



ANALYSIS OF LIFE, LIFE-EQUIVALENT,  
AND LONG-TERM SENTENCES  
IN THE DISTRICT OF COLUMBIA  
2010-2019

September 10, 2021

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## INTRODUCTION

The United States incarcerates more people than any country in the world<sup>1</sup> and, within the U.S., the District of Columbia incarcerates more per capita than almost all 50 states.<sup>2</sup> Overwhelmingly, those imprisoned in the District of Columbia are Black men.<sup>3</sup>

Crimes under the local D.C. Code account for the vast majority of criminal convictions in the District of Columbia.<sup>4</sup> The complex legal status of the District means that both local and federal government officials are directly involved in the arrest, prosecution, and incarceration of D.C. residents. However, at least since Home Rule began in the 1970s, the criminal laws that are the basis of nearly all District convictions have been controlled primarily by locally-elected, District leaders.<sup>5</sup>

Unfortunately, criminal statutes in the local D.C. Code have not been comprehensively reviewed and updated in over a century and have flaws that piecemeal legislative reforms have been unable to remedy. An analysis conducted by law professor Paul Robinson found that out of 52 criminal codes in the United States (50 states, D.C., and the federal criminal code), D.C. ranks 45<sup>th</sup> because of fundamental problems in the clarity, consistency, completeness, and proportionality of its criminal statutes.<sup>6</sup> Unlike most states, the District never conducted a comprehensive reform based on the American Law Institute's (ALI) Model Penal Code (MPC).<sup>7</sup>

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<sup>1</sup> World Prison Brief, *Highest to Lowest - Prison Population Rate*, [https://www.prisonstudies.org/highest-to-lowest/prison\\_population\\_rate?field\\_region\\_taxonomy\\_tid=All](https://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=All) (last visited August 10, 2021).

<sup>2</sup> Prison Policy Initiative, *District of Columbia profile* (2018), <https://www.prisonpolicy.org/profiles/DC.html>; Martin Austermuhle, "District Of Corrections: Does D.C. Really Have The Highest Incarceration Rate In The Country?" *WAMU* (blog), accessed October 30, 2020, <https://wamu.org/story/19/09/10/district-of-corrections-does-d-c-really-have-the-highest-incarceration-rate-in-the-country/>.

<sup>3</sup> See D.C. DEPARTMENT OF CORRECTIONS, DEPARTMENT OF CORRECTIONS FACTS AND FIGURES REPORT, JUNE 2021, available at <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DC%20Department%20of%20Corrections%20Facts%20and%20Figures%20June%202021.pdf>. Throughout this report, race and ethnicity data are capitalized to reflect the way they are listed in the Superior Court data received by the Criminal Code Reform Commission (CCRC). This demographic information was received by the Courts from the Metropolitan Police Department and is separate from the data maintained by Superior Courts.

<sup>4</sup> For example, this analysis includes 5,248 cases that were disposed by Superior Court for D.C. Code violations in 2019. In contrast, only 373 federal cases were filed that same year. See U.S COURTS, ANN. REP. OF THE DIRECTOR: JUD. BUS. OF THE U.S. COURTS, at tbl.5.2 (2019) available at [https://www.uscourts.gov/sites/default/files/data\\_tables/jff\\_5.2\\_0930.2019.pdf](https://www.uscourts.gov/sites/default/files/data_tables/jff_5.2_0930.2019.pdf).

<sup>5</sup> There remain limits on local control of criminal justice legislation. E.g., after an Act is approved by the D.C. Council, it is sent to Congress for 30 or 60 days, depending on the subject of the bill. Congress and the President of the United States can use this time to disapprove the Council's Act and prevent it from becoming law. See <https://dccouncil.us/how-a-bill-becomes-a-law>.

<sup>6</sup> Robinson, Paul H.; Cahill, Michael T.; and Mohammad, Usman, "The Five Worst (and Five Best) American Criminal Codes" (2000). *Faculty Scholarship at Penn Law*. 39. [https://scholarship.law.upenn.edu/faculty\\_scholarship/39](https://scholarship.law.upenn.edu/faculty_scholarship/39).

<sup>7</sup> The ALI is a longstanding, leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law. Its national membership includes judges, scholars, and practitioners of law. The MPC, issued by the ALI in 1962, provided a comprehensive framework for criminal law principles and guidelines that has been enormously influential. Despite the diversity of U.S. criminal codes, it is the closest thing there is to an American criminal code. See, Paul H. Robinson & Markus D. Dubber, *The American Model Penal Code: A Brief Overview*, 10 NEW CRIM. L. REV. 319, 326 (2007) (listing 34 state codes reformed under the influence of the MPC).

District criminal laws remain heavily reliant on judicial “common law” rulings to state the requirements for criminal liability, rather than statutory text.<sup>8</sup> These varied, outdated criminal laws continue to authorize for many crimes life or life without parole<sup>9</sup> sentences and, when accounting for life expectancy, life-equivalent sentences.

To address the shortcomings of the current D.C. criminal code, the Council of the District of Columbia (the Council) established the Criminal Code Reform Commission (CCRC) as an independent agency on October 1, 2016. Following its statutory mandate,<sup>10</sup> on March 31, 2021, the CCRC presented recommendations for a Revised Criminal Code (RCC) to the Mayor and the Council.<sup>11</sup> The revised offenses included in the RCC account for over 97% of offenses charged between 2010 and 2019. The RCC also proposed statutory language for common defenses and other critical criminal law matters that to-date have been left to the judiciary to decide. Since issuance of the March 31, 2021 recommendations, the CCRC has been developing recommendations to reform rarely-charged D.C. Code criminal statutes and supporting efforts to enact the recommendations.

This report uses D.C. Superior Court data to review cases in the past decade with life, life-equivalent, and over 15-year sentences, as well as individual charges that received sentences over 24 years. The Methods section explains how the analyses were conducted while the Results section describes and visualizes some key findings. The Discussion section summarizes key findings and shortfalls of the analysis and provides a brief summary of recent social science research on the effectiveness of long-term sentences. Lastly, Appendix A uses three sample cases to illustrate sentencing differences under the current and CCRC-recommended guidelines while Appendix B highlights several examples for how case sentence totals can change over time

## METHODS

### *Data Included in the Analysis:*

The CCRC received data on charges and sentences in disposed<sup>12</sup> cases from the D.C. Superior Court. Although this data included cases that had a sentence imposed as early as 2006

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<sup>8</sup> D.C. Code § 45-401(a) (“The common law, all British statutes in force in Maryland on February 27, 1801, the principles of equity and admiralty, all general acts of Congress not locally inapplicable in the District of Columbia, and all acts of Congress by their terms applicable to the District of Columbia and to other places under the jurisdiction of the United States, in force in the District of Columbia on March 3, 1901, shall remain in force except insofar as the same are inconsistent with, or are replaced by, some provision of the 1901 Code.”).

<sup>9</sup> In the District there currently are both offenses with a statutorily authorized maximum sentence of “life” and offenses with a statutorily authorized maximum sentence of “life without parole” or “life without release.” However, these apparent statutory distinctions in sentencing are functionally irrelevant. Since Congressional elimination of parole in the District in the late 1990s, a “life” sentence in the District is the effective equivalent of “life without parole.” National Capital Revitalization and Self-Government Improvement Act (“D.C. Revitalization Act”), Pub. L. No. 105-33, 111 Stat. 712 (1997).

<sup>10</sup> D.C. Code § 3-151.

<sup>11</sup> The RCC was unanimously approved for submission by the CCRC’s Advisory Group. This advisory group consisted of appointed representatives from the United States Attorney’s Office for the District of Columbia, the Public Defender Service for the District of Columbia, and the Office of the Attorney General for the District of Columbia, as well as law professors from the George Washington University and Georgetown University law schools.

<sup>12</sup> A “disposed” case refers to one that has been closed, regardless of whether the outcome was a conviction, dismissal, or anything else.

and as recently as 2020, all analyses are limited to cases disposed between 2010 and 2019. This decade was chosen to avoid data irregularities resulting from a large number of cases being “cleared” in 2009<sup>13</sup> and court disruptions due to the COVID-19 pandemic starting in 2020. Three cases did not have a sentencing date and were not included in the analysis.

In order to analyze the most accurate data possible, the “last in time” sentencing record for each criminal charge was used. The “last in time” sentencing record simply refers to the most recent entry, which may or may not differ from the initial sentence. Sentencing records may be modified for a number of reasons after the initial imposition of a sentence, including changes to sentence length as a result of an appeals trial, compassionate release, or IRAA proceedings.<sup>14</sup> However, occasionally, individual charges are resentenced on appeal rather than the full case, resulting in numerous disposition dates within a single case. Specifically, 405 cases had charges with “last in time” sentences in different years. Since this made it impossible to ascertain which single year the case should be grouped under, all 405 of these cases (0.6% of all cases) were excluded from the analysis. In total 75,759 convictions, comprising 57,668 cases, were within the desired disposition time frame.

#### *Calculation of Total Sentence Time:*

Sentencing data is recorded by charge and includes confinement time (sentenced, suspended, and amount to serve) and imposed fines (including payments for restitution or pursuant to the Victim of Violent Crime Compensation Act). In some cases,<sup>15</sup> the file also lists whether the sentence is to be served concurrently (i.e., simultaneously) or consecutively (back-to-back) with another sentence in the same or a different case. This information was used to calculate sentence totals by case.<sup>16</sup>

For charges within a case that were to be served consecutively, the sentences<sup>17</sup> were added together. For charges that were to be served concurrently, only the longest sentence length

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<sup>13</sup> Older misdemeanor bench warrants were cleared out and cases were dismissed at the request of the prosecution. Furthermore, many cases that had been filed before the new case classification system went into effect on January 14, 2006 were disposed or cleared by the end of 2009. By concentrating on cases disposed after 2009, CCRC minimized the impact of the change in case classification.

<sup>14</sup> D.C. Code § 24-403.03.

<sup>15</sup> There are a variety of reasons for why many charges did not contain this relationship information. For example, if the defendant was convicted on only a single charge or if the judge ruled that a defendant was sentenced to “time served,” no concurrent or consecutive labeling would apply.

<sup>16</sup> Based on its conversations with Superior Court officials, the CCRC treated charges within a case with multiple convictions but no relationship data as “consecutive” to the other convictions in the case. Unfortunately, this approach may overstate, at least somewhat, the number of consecutive sentences. In some cases, relationship data is recorded in the general “notes” section for a case and not in the specified concurrent or consecutive data fields or elsewhere in the data that CCRC received. Since it is not feasible to review each individual case’s notes for missing relationship data, where relevant, the CCRC treated unspecified relationships as consecutive sentences to maintain consistency in the calculations. Current law provides that, in the absence of any specification by the judge as to whether sentences are concurrent or consecutive, the sentences will be consecutive. D.C. Code § 23-112.

<sup>17</sup> In order to present the most accurate and complete data for how many people would be impacted by the RCC recommended changes to penalty classes and Second Look provisions, sentence times for cases with a total longer than 15 years were calculated using “amount to serve” data (sentenced time minus suspended (probation) time). As such, all the data presented on cases with sentence times over 15 years refer only to incarceration time and not probation time.

was kept. Lastly, the totals from the consecutive and concurrent charges within a case were added together to produce the sentence total for that case.<sup>18</sup> A total of 110 (0.2%) cases were missing information necessary to calculate the total sentence length. After removing them, 57,558 cases, comprised of 75,545 convictions, remained and were used in the analysis (Fig. 1).<sup>19</sup>



**Figure 1 - Disposed Cases by Year.** Distribution of cases included in the analysis by disposition year.

*Demographic Information:*

Lastly, throughout this report there is reference to demographic information, specifically race and gender. Those analyses are based on the demographic information entered by the Metropolitan Police Department (MPD) rather than the Superior Courts. CCRC is not aware of any research on the completeness or accuracy of these MPD race/ethnicity and gender descriptions.

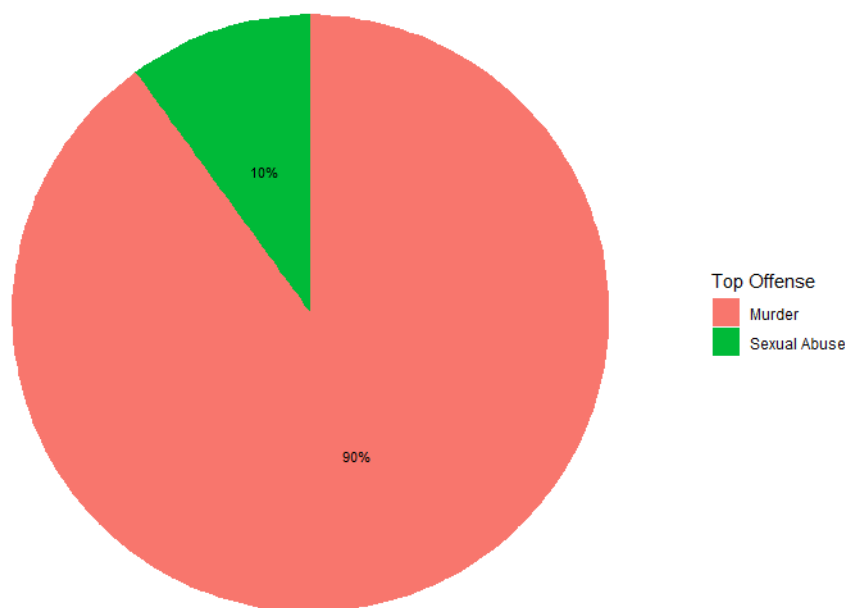
<sup>18</sup> For example, imagine Case X with the following four sentences for its four charges: 20 years (charge 1), 10 years (charge 2), 5 years (charge 3), 3 years (charge 4). If the court indicated that all the charges would be served consecutively (or if the data did not specify a relationship so it was assumed to be consecutive), the total sentence time would be 38 years (20+10+5+3). If it had indicated that all the charges be served concurrently, the total sentence time would be 20 years (max of 20, 10, 5, and 3). Lastly, if the court ruled that charges 1 and 2 be served consecutively and charges 3 and 4 be served concurrently, the total sentence time would be 35 years (20+10 + (max of 5 and 3)).

<sup>19</sup> This amounts to 88.4% of all cases and 87.6% of all charges CCRC received from D.C. Superior Courts.

## RESULTS

### *Life Sentences:*

There were 10 cases in which at least one life<sup>20</sup> sentence was imposed between 2010 and 2019.<sup>21</sup> These 10 cases had a total of 200 convictions and 50 of those convictions each received a life sentence.<sup>22</sup> The 50 charges that resulted in a life sentence were for 12 different offenses or enhanced versions of offenses, and 9 of the 10 cases had at least one murder charge (Fig. 2).<sup>23</sup>



**Figure 2 – Top Charge for Life Cases.** 90% of the cases had at least one murder charge and the remaining case had 13 child sexual abuse convictions.

Nearly half of the 50 life sentences were for murder I (while armed) charges while another quarter was accounted for by felony murder (while armed) charges (Fig 3). Notably, 6 of

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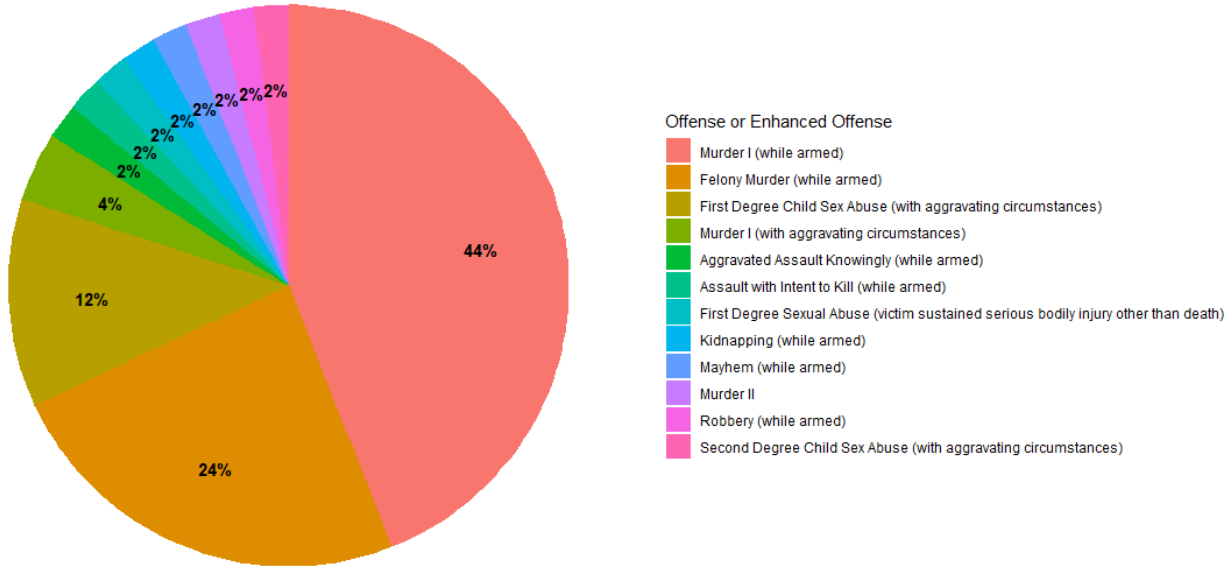
<sup>20</sup> The analyzed data distinguishes only “life” sentences and does not denote any “life without parole” or “life without release” sentences. Since Congressional elimination of parole in the District, a “life” sentence in the District is the effective equivalent of “life without parole.” National Capital Revitalization and Self-Government Improvement Act (“D.C. Revitalization Act”), Pub. L. No. 105-33, 111 Stat. 712 (1997).

<sup>21</sup> Two additional cases had charges with a “life” label in the court data, but those same charges also had a conflicting, term-of-years sentence of less than a year. Since these charges in the cases (unlawful entry and destruction of property (less than \$1000)) legally could not receive a life sentence, the “life” label was considered erroneous for purposes of this analysis and the total sentence time was updated to reflect the discrete sentences imposed.

<sup>22</sup> Although many of the 150 charges that were not labeled as a “life” sentence received a discrete sentence, a case was automatically considered a “life” case if at least one charge within the case had a “life” label. *See e.g.* App. A discussing Case A *infra* p. 19.

<sup>23</sup> Throughout the report, the crimes or charges that are described consist of both a baseline crime and, where applicable, an enhancement. For example, among the charges that received a life sentence, 2 had a baseline crime of murder I. However, since one had a “while armed” enhancement and one had a “with aggravating circumstances” enhancement, they were considered to be separate offenses for purposes of this analysis.

the 8 cases that received a life sentence for a murder I charge had more than one murder I charge with a life sentence in the case.<sup>24</sup>



**Figure 3 – Offenses Receiving a Life Sentence.** Percentage of all life sentence charges by offense/enhanced offense.

The data used for this analysis may overstate the number of charges receiving life sentences. Several of the charges<sup>25</sup> listed as receiving a life sentence could not have received such a sentence unless the crime was committed before June 8, 2001.<sup>26</sup> However, it is impossible to determine the dates of the crimes receiving life sentences from the data that the CCRC received. If not committed before June 8, 2001, any life sentence for those particular charges appears to be an error. Such a recording error, if it exists, may reflect mistakenly recording all the charges in the case as having a “life” sentence when just one or some convictions within the case (legally) did.<sup>27</sup>

Of the ten people who received a life sentence in the District between 2010 and 2019, all were Black men.

<sup>24</sup> Similarly, 2 of the 3 cases that received life sentences for felony murder had multiple felony murder charges receiving life sentences in the case. The one case that had a single felony murder life sentence also had life sentences for four murder I charges.

<sup>25</sup> Specifically, aggravated assault (while armed), assault with intent to kill (while armed), kidnapping (while armed), mayhem (while armed), robbery (while armed), and second degree child sexual abuse (while aggravating circumstances).

<sup>26</sup> As of June 8, 2001, the Sentencing Reform Amendment Act of 2001, among other changes, modified the penalty enhancements for various crimes of violence committed while armed from “life” to a determinate number.

<sup>27</sup> Such a recording error, if it exists, would not affect the effective outcome for the person incarcerated since they had at least one correctly recorded life sentence.

*Life-Equivalent Sentences:*

In this analysis, a life-equivalent sentence is defined as a term-of-years sentence to 40 or more years imprisonment.<sup>28</sup> In the District of Columbia, the current life expectancy for non-Hispanic Black men is just under 69 years<sup>29</sup> and the median age of those convicted of murder I between 2010 and 2019 was in the mid-to-late 20s.<sup>30</sup> Consequently, a 40 or more year sentence, on average, approximates or exceeds the remaining life expectancy for a Black male in the District (Fig. 4).<sup>31</sup>



**Figure 4 – Racial Distribution Among D.C. Residents and Convicted Individuals (2010-2019).**

<sup>28</sup> Notably, the United States Sentencing Commission defines a de facto life sentence as 470 months (39.2 years). For ease of analysis, CCRC rounded up to 40 years. At this cut off, a Black man receiving a sentence of 40 years for a murder I conviction is likely to be in prison until he reaches the age of his life expectancy even if the sentence was not labeled as “life.” See U.S. SENT’G COMM’N, LIFE SENTENCES IN THE FEDERAL SYSTEM, (2015) available at [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/miscellaneous/20150226\\_Life\\_Sentences.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/miscellaneous/20150226_Life_Sentences.pdf).

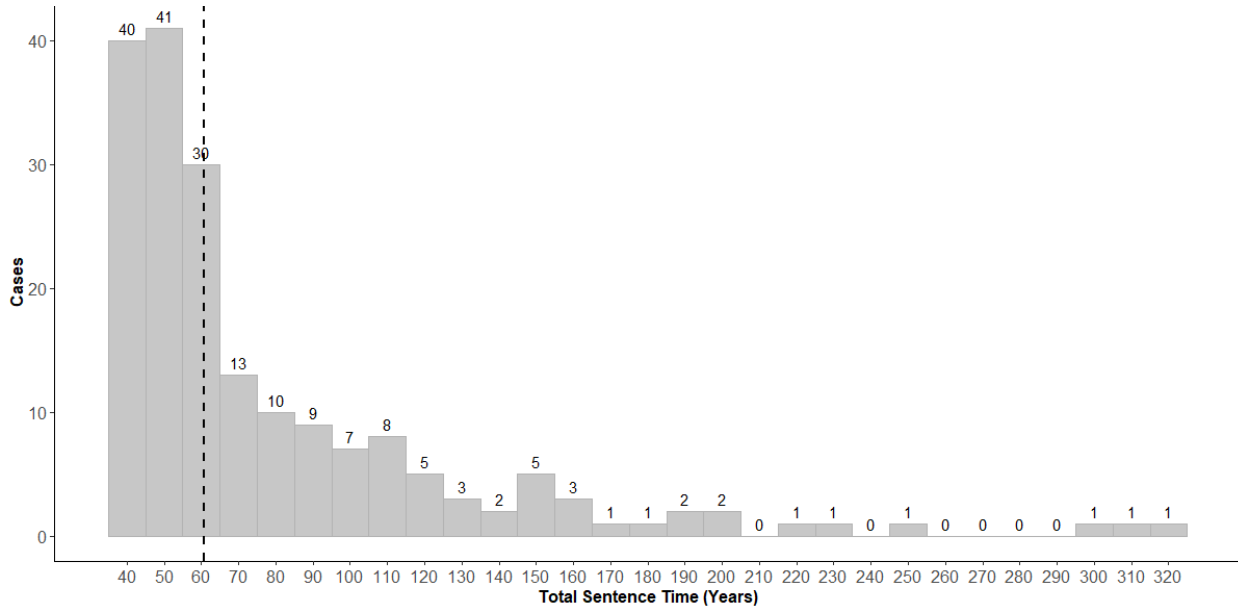
<sup>29</sup> D.C. DEPARTMENT OF HEALTH, *D. C. COMMUNITY HEALTH NEEDS ASSESSMENT, VOL. 1 at 16* (March 15, 2013); Roberts, M., Reither, E.N. & Lim, S. *Contributors to the black-white life expectancy gap in Washington D.C.*, SCI REP 10, 13416 (2020). The CDC, using census data from 2010-2015, has placed the life expectancy of poorer and Blacker areas in D.C. at even lower than 69. See NAT’L CENTER FOR HEALTH STATS. VITAL HEALTH STAT 2(181) (2018) available at <https://www.cdc.gov/nchs/nvss/usaleep/usaleep.html>.

<sup>30</sup> CCRC analysis of the D.C. Sentencing Commission’s dataset “Homicides sentenced between 2010 and 2019.” This and other breakdowns of District sentencing practices from 2010 to 2019 can be found at the D.C. Sentencing Commission’s website at <https://sdc.dc.gov/node/1467606>.

<sup>31</sup> The overwhelming majority of those sentenced in the District are Black men. Of the 55,806 cases that had both race and gender data available, 42,915 (or 76.9%) had a Black man as the defendant even though only 20% of the District’s population is Black males. Furthermore, of the 56,006 cases that had race data available, 91.3% of the defendants were Black despite Black residents only accounting for 43.9% of D.C.’s population. CCRC analysis of 2021 race and gender data provided by the D.C. Health Matters Collaborative. See [www.dchealthmatters.org/demographicdata](http://www.dchealthmatters.org/demographicdata).



Of the 57,558 cases included in the analysis, 188 cases had a total sentence length of at least 40 years (excluding life sentence cases, addressed above).<sup>32</sup> The cases ranged from having just a single conviction with a sentence of 40 years to having 35 convictions. Overall, there was a median of 9 convictions per case among the 188 cases.<sup>33</sup> The median total sentence length for these 188 cases was 60.8 years (Fig. 5) though, notably, the median (and most common) length of any single sentence within the 188 cases was much shorter—only 5 years.



**Figure 5 – Distribution of Total Sentence Time for Life-Equivalent Cases.** Dashed line marks the median total sentence time (60.8 years).

This median/mode<sup>34</sup> single sentence length can be partially explained by the offenses charged in these cases. Namely, of the 152 offenses or enhanced versions of offenses that appear among the 1,865 convictions that comprise these 188 cases, the most common was “possession of firearm during crime of violence” (PFCV). This PFCV charge appeared in 134 of the cases and 504 times total among the cases. According to previous CCRC analysis, PFCV has a median sentence length of 5 years.<sup>35</sup>

Since cases are often comprised of multiple charges, the frequency of charges was investigated not only by total count among all the charges of the 188 cases but also by total count of cases with the charge (regardless of how many instances of the charge were in the case). Nine

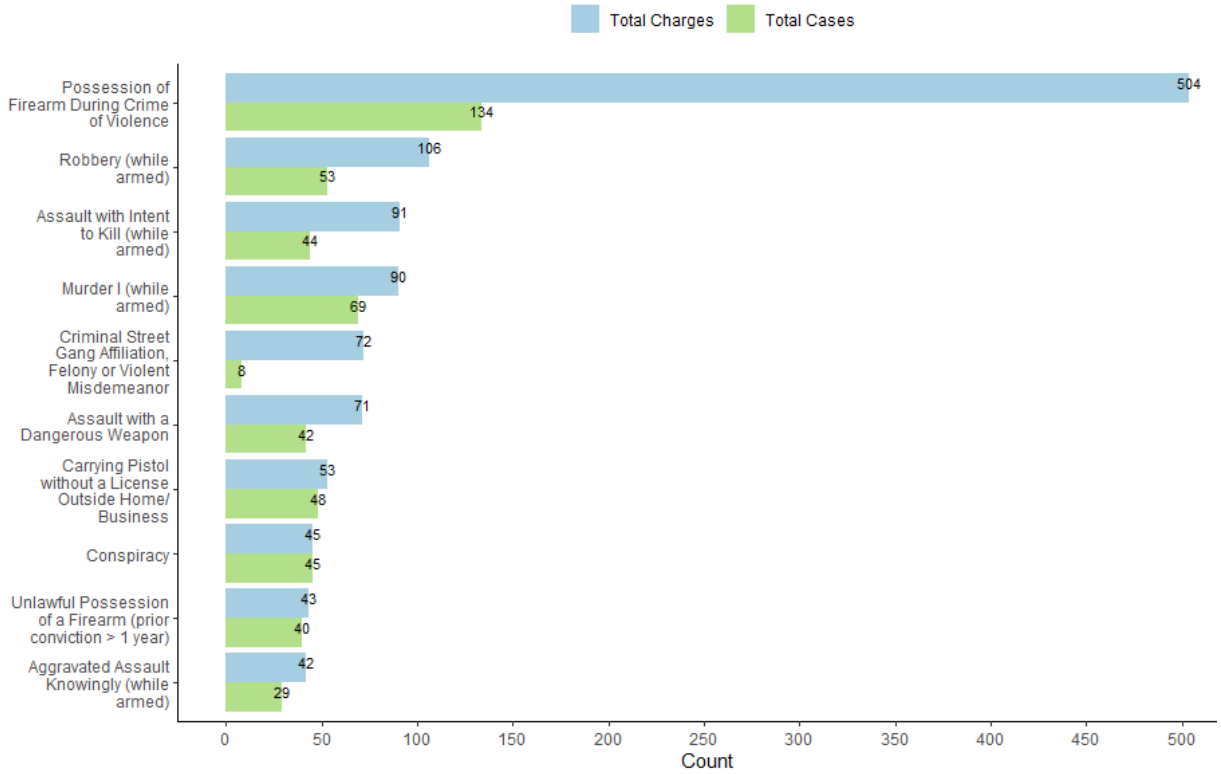
<sup>32</sup> See e.g., App. A discussing Case B *infra* p. 20.

<sup>33</sup> The median is the middle value when a data set is ordered from least to greatest whereas the mean (average) is found by adding all numbers in the data set and then dividing by the number of values in the set. We report the median in the body of the report since it is less susceptible to being skewed by particularly low or high values in the data set. Here, the mean number of convictions per case was 9.9, nearly a full conviction greater than the median.

<sup>34</sup> The mode is the most common or frequent value that appears in a data set.

<sup>35</sup> CCRC analysis based on Superior Court data. See D.C. Crim. Code Reform Comm’n, Advisory Group Memorandum #40 and Appendices (available at <https://ccrc.dc.gov/page/ccrc-documents>) for explanation and more information. Notably, PFCV carries a 5 year mandatory minimum sentence and a maximum of 15 years. D.C. Code § 22-4504(b).

of the top 10 most frequent charges were also the most common across cases (Fig. 6). The exceptions were “criminal street gang affiliation, felony or violent misdemeanor” which, despite being charged 72 times among all the charges in this analysis, was only charged in 8 cases and “murder II (while armed)” which was the 12<sup>th</sup> most common charge but ranked 10<sup>th</sup> by total case count.<sup>36</sup>



**Figure 6 – Ten Most Frequent Offenses or Enhanced Offenses in Life-Equivalent Cases.**

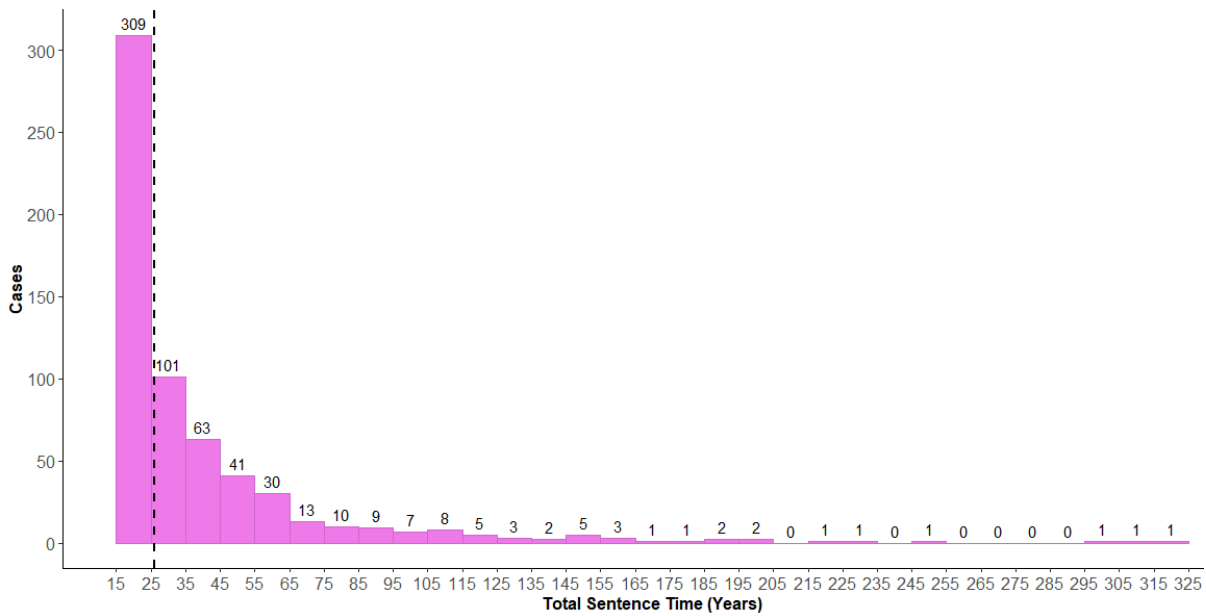
Of the 188 cases in this analysis, 177 had the defendant’s race and gender data. Among these 177 cases, 88.7% of the defendants were Black men. Overall, 98.4% of the defendants were male and 89.8% were Black. Women accounted for just 1.6% of the defendants and 7.9% of these 177 cases had a White defendant. In 4 of the cases (2.2%), the race was marked as “Unknown.”

<sup>36</sup> In decreasing frequency order, the top 10 most common charges (with their ranking by total cases in brackets) are: (1) possession of firearm during crime of violence [1]; (2) robbery (while armed) [3]; (3) assault with intent to kill (while armed) [6]; (4) murder I (while armed) [2]; (5) criminal street gang affiliation, felony or violent misdemeanor [21]; (6) assault with a dangerous weapon [7]; (7) carrying pistol without a license outside home/business [4]; (8) conspiracy [5]; (9) unlawful possession of a firearm (prior conviction > 1 year) [8]; (10) aggravated assault knowingly (while armed) [9]. Murder II (while armed) was 10<sup>th</sup> when ordering by number of cases but 12<sup>th</sup> when ordering by number of charges.

*Over 15-Year Cases:*

Current District law authorizes a “second look” judicial review of a sentence after a person who was under 25 at the time of the crime has served at least 15 years of their sentence.<sup>37</sup> The CCRC has recommended extending access to this judicial review to everyone serving a sentence longer than 15 years, regardless of age at the time of the crime. To examine how many people would be impacted by this change in policy, an analysis was conducted on cases with sentences longer than 15 years.

The analysis showed that between 2010 and 2019 there were 621 cases that had a total sentence length of more than 15 years (excluding life sentence cases, addressed above).<sup>38</sup> These cases had a median total sentence length of 26 years (Fig. 7) and a median of 4 convictions per case.<sup>39</sup>



**Figure 7 – Distribution of Total Sentence Time for Over 15-Year Cases.** Dashed line marks the median total sentence time (26 years).

Once again, of the 242 offenses or enhanced versions of offenses that appear among the 3,323 convictions that comprise these 621 cases, the most common and median single-charge sentence was 5 years and the most common offense was PFCV<sup>40</sup> – appearing a total of 655 times across 232 cases. Similar to the analysis of life-equivalent cases, 9 of the top 10 most frequent charges also appeared in the greatest number of cases (Fig. 8).<sup>41</sup> As before, “criminal street gang

<sup>37</sup> D.C. Code § 24-403.03.

<sup>38</sup> See e.g., App. A discussing Case C *infra* p. 20.

<sup>39</sup> Due to high maximums (a maximum total sentence time of 318 years and a maximum number of convictions per case of 35), the median is used rather than the mean (which is more biased when data is skewed).

<sup>40</sup> D.C. Code § 22-4504(b). Notably, PFCV carries a 5 year mandatory minimum sentence and a maximum of 15 years.

<sup>41</sup> In decreasing frequency order, the top 10 most common charges (with their ranking by total cases in brackets) are: (1) possession of firearm during crime of violence [1]; (2) murder II (while armed) [2]; (3) assault with a dangerous

affiliation, felony or violent misdemeanor” had an outsized impact when looking at total number of charges (where it ranked 9<sup>th</sup>) compared to total number of cases that contained the charge (where it came in 51<sup>st</sup>). As a result, “unlawful possession of a firearm (prior conviction > 1 year)”, which appeared in the 8<sup>th</sup> most cases, fell out of the top 10 most frequent charges with its 11<sup>th</sup> place finish.

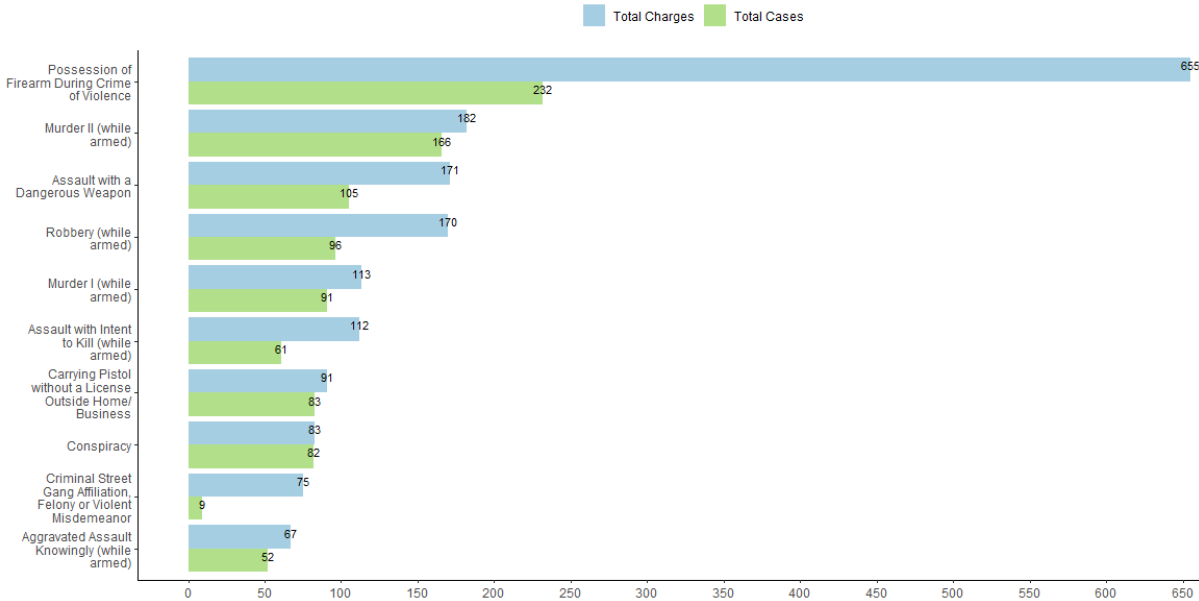


Figure 8 – Ten Most Frequent Offenses or Enhanced Offenses in Over 15-Year Cases.

Of the 621 cases that had sentences greater than 15 years, 589 had both the defendant’s race and gender data available. In 545 of the 589 cases (92.5%), the defendant was a Black male. Among the 591 cases that had at least race data available, 93.9% of the defendants were Black and 4.6% were White. The remaining were either American Indian (1 case), Hispanic (2 cases), or had race entered as “Unknown” (6 cases). Men accounted for 98.4% of the cases with female defendants only appearing in 10 of the 618 cases that had gender information available.

*Over 24-Year Charges:*

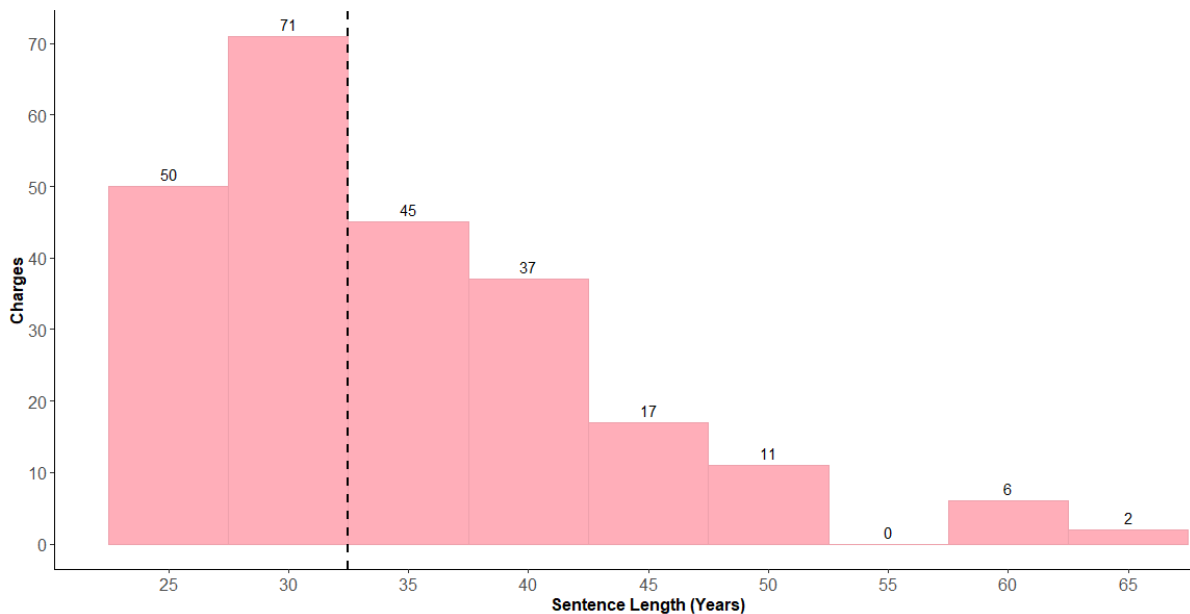
Under the RCC recommendations, the maximum imprisonment penalty for a Class 4 crime is 24 years. Many major felonies, such as first degree sexual assault (unenanced) and second degree murder (unenanced), are recommended to be Class 4 crimes. The RCC proposes that Class 1, 2, and 3 crimes, with imprisonment penalties over 24 years, consist of just 7 crimes: first degree murder, enhanced first degree murder, enhanced second degree murder, enhanced first degree sexual assault, enhanced first degree sexual abuse of a minor, enhanced forced commercial sex, and first degree commercial sex with a trafficked person. To examine the

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weapon [3]; (4) robbery (while armed) [4]; (5) murder I (while armed) [5]; (6) assault with intent to kill (while armed) [9]; (7) carrying pistol without a license outside home/business [6]; (8) conspiracy [7]; (9) criminal street gang affiliation, felony or violent misdemeanor [51]; (10) aggravated assault knowingly (while armed) [10]. Unlawful possession of a firearm (prior conviction > 1 year) was 8<sup>th</sup> when ordering by number of cases but 11<sup>th</sup> when ordering by number of charges.

possible impact a 24 year maximum imprisonment penalty could have for sentencing Class 4 crimes, an analysis was conducted on charges that received discrete sentences longer than 24 years, regardless of the total sentence time for the cases they appear in.

Between 2010 and 2019, 239 convictions across 175 cases received a sentence of more than 24 years.<sup>42</sup> Among these 239 charges, the median sentence length was 32.5 years (Fig. 9) with a maximum single sentence of 65 years.<sup>43</sup> The majority of the cases in this analysis (74.9%) had only one charge with a sentence over 24 years.



**Figure 9 – Distribution of Total Sentence Time for Over 24-Year Charges.** Dashed line marks the median sentence length (32.5 years).

The charges that received a sentence of more than 24 years were spread across 27 offenses or enhanced versions of offenses. “murder I (while armed)” was the most common charge both by raw count and number of cases it appeared in – 113 and 91, respectively. Once again, 9 of the 10 the most frequent charges also appeared across the most cases (Fig. 10) and the majority of the charges were for murder (Fig. 11).<sup>44</sup>

<sup>42</sup> In order to report the most accurate information, the total sentence time for these charges is based on “amount to serve” data (time sentenced minus time suspended (probation)). All charges from “life” sentence cases were removed from this analysis since only cases disposed with discrete sentences were included.

<sup>43</sup> The average sentence length among these charges was 34.7 years.

<sup>44</sup> In decreasing frequency order, the top 10 most common charges (with their ranking by total cases in brackets) are: (1) murder I (while armed) [1]; (2) murder II (while armed) [2]; (3) felony murder (while armed) [3]; (4) murder II [4]; (5) felony murder charges (with aggravating circumstances) [5]; (6) murder I [6]; (7) first degree sexual abuse [8]; (8) first degree sexual abuse - force [9]; (9) murder I (with aggravating circumstances) [7]; (10) first degree sexual abuse – force (while armed) [12]. Kidnapping (while armed) was 10<sup>th</sup> when ordering by number of cases but 14<sup>th</sup> when ordering by number of charges.

Analysis of Life, Life-Equivalent, and Long-Term Sentences in the District of Columbia

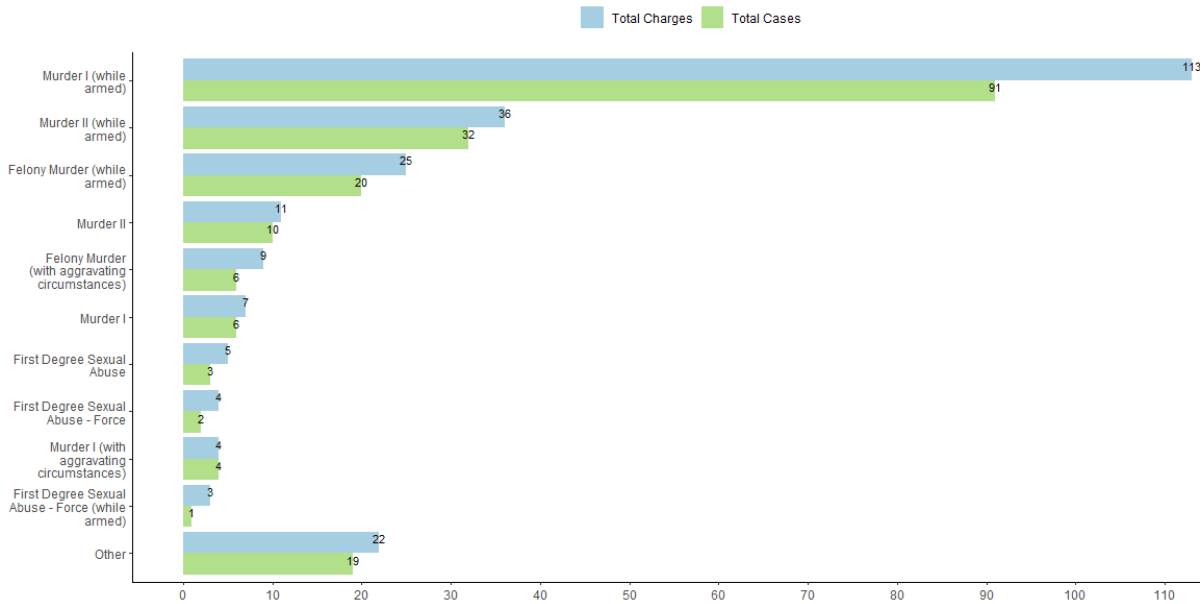


Figure 10 – Ten Most Frequent Offenses or Enhanced Offenses for Over 24-Year Charges.

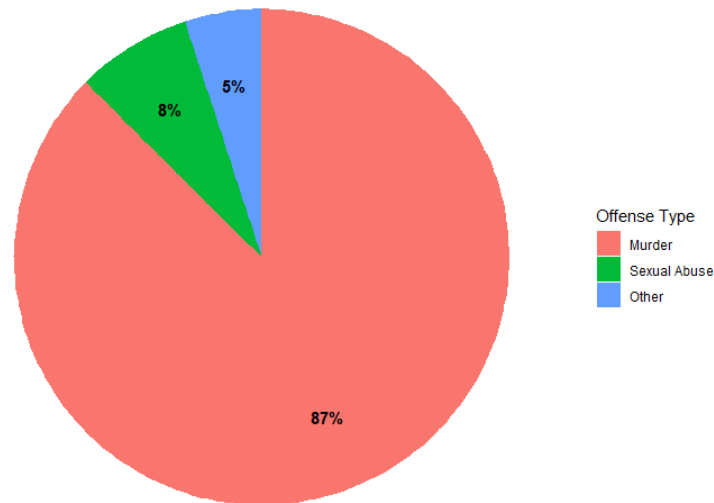


Figure 11 – Offenses Receiving Over 24 Years. Percentage of all Over 24-Year charges by type of offense.

Of the 175 cases with a charge that received a sentence longer than 24 years, 163 had the defendant’s race and gender data available. In 151 of these cases (92.6%), the defendant was a Black male. Black defendants accounted for 153 of the 163 cases that had race data with 8 of the remaining cases having a White defendant and 2 listing the race as “Unknown”. Gender information was available for 174 of the 175 cases and male defendants appeared in 98.9% of the cases. Only 2 of the 174 cases with gender information had a female defendant.

## DISCUSSION

This analysis produced several key findings. First, very few cases received a life sentence between 2010-2019. Specifically, of the 57,558 cases included in the analysis, only 10 (0.02%) received life sentences. Among these 10 cases, 9 had a murder charge and the remaining case had over a dozen sexual abuse charges. The relatively low number of cases with life sentences 2010-2019 stands in sharp contrast with high numbers reported elsewhere for the prior decade.<sup>45</sup>

Many more cases received sentences that, given the demographics of the defendants, are life-equivalent. 188 cases, or nearly 19 times the number of cases that specifically had a “life” label, had a total sentence of 40 or more years. For these life-equivalent cases, the median total sentence length (accounting for consecutive and concurrent sentencing for all charges in the case) was just under 61 years.

An additional 433 cases had a total sentence over 15 but under 40 years. When grouped with the life-equivalent cases, all of which would be eligible for second look procedures under the RCC, the cases had a median sentence of 26 years. Furthermore, among the 621 cases that had a total sentence time of over 15 years, 109 (17.6%) were comprised of charges under 10 years, 157 (25.3%) were comprised of charges under 12 years, and 237 (38.2%) were comprised of charges of 15 years or less.<sup>46</sup>

Lastly, 239 charges, regardless of the total sentence time for their case, received a sentence over 24 years – the maximum imprisonment penalty for a Class 4 crime under the RCC. Similar to the charges that received a life sentence, the overwhelming majority (87%) of these charges were for murder.

Aspects of the current D.C. Code, such as mandatory minimums and overlapping statutes that penalize the same social harm, appear to lengthen sentences, often to durations that become life-equivalent. The “possession of firearm during crime of violence” (PFCV) charge provides a poignant example. Of the 188 cases that had a total sentence length of 40 or more years, 134 (or 71%) had at least one PFCV charge, with a median of 3 PFCV charges per case and a maximum of 13. Over half of the PFCV charges (55%) received the 5-year mandatory minimum sentence<sup>47</sup> and only 4 charges (all from the same case and under 1% of the total number of PFCV charges) received the maximum authorized sentence of 15 years. Additionally, all 134 cases with a PFCV charge also had at least one charge with a “while armed” enhancement. Meaning, the defendant received not one but two sentences, each with a mandatory minimum sentence for possessing the

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<sup>45</sup> Council for Court Excellence, Analysis of BOP Data Snapshot from July 4, 2020 for the District Task Force on Jails & Justice (Sept. 30, 2021) at 6 (reporting that for the BOP population in custody on July 4, 2020 for D.C. Code offenses there were 37 serving life sentences who were committed to BOP in the 2010s as compared to 483 serving life sentences who were committed to BOP in the 2000s, 55 committed in the 1990s, 21 committed in the 1980s, and 1 committed in the 1970s) [http://www.courtexcellence.org/uploads/publications/Analysis\\_of\\_BOP\\_Data\\_Snapshot\\_from\\_7420.pdf](http://www.courtexcellence.org/uploads/publications/Analysis_of_BOP_Data_Snapshot_from_7420.pdf). For further discussion, see footnote 59, *infra*.

<sup>46</sup> These numbers are a preliminary finding only. It is possible that the notes section of many of these cases reveals that the charges were intended to be served concurrently causing the total sentence time to fall below 15 years. If that is the case, there may be a much smaller proportion of the long-term sentences comprised of relatively short-term sentences.

<sup>47</sup> As designated by D.C. Code § 22-4504. Though, interestingly, 5 PFCV charges (just over 1%) were recorded as receiving an impossible 0 year sentence.

same weapon during the commission of a crime. Although multiple convictions for PFCV and another offense with a while armed enhancement has been upheld as legal,<sup>48</sup> the frequency with which PFCV is sentenced to exactly the mandatory minimum suggests that District judges see (and try to minimize the harm of) the redundancy.

In addition to the frequency of long and life-equivalent sentences, this analysis revealed the disproportionate representation of Black men among the defendants in such cases. Black males account for approximately 20% of the District's population.<sup>49</sup> However, Black men constitute 77% of the defendants in all the 2010-2019 cases analyzed in this report and 92.5% of the defendants sentenced to more than 15 years.<sup>50</sup> Not only do Black men account for a disproportionately high amount of those sentenced to long prison terms, but they also have a lower life expectancy than their White counterparts. Recent research shows that the life expectancy for Black males in D.C. is in the mid-to-late 60s.<sup>51</sup> As a result, the most likely people to receive a long-term sentence in D.C. are also the most likely to die before their 70<sup>th</sup> birthday.

Meanwhile, the benefits of long-term imprisonment are unclear. Among the most common reasons for incarceration, particularly for long terms, are general deterrence, rehabilitation, and retribution.<sup>52</sup> However, none of these outcomes are assured by lengthening sentences. Research has shown that longer sentences do not lower crime rates and, in fact, may have a criminogenic effect on incarcerated individuals.<sup>53</sup> Even life imprisonment and the death penalty have not been shown to deter crimes such as homicide.<sup>54</sup> Furthermore, the Age-Crime Curve, first developed by Hirschi and Gottfredson in 1983 and replicated countless times since, illustrates the sharp decline in criminal behavior after a person turns 25.<sup>55</sup> According to this model, by the time a person is in their mid-50s the likelihood of offending (or reoffending) is

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<sup>48</sup> *Thomas v. United States*, 602 A.2d 647 (D.C. 1992) held that this does not violate the Double Jeopardy Clause of the Fifth Amendment.

<sup>49</sup> CCRC analysis of 2021 race and gender data provided by the D.C. Health Matters Collaborative. See [www.dchealthmatters.org/demographicdata](http://www.dchealthmatters.org/demographicdata).

<sup>50</sup> Calculations based on cases that had both race and gender information available. 97% of all cases (and 95% of cases over 15 years) had information for both demographic factors available.

<sup>51</sup> See, NAT'L CENTER FOR HEALTH STATS. VITAL HEALTH STAT 2(181) (2018) available at <https://www.cdc.gov/nchs/nvss/usaleep/usaleep.html>; D.C. DEPARTMENT OF HEALTH, *D. C. COMMUNITY HEALTH NEEDS ASSESSMENT, VOL. 1 at 16* (March 15, 2013); Roberts, M., Reither, E.N. & Lim, S. *Contributors to the black-white life expectancy gap in Washington D.C.*, SCI REP 10, 13416 (2020).

<sup>52</sup> General deterrence seeks to dissuade any potential offender from committing a crime due to the threat of punishment (usually, state-imposed penalties). Rehabilitation aims to restore convicted individuals "to a law-abiding way of life through treatment." JOHN E CONKLIN, *CRIMINOLOGY* at 345 (11th ed. 2013). This treatment can take the form of therapy, family intervention, education, or work programs. Retribution stresses the need to punish the incarcerated individual using a "just deserts" framework – "offenders [deserve to] be punished... for the harm they have caused, but [the] punishment should be proportional to [the] harm and... [their] blameworthiness." *Id.* at 337.

<sup>53</sup> Daniel S. Nagin, Francis T. Cullen & Cheryl Lero Jonson, *Imprisonment and Reoffending*, 38 *CRIME JUSTICE* 115–200 (2009); NATIONAL RESEARCH COUNCIL, *THE GROWTH OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND CONSEQUENCES* (2014), <https://doi.org/10.17226/18613>. The criminogenic, rather than deterrence or incapacitation, effect of imprisonment is particularly evident among drug dealing offenders who are immediately replaced by new recruits.

<sup>54</sup> National Institute of Justice, *Five Things About Deterrence 2* (2016).

<sup>55</sup> Travis Hirschi & Michael Gottfredson, *Age and the Explanation of Crime*, *AMERICAN JOURNAL OF SOCIOLOGY* 34 (1983).



very low.<sup>56</sup> Lastly, in a system that relies so heavily on plea deals rather than jury trials, convictions do not necessarily provide accountability or the “just deserts” that one would expect from a retributionist model of sentencing since the offense an individual pleads down to is frequently different from the one they actually committed.<sup>57</sup>

Still, as with any analysis, it is important to note the shortfalls and ways in which it may differ from similar reports. First, the data CCRC received from the Superior Courts contains clerical errors and incomplete (occasionally, wrong) information. Among the data CCRC received were cases that had no relationship data recorded in the designated field but were discovered to have it clarified in the general notes section in the online case file. It is impossible to review all the cases included in this analysis so, if a case was missing relationship data for a charge, it was assumed to run consecutively to the other charges in the case. Since this would produce longer sentences than if the charges were to run concurrently, our data may overstate how many life-equivalent and long-term cases there were between 2010 and 2019. Where possible, CCRC sought to clean the data and preserve only the most accurate and complete information. Second, this report uses “last in time” data, meaning that it captures the latest activity for a charge at the time the data was pulled. As such, it is possible that there are errors that have been corrected since CCRC received the file or that CCRC received only an updated sentence after an appeals process, a compassionate release, or an IRAA proceeding rather than the initial sentence. Third, it is possible that the time point chosen has also impacted total reported cases as some dropped or dismissed cases may not appear in the files received. This could account for the difference between the total case count presented here compared to that in the D.C. Sentencing Commission’s (DCSC) 2019 Annual Report.<sup>58</sup> Similarly, differences in which data was used and how it was analyzed can explain many of the differences between the current report and the one produced by the D.C. Jails and Justice Task Force.<sup>59</sup>

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<sup>56</sup> *Id.*; Kim Steven Hunt & Billy Easley II, *The Effects of Aging on Recidivism Among Federal Offenders*, UNITED STATES SENTENCING COMMISSION (2017), <https://www.ussc.gov/research/research-reports/effects-aging-recidivism-among-federal-offenders>.

<sup>57</sup> DANIELLE SERED, *UNTIL WE RECKON: VIOLENCE, MASS INCARCERATION, AND A ROAD TO REPAIR* (2019).

<sup>58</sup> The DCSC report referenced receiving over 75,000 cases in FY19 but did not expand on whether these were cases that were closed or filed in 2019. It was also unclear as to which courts the DCSC was receiving the files from since most of the analysis simply referenced “federal offenders.” If the report captured all individuals serving in federal facilities and not just District residents, that would explain the vastly different demographic distribution of offenders referenced in the DCSC report compared to that presented here. Lastly, the fact that the majority of the charges in the DCSC data set were related to immigration indicates that their report covered offenses that are not tried in Superior Courts. See D.C. SENT’G. COMM’N. ANN. REP. 2019 available at <https://www.ussc.gov/about/annual-report/archive/annual-report-2019>.

<sup>59</sup> The Task Force’s analysis focused on D.C. residents serving time in Bureau of Prison (BOP) facilities as of July 4, 2020. There are five key differences between the Task Force’s analyses and the ones presented here. First, the Task Force included data on everyone who was incarcerated on July 4, 2020 *regardless of conviction date*. This means that the analysis captured not only individuals who were sentenced outside of the timeframe captured in this report (2010-2019) but also those who were sentenced under the radically different sentencing system that existed before 2000 and allowed for parole. Second, that analysis was limited to those serving time in BOP facilities while this analysis also captured those who could still be at D.C. Jail either for the duration of their sentence or while awaiting transfer. Third, there was no explanation provided for what constituted a “life sentence” in that analysis. In the Jails and Justice report, a total of 599 individuals are described as serving a life sentence. When removing those who were sentenced before 2000, 77 remain. Here, CCRC did not consider any determinate sentence, regardless of

## CONCLUSION

Existing District statutes specifically authorize life without parole and life<sup>60</sup> sentences, although, on average, such sentences have been given in just one case a year over the past decade. However, much more commonly, District statutes authorize long term-of-years sentences that are frequently imposed and make it likely that the defendant will die in prison. In D.C., the defendants in life and life-equivalent cases are nearly all Black men, despite Black males only accounting for a fifth of the overall population. Research has shown that longer sentences do not result in greater deterrence, rehabilitation, or accountability – especially with an aging prison population.

All analyses, including this one, are limited by the quality and completeness of the data they use and there are some concerns about the data in this analysis. CCRC plans to continue analyzing Superior Court data to further explore the potential benefits and impact of the CCRC's March 31 Recommendations on current practices.

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how long, a “life sentence.” Only sentences specifically marked with a “life” label in the Superior Court system were included in the “life sentences” analysis. Alternatively, the “life-equivalent sentences” analysis captured 188 cases that will, more likely than not, result in the defendant spending the rest of their life in prison. Without a clear definition of how life sentences were calculated, it is impossible to say which analysis captured the total number of people sentenced to life in prison more accurately. Fourth, the combination of all homicides and assaults into one category for the sake of producing an average sentence length drastically skews the data. According to the data included in this analysis, the average sentence lengths for “aggravated assault knowingly (while armed),” “murder II (while armed),” and “murder I (while armed)” were 8.1 years, 18.9 years, and 30.7 years, respectively. Averaging these three charges, which is what is suggested by the grouping in the Jails and Justice report, produces a number that reflects none of the underlying averages. And fifth, by using data from the Summer of 2020, the Task Force likely captured far lower population numbers than usual due to the high death rate and greater use of compassionate release in response to the COVID19 pandemic. See, <http://www.courtexcellence.org/uploads/publications/TransformationStartsToday.pdf>

<sup>60</sup> In the District there currently are both offenses with a statutorily authorized maximum sentence of “life” and offenses with a statutorily authorized maximum sentence of “life without parole” or “life without release.” However, these apparent statutory distinctions in sentencing are functionally irrelevant. Since Congressional elimination of parole in the District in the late 1990s, a “life” sentence in the District is the effective equivalent of “life without parole.” National Capital Revitalization and Self-Government Improvement Act (“D.C. Revitalization Act”), Pub. L. No. 105-33, 111 Stat. 712 (1997).

## APPENDIX A: D.C. CODE VS RCC CASE SENTENCING EXAMPLES

As an illustration of current sentencing practices in the District and the potential impact of the RCC Recommendations, this Appendix provides details for three cases that were part of the above CCRC analysis. In each case, the actual D.C. Code sentence is compared to what the sentence could be under the RCC.

### *Case A: Life Sentence*

This case consisted of 17 child sex abuse charges. The defendant was found guilty on 13 charges and 4 charges were dismissed (2 for first degree child sex abuse (with aggravating circumstances) and 2 for second degree child sex abuse (with aggravating circumstances)). A jury found the defendant guilty on 7 counts of first degree child sex abuse (with aggravating circumstances) and 6 counts of second degree child sex abuse (with aggravating circumstances). Of these 13 convictions, 6 of the first degree child sex abuse (with aggravating circumstances) and 1 of the second degree child sex abuse (with aggravating circumstances) charges each received a life sentence.<sup>61</sup> The remaining 6 charges (1 first degree child sex abuse (with aggravating circumstances) and 5 second degree child sex abuse (with aggravating circumstances)) received a sentence of 9 years each.

Under the RCC, there are no “life” or other indeterminate sentences. As such, a determinate sentence would be imposed. In this case, the total number of years authorized under the RCC virtually guarantees that the defendant would spend the rest of their life in prison.

The RCC’s first and second degree sexual abuse of a minor offenses<sup>62</sup> are comparable to the current D.C. Code’s first degree child sexual abuse offense, and the RCC’s fourth and fifth degree sexual abuse of a minor offenses are comparable to the current D.C. Code’s second degree child sexual abuse offense. The RCC’s first and second degree sexual abuse of a minor offenses are subject to Class 4 and 5 penalties, respectively, while the RCC’s fourth and fifth degree sexual abuse of a minor offenses are subject to Class 6 and 7 penalties, respectively. The RCC maximum imprisonment penalty for Class 3 is 30 years, for Class 4 is 24 years, for Class 5 is 18 years, for Class 6 is 12 years, and for Class 7 is 8 years. However, depending on the presence of certain aggravating circumstances,<sup>63</sup> the RCC’s sexual abuse of a minor offense is subject to a penalty enhancement of one class per charge.

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<sup>61</sup> Note, the only way second degree child sex abuse can receive a life sentence today is by the repeat offender enhancement and there is no indication of one being added here in the record. For acts committed prior to the June 8, 2001 effective date of the Sentencing Reform Amendment Act of 2001, a person could receive a life sentence for second degree child sex abuse if the person was found guilty of the while armed enhancement, but there is no indication of this in the record either. It is possible that the single life sentence for second degree child sex abuse here is a clerical error that intended to label all the first degree charges as “life” and all the second degree charges as “9 years”. Here, CCRC simply presents the data as it was received from Superior Courts.

<sup>62</sup> RCC § 22E-1302.

<sup>63</sup> Penalty enhancements under RCC § 22E-1302 (h)(7) are available when the actor:

- (A) Recklessly causes the sexual act or sexual contact by displaying or using what is, in fact, a dangerous weapon or imitation dangerous weapon;
- (B) Knowingly acts with one or more accomplices that are physically present at the time of the sexual act or sexual contact;

Given the number of charges and assuming the defendant was convicted of enhanced second degree and enhanced fifth degree child sexual abuse, if made to serve the sentences consecutively, the defendant may be subject to up to 240 years in prison.<sup>64</sup>

*Case B: Murder Case*

This case consisted of 3 charges and the defendant was found guilty on all counts. The defendant was convicted of first degree murder (while armed), possession of a firearm during crime of violence, and carrying pistol without a license outside home/business. The murder I charge received a 35 year sentence – the median sentence length for murder I (while armed) charges in the time range analyzed for this report. The PFCV charge received 5 years, the mandatory minimum sentence, and the carrying a pistol charge received 1 year, for a total sentence length of 41 years as the sentences were set to run consecutively.

Under the RCC, first degree murder<sup>65</sup> is a Class 2 offense subject to a maximum term of imprisonment of 40 years. The revised first degree possession of a dangerous weapon during a crime statute<sup>66</sup> specifically refers to possession of a firearm during an offense against persons such as murder. This offense is classified as a Class 9 crime and subject to a maximum term of imprisonment of 2 years. The revised carrying a dangerous weapon offense<sup>67</sup> establishes three degrees for the offense. The first and second degrees criminalize, among other things, carrying the weapon without a license. In this case, the second degree carrying a dangerous weapon offense is most similar to the convicted D.C. Code offense.<sup>68</sup> The second degree carrying a dangerous weapon offense is a Class 9 crime with a maximum term of imprisonment of 2 years. As such, under the RCC, the defendant could be sentenced to up to 44 years if the sentences are run consecutively.

*Case C: Carjacking Case*

This case consisted of 8 charges – 4 were dismissed, 1 received a not guilty verdict, and 3 received a guilty verdict. The 3 charges on which the defendant was found guilty were armed carjacking (of a senior), PFCV, and unauthorized use of a vehicle (crime of violence). The resulting sentences were 15 years, 5 years, and 1 month, respectively. The 15 year armed carjacking sentence is the mandatory minimum sentence for the offense and the median length it

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(C) Recklessly causes serious bodily injury to the complainant immediately before, during, or immediately after the sexual act or sexual contact; or

(D) Knows at the time of the sexual act or sexual contact that the actor is in a position of trust with or authority over the complainant.

<sup>64</sup> (7 first degree charges x 24 years) + (6 second degree charges x 12 years) = 240 years total.

<sup>65</sup> RCC § 22E-1101. First degree murder is not subject to a while armed enhancement in the RCC, but use of a firearm during a murder would create liability for the separate offense of first degree possession of a dangerous weapon during a crime.

<sup>66</sup> RCC § 22E-4104.

<sup>67</sup> RCC § 22E-4102.

<sup>68</sup> The RCC's first degree carrying a dangerous weapon offense increases the penalty for carrying within heavily populated areas like schools and universities and, based on the other charges in this case, that does not appear to be what transpired during the crime.

was sentenced to in the time range analyzed.<sup>69</sup> The PFCV sentence was also at the 5 year mandatory minimum for the offense,<sup>70</sup> and the unauthorized use of a vehicle (crime of violence) sentence was sharply lower than the authorized 10 year penalty.<sup>71</sup> The PFCV charge was set to run concurrently to the armed carjacking sentence so the total time to serve was 15 years and one month.

Under the RCC, armed carjacking is no longer a separate offense but rather is categorized as a second degree robbery.<sup>72</sup> Furthermore, the RCC codifies a definition for “protected person”<sup>73</sup> which includes those over 65 years old. For second degree robbery, perpetrating the crime against a senior increases the grading of the crime to a Class 7 felony which carries a maximum term of imprisonment of 8 years. However, the use of a weapon to commit second degree robbery would enhance the penalty to a Class 6 crime, subject to a maximum term of imprisonment of 12 years. The revised unauthorized use of a motor vehicle (UUV) statute<sup>74</sup> is a Class A misdemeanor with a maximum term of imprisonment of 1 year. However, assuming the unauthorized use of the motor vehicle consisted wholly of the conduct involved in the robbery of the car, convictions for both UUV and carjacking would merge under the RCC and there would be no additional sentence for UUV.<sup>75</sup> The revised second degree carrying a dangerous weapon offense<sup>76</sup> is most similar to the current PFCV offense and is a Class 9 crime with a maximum term of imprisonment of 2 years. Altogether, the defendant may be subject to 14 years in prison under the RCC.

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<sup>69</sup> D.C. Code § 22-2803(b)(2).

<sup>70</sup> D.C. Code § 22-4504(b).

<sup>71</sup> D.C. Code § 22-3215(d)(2)(A)(i).

<sup>72</sup> RCC § 22E-1201.

<sup>73</sup> RCC § 22E-701.

<sup>74</sup> RCC § 22E-2103.

<sup>75</sup> RCC § 22E-214.

<sup>76</sup> RCC § 22E-4102.

## **APPENDIX B: EXAMPLES OF SENTENCE CHANGES OVER TIME**

A variety of factors, including an appeals process, compassionate release, or IRAA proceedings, can lead to modified sentences. These updates can drastically impact the total sentence time for a case. Below are two examples of cases that were part of the above CCRC analysis and that had modifications to their total sentence times. These sentence modifications were discovered through analysis of additional Superior Court data with historic sentencing records (allowing review of cases' sentencing over time) and review of notes entered in case dockets publicly available through online Superior Court data.

### *Case D: Update to Relationship Between Charges*

In this case, the defendant pled guilty on four of 16 charges: kidnapping, kidnapping (while armed), second degree child sex abuse (while armed, with aggravating circumstances), and second degree sex abuse - threats (while armed, with aggravating circumstances). The remaining 12 charges were dismissed as part of the plea agreement. At the original sentencing, the four charges received sentences of 7 years, 10.5 years, 12.5 years, and 10 years, with all charges set to run consecutively. This produced a total sentence time of 40 years.

Four months after sentencing, the defense submitted a "motion for reduction of sentence." This motion was partially granted and partially denied 10 months after the initial sentencing. The granted change allowed the second and third convictions to be served concurrently to each other and consecutively to the remaining two convictions. Since the second conviction was sentenced to 10.5 years and the third to 12.5, running them concurrently would mean the defendant would only serve 12.5 years for both charges. This equated to a 10.5 year decrease in the total sentence time, bringing the total down to 29.5 years.

### *Case E: Update to Convicted Charges*

In this case, there were four charges: assault with intent to kill (while armed), aggravated assault knowingly (while armed), assault with significant bodily injury, obstruction of justice (due administration). The defendant pled not guilty but was found guilty on all counts after a jury trial. They received sentences of 17 years, 15 years, 5 years, and 10 years, respectively. All sentences were set to run concurrently to the first for a total sentence time of 17 years.

Four and a half years after this sentence, an appeals proceeding resulted in the dismissal of the third charge. Since the sentence for that charge was set to run concurrently to the first charge (whose outcome was unchanged), there was no difference in total sentence time as a result of this dismissal.