers)? Please include how the usage of these devices is controlled.

No agency employees are assigned cell phones or smart phones. The Executive Director has a government issued tablet to conduct business when she is away from the office. The agency has no other mobile devices.

- (b) How does your agency manage and limit its mobile communications and devices costs?

All purchases of mobile communication, equipment and service plans are done through OCTO. The agency reviewed three tablet options provided by OCTO and selected the lowest cost device, given that it is only used when the director is away from the office to respond to business related issues. The agency selected the lowest service plan offered through OCTO; given the limited data usage projected for the device.

- (c) For fiscal year 2014 and 2015 (to date), what was the total cost (including, but not limited to equipment and service plans), for mobile communications and devices?

<b>Fiscal Year</b>	<b>Equipment Costs</b>	<b>Monthly Service Plan</b>	<b>Number of Months</b>	<b>Total Costs</b>
<b>FY 2014</b>	<b>\$854.90</b>	<b>\$33.00</b>	<b>2</b>	<b>\$920.90</b>
<b>FY 2015 to Date</b>	<b>-0-</b>	<b>\$33.00</b>	<b>5</b>	<b>\$165.00</b>

17. In table format, please provide the following information for fiscal year 2014 and FY 2015 (to date) regarding your agency's authorization of employee travel: (1) individuals (by name and title/position) authorized to travel outside the District; (2) total expense for each trip (per person, per trip, etc.); and (3) justification for the travel (per person).

<b>Traveler FY 2014</b>	<b>Date</b>	<b>Expense</b>	<b>Purpose</b>	<b>Justification</b>
<b>Barb Tombs-Souvey Executive Director</b>	<b>Aug. 2014</b>	<b>\$1,162.45</b>	<b>NASC* Mtg.</b>	<b>Presenter for the Plenary System focused on Developing Effective Sentencing Commissions.</b>
<b>Linden Fry General Counsel</b>	<b>Aug. 2014</b>	<b>\$1,124.30</b>	<b>NASC Mtg.</b>	<b>Gain further knowledge on sentencing guideline structure issues and how they are addressed by other Commissions, specifically changes in marijuana and weapons laws.</b>

<b>Latoya Wesley Statistician</b>	<b>Aug. 2014</b>	<b>\$1,105.65</b>	<b>NASC Mtg.</b>	<b>Expand knowledge regarding research design and methods skills needed for the Commission's Sentencing Guidelines Evaluation Study.</b>
<b>Mia Hebb Administrative Assistant</b>	<b>Aug. 2014</b>	<b>\$1,116.79</b>	<b>NASC Mtg.</b>	<b>Become knowledgeable about the legal and policy issues surrounding sealed and expunged data, given that this is a new work duty assigned.</b>

\*National Association of Sentencing Commission Annual Meeting

The agency has incurred no travel costs for FY 2015 to date.

18. **Please provide, as of January 15, 2015, the current number of WAE contract, and term personnel within your agency. If your agency employs WAE contract, or term personnel, please provide, in table format, the name of each employee, position title, the length of their term or contract, the date on which they first started with your agency, and the date on which their term or contract expires.**

The agency does not have any WAE contract or term employees at this time.

19. **Please provide your anticipated spending pressures for fiscal year 2015. Include a description of the pressure, the estimated amount, and any proposed solutions.**

The agency does not have any anticipated spending pressures for fiscal year 2015 at this time.

20. **Please provide, as an attachment, a copy of your agency's fiscal year 2015 performance plan as submitted to the Office of the City Administrator and indicate whether you are on track to meet those measures.**

The agency is on track to meet all the Objectives and Initiatives identified in its 2015 approved Performance Plan, with the exception of Objective 3: "Analyze the District of Columbia's current criminal code and propose reforms in the criminal code to create a uniform and coherent body of criminal law in the District of Columbia."

The work of the Criminal Code Project is overseen by the Code Revision Committee of the Commission and guided by an approved Project Management Plan. Membership of the Committee includes representatives from the US Attorney's office, Office of the Attorney General, Public Defenders Service, Law Professor and an individual involve in prior code reform efforts at the federal level. The structure of the project entails discussion and drafting of proposed recommendations for revision to the code by consensus among the members. These recommendations are then forwarded to the full Commission for review and action.

During 2014, the Committee focused on drafting recommended revisions to property offences. As part of the revision process, the draft property offenses were distributed to the various institutions for a more in-depth review and comment. Upon the completion of the Agency Review in December 2014, it became very apparent that agreement could not be reached as to the appropriate scope and nature of the code revision project among the institutional members of the committee.

In order to move the project forward, the Commission elected to revise the original the Project Management Plan to focus on areas in which there appeared to be a general agreement among the Committee members. The revised Project Management Plan will add the following priority work items: preparation for enactment of Title 22, identification of obsolete statutes, identification of statutes held to be unconstitutional, and identification of common law offenses that should be revised. The final version of the revised Project Management Plan is expected to be approved at the Commission's March 2015 meeting.

The agency's FY 2015 Performance Plan was developed based on the specific code revision of various offense groups outlined in the original Project Management Plan. Under the newly revised Project Management Plan, numerous Initiatives listed under Objective 3 will no longer be applicable or achievable. Those specific initiatives include the revision of weapon offenses, inchoate offenses, and offenses against government operations, and possibly person offenses. Upon final approval of the revised Project Management Plan by the Commission, the agency will work with the Office of the City Administrator to identify the necessary changes that will be required to be made to the agency's FY 2015 Performance Plan. Attached is a draft copy of the revised Project Management Plan that will be presented to the full Commission later this month.

**Please See Attachment #5**

**Please See Attachment #6**

21. **What are your top five priorities for the agency? Please provide a detailed explanation for how the agency expects to achieve or work toward these priorities in fiscal years 2015 and 2016. Additionally, please provide answers to the follow-up questions from FY 2014 listed below:**

**a. Has SCCRC been able to develop software for the CSOSA bi-directional interface? If not, please provide an explanation as well as a detailed timeline for completion.**

The agency has completed the development of both the software and web application services for the CSOSA bi-directional interface. The GSS (GRID Scoring System) was designed and developed between April 2014 and December 2014. The new interface was piloted and tested in January and February of 2015 and deployed into full production on March 1, 2015.

**b. Has SCCRC secured a contractor to modify the interface to facilitate the transfer of information between CSOSA and SCCRC? If so, please provide a timeline for completion.**

SCCRC entered into a Fixed Price contract with Blue Print Consulting Services to design, build, and implement the bi-directional XML interface between the Commission and CSOSA on March 10, 2014. GSS was successfully deployed into full production on March 1, 2015.

**Priority #1 –Develop and Expand the Data Section of the Agency’s Website.**

With the development and implementation of both GRID and GSS, the agency now has the analytical capability to undertake an significant number of sentencing data related analysis and research that could not be previously undertaken. As a result of this increased capability, the agency’s data requests have increased significantly over the past year ranging from very straightforward frequencies to more complex data analysis, such as creating multiple regression models.

During FY 2014, the agency developed its first “Data and Charts Section” of the Commission’s webpage. The section displays some basic, but informative, data on the types and frequency of felony sentences imposed in the District for different felony offenses. The Commission has received positive feedback on the ease of access to this sentencing data.

The Commission intends to further develop the “Data and Charts” section of the webpage to include specific sentencing subsections such as: (1) Offender Demographics, (2) Non-Drug Sentences, (3) Drug Sentences, and (4) Guideline Compliance. These four subsections will address many of the basic questions and data requests the agency receives and will also serve as an educational tool for the general public regarding sentencing trends for specific offenses, while allowing staff to focus on more complex data analysis tasks.

By expanding the Data and Charts section of the webpage, it allows the agency to utilize the capabilities of GRID and GSS to undertake meaningful analysis of sentencing data that can be easily shared and accessed by the citizens of the District of Columbia. The agency intends to first develop expanded data charts for Non-drug and Drug sentences, followed by offender demographics and finally guideline compliance.

**Priority #2 – Modify the Voluntary Sentencing Guidelines Manual to provide guidance on Guidelines’ treatment of prior marijuana convictions due to changes in the District’s marijuana laws.**

On July 17, 2014, the District decriminalized possession of marijuana under D.C. Code § 48-1201. The law states that “possession or transfer without remuneration of marijuana weighing one ounce or less shall constitute a civil violation.” Further, on February 26, 2015, the District decriminalized possession of up to two ounces of marijuana, sharing of up to one ounce of marijuana, and the home growing of a limited number of marijuana plants. Under these new laws, questions have arisen regarding the scoring of prior District and out-of-District possession, distribution, and PWID marijuana convictions for the purpose of calculating an offender’s criminal history score.

Guidelines rule 2.2.9 already provides that “a prior conviction/adjudication under a statute that was repealed so that the conduct was decriminalized is not counted” as part of a defendant’s criminal history score. However, because part of the District’s marijuana criminalization scheme has been repealed and part has not (possession of more than two ounces or transfer for remuneration), it is unclear how prior marijuana convictions are counted. Prior to decriminalization, the sharing of marijuana for no remuneration constituted distribution. Sharing of small amounts of marijuana has now been decriminalized under D.C. Code § 48-1201. This raises the issue of how a prior District or out-of-District marijuana distribution or PWID conviction should be scored because the offense could have occurred under a scenario that has now been decriminalized.

The Commission's Guideline Implementation Committee will take this topic under consideration and develop rules and/or policy on whether or how prior marijuana convictions are treated to ensure fair and consistent application of the guidelines.

### **Priority #3 – Develop a Quantitative Dataset for the Guideline Evaluation Study**

Data downloaded from the GRID system will be used to address the specific research questions as part of the Guideline Evaluation Study. This data represents case information from the D.C. Superior Court, criminal history scores from CSOSA, as well as variables regarding guidelines compliance and departures created by the Commission in GRID. The dataset for this project will be downloaded from GRID once data for 2014 has been cleaned and verified. The dataset for this project includes, but is not limited to, the following variables:

- Personal Identifying Information
- Race
- Gender
- Charges
- Offense Type
- Offense Subcategory
- Concurrent or Consecutive
- Disposition
- Drug
- Weapon
- Sentence Type
- Sentence Length
- Confinement Type
- Single/Multiple Count Case
- Arresting Agency
- Type of Defense Attorney
- Departures
- Compliance Status

The data collected from the GRID system will be used to perform a descriptive analysis which will provide an overview of felony sentencing patterns within the District. The descriptive analysis will allow for the general reporting of the number of offenders sentenced, their demographic composition, the sentence types and lengths imposed, and other factors associated with sentencing. This type of analysis will provide an illustrative summary of sentencing in the District during this timeframe. Descriptive statistics will also be used to provide the comparison of sentences imposed during of the initial sentencing evaluation period (1993–1998) to the current evaluation period (2010–2014).

Inferential analysis of the data will be performed to assess the specific relationships among variables; and to assess sentencing differences or similarities that may occur among certain types of offenders. Pearson correlation analyses will be used to determine which variables related to sentencing are statistically correlated with one another. Chi Square tests will be used when examining the difference among frequency counts. Analysis of variance and t-tests will be used to examine mean differences in sentence lengths among similar groups of offenders. Finally, regression analyses may be used to determine which factors may predict sentences imposed.

### **Priority #4 – Create a District-Only Recidivism Dataset**

As part of the Sentencing Guidelines Evaluation Study, there will be an analysis to determine whether the sentences imposed under the guidelines are perceived as adequate and reduce the likelihood of recidivism. This analysis will include an examination of subsequent convictions for offenders sentenced in 2010 that were not incarcerated between 2010 and 2014.

The examination of District of Columbia recidivism for the 2010 cohort of sentenced felony offenders will utilize the dataset created for the Quantitative Data. The 2010 cohort will be extracted from the Quantitative Dataset, and compared to D.C. misdemeanor and felony sentences imposed from 2010 to 2014. Statistical software will be used to identify any additional District of Columbia convictions for offenders in the 2010 cohort. In addition to the variables from the Quantitative Dataset, the District-Only Recidivism Dataset will include the following variables from subsequent cases:

- Offense Type
- Offense Subcategory
- Disposition
- Drug
- Weapon
- Sentence Type
- Sentence Length
- Confinement Type
- Departures
- Compliance Status

Descriptive statistical analysis will be performed to provide an overview of felony offenders who commit subsequent offenses within the District of Columbia. An inferential statistical analysis will be used to identify factors that may be used to statistically predict the likelihood of recidivism. Chi Square tests will be used to examine the difference among frequency counts. Analysis of variance and t-tests will be used to compare mean differences among sentence lengths for the new offenses. Regression analyses will be used to determine whether there are specific factors that may predict the likelihood of a subsequent conviction.

#### **Priority #5 – Develop and Implement an Agency Data System Security Policy**

With the implementation of GRID and GSS, the Commission has become aware of the importance of developing and implementing a Data System Security Policy that includes best practices, standards, and protocols to ensure protection of the data systems from both internal and external security threats. All data systems contain vulnerabilities, but a well-developed, thorough security plan will assist in identifying and minimizing specific vulnerabilities through a clearly identified and implemented standards and protocols.

The agency will utilize the following steps to develop an Agency Security Policy:

1. Review security best practices for web-based data applications;
2. Assess and document how the agency is currently addressing security issues;
3. Review potential vulnerabilities both internal and external;
4. Identify specific standards and protocols necessary to address these vulnerabilities;
5. Draft Agency Security Plan,
6. Have an External Security Audit completed; and
7. Develop a strategy and milestones to address the noted deficiencies in the system.

The projected timeline for the development of the agency security plan is approximately 18 to 24 months. The agency, along with our vendor, will undertake steps one through three in the next nine months. These critical steps will serve as the foundation for the development of the security plan and will enable the agency to identify and document current security practices and procedures before identifying system vulnerabilities.

**22. Please describe the status of the Criminal Code Revision project. Has the Criminal Code Revision Committee completed any proposed revision recommendations? If so, please detail the specific offense categories completed. Is the Committee still on track to complete the revised code language for the felony offense categories listed in FY 2014's performance oversight responses? If not, please explain why.**

The Criminal Code Revision Project's work is guided by a Project Management Plan that specifies the process, priorities, and provides a timetable of deliverables through September 2016. During 2014, the project reviewed, researched, and drafted recommended revisions to one specific offense category, property offenses. This category includes ten specific property offenses and four related statutory sections concerning definitions and procedures:

- § 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
- § 22-413 Criminal Damage to Property
- § 22-801 Burglary

Once completed, the recommended property crime revisions were distributed to the institutional agencies (United States Attorney's Office, Public Defender's Service and Attorney General for the District of Columbia) for a more in-depth agency level review and comment. The result of the agency review revealed a notable lack of consensus on the appropriate scope and nature of the code revision project among the institutional members.

At its February 2015 meeting, the Commission determined that modifying the original project plan was necessary to move the Criminal Code Revision project forward. A new project management plan was developed that focused on areas in which there was general agreement among the Committee members. The new Project Management Plan will add as priority work items: preparation for enactment of Title 22, identification of obsolete statutes, identification of statutes held to be unconstitutional, and identification of common law offenses that should be revised. The final version of the revised Project Management Plan is expected to be approved at the Commission's March 17, 2015 meeting.

The Criminal Code Revision Committee intends to return to revising a number of person offenses once the above described work is completed. The revised Project Management Plan no longer includes developing recommended revisions to weapons offenses, inchoate offenses, or offenses against government operations. The revised Project Management Plan also now includes two additional agency reviews allowing for input and comments from the institutional agencies as the project advances. Recommended revisions have also been drafted for the following drug offenses but have not undergone an agency review to date:

- § 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

Timely and successful completion of Code Project work will depend critically on the ability of Committee and Commission members to reach agreement on the scope and nature of recommendations for revision to the D.C. Criminal Code. Given that the most serious felonies are scheduled for revision in the coming year, reaching agreement will be increasingly challenging. The Commission is carefully monitoring the Project’s progress and will take all necessary steps to ensure its timely completion.

**23. Please describe any and all effect that the Ranking Committee has had on the SCCRC’s work for fiscal year 2014 and 2015 (to date).**

In 2014, the Commission changed the name of the Ranking Committee to the Guidelines Implementation Committee to better reflect the role of the Committee. In addition to ranking new offenses, the Committee also evaluates potential policy changes that may affect the Guidelines, and oversees modifications to the D.C. Voluntary Sentencing Guidelines Manual.

The Committee proposed rankings for each Act of Terrorism offense contained in D.C. Official Code Title 22, Chapter 31 along with the offense of Assault with Significant Bodily Injury While Armed. Based on the Committee’s work, the Commission ranked 37 new felony offenses in FY 2014. The Committee also assisted the Commission in updating the Guidelines Manual for 2014, including clarification to Guidelines rules and changing the Guidelines definition for a “crimes of violence.” Ultimately, the Commission agreed to remove its distinct list of Crimes of Violence from the Guidelines Manual and adopted the D.C. Official Code’s list of crimes of violence.

Last year, the Committee also discussed possible modifications to the Guidelines Aggravating and Mitigating Departure Factors. However, after considering the issue and presenting it to the full Commission, the Commission decided to delay making any modifications to the Guidelines Departure Factors until the Guideline Evaluation Study is completed in 2016. The Committee is currently working on providing guidance to the Commission on the Guidelines’ treatment of prior marijuana convictions in light of the District’s recent changes in its marijuana laws.

**24. Please describe the progress of the SCCRC’s new data system.**

The agency’s new data system, Guideline Reporting Information Data (GRID), was completed and deployed into full production on December 20, 2013. The GRID system utilizes IJIS 12.1 offender, offense and sentencing related data from the D.C. Superior Court received through JUSTIS to monitor application of the sentencing guidelines and to analyze sentencing trends for the District. The development of the GRID system began in January 2013, and included four functional releases

during the development process, all of which occurred as scheduled. The Grid system was completed within both the original contract period and approved budget.

One of the key components of the new data system is the inclusion of a “rules engine” with allows for modifications to the system from the user end rather than requiring changes to be implemented through a contractor. This feature of the system enables changes to the guideline structure, addition of new offenses, or calculation of criminal history to be made by Commission staff, rather than a contractor, thus providing both flexibility and notable cost containment.

The GRID system is designed to analyze sentencing data by offender, case, count, or offense type. The system also capable of automatically calculating judicial compliance based on offense severity group, criminal history score, and sentencing guideline rules, thus reducing both human error and staff resources. The analysis capability of the system allows for both programed and ad hoc queries, which enables a wide range of analytical capabilities. The increased analytic functionality of GRID has also enabled the Commission to respond to an increasing number and range of data requests in a timely manner.

The calculation of judicial compliance with the guidelines requires the determination of an offender’s criminal history score and the offense severity level of the crime being sentenced. Court Services Offender Supervision Agency (CSOSA) calculates the offender’s criminal history score and provides it to both the Court and the Commission. During the initial development of GRID, specific functional and security issues surrounding the transfer of criminal history scores from CSOSA were identified. To ensure the GRID project followed the completion timeline and remained within budget, a short-term/temporary one-directional XML was implemented that allowed for the basic criminal history information from CSOSA to be transferred to the Commission. However, the XML interface did not provide for a two-way transmission of data between the agencies nor did it allow for sentencing and criminal history updates to be shared via the interface. Implementation of a bi-directional transmission of data between the two agencies was necessary to fully utilize the multiple functions of the GRID system and to provide the most timely and accurate sentencing information available, thus reducing criminal history score errors identified at sentencing.

In April 2014, the agency began the development of the GRID Scoring System (GSS) as an enhancement to GRID. GSS was designed to provide a long-term permanent and secure automated bi-directional transactional XML interface between the SCCRC and CSOSA that complies with both District and Federal requirements. This interface will securely and automatically share criminal history and criminal score related information with CSOSA’s SMART System. The bi-directional interface was built upon the single directional interface that was initially implemented. The design approach of enhancing and building upon the existing interface ensured re-usability and implementation cost savings. GSS was developed and deployed in collaboration with CSOSA and SCCRC for use in the GRID System. This enhancement project electronically transfers criminal history scores from CSOSA to GRID, where they are matched to the appropriate felony case and judicial compliance is automatically calculated. Any change to the criminal history score that occurs at sentencing is electronically transferred back to CSOSA and the appropriate adjustment is made to the offender’s record.

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

**25. Please describe any training or educational components located on the SCCRC's website.**

The Commission redesigned its website significantly in 2014 to allow quick access to Commission information, criminal justice data, and Sentencing Guidelines materials. The new website user friendly design makes it easy for individuals to gain a basic understanding of the history, purpose, and application of the Guidelines. As part of the redesign, the website now also has a specific section dedicated to training and educational materials.

The Commission currently has three separate self-guided online trainings available to the public:

1. **Basic Voluntary Sentencing Guidelines Training** – This is an introductory training for individuals with no or limited exposure to the D.C. Voluntary Sentencing Guidelines. It is designed so that legal practitioners and members of the public can learn the basic information about the application of the Sentencing Guidelines in the District. The training also provides an overview of how the Sentencing Guidelines are used by practitioners and the court.
2. **Calculating Prior Criminal History** – This is an advanced training that focuses on how a defendant's prior criminal history score is calculated. Criminal history score calculations are one of the more complex aspects of the Sentencing Guidelines, and a majority of the questions the Commission receives from practitioners involve the calculation of a defendant's prior criminal history score. The training was developed to help those working with the Guidelines better understand how the defendant's criminal history score is calculated and what can be done to challenge a criminal history score.
3. **An Introduction to Sentencing** – This is an introductory training that focuses on the sentencing process in the District of Columbia. It was created solely for people who are unfamiliar with sentencing or the legal process, especially those who are interacting with the process for the first time (victim's, defendant's, family members, etc.). The training does not focus on the Sentencing Guidelines, but shows users how the Guidelines fit into the sentencing process.

In early 2015, the Commission also published a Sentencing Quick Reference Guide for practitioners to print out and take with them to sentencing hearings. The reference contains sentencing and Guidelines information that is useful to have during a hearing (such as Guidelines aggravating and mitigating departure factors, any applicable mandatory minimum sentences, and periods of supervised release for different offenses). The Commission hopes the reference is beneficial to attorneys and judges.

The agency's website also provides visitors with Commission contact information if they have additional questions about the Sentencing Guidelines or would like to set up in-person training.

**26. Please describe the extent to which the SCCRC has developed the evaluation study of the sentencing guidelines. Specifically, has the Research Committee been able to complete an appropriate research design? If so, has it been approved by the Commission?**

The Commission's Research Committee has held five meetings over the past year to discuss and identify the scope and an appropriate research design for the Sentencing Guideline Evaluation Project. The purpose of the evaluation project is to determine whether the Sentencing Guidelines are having the expected impact on felony sentencing in the District.

Project Goals: This two-year evaluation project will examine sentencing practices under the Voluntary Sentencing Guidelines from 2010 through 2014 with three project goals:

- (1) Examine Statutory Goals of the Commission: The aim of the first goal is to determine whether the Sentencing Guidelines are achieving their Statutory Goals of certainty, consistency, and adequacy of punishment in sentencing.
- (2) Provide a Comparative Analysis: The Sentencing Guidelines were developed to provide a similar, but more consistent pattern of sentencing than was in place under the prior indeterminate sentencing system. The second goal of the evaluation is to provide a comparative evaluation of current sentencing data and sentencing data collected during the initial sentencing research project in 1999 to determine the extent to which changes in sentencing have occurred based on the implementation of the Sentencing Guidelines in the District.
- (3) Provide Recommendations: The main objective for this goal is to identify areas in which the research committee can make data-driven recommendations regarding the Sentencing Guidelines. Specifically, the final report will include recommendations related to potential modifications if the evaluation uncovers areas of inconsistency, uncertainty, and/or inadequacy.

The evaluation study includes six specific research questions focused on the statutory goals of the guidelines: (1) determining consistency of punishment, (2) certainty of punishment, and (3) adequacy of punishment.

#### Project Methodology

Data will be downloaded from the agency's GRID and GSS systems to perform a descriptive analysis which will provide an overview of felony sentencing patterns within the District. The descriptive analysis will allow for the general reporting of the number of offenders sentenced, their demographic composition, the sentence types and lengths they receive, and other factors associated with sentencing. This type of analysis will provide an illustrative summary of sentencing in the District during this timeframe. Descriptive statistics will also be used to provide the comparison of the initial sentencing evaluation period (1993–1998) to the current evaluation period (2010–2014).

Inferential analysis of the data will be performed to assess the specific relationships among variables; and to assess sentencing differences or similarities that may occur among certain types of offenders. Pearson Correlation analyses will be used to determine which variables related to sentencing are statistically correlated with one another. Chi Square tests will be used when examining the difference among frequency counts. Analysis of variance and t-tests will be used to examine mean differences in sentence lengths among similar groups of offenders. Finally, regression analyses may be used to determine which factors may predict sentences imposed.

#### Project Timeline

Evaluation of the Sentencing Guidelines implementation from 2010 through 2014 will be completed over the course of 24 months. A draft project evaluation plan was presented to the Commission in November 2014. After discussion among Commission members, the draft evaluation plan was revised by the Research Committee and the final version of the evaluation plan is expected to be approved at the Commission's March 2015 meeting.

A preliminary dataset for the evaluation project was downloaded in January of 2015 and validation of the data will be completed by May 2015. Analysis of the general quantitative data will take place from May 2015 through September 2015. The comparison of data from the initial sentencing evaluation period (1993 – 1998) to the current evaluation period (2010 – 2014) will also take place from May 2015 through September 2015.

Developing the final report will occur during the early part of calendar year 2016. This phase will also include the development of recommendations by the Research Committee. The final draft of the report will first be vetted with the Research Committee in May of 2016, and will be presented to the Commission in June of 2016. The Commission members will provide feedback which will be addressed during the summer of 2016. The final report will be submitted for publication by the end of September 2016.

**27. Please describe the progress of SCCRC's development of data request policy and procedure.**

During 2014, the Commission developed a standardized Data Request Form and established procedures for reviewing and approving data requests submitted to the agency. Data is available from the Commission in two forms:

(1) Aggregate Data Distributed by the Commission displays in graphs and tables depicting the information made available by DCSC and CSOSA, as well as guidelines compliance data variables generated by the Commission. This data can be found on the Commission's website, or through data requests made directly to the Commission.

(2) Requested Data Sets which have been purged of all identifying information about offenders, offer the ability to complete an analysis of sentencing data. These data sets contain data elements received from DCSC and CSOSA, as well as compliance data generated by the Commission. This type of data may be directly requested from the Commission.

The Commission does not provide individual sentencing information, or information that would allow for offenders or ex-offenders to be identified. Individual sentencing information may be obtained from the DCSC website ([www.dccourts.gov](http://www.dccourts.gov)). Each agency providing sentencing data retains ownership of that data, and the responsibility of monitoring data quality. Aggregate data and data sets distributed by the Commission reflect the most current data available to the Commission at the date and time of dissemination. It will not reflect any updates or adjustments made after the data request has been fulfilled.

All data requests must be completed using the Commission's Data Request Form after the requester has determined that the data is not currently available on the Commission's Data and Charts webpage. Individuals or entities requesting data must provide a detailed description of the data requested. This should include a listing of the data elements to be compared for aggregate data requests, or to be included in a requested data set. Upon request, the Commission's Statistician may provide assistance with clarifying the submission of data requests.

The requestor of aggregate data and/or data sets should also provide a detailed description of the purpose for the data requested. Data requests may include examination of sentencing data involving

offenders, cases, and/or counts; and the requestor is responsible for identifying which level is pertinent to his or her request. Data request forms that are not complete, or that are unclear, will be returned for further clarification. Only when the data request form is fully completed, will the Commission be able to process a data request. The data request must be approved by the Executive Director of the Commission prior to the start of any analysis

The Commission will attempt to fulfill data requests within 20 business days from the date a data request is approved by the Executive Director. Individuals or entities requesting data will also receive a confirmation of the approval, and will be provided a projected delivery date. Requests will then be processed based on the other priorities of the Commission. In instances where the Commission denies or is unable to fulfill a request, the requestor will receive notification including a brief explanation as to why the request could not be fulfilled. Once a data request has been submitted, it cannot be modified. Any requested modifications will be handled as a new data request. Multiple data requests are not subject to the 20 day timeline; however, they will be addressed in a timely manner.

Responses to requests for aggregate data will be provided in the form of PDF documents unless otherwise specified in the initial notice of approval by the Executive Director, and will include a brief synopsis of the data presented. Requests for a dataset will be completed by providing the data set as a Microsoft Excel document. While a data request seeking a data set may be approved, no personal identifying information will be provided regarding individuals involved in any court case (i.e., offender, judge, attorney, or police officer).

A draft of the Data Request Policies and Procedures was presented to the Commission for review in November 2014. The policies and procedures were revised and modified after discussion and feedback from Commission members. The final version of the Data Request Policies and Procedures is expected to be approved at the Commission's March 2015 meeting.

Respectfully Submitted,



Barbara Tombs-Souvey  
Executive Director

Attachments