D.C. Criminal Code Reform Commission
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To: Code Revision Advisory Group (Advisory Group)
From: Criminal Code Reform Commission (CCRC)
Date: May 5, 2017
Re: Advisory Group Memo #9, Offense Classes & Penalties

This Memorandum supplements the First Draft of Report #5. It is intended to provide a few qualifying points and additional background concerning those materials—principally concerning the imprisonment schedule in the Revised Criminal Code's (RCC) § 22A-803. In particular, it provides more information on how the RCC classes track the statutory penalties authorized in the D.C. Code (Part I, below), the calculations relevant to setting class 2 felonies at a maximum imprisonment penalty of forty-five years (Part II, below), and the changes entailed in the fine schedule in RCC § 22A-804 (Part III, below).

Preliminarily, however, the Criminal Code Reform Commission (CCRC) wishes to make three general points about the recommendations in the First Draft of Report #5.

First, both the number of offense classes and the precise penalties (imprisonment and fines) in the First Draft of Report #5 are subject to change during the final phase of the CCRC's work in 2018, if necessary. At that time, the CCRC will draft recommendations for penalties to offenses in the RCC; at that point, it may become clear that a different number of offense classes or changes to the precise penalties are needed. Such changes are not expected at this time, however. The proposed gradations in Section 22A-803 closely track the existing clustering of maximum penalties in District law. The gradations also provide a wider range of statutory penalty classes than most every other jurisdiction.

Therefore, as the Advisory Group proceeds to review specific offenses, please bear in mind that the expected classification options are provided in Section 22A-803. In cases of specific offenses, it would be advantageous if Advisory Group members take special care to inform CCRC staff of any perceived inadequacies of the Section 22A-803 provisions as applied to specific offenses.

Also bear in mind that specific offenses may always deviate from the general provisions if they specifically state as much. Section 22A-204 states this,[1] and deviations from the penalty classification system are possible as much as deviations from other general provisions. For example, a particular offense may be revised to state that it has a penalty of 40 years and a fine

[1] § 22A-104 *Applicability Of The General Part* (First Draft) ("Unless otherwise provided by law, provisions in subtitle I of Title 22A apply to all other provisions of Title 22A.").

of $200,000, in deviation from the general class system provided in §§ 22A-803 and 22A-804. Such offense-specific changes that trump otherwise-applicable general provisions on penalty classes are not expected at this time. There will be considerable value to the Code's consistency and proportionality in maintaining a single, graduated set of class penalties rather than a profusion of different penalties. Again, as the Advisory Group proceeds to review specific offenses, please bear in mind that the expected classification options are provided in Section 22A-803 and inform CCRC staff of any perceived inadequacy of the Section 22A-803 provisions to account for specific offenses.

Third, notwithstanding the prior two points, the CCRC is acutely aware that the draft penalty classes in First Draft of Report #5 do not address statutory or mandatory minima. Statutory and mandatory minima are used in the penalties for many current District offenses. The fact that the current draft of the imprisonment and fine schedules does not provide for such minimum penalties does not mean the CCRC does not recommend their continuation or recommends a more systematic application of these minima through general provisions.[2] The CCRC has no position, one way or another, at this time. Rather, given the complex and potentially controversial effect of changes to such minima, the CCRC intends to address statutory and mandatory minima in 2018 as part of Phase IV of the CCRC's work. As the Advisory Group proceeds to review the First Draft of Report #5 and specific offenses, please note to CCRC staff, formally or informally, any positions you may have as to whether a mandatory or statutory minimum should be included for a given offense or class of offenses.

Finally, the CCRC recognizes that the D.C. Code currently makes use of the category of "Class A" offenses. This designation applies to certain offenses that, among other things, are subject to particular rules relating to post-conviction supervision.[3] At this time, the CCRC does not take a position on the use of "Class A" as applied to new offenses: the "Class A" designation may be applied to RCC offenses, or it may not. Whether and what offenses ought to be included in the current "Class A" scheme appear to be questions best decided when the CCRC and Advisory Group have recommendations in hand for specific offenses and are considering penalties.

I. Current Statutory Maxima, Sentencing Practice, and RCC Classes.

Part I presents more information on the relationship between the RCC penalty schedule proposal and the penalties set by current law. A number of graphs and various data accomplish this, but there are a number of important caveats with respect to the data used that must be addressed first.

First, Figures 1 and 2 are based off CCRC staff's own counting of offenses. Staff had to decide whether to treat an enhanced version of an offense as a separate offense. For example, should carjacking and carjacking while armed be counted as two separate offenses, or as a single

[2] For example, statutory and/or mandatory minima could be attached to particular offenses on an *ad hoc* basis through the revision of each specific offense (recalling that, per § 22A-104, such a provision would trump conflicting general provisions), or statutory and/or minima could be attached to entire offense classes in §§ 22A-803 and 22A-804.

[3] See D.C. Code § 24-403.01.

offense? Staff decided to only count enhanced versions as separate offenses when the enhancement was set forth within the offense definition. For example, armed carjacking was counted as an offense separate from carjacking, but first-degree burglary while armed was not counted as an offense separate from regular first-degree burglary. Similarly, the list does not include the application of the general attempt statute nor does it factor in the application of general enhancements. Finally, there is the possibility of staff error resulting in under- or over-counting offenses or in assigning the penalty. Nevertheless, staff is confident the data are worthy enough for present purposes.

Second, with respect to Figure 4, the data displayed are based on the data received from the Sentencing Commission in January 2017. The CCRC received no notice of qualifications to the January 2017 data from the Sentencing Commission, although there may be data veracity or integrity issues within the Sentencing Commission's data. At least a few clear errors have been found in the data set provided.[4] Despite these errors, staff feels confident that (at least for the limited purposes of this Memorandum) the Sentencing Commission data are sufficiently accurate.

Additionally, staff grouped offenses actually sentenced into categories based on the offense severity group applied by the Sentencing Guidelines Manual. Thus, in Figure 4, a "Category 1" offense is an offense that is ranked in offense severity group 1 in the Sentencing Guidelines Manual; a "Category 2" offense is an offense that is ranked in offense severity group 2 in the Sentencing Guidelines Manual, and so on. For the RCC, a "Category 1" offense includes those offenses that would be codified as class 1 felonies (thus, "Category 2" offense corresponds to class 2 felonies under the RCC, and so on).

This grouping is only intended to be a rough approximation of offense seriousness - the Sentencing Guidelines' assignment of offenses into particular offense severity groups is not intended to convey the CCRC's acceptance of the Sentencing Commission's evaluation of offense severity. Rather, the offense severity group is used for the limited purposes here as an extremely blunt tool for categorizing offenses. It must be emphasized that the CCRC is not intending to convey any opinion whatsoever about possible offense rankings under the RCC or even the process by which such ranking ought to occur. These graphs are solely intended to illuminate how the penalty schedule in D.C. Code § 22A-803 tracks penalties in current District law and practice.

Finally, again with respect to Figure 4, staff filtered the data to only examine completed (not attempted), unarmed, unenhanced, single felony count cases.

[4] For example, the sentencing data indicate that a defendant was sentenced to 11,988 months for committing a homicide. This is clearly beyond the statutory maximum. Another example is a sentence of 548 months for UUV, which also clearly exceeds the statutory maximum. It is CCRC's best guess that these errors occurred when data were entered at Superior Court.

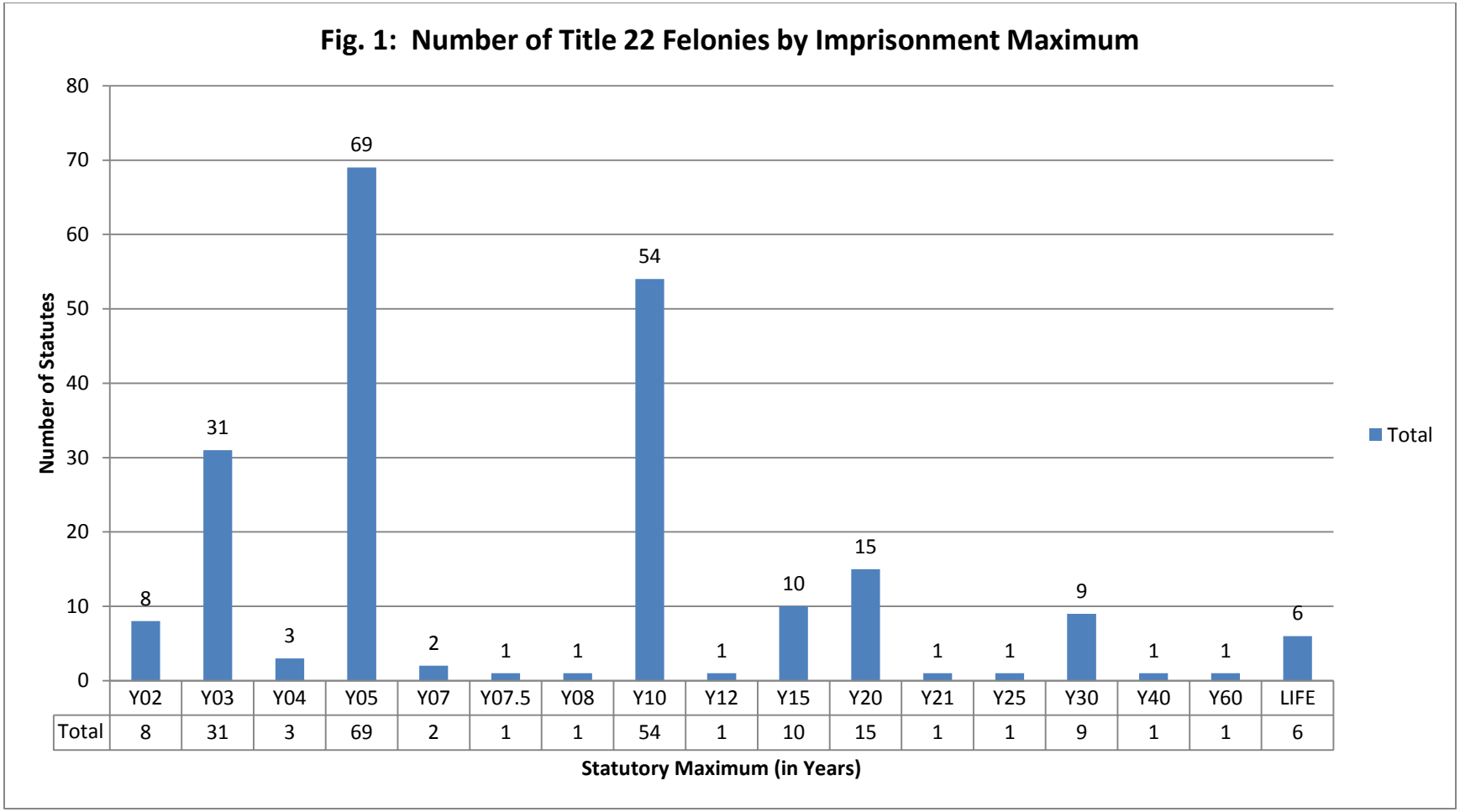
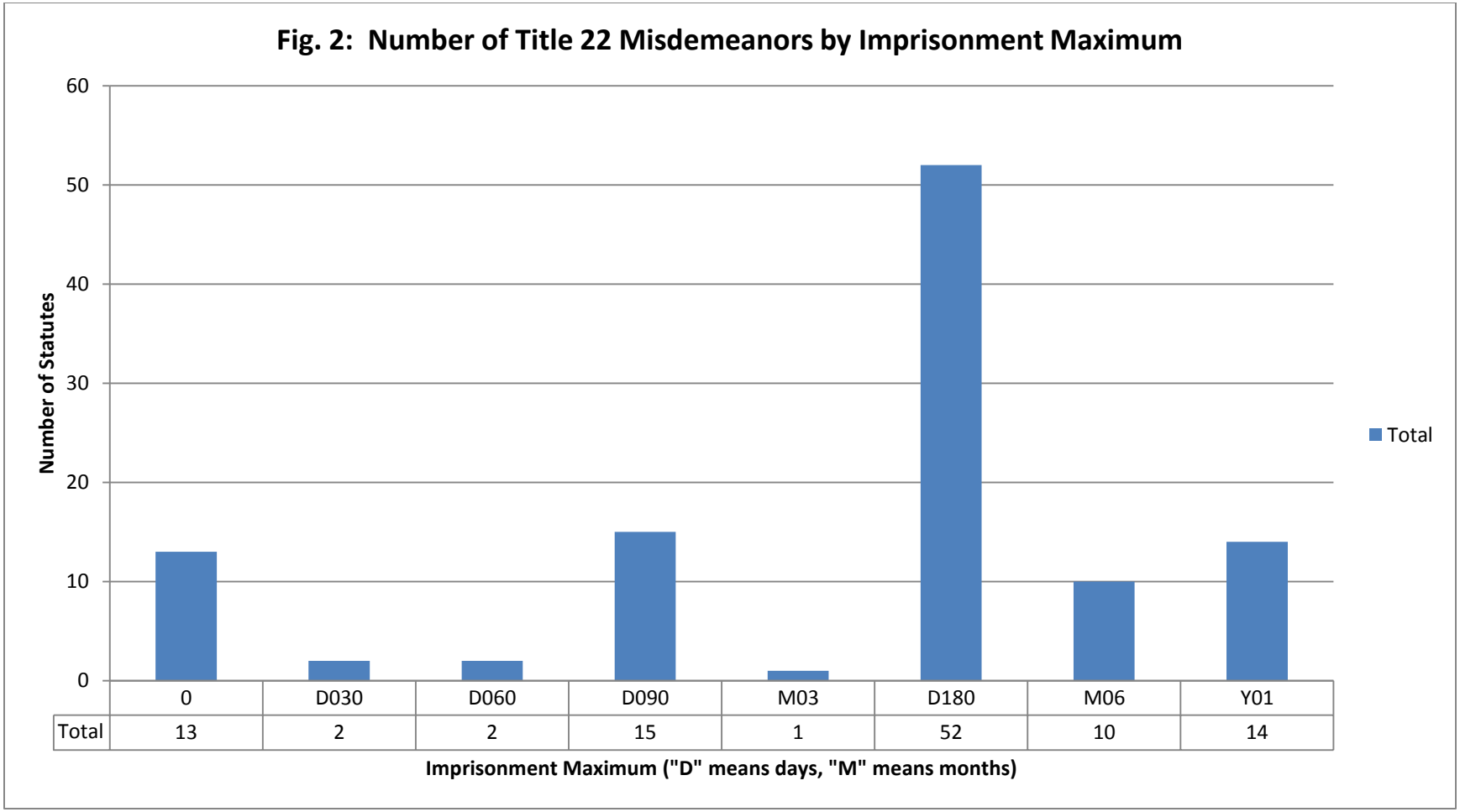
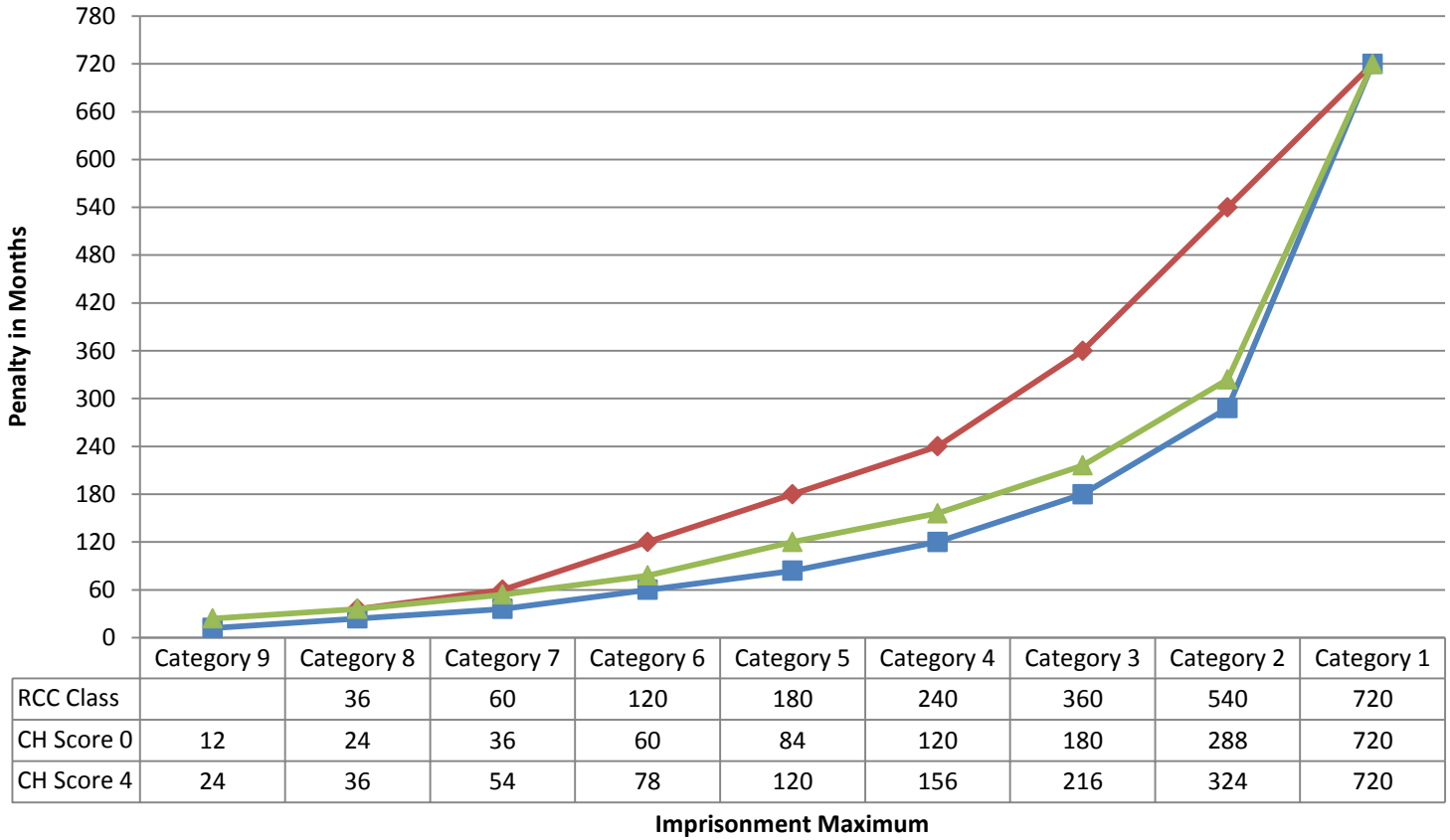


Figure 1: Number of Title 22 Felonies by Imprisonment Maximum shows that there are a few offense penalties that are frequently used in District law. There are clear groupings centered around three years, five years, ten years, fifteen years, twenty years, thirty years, and life imprisonment. RCC § 22A-803 uses identical categories of offenses for seven of its eight classes (e.g., a Class 4 felony is punished with a twenty year maximum). The imprisonment schedule in § 22A-803 differs from the current groupings only by the use of a forty-five year maximum penalty for class 2 felonies. The rationale for the existence of a class 2 felony is explained in greater depth in Part II of this Memorandum, below.



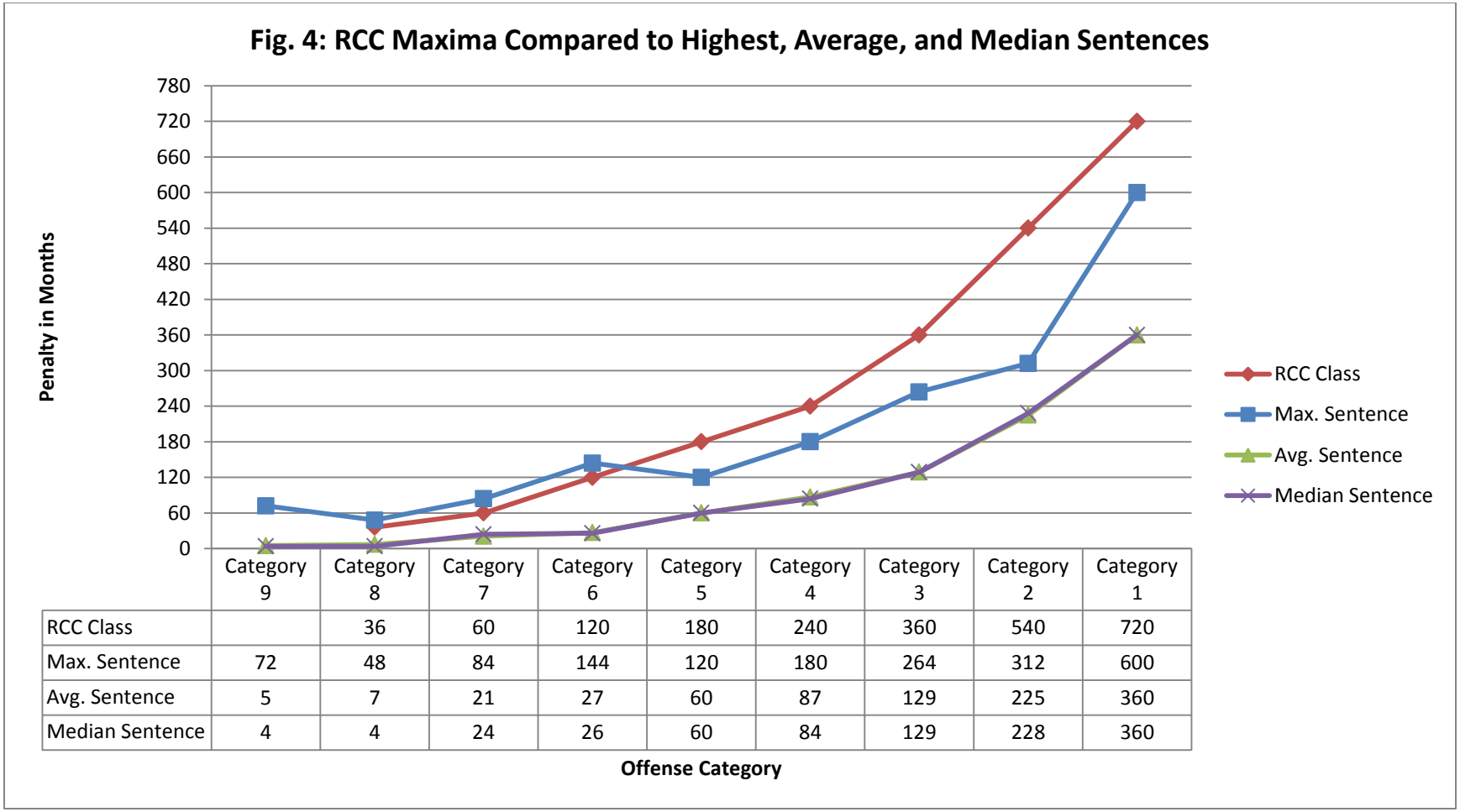
Similar to *Figure 1*, here in *Figure 2, Number of Title 22 Misdemeanors by Imprisonment Maximum*, clear groups can be seen. RCC § 22A-803 again largely tracks current District law. It does vary, however, in that it eliminates the six month misdemeanor and provides a low-level misdemeanor punished with a thirty day imprisonment maximum. The abandonment of the six month misdemeanor is intended to clarify the law. As described in the Commentary to RCC § 22A-803, the CCRC intends to draft specialized subsections for misdemeanor offenses addressing jury trial demandability.

Fig. 3: RCC and Sentencing Guidelines Compared



	Category 9	Category 8	Category 7	Category 6	Category 5	Category 4	Category 3	Category 2	Category 1
RCC Class		36	60	120	180	240	360	540	720
CH Score 0	12	24	36	60	84	120	180	288	720
CH Score 4	24	36	54	78	120	156	216	324	720

In *Figure 3, RCC and Sentencing Guidelines Compared*, the maximum sentence applicable under the Sentencing Guidelines and the Revised Criminal Code are compared. This shows that the RCC easily exceeds even the most severe "in the box" sentence applicable under the Sentencing Guidelines for offenses. The "CH Score 0" maximum is derived the highest in-the-box sentence for a defendant who would be sentenced under column A of the Sentencing Guidelines "Master Grid." The "CH Score 4" is derived from the same information, except the highest in-the-box sentence applicable comes from column D. Although column E exists, it does not provide a maximum, relying instead on an offense's statutory maximum.



	Category 9	Category 8	Category 7	Category 6	Category 5	Category 4	Category 3	Category 2	Category 1
RCC Class		36	60	120	180	240	360	540	720
Max. Sentence	72	48	84	144	120	180	264	312	600
Avg. Sentence	5	7	21	27	60	87	129	225	360
Median Sentence	4	4	24	26	60	84	129	228	360

Figure 4, RCC Maxima Compared to Highest, Average, and Median Sentences uses felony data provided by the Sentencing Commission for 2010-2016. It groups offenses using their offense severity group designation, and then compares actual cases sentenced to the RCC statutory maxima. As can be seen, the RCC maximum exceeds all categories with respect to average and median sentence, and it exceeds even the highest sentence imposed for most categories. Sentences that are above RCC maxima generally seem to arise from the fact that some offenses with high statutory maxima are classed in the lower offense severity groups by the Sentencing Commission.

The graphs above show that the RCC's imprisonment schedule largely conforms to current District law and can accommodate current District practice.

II. CLASS 2 FELONIES: A LIFE WITH RELEASE ANALOGUE.

In order to provide a proportionate penalty for serious offenses where a life without release sentence is still not appropriate, a new, high-maximum, forty-five year felony class is proposed. This penultimate felony class is aimed at functionally replacing the former penalty of life with parole.

The creation of this class has a basis in prior considerations of the Council. When the Council began adapting District law to the federal National Capital Revitalization and Self-Government Improve Act of 1997, it was faced with a number of offenses that had penalties of "15 years to life."[5] "Life," which had previously meant life *with* the possibility of release, was no longer a valid penalty - all "life" sentences would now be life without parole (LWOP).

The Council received various recommendations with respect to the "15 to life" offenses. USAO advocated for retaining LWOP as a possible penalty for all the "15 to life" offenses.[6] The Advisory Commission on Sentencing (the predecessor agency to the current D.C. Sentencing Commission) recommended a hard cap of thirty years on all "15 to life" offenses.[7] Ultimately, the Council blended each of these recommendations, by retaining LWOP for some offenses -- but only if the government proves a set of aggravating circumstances.[8] Otherwise, however, the Council generally capped "15 to life" offenses at thirty years, pursuant to the Advisory Commission's recommendation.

Nevertheless, some offenses still have penalties that exceed thirty years.[9] The Council retained some middle ground between a thirty-year sentence and LWOP for certain crimes it viewed as more serious than others. In other words, although the Council did in large part adopt the recommendations presented to it in 2000, it retained very high penalties for a few serious, but non-aggravated, offenses. Thus, although there are just a few offenses that have statutory maxima exceeding thirty years, there is a basis for codifying a felony class that exceeds thirty years but falls short of LWOP.

The CCRC considered two alternatives in developing a penalty class that could accommodate very serious, "penultimate maximum" offenses.

The first alternative, adopted in the First Draft of Report #5 is to simply set a very high penalty for a particular term of years that, given the existing procedural restrictions on supervised release, would still allow for the realistic possibility of release before the end of an

[5] COMM. ON THE JUDICIARY, REPORT ON BILL 13-696, THE "SENTENCING REFORM AMENDMENT ACT OF 2000."
[6] *Id.* at 15.
[7] *Id.*
[8] *See* D.C. Code § 23-403.01.
[9] *E.g.*, D.C. Code § 22-2401.

inmate's life. The statutory maximum for Class B must balance two competing realities: first, it must not be so large as to impose an "effective life" sentence, and second, it must be lengthy enough such that the youngest defendants are still imprisoned for a lengthy amount of time, proportionately greater than those sentenced under Class C offenses to a maximum of 30 years imprisonment.

At a certain point, an imprisonment penalty becomes a sentence of "effective life." For example, a person who is sentenced to serve a hundred years in prison (under determinate sentencing) can easily expect to die in custody. It is for this reason that the United States Sentencing Commission (USSC) uses a sentence of 470 months or more as the basis for determining what a "life" sentence is. The USSC explains that:

> In cases where the court imposes a sentence of life imprisonment, a numeric value is necessary to include these cases in any sentence length analysis. Accordingly, life sentences are reported as 470 months, a length consistent with the average life expectancy of federal criminal offenders given the average age of federal offenders. Also, sentences of greater than 470 months are also reported as 470 months for some analyses.[10]

The use of 470 months as the dividing point between an effective life sentence and a regular sentence for a term of years is an obvious approximation, and certainly doesn't hold true for all cases. A ninety-year-old man sentenced to serve only 120 months in prison may well expect to live the rest of his days behind bars. On the other hand, a healthy twenty-year-old man serving that same sentence can expect to be released with many decades of life yet to be lived. Indeed, a twenty-year old may reasonably expect to live long enough to exit prison if he must serve the "effective life" sentence of 470 months (such a defendant would have to live to be about sixty years old, a challenging though not impossible task to accomplish in federal prison).

A just sentencing system must at least attempt to create a distinction between life with the possibility of release (or LWOP) and its penultimate felony class; otherwise, the two would be equivalent. Setting the penultimate class penalty too high could obliterate any distinction between LWOP and the penultimate class, because in a determinate system, a sentence for a term of years can be effective LWOP. Yet, again, the class must also be sufficiently punitive to reflect the seriousness of "penultimate maximum" felonies.

The CCRC derived its recommendation for a 45 year penultimate maximum sentence based on the US Sentencing Commission's use of 470 months as an effective life sentence based on the average life expectancy of federal criminal offenders.[11] With this in mind, the CCRC noted that a defendant earning maximum good time credit would serve 470 months in prison if

[10] U.S. Sentencing Commission, 2015 Sourcebook for Sentencing Statistics Appendix A, *available at* http://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2015/Appendix_A.pdf (last visited Apr. 10, 2017).
[11] *Id.*

he is sentenced to a term of 46 years (equal to 552 months in prison) as 470 months is approximately 85% of 552 months). Rounding down slightly yields a statutory maximum of forty-five years for the Class B penultimate maximum penalty.

Thus, if a defendant aged twenty-five is sentenced to the statutory maximum for a class 2 felony (45 years), and receives the maximum good time credit (.15 x 45 years= 6.75 years), he can expect to exit prison at age 63.25, near the (rounded up) the average life expectancy for a federal prisoner.[12] Average life expectancy, means that half of the inmates are expected to die prior to that time, half later. Ultimately, whether such a penultimate maximum sentence preserves a meaningful possibility of release depends on the individual's health.

The same calculus as applied to other possible statutory maxima is displayed in the table below.

Table 1: Penultimate Class and Age of Release Compared.

Statutory Maximum	**85% of Statutory Maximum**	**Age of Release If Sentenced at Age 21**	**Age of Release If Sentenced at Age 25**	**Age of Release If Sentenced at Age 30**
480 months (40 years)	408 months (34 years)	55 years old	59 years old	64 years old
540 months (45 years)	459 months (38.25 years)	59.25 years old	63.25 years old	68.25 years old
600 months (50 years)	510 months (42.5 years)	63.5 years old	67.5 years old	72.5 years old
720 months (60 years)	612 months (51 years)	72 years old	76 years old	81 years old

[12] *Id*. The CCRC staff continues to investigate reliable data sources for inmate life expectancy and average ages at entry into Bureau of Prisons facilities. Research in this area appears nascent, however, with significant racial differences. Ideally, the CCRC will be able to locate life expectancy and entry data specific to District offenders, not just federal offenders generally.

A second possibility for a "penultimate maximum" penalty class that was considered by the CCRC (but is not recommended at this time) was to set an even more severe determinate penalty (e.g. 60 years) that would not realistically provide a chance of release before death, but to also create a new parole-like procedure allowing for review of the inmate's record and the possibility of supervised release earlier than completion of 85% of the sentence.

A model for such a procedure may be seen in the Comprehensive Youth Justice Amendment Act of 2016.[13] The Act creates a new sentencing procedure that permits a defendant to petition the court to reduce his or her sentence, if that defendant was under the age of eighteen at the time of conviction, and that defendant has served twenty years in prison.[14] Particularly for adult (over 18) offenders who are still quite young at the time of their offense, many of the rationales stated by the Council for the review procedures in the Act arguably apply with some force.[15]

This second possibility for a "penultimate maximum" penalty class has many of the potential costs and benefits of the prior, pre-2000 life with parole system. The first possibility provides greater certainty (determinancy) as to the offender's penalty, while the second possibility provides greater flexibility (indeterminancy) as to the offender's penalty. For example, absent signs of good behavior and/or rehabilitation, even unusually long-lived inmates would be assured of remaining incarcerated for their natural life under the second alternative. By comparison, under the proposed Section 22A-803, such a person sentenced under the "penultimate maximum" penalty would have to be released after 45 years. On the other hand, with clear signs of good behavior and/or rehabilitation, inmates who are middle-aged or older at the time of their incarceration may more realistically have the possibility of release under the second alternative. By comparison, under the proposed Section 22A-803, such a person sentenced under the "penultimate maximum" penalty to 45 years would have to serve at least 38.5 years, even with the maximum of good time credit.

Given the larger policy shift (away from a determinate sentencing regime) that the second alternative entails, the CCRC opted not to recommend the approach at this time. However, the CCRC would welcome feedback on the desirability and feasibility of the second alternative from Advisory Group members.

[13] Comprehensive Youth Justice Amendment Act of 2016, D.C. Law No. 21-238 (effective April 4, 2017).
[14] *Id.*
[15] COMM. ON THE JUDICIARY, REPORT ON BILL 21-683, THE "COMPREHENSIVE YOUTH JUSTICE AMENDMENT ACT OF 2016." After receiving a request to reduce a sentence, the court is required to evaluate a number of factors. Some of these factors would seemingly apply even to non-juvenile defendants, e.g., "the nature of the offense and the history and characteristics of the defendant," and "whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction."

III. COMPARISON OF THE RCC FINE SCHEDULE AND THE FINE PROPORTIONALITY ACT SCHEDULE

As described in the Commentary to Section 22A-804, the RCC fine schedule largely, but not entirely, tracks the fines in the Fine Proportionality Act (FPA).[16] See Table 2, below.

Table 2: RCC Fine and FPA Compared.

RCC Class	RCC Fine	FPA Applicability	FPA Fine
Class 1 Felony (Life Without Possibility of Supervised Release)	**$500,000.00**	Offenses Resulting in Death	**$250,000.00**
		Offenses Punishable by More Than 30 Years	**$125,000.00**
Class 2 Felony (45 years)	**$250,000.00**	Offenses Resulting in Death	**$250,000.00**
		Offenses Punishable by More Than 30 Years	**$125,000.00**
Class 3 Felony (30 years)	**$75,000.00**	Offenses Resulting in Death	**$250,000.00**
		Offenses Punishable By More Than 20 Years, Up to 30 Years	**$75,000.00**
Class 4 Felony (20 years)	$50,000.00	Offenses Punishable By More Than 215 Years, Up to 20 Years	$50,000.00
Class 5 Felony (15 years)	$37,500.00	Offenses Punishable By More Than 10 Years, Up to 15 Years	$37,500.00

[16] The text of the FPA as codified in D.C. Code § 22-3571.01 and § 22-3571.02 are attached as Appendix A.

Class 6 Felony (10 years)	$25,000.00	Offenses Punishable By More Than 5 Years, Up to 10 Years	$25,000.00
Class 7 Felony (5 years)	$12,500.00	Offenses Punishable By More Than 1 Years, Up to 5 Years	$12,500.00
Class 8 Felony (3 years)	**$6,000.00**	Offenses Punishable By More Than 1 Years, Up to 5 Years	**$12,500.00**
Class A Misd. (1 year)	$2,500.00	Offenses Punishable By More Than 180 Days, Up to 1 Year	$2,500.00
Class B Misd. (180 days)	$1,000.00	Offenses Punishable By More Than 90 Days, Up to 180 Days	$1,000.00
Class C Misd. (90 days)	$500.00	Offenses Punishable By More Than 30 Days, Up to 90 Days	$500.00
Class D Misd. (30 days)	$250.00	Offenses Punishable By More Than 10 Days, Up to 30 Days	$250.00
Class E Misd. (No jail)	**$250.00**	Offenses Punishable By 10 Days or Less	**$100.00**

APPENDIX A: D.C. CODE §§ 22-3257.01, 22-3257.02

D.C. Code § 22-3257.01, Fines for Criminal Offenses.

(a) Notwithstanding any other provision of the law, and except as provided in § 22-3571.02, a defendant who has been found guilty of an offense under the District of Columbia Official Code punishable by imprisonment may be sentenced to pay a fine as provided in this section.

(b) An individual who has been found guilty of such an offense may be fined not more than the greatest of:

(1) $100 if the offense is punishable by imprisonment for 10 days or less;

(2) $250 if the offense is punishable by imprisonment for 30 days, or one month, or less but more than 10 days;

(3) $500 if the offense is punishable by imprisonment for 90 days, or 3 months, or less but more than 30 days;

(4) $1,000 if the offense is punishable by imprisonment for 180 days, or 6 months, or less but more than 90 days;

(5) $2,500 if the offense is punishable by imprisonment for one year or less but more than 180 days;

(6) $12,500 if the offense is punishable by imprisonment for 5 years or less but more than one year;

(7) $25,000 if the offense is punishable by imprisonment for 10 years or less but more than 5 years;

(8) $37,500 if the offense is punishable by imprisonment for 15 years or less but more than 10 years;

(9) $50,000 if the offense is punishable by imprisonment for 20 years or less but more than 15 years;

(10) $75,000 if the offense is punishable by imprisonment for 30 years or less but more than 20 years;

(11) $125,000 if the offense is punishable by imprisonment for more than 30 years; or

(12) $250,000 if the offense resulted in death.

(c) An organization that has been found guilty of an offense punishable by imprisonment for 6 months or more may be fined not more than the greatest of:

(1) Twice the maximum amount specified in the law setting forth the penalty for the offense;

(2) Twice the applicable amount under subsection (b) of this section; or

(3) Twice the applicable amount under § 22-3571.02(a).

D.C. Code § 22-3571.02, Applicability of Fine Proportionality Provision.

(a) Notwithstanding any other provision of law, a sentence to pay a fine under § 22-3571.01 shall be subject to the following:

(1) If a law setting forth the penalty for such an offense specifies a maximum fine that is lower than the fine otherwise applicable under § 22-3571.01 and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under § 22-3571.01, the defendant may not be fined more than the maximum amount specified in the law setting forth the penalty for the offense.

(2) If a law setting forth the penalty for such an offense specifies a maximum fine that is higher than the fine otherwise applicable under § 22-3571.01 and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under § 22-3571.01, the defendant may be fined the maximum amount specified in the law setting forth the penalty for the offense.

(3) If a law setting forth the penalty for such an offense specifies no fine and such law, by specific reference, does not exempt the offense from the fine otherwise applicable under § 22-3571.01, the defendant may be fined pursuant to § 22-3571.01.

(b) (1) If any person derives pecuniary gain from such an offense, or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss.

(2) The court may impose a fine under this subsection in excess of the fine provided for by § 22-3571.01 only to the extent that the pecuniary gain or loss is both alleged in the indictment or information and is proven beyond a reasonable doubt.

(c) D.C. Law 19-317 shall not apply to any provision of Title 11 of the District of Columbia Official Code.