

Pennsylvania Commission on Sentencing

House Judiciary Committee
Oversight Hearing

October 26, 1993

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THE PENNSYLVANIA COMMISSION ON SENTENCING

BACKGROUND

The Pennsylvania Commission on Sentencing was created by the General Assembly in 1978 to deal with the problems of disparity and leniency in judicial sentencing. The Commission was given the responsibility to develop sentencing guidelines which must be considered by all judges in Pennsylvania. The Commission underwent Sunset Review and was reestablished in May of 1986.

The Commission has 11 members. Four judges are appointed by the Chief Justice of the Supreme Court of Pennsylvania, two state senators are appointed by the President Pro Tempore of the Senate and two state representatives are appointed by the Speaker of the House of Representatives. The remaining appointments are made by the Governor and must include a district attorney, defense attorney, a professor of law or criminologist. Commissioners are appointed for two year terms and serve without compensation.

The Commission was given the primary duty of developing sentencing guidelines which would: 1) specify a range of sentences applicable for crimes of given degree of gravity; 2) specify a range of sentences of increased severity for defendants previously convicted of a felony or felonies or convicted of a crime involving the use of a deadly weapon; and 3) prescribe variations from the range on account of aggravating and mitigating circumstances. The purpose of the guidelines was to prescribe a benchmark for the courts to enhance sentencing equity and fairness, and to increase sentence severity for violent offenders and drug traffickers.

In addition to promulgating sentencing guidelines the Commission was empowered to establish a research and development program; to serve as a clearing house of information on Commonwealth sentencing practices; to serve in a consulting capacity to state courts; to collect and publish information regarding the effectiveness of sentences; and to make recommendations to the General Assembly concerning modification or enactment of sentencing and correctional statutes.

The initial sentencing guidelines promulgated by the Commission went into effect on

July 22, 1982 and applied to all crimes committed on or after that date. Amendments to the guidelines went into effect in June 1983, January 1986 and June 1986. On October 7, 1987 the Pennsylvania Supreme Court invalidated all guidelines due to a procedural error that occurred in 1981 when the legislature rejected the first set of guidelines submitted to it. New guidelines were drafted and became effective on April 25, 1988. Most recently, revised guidelines became effective August 9, 1991 which identify offenders eligible for boot camp, and for intermediate punishments and to establish guidelines for driving under the influence offenders involved in accidents causing serious bodily injury.

Under the provisions of the guidelines, all offenders are classified on the basis of the gravity of their concurrent offense (Offense Gravity Score) and the seriousness and extent of their prior record (Prior Record Score). For each combination of Offense Gravity Score and Prior Record Score, three levels of recommended guideline ranges are prescribed: a standard range (for use under normal circumstances), an aggravated range (for use when the judge determines there are aggravating circumstances), and a mitigated range (for use when the judge determines there are mitigating circumstances). If either the aggravated or mitigated range is chosen, the judge is required to specify what aggravating or mitigating reasons were found. Furthermore, an enhanced range of sentences is prescribed if the offender possessed a deadly weapon during the commission of the offense, involved youths in drug trafficking, or trafficked in drugs within 1000 feet of a school. All ranges refer to minimum incarceration sentences under Pennsylvania law. Whenever a sentence is imposed outside of the recommended guideline ranges, the judge must provide a written statement of the reasons for deviating from the guidelines. The guidelines' enabling legislation granted both the prosecutor and the defense attorney the right to appeal the discretionary aspects of a sentence. Superior Court is instructed to vacate a sentence when the lower court failed to consider the guidelines, applied the guidelines erroneously, departed from the guidelines and imposed an unreasonable sentence, or sentenced within the guidelines and imposed a clearly unreasonable sentence.

Overview:

PROPOSED REVISIONS TO THE SENTENCING GUIDELINES

On June 21, 1993 the Pennsylvania Commission on Sentencing adopted proposed revisions to the sentencing guidelines. Some of the proposed changes include the recommendation that longer prison sentences be imposed for certain violent offenders and that alternative sentencing sanctions, such as drug treatment, be given for certain non-violent offenders. This fall, the Commission is holding public hearings across the state to elicit feedback on these proposed changes. Based upon the testimony provided at the hearings the Commission will then decide which, if any, of the proposed revisions will be submitted for legislative approval. If the guidelines are not rejected by the General Assembly, the effective date for the new guidelines is anticipated to be mid 1994.

Background to proposed guideline revisions

During the last three years, The Pennsylvania Commission on Sentencing has been reassessing the sentencing guidelines.¹ The original impetus for the comprehensive reassessment of the guidelines was fourfold. First, during the last ten years the Commission has collected, monitored and analyzed information pertaining to sentences imposed in Pennsylvania. Evaluation of our sentencing data over the years has alerted the Commission that there are some 'problem areas' which deserve a closer look (e.g. high departure rates for some of the more serious offenses). Second, various groups and individuals have provided feedback to the Commission concerning their perceived problems with the guidelines (e.g. ranking of certain offenses). Sometimes these concerns evolved into making specific changes to the guidelines. Amendments to the guidelines have also been made in response to legislative activity (e.g. changes in the statutory grading of offenses). Third, in 1982, Pennsylvania was only the second state to adopt sentencing guidelines. Now many other states use sentencing guidelines and there are many more ideas about how to write guidelines. In 1989, the fourth issue, the serious correctional crowding problem, emerged for the Commission to consider and became more significant as the process evolved. Thus, the proposed sentencing recommendations were developed with a sensitivity toward scarce prison resources and a need for the expansion of alternative types of sentences.

As the foundation for this reassessment process, the Commission distributed statewide a questionnaire designed to evaluate the current guidelines and to seek suggestions for revisions. Commission staff also visited various counties across the state to conduct interviews with people who use the guidelines and to observe court proceedings to see how the guidelines fit into the sentencing process. The information compiled from the questionnaire and interviews, along with analysis of our sentencing data, was used in evaluating guideline reassessment issues. Additionally, Commission staff visited other states that have, subsequent to Pennsylvania, implemented different guideline provisions.

Proposed revisions to the sentence recommendations.

In determining appropriate sentence recommendations, the Commission took into consideration the following factors:

- * That Pennsylvania is experiencing a correctional crowding problem of epidemic proportion and thus,

¹ The Commission needed to delay the reassessment process so that the guidelines could be amended to be in accordance with the legislative mandate that the Commission identify eligible defendants for intermediate punishment programs (Acts 193 and 201 of 1990) and the state boot camp program (Act 215 of 1990).

the Commission must make rational choices concerning the types of offenders to be sent to state prison and county jails.

- * That for many non-violent offenders alternatives to incarceration, such as drug treatment, are more effective and less expensive.
- * That the public needs to be protected from violent offenders, particularly those who have previously committed violent offenses, and thus, that scarce institutional space should be utilized for those types of offenders.
- * That in comparison to two other 'guideline' states, Washington and Minnesota, Pennsylvania treated violent offenders more leniently and non-violent offenders more severely.
- * That the growth in the incarcerated population has been for property and drug offenders. From 1980 to 1990 the growth in the incarceration of property and drug offenders was 221% and 956%, respectively, while for violent offenders the growth was 50%.

As a result of the above considerations, the Commission proposes the following recommendations:

- * *That longer sentences be imposed for violent offenders such as those convicted of voluntary manslaughter, aggravated assault involving serious bodily injury, and robbery involving serious bodily injury.* For offenders with no prior record, the Commission proposes raising the minimum recommended sentence length from 24 to 30 months for voluntary manslaughter and from 36 to 42 for aggravated assault and robbery when they involve serious bodily injury. It should be noted that these proposed sentence recommendations are also more severe than the average sentence currently being given for these offenses. (The average sentence currently being imposed for first time offenders convicted of voluntary manslaughter and aggravated assault causing serious bodily injury is 24 months and for robbery causing serious bodily injury it is 26 months.)
- * *That more severe sentences be imposed for rape and involuntary deviate sexual intercourse offenses when they involve serious bodily injury and/or the use of a weapon.* For example when both of these aggravating circumstances are present, the proposed minimum guideline sentence recommendation is one year longer than the current guideline recommendation (60 months versus 48 months, respectively.)
- * *That the repeat violent offender be punished as severely as the law allows.* For certain violent offenders (e.g. convictions for rape, robbery, aggravated assaults) this results in a minimum sentence recommendation of ten years.
- * *That fewer non-violent offenders receive state prison sentences but be sent to jail instead.* The majority of these people are convicted of either drug offenses or theft offenses.
- * *That more non-violent offenders receive sentences other than incarceration, such as house arrest with electronic monitoring, drug treatment, or community service.* The majority of offenders being recommended for these alternatives have been convicted of crimes such as drug possession (21%), delivery of less than 1 pound of marijuana (17%) or theft (32%).

Appendix: A

PROPOSED CHANGES TO THE SENTENCING GUIDELINES

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THE PENNSYLVANIA COMMISSION ON SENTENCING

PA Commission on Sentencing

Current Commissioners

Judge Theodore A. McKee - *Philadelphia*
Acting Chair

Professor Alfred Blumstein - *Carnegie Mellon University*

Senator Michael E. Bortner - *York*

Judge John L. Braxton - *Philadelphia*

Representative Daniel F. Clark - *Juniata*

Judge Robert E. Dauer - *Allegheny*

Representative Frank Dermody - *Allegheny*

District Attorney Theresa Ferris-Dukovich - *Beaver*

Senator Stewart J. Greenleaf - *Montgomery*

Judge Ricardo C. Jackson - *Philadelphia*

Attorney John P. Moses - *Luzerne*

Commission Advisors

Subcommittee Advisors

Alan Castor
Chair, PA Board of Probation and Parole

Stanley A. Rockovich
President, County Chief Adult Probation Officer's Association of PA
Chief Probation Officer, *Washington*

Joseph Lehman
Secretary of Corrections

Rural Judges Advisory Committee

Judge Charles C. Brown - *Centre*
Chair

Judge Shad F. Connelly - *Erie*

Judge Timothy Creaney - *Cambria*

Judge Robert J. Eby - *Lebanon*

Judge Louis J. Farina - *Lancaster*

Judge Brendan J. Vanston - *Sullivan/Wyoming*

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Page 12, regarding total incarceration sentence, should read:

Proposed: The recommended change indicates that the total minimum incarceration per judicial proceeding should not exceed the statutory maximum for the offense with the highest offense gravity score. Excluded from this provision would be the most serious offenses (i.e. those in the offense gravity score categories of 9 or higher)

Page 18, paragraph 3, should read:

See Attachment 1, page 26.

Page 23, Standard Range Offense Gravity Score of 9, Prior Record Score of 0, should read:

8-20*

Page 25, Aggravated Range Offense Gravity Score of 9, Prior Record Score of 0, should read:

21-27*

Page 48, Crimes Code Offenses should include:

5121(2)	Escape	M2	3
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PROPOSED CHANGES TO THE SENTENCING GUIDELINES

Background

During the last three years, The Pennsylvania Commission on Sentencing has been reassessing the sentencing guidelines.¹ The original impetus for the comprehensive reassessment of the guidelines was fourfold. First, during the last ten years the Commission has collected, monitored and analyzed information pertaining to sentences imposed in Pennsylvania. Evaluation of our sentencing data over the years has alerted the Commission that there are some 'problem areas' which deserve a closer look (e.g. high departure rates for some of the more serious offenses). Second, various groups and individuals have provided feedback to the Commission concerning their perceived problems with the guidelines (e.g. ranking of certain offenses). Sometimes these concerns evolved into making specific changes to the guidelines. Amendments to the guidelines have also been made in response to legislative activity (e.g. changes in the statutory grading of offenses). Third, in 1982, Pennsylvania was only the second state to adopt sentencing guidelines. Now many other states use sentencing guidelines and there are many more ideas about how to write guidelines. In 1989, the fourth issue, the serious correctional crowding, emerged for the Commission to consider. Thus, the proposed sentencing recommendations were developed with a sensitivity toward scarce prison resources and a need for the expansion of alternative types of sentences.

As the foundation for this reassessment process, the Commission distributed statewide a questionnaire designed to evaluate the current guidelines and to seek suggestions for revisions. Commission staff also visited various counties across the state to conduct interviews with people who use the guidelines and to observe court proceedings to see how the guidelines fit into the sentencing process. The information compiled from the questionnaire and interviews, along with analysis of our sentencing data, were used in evaluating guideline reassessment issues. Additionally, Commission staff visited other states that have, subsequent to Pennsylvania, implemented different guideline provisions.

The Commission formed a Sentencing Commission Reassessment Subcommittee to evaluate the guidelines and make recommendations for change. The Chairman of the Pennsylvania Board of Probation and Parole, the President of the Chief Probation Officer Association, and the Secretary of Corrections were also added to the subcommittee as non-voting members. In January of 1993 an Advisory Committee comprised of 'rural' county judges was formed to offer broad based judicial representation for the Commission. Members of both the Subcommittee and Advisory Committee were extremely generous with their time in diligently working on this complex task.

¹ The Commission needed to delay the reassessment process so that the guidelines could be amended to be in accordance with the legislative mandate that the Commission identify eligible defendants for intermediate punishment programs (Acts 193 and 201 of 1990) and the state boot camp program (Act 215 of 1990).

On June 21, 1993 the entire Commission met and voted to adopt the Reassessment Subcommittee's proposed guideline changes (with some modifications). These proposed changes will be published in the Pennsylvania Bulletin during late summer. This fall, the Commission will be holding public hearings across the state to elicit feedback from interested parties. The testimony provided at the hearings will provide the basis for a review of the proposed guidelines that the Commission will conduct. The Commission will then decide which, if any, of the proposed revisions will be submitted for legislative approval. If the guidelines are not rejected by the General Assembly, the effective date for the new guidelines is anticipated to be early 1994.

The following pages indicate the current guideline recommendations and the proposed changes to the guideline recommendations. Following each description of a proposed change is a brief rationale supporting the Commission's decision.

PROPOSED CHANGES TO THE OFFENSE GRAVITY SCORE (OGS)

1) Guideline matrices

Current: The guidelines contain two different guideline sentence matrices - one for drug offenses and another for non-drug offenses.

Proposed: The Commission recommends that both drug and non-drug offenses be incorporated into one matrix to provide for better consistency and proportionality among offenses.

The Commission recommends incorporating the two guideline matrices into one for two reasons. First, having two different matrices leads to confusion for those applying the guidelines. Combining the offense gravity scores into one chart simplifies the current system. Second, the guidelines are based on proportional offense rankings. By combining the drug offenses with non-drug offenses, proportionality between all offenses is improved.

2) Number of OGS levels

Current: The guidelines provide 10 OGS levels for non-drug offenses and 14 levels for drug offenses, for a total of 24 offense categories.

Proposed: The Commission recommends providing 13 OGS categories. (See page 39 for complete listing of offenses and proposed offense gravity scores.)

The Commission makes this recommendation to allow for finer distinctions to be made, particularly for non-drug offenses.

3) Drug offenses

The guidelines rank drug trafficking offenses based upon the type and amount of drug being delivered.

Current: For narcotics, cocaine, PCP, and methamphetamine the current demarcations are as follows:

less than 2 grams
2 to 100 grams
over 100 grams

Proposed: The Commission recommends that 5 grams replace 2 grams as the demarcation point between the first two levels as follows:

less than 5 grams
5 to 100 grams
over 100 grams

The current guidelines seriously penalize an offender caught with a relatively small quantity of drugs. The Commission recognized that 2 grams was too low of a threshold to realistically separate drug dealers from drug users, the original intent. Based upon information gathered from prosecutors, defense attorneys, and law enforcement officials, the Commission decided that 5 grams was a more realistic point to separate the drug offenses. A quantity of drugs that is less than 5 grams was determined to more accurately reflect a user/trafficker, while a quantity larger than that was determined to more clearly reflect a profiteer/trafficker.

Also, all of the drug offenses, except marijuana, that are based upon type and quantity of drug are now classified together. This decision was made because the Commission thought that the seriousness of the various of types of drugs was generally equal and that all were very serious social problems.

Current: For marijuana the current demarcations are as follows:

less than 1 pound
1 to 110 pounds
over 110 pounds

Proposed: The Commission recommends providing four levels of drug trafficking along with also providing recommendations based upon the number of marijuana plants involved:

less than 1 pound OR less than 10 live plants
1 to 10 pounds OR 10 to 21 live plants
over 10 to 50 pounds OR over 21 to 50 live plants
over 50 pounds OR over 50 live plants

The Commission recommends adding the number of live marijuana plants to its marijuana categories to be consistent with statute. Additionally, the Commission suggests adding a fourth category of marijuana offenses in order to make finer distinctions among levels of dealers and to provide consistency with the current mandatory penalties.

4) Subcategorization of rape and involuntary deviate sexual intercourse (IDSI)

Current: The guidelines have one offense gravity score for rape and IDSI which parallels the one statutory grading (F1) for these two offenses.

Proposal: The Commission recommends providing for distinctions beyond statute for these two offenses so that they would be ranked more seriously under the following circumstances:

- when there is either serious bodily injury or possession of a deadly weapon during the commission of the offense; and
- when there is both serious bodily injury and the possession of a deadly weapon during the commission of the offense.

The Commission recognizes that there are various degrees of harm related to sexual assault offenses that are not captured under the current singular classification of rape and IDSI in the guidelines. The Commission developed this proposal, that makes two levels of distinction, in conjunction with pending legislation that proposed establishing more categories of sexual assaults. The guideline proposal does not include all of the specific criteria for subcategorization that some advocate groups suggested. However, the Commission believes that this classification of rape and IDSI allows for the two most important distinctions, serious bodily injury and use of a deadly weapon, to be addressed within the guidelines.

5) Subcategorization of arson endangering persons

- Current: The guidelines have one offense gravity score for arson endangering persons which parallels the one statutory grading (F1) for this classification of arson.
- Proposed: The Commission recommends providing for a distinction based upon whether a person is inside the structure at the time the fire was started:
- arson of a structure in which a person is inside the structure at the time the fire was started;
 - arson of a structure in which no person is inside the structure at the time the fire was started.

The Commission made the decision to subcategorize the offense of arson, endangering persons, due to the very wide sentencing patterns and high departure rates for this offense. The disparate sentencing patterns indicated to the Commission that the guideline recommendations were not appropriate. The Commission determined that the major difference in the types of arson was the presence of a person at the start of the fire.

6) Omnibus offense gravity scores

The sentencing guidelines provide for omnibus offense gravity scores (OGS) to be used for offenses under the following circumstances: 1) when offenses have not been specifically assigned an OGS (e.g. pharmacy act violations); 2) when the statutory grading of an offense changes; and 3) when new offenses enacted by the legislature have not yet been assigned a specific OGS. Below are omnibus scores for the statutory grades (along with the sentence recommendation in the standard range for

each of the omnibus scores when the prior record score is zero).

Statutory Grade	Current Omnibus Scores	Current Sentence Range	Proposed Omnibus Scores	Proposed Sentence Range
F1	7	(8-12)	9	(8-24)
F2	6	(4-12)	7	(4-12)
F3	4	(0-11.5)	5	(0-6)
Felonies not subclassified by the General Assembly	4	(0-11.5)	5	(0-6)
M1	3	(0-6)	3	(0-RIP)
M2	2	(0-IP)	2	(0-IP)
M3	1	(0-IP)	1	(0-IP)
Misdemeanors not subclassified by the General Assembly	1	(0-IP)	1	(0-IP)

The changes to the omnibus score are made to reflect the increase in number of offense gravity scores from 10 to 13.

7) Ethnic intimidation

Current: The omnibus score applies to convictions for the offense of ethnic intimidation.

Proposed: The Commission recommends that a conviction for ethnic intimidation carry an offense gravity score that is one point higher than the offense that was the object of the ethnic intimidation.

The Commission proposes a specific guideline for the offense of ethnic intimidation. If ethnic intimidation is involved in an offense, a conviction under 18 Pa.C.S. §2710 provides for a statutory grade that is one higher than the object offense of the ethnic intimidation. For example if there is a conviction for simple assault, misdemeanor of the second degree, and it involves a conviction for ethnic intimidation, the ethnic intimidation is graded as a misdemeanor of the first degree. The Commission often ranks offenses higher than their omnibus ranking. In this situation, the proposed guideline ensures that convictions of ethnic intimidation are assigned a higher offense gravity score to reflect the increased culpability of the defendant and the increased seriousness of the victimization.

PROPOSED CHANGES TO THE PRIOR RECORD SCORE (PRS)

1) Non-weapons misdemeanors

Current: The guidelines provide that prior non-weapons misdemeanors count up to a maximum of two points in the prior record score as follows:

- * no points are added if the defendant was previously convicted of 1 non-weapons misdemeanor offense;
- * one point is added if the defendant was previously convicted of 2 or 3 non-weapons misdemeanor offenses;
- * two points are added if the defendant was previously convicted of 4 or more non-weapons misdemeanor offenses.

Proposal: The recommended change would provide that non-weapons misdemeanors count up to a maximum of three points in the prior record score as follows:

- * no points are added if the defendant was previously convicted of 1 non-weapons misdemeanor offense;
- * one point is added if the defendant was previously convicted of 2 or 3 non-weapons misdemeanor offenses;
- * two points are added if the defendant was previously convicted of 4-6 non-weapons misdemeanor offenses; and
- * three points are added if the defendant was previously convicted of 7 or more non-weapons misdemeanor offenses.

The Commission recommends this change in the counting of non-weapons misdemeanors in the prior record score based upon input from those applying the guidelines. The Commission accepted this recommendation to better measure the repeat non-violent offender's prior violations and to recognize the increased culpability and threat of these repeat offenders. The results from the Commission questionnaire also provided some support for this proposal.

2) Lapsing of adult convictions

Current: The guidelines count all previous convictions in the prior record score, regardless of their age.

Proposal: The recommended change would provide a 'lapsing' provision so that previous convictions would permanently be excluded from being counted in the prior record score under the following circumstances:

- * when the defendant has not been convicted for any felony or misdemeanor during the seven years prior to the current offense AND
- * the defendant has not been incarcerated during the seven years prior to the current offense.

For the purposes of the lapsing provision, detention time does not count as incarceration. The exception to this lapsing provision is for offenders currently being sentenced for an offense in the OGS level of 8 and above (i.e. the serious offenses). For such offenders the following offenses would never lapse: murder, voluntary manslaughter, kidnapping, rape, involuntary deviate sexual intercourse, arson (F1), and robbery (F1). Prior F1 aggravated assaults also would not lapse if the defendant received a maximum sentence of two years or more for the prior aggravated assault. This is a permanent lapse of prior record once the criteria are met. That is, once a prior record score has been lapsed, it may not be reactivated. It should be noted, however, that even if offenses have lapsed, the court can still consider these prior convictions for purposes of sentencing within the aggravated range.

The purpose of the prior record score is to: 1) measure increased culpability; 2) predict future criminal behavior. Both of these factors diminish with the ability of the offender to be crime free. The Commission wanted to reward the offender's efforts and therefore includes in its recommended changes a lapsing provision. Also, listed as a reason to order of probation is the criteria that the offender has led a law-abiding life for a substantial period of time before the commission of the current offense. Additional reasons for this recommendation are as follows: 1) the results of the questionnaire, mailed out by the Commission, indicated that 60% of respondents endorsed a lapsing provision; 2) a number of other guideline states have incorporated such a provision; and 3) the "staleness" of the offenders prior record is often cited as a reason for sentencing in the mitigated range or sentencing below the guidelines. Seven years was chosen as the look back period to be consistent with the driving under the influence statute and the repeat offender statute.

3) Lapsing of juvenile adjudications

Current: The guidelines count previous juvenile adjudications under the following circumstances: 1) the current offense is a felony; 2) the prior adjudication occurred on or after the defendant's 14th birthday and; 3) there was an express finding of guilt by the court that the adjudication was for a felony or weapons misdemeanor.

Proposal: The recommended change would not count juvenile adjudications in the prior record score once the person reached age 25. The exception to this juvenile lapsing provision would be for the following serious offenses: murder, voluntary manslaughter, kidnapping, rape, involuntary deviate sexual intercourse, arson (F1) and robbery (F1). Prior F1 aggravated assaults also would not lapse if the defendant received a maximum sentence of two years or more for the prior aggravated

assault. These offenses would only lapse upon meeting the same criteria as outlined above for adult convictions (i.e. seven year crime-free period and current offense in OGS level 7 or below).

The current guidelines only count juvenile adjudications under narrow criteria. The Commission proposes a lapse of all juvenile offenses at the age of 25 except for a select few offenses that lapse under the same criteria as for adults. The Commission makes this recommendation because counties often do not have state juvenile records for defendants. The unavailability of records makes the scoring of prior juvenile adjudications haphazard and this introduces disparity. Also, it is often difficult to access juvenile adjudications across counties and rarely are they accessed across state lines. This also results in disparity. Moreover, the purpose of the juvenile court is focused on the treatment of juveniles rather than the punishment. Therefore, the role of juvenile adjudications is often substantively different than adult convictions. Additionally, the Commission had the concern that state juvenile adjudications are no longer relevant as a predictor of future criminal activity.

4) Repeat violent offender category

Current: The guidelines do not contain a category for a repeat violent offender.

Proposal: The recommended guidelines would establish a separate category in the prior record score for repeat, violent offenders (i.e. those offenders who have three or more prior convictions for the following offenses: murder, voluntary manslaughter, rape, IDSI, kidnapping, arson endangering persons or robbery). This new category would isolate those offenders with the most heinous prior records and would apply to offenders whose current conviction was also for a serious, violent offense.

The Commission recommends the repeat violent offender category as a means of isolating, in the guidelines, the most serious offenders who commit crimes against the person. The category gives the Commission the opportunity to call for the imposition of the statutory maximum sentence when there is a current conviction for a violent offense and a lengthy violent criminal history. This recommendation is in line with the Commission's desire to place violent offenders in the state correctional facilities for long periods of time and to increase the severity of our guideline recommendations for violent offenders.

5) Prior record score of six

Current: Under the current guidelines any combination of prior record score points can reach the prior record score of six.

Proposed: An offender is assigned the prior record score of six if any combination of felony one and felony two offenses totals six.

The Commission recommends reserving the prior record score of six for the most serious felonies to help isolate the most serious repeat offender. This allows the Commission to establish incapacitative sentence recommendations for those offenders

who have demonstrated their continued dangerousness. Also, part of the rationale for this change derives from the increase in allowable points for non-weapons misdemeanor offenses. Reserving the prior record score of six for those offenders who obtain that prior record score with felony I's and felony II's, allows better sentencing recommendations to be made within the guidelines.

PROPOSED ADDITIONS TO THE SENTENCING GUIDELINES

1) Expansion of intermediate punishment

Current: In 1991, the sentencing guidelines were amended to comply with statute which required the Commission to recommend offenders who would be appropriate for intermediate punishment programs.

Proposed: The recommended change to the guidelines would expand the intermediate punishment recommendations and provide for differing levels of intermediate punishment based on program restrictiveness. [See page 18.]

2) Sentence recommendations for violent offenders

During the guideline reassessment process, the Commission has been sensitive to the correctional overcrowding situation facing the state and many counties. The Commission also evaluated Pennsylvania in comparison to the states of Washington and Minnesota. Comparatively, Pennsylvania treated violent offenders more leniently than the other states and non-violent offenders more severely. For example, in the last decade there has been a decrease in the admissions state prison for violent offenders from 31% in 1980 to 20% in 1990%. In addressing these concerns, the Commission has made some decisions about how to best use scarce correctional resources. Thus, the proposed recommendations focus on reducing the use of state prison for the non-violent offender and reserving that space for the more serious offender. This resulted in the proposed guidelines recommending more severe sentences for many of the violent offenders. To reduce the county burden, the proposed guidelines have suggested varying levels of intermediate punishment as indicated above.

3) Concurrent versus consecutive sentences

Current: The Commission does not make a statement regarding whether sentences imposed for multiple convictions should be run concurrently or consecutively.

Proposed: The recommended change states that when the defendant is sentenced for more than one offense within a single judicial proceeding, incarceration sentences shall be concurrent. The exception to this is when the defendant is being sentenced for multiple offenses which carry offense gravity scores of 9 or higher (i.e. the most serious offenses). In such cases, the guidelines suggest that the court may want to impose consecutive sentences. A single judicial proceeding is defined as all offenses for which the offender is convicted and that are pending before the court for sentencing at the same time. This may include multiple transactions.

The Commission has decided to propose guidelines for concurrent versus consecutive

sentences primarily because of issues related to disparity. The issue was brought to the attention of the Commission by the Chair of the PA Board of Probation and Parole. Additionally, recent appellate court decisions indicated that there was some inconsistency as to when courts chose to impose consecutive sentences and when they chose to impose concurrent sentences. The Commission considered, but ultimately rejected, a policy that recommended consecutive sentences when there were multiple violent offenses against multiple victims.

4) Total incarceration sentence

Current: The guidelines make no recommendation concerning the total amount of incarceration that may be imposed per transaction.

Proposed: The recommended change indicates that the total minimum incarceration per transaction should not exceed the statutory maximum for the offense with the highest offense gravity score. Excluded from this provision would be the most serious offenses (i.e. those in the offense gravity score categories of 9 or higher).

The Commission chose to incorporate a total incarceration sentence guideline to place loose restrictions on the total amount of incarceration imposed. The primary goal of this provision was to limit the impositions of consecutive sentences that lead to very lengthy sentences and some that amount to life sentences for nonviolent offenses.

ENHANCEMENTS

1) Deadly Weapon Enhancement

Current: The guidelines provide for a deadly weapon enhancement (DWE) requiring that a range of 12 to 24 months be added to the standard, aggravating, and mitigating ranges when the offense involves the possession of a deadly weapon.

Proposed: The proposed change would provide for a graduated flat enhancement based on the offense gravity score (OGS) level (reflecting the seriousness of the offense) as follows:

OGS level	DWE enhancement
13	12 months
12	12 months
11	12 months
10	12 months
9	12 months
8	8 months
7	8 months
6	8 months
5	8 months
4	4 months
3	4 months
2	4 months
1	4 months

The Commission recommends this change in the application of the deadly weapons enhancement for a number of reasons. First, the current deadly weapons enhancement of an additional 12 to 24 months is applied to all offenses equally and as so is not proportional to the severity of the offense. Second, adding 12 to 24 months for misdemeanor II and misdemeanor III offenses results in guideline recommendations that exceed the longest allowable sentence by law. Third, the twelve month width of the enhancement results in very wide sentencing recommendations. Fourth, the application of the deadly weapons enhancement automatically requires the imposition of a state sentence (recommending at least one year). Finally, the application of the deadly weapon enhancement leads to non-proportional sentence recommendations between those offenses that include the use of a deadly weapon (in which case the enhancement is prohibited) and those that do not (in which case the enhancement is applied.)

2) Youth and School Enhancement

Current: The guidelines provide a youth and school enhancement for drug offenses, requiring that a range of 12 to 36 months be added to the standard, aggravated and mitigated ranges when the offense involved distributing a controlled substance to a person or persons under the age of 18 in violation of 35 P.S. §780-114 or when the offender manufactured, delivered or possessed with intent to deliver a controlled

substance within 1000 feet of a public or private elementary or secondary school.

Proposed: The Commission recommends deleting this provision from the guidelines.

The Commission recommends removing this provision from the guidelines for two reasons. Initially this proposal was developed and proposed as an alternative to mandatory sentencing provisions. Since there are two mandatory provisions that provide enhanced penalties for violations that involve youths or distribution in close proximity to a school, the guideline enhancement is duplicative and therefore not necessary. Secondly, this particular provision of the guidelines is rarely applied, leading to disparity in recommendations between cases to which it is applied and those to which it is not applied. Given the infrequency of the application of this enhancement and the availability of the mandatory sentencing provisions that address the same youth and school issues, the Commission recommends deleting this provision.

GUIDELINE RECOMMENDATIONS FOR DRIVING UNDER THE INFLUENCE (DUI)

1) DUI with serious bodily injury (SBI)

Current: In 1991, the guidelines were revised to subcategorize DUI offenses according to whether the DUI resulted in serious bodily injury. The guideline recommendations for DUI offenses involving no serious bodily injury are the same as the mandatory minimum. The guideline recommendations for DUI offenses involving serious bodily injury are more severe than that required by the mandatory sentencing statute.

Proposal: The recommended change allows up to 90 days of qualified RIP programs to be exchanged for incarceration. The proposed ranges for DUI with SBI are as follows:

CONVICTION	STANDARD	AGGRAVATED	MITIGATED
1st	3-5	5-7	1-3
2nd	6-8*	8-10*	4-6*
3rd	9-11*	11-12*	7-9*
4th	12*	12*	12*

* indicates that guidelines require some period of incarceration

Since the enactment of Acts 193 and 201 in 1990, courts have been permitted to substitute qualified restrictive intermediate punishment (RIP) programs for any mandatory county DUI sentence. These RIP programs must be either: 1) a residential inpatient drug and alcohol program or a residential rehabilitation center program or 2) house arrest and electronic monitoring combined with drug and alcohol treatment. Current guidelines, however, do not permit the use of such alternatives when the DUI includes SBI. The Commission proposal, developed in conjunction with the Mothers Against Drunk Drivers and the State DUI Association, was seen as a means to encourage, yet limit, the use of restrictive intermediate punishments for DUI offenders where serious bodily injury occurs.

AGGRAVATING AND MITIGATING REASONS

Current: Though statute requires the guidelines to provide ranges for aggravation and mitigation, the current guidelines do not provide guidance concerning reasons deemed appropriate to sentence within these ranges (The exception is the limited list of reasons provided for drug offenses only.)

Proposed: The recommended change would provide a non-exclusive list of appropriate reasons for judges to consider in deciding whether to impose a sentence outside the standard range of the guidelines.

The Commission has been requested on numerous occasions to provide a non-exclusive list of aggravating and mitigating reasons for sentencing in the aggravated or mitigated ranges or departing from the guidelines. The Commission's questionnaire results also indicated a desire by those in the field to have such a list. Additionally most other guideline states provide aggravating or mitigating circumstances. For the cited reasons the Commission proposed adding the following lists to the guidelines.

Aggravating Reasons

The Commission is proposing that the court may want to consider the following reasons as appropriate for imposing a sentence above the standard range recommendation.

1. There was deliberate cruelty to the victim
2. The victim was particularly vulnerable (e.g. extreme youth, age, disability or ill health)
3. There were multiple victims or incidents
4. Crime motivated entirely or in part by the race, gender, color, religion, ethnicity, national origin, or sexual orientation of the victim
5. History of proven violent conduct not reflected in the prior record score
6. The offense involved monetary loss substantially greater than typical for the offense
7. The offense occurred over a lengthy period of time
8. There was a violation or use of public trust or professional responsibility (e.g. offender was a physician, pharmacist, clergy, teacher)
9. The offense involved juveniles in trafficking drugs
10. The offender shows no remorse
11. The offender leads or directs the offense involving multiple participants
12. The offender obtains or has obtained substantial income or resources from the offense for which offender was convicted
13. Any other evidence of aggravation concerning the character and record of the defendant and the circumstances of the offense

Mitigating Reasons

The Commission is proposing that the court may want to consider the following reasons as appropriate for imposing a sentence below the standard range recommendation.

1. The victim was a willing participant in the offense
2. The offender acted under duress
3. The mental capacity was diminished (except due to drugs and alcohol)
4. The offender cooperated with the state
5. The defendant made restitution
6. The offense was a result of ongoing pattern of abuse
7. There were substantial grounds to excuse defendant's conduct though not sufficient to constitute a defense
8. The offender is drug dependent
9. The offender is very young or very old
10. The offender shows remorse
11. The offender is a good candidate for rehabilitation
12. The offender has alcohol problems
13. The offender has psychological problems
14. The offender is in poor health
15. The offender played a minor role in the offense
16. Alternative sentence to incarceration will hold offender more accountable
17. Circumstances provide unique opportunity for treatment and/or restorative justice
18. Offender is employed
19. Offender has family support
20. Any other evidence of mitigation concerning the character and record of the defendant and the circumstances of his offenses.

SENTENCING LEVELS AND PURPOSES

In writing the sentencing guidelines the Pennsylvania Commission on Sentencing strives to provide a benchmark for the judges of Pennsylvania. The guideline recommendations provide sanctions proportionate to the severity of the crime and the severity of the defendant's prior conviction record. This establishes a sentencing system whose primary purpose is retribution, but one in which the guideline ranges allow for the fulfillment of other sentencing purposes including rehabilitation, deterrence, and incapacitation. In fact, the Commission has established levels within the guideline matrix and has classified non-incarceration sanctions into restrictive intermediate punishments and least restrictive punishments to allow for greater consideration of sentencing options for offenders who would have been previously given incarceration sentences.

The following proposal was developed with the input of the Executive Committee of the Chief Probation Officers Association and a group of probation and parole professionals representing a mix of county and state agencies. The proposal was developed with the primary focus of punishment related to the amount of restrictions placed upon the offender.

The proposal allows for restrictive intermediate punishments to be substituted for incarceration in any place where a county jail sentence would be allowed. The substitution is a one day for one day trade off with incarceration. Certain areas of the matrix are limited to specific intermediate punishment programs. For example, in the shaded areas of the grid, the guidelines only allow for restrictive intermediate punishment programs that very closely monitor the offenders whereabouts. [NOTE: With the exception of drug offenses, very few offenses that fall within the gray shaded area are eligible for any type of intermediate punishment due to restrictions in the legislation. See Attachment 1, page 16.] These types of programs include inpatient treatment, electronic monitoring when combined with either house arrest or intensive supervision, etc. The lower part of the matrix restricts the type of sentence to be imposed to the least restrictive sentencing options. These options include fines or restitution programs, community service, probation, etc.

Additionally, the Levels do not specifically include or exclude particular types of intermediate punishment programs that may be utilized. A description of the amount of supervision that is necessary to meet the requirements of a specific Level is included. The intermediate punishment programs were not listed inclusively due to the local variations in the programs.

Level 4 - Level 4 is the area of the guidelines for the most serious offenders. The offense of conviction normally at this level is a violent offense and often the offenders have a serious history of violent offenses. The Commission has established ranges of total confinement for these offenders. The basic purpose for the guideline recommendations is to provide punishment commensurate with the seriousness of the conviction offense and the prior record of the defendant and to protect the public by providing for total control over the offender for a significant term of confinement. For the Repeat Violent Offender Category the Commission has established a guideline sentence that is the maximum punishment/incapacitation possible under law.

At Level 4 the only sentence that may be imposed and be within the guidelines is a total confinement sentence.

If the offender meets the statutory criteria for participation in the state motivational boot camp, the court should consider identifying the offender as eligible for this program.

Level 3 - Level 3 of the guideline matrix contains serious offenders with potential for violence or moderately serious offenders with a serious prior record. Consequently, the Commission provides in this level a relatively wide range of sentences providing for state and county incarceration with the option to use restrictive intermediate punishment. The major focus in constructing the guidelines for these offenders was the fact that these are serious offenders and deserve serious punishment. Consequently, the punishments are intended to exert considerable control over the offender's freedom. While retribution and control are the prime focus of the guideline ranges, the ranges also allow the court to consider the restoration of the victim and the treatment of the offender. For example, the court may choose to place the primary focus of the sentence on treatment of the offender in which case the court may choose to place the offender in an inpatient treatment facility. Restoration may be fulfilled by placing the offender in county incarceration with work release thereby allowing the offender to pay restitution to the victim.

At Level 3 the court may impose a sentence of total or partial confinement, or a sentence to a restrictive intermediate punishment program. Restrictive Intermediate Punishments (RIPs) are defined as programs that provide for the strict supervision of the offender. These programs either: (1) house the offender full or part time; (2) significantly restrict the offender's movement and monitor the offender's compliance with the program(s); or (3) involve a combination of programs that meet the standards set forth under (1) and (2).

A sentence at Level 3 may include any combination of the following:

- (i) Total confinement
- (ii) Partial confinement - work release
- (iii) Restrictive intermediate punishments

The following is a list of programs that may be considered as Restrictive Intermediate Punishments:

Work camps
Inpatient treatment
Residential rehabilitation centers
Halfway houses
Day reporting centers
Work release centers
Intensive supervision with electronic monitoring
House arrest with intensive supervision
House arrest with electronic monitoring
Other programs or combination of programs that meet the definition of restrictive intermediate punishment.

When a restrictive intermediate punishment sentence is imposed the court is encouraged to consider a treatment component. The total length of the confinement or length of time spent in a restrictive intermediate punishment program should not exceed the recommended lengths in the sentence range chart.

If the offender meets the statutory criteria for participation in the state motivational boot camp, the court should consider identifying the offender as eligible for this program.

Level 2 - Level 2 includes basically non-violent offenders. It includes offenders whose criminal violations reflect serious theft offenses (felony 3 and misdemeanor 1 theft offenses) or who have a conviction for one of the least serious offenses, but a prior record score that indicates a long and significant criminal career. The guideline ranges in this level were established to allow for significant control of the offender to assure that offenders meet their responsibilities to the victim and to protect the public from the offender. Many offenders in this level suffer from drug and/or alcohol problems and the court should consider for such offenders a treatment component to address the rehabilitative needs of the defendant.

At Level 2 the court should focus on alternatives to incarceration.

At Level 2, when the minimum sentence range calls for a term of incarceration the court may impose a sentence of total or partial confinement or a sentence to a restrictive intermediate punishment program. Restrictive Intermediate Punishments (RIPs) are defined as programs that provide for the strict supervision of the offender. These programs either: (1) house the offender full or part time; (2) significantly restrict the offender's movement and monitor the offender's compliance with the program(s); or (3) involve a combination of programs that meet the standards set forth under (1) and (2).

At Level 2, when the minimum guideline sentence range calls for non-confinement (NC) the court may impose any one or any combination of the following options:

- (i) Total confinement
- (ii) Partial confinement - work release
- (iii) Restrictive intermediate punishments

The following is a list of programs that may be considered as Restrictive Intermediate Punishments:

Work camps
Inpatient treatment
Residential rehabilitation centers

Halfway houses
Work release centers
Intensive supervision with electronic monitoring
House arrest with intensive supervision
House arrest with electronic monitoring
Other programs or combination of programs that meet the definition of restrictive intermediate punishment.

(iv) Least restrictive sentencing options

The following is a list of programs that may be considered as the least restrictive sentencing options:

Individualized service program²
Day reporting centers
Drug testing programs
Outpatient treatment programs
Standard probation
Community service programs
Fines programs
Restitution programs
Fines
Guilt without further penalty
Other programs or combination of programs that meet the definition of least restrictive sentencing options.

When a restrictive intermediate punishment sentence is imposed the court is encouraged to consider a treatment component. The total length of the confinement or length of time spent in a restrictive intermediate punishment program should not exceed the recommended lengths in the sentence range chart.

Where the most serious sentencing sanction in the range is a restrictive intermediate punishment program (range = NC-RIP) the court should consider the least restrictive sentencing options first. The least restrictive options, in terms of constraint of offender's liberties, do not involve the housing of the offender, and focus on restoring the victim to pre-offense status. If the court rejects these sentencing options, the offender may be placed in a restrictive intermediate punishment for up to 30 days.

² Where this particular IPP is placed in the hierarchy depends upon exactly what is entailed in the program. Some involve inpatient treatment options which would place them in the RIP category whereas others do not.

Level 1 - Offenders in Level 1 reflect the least serious offenders both in terms of the conviction offense and their relatively minor prior record. The guideline ranges focus on sentencing options that require minimal control of the offender but allow for supervision of the defendant to assure that the offender fulfills obligations to pay restitution, to complete community service orders, or to complete a treatment program ordered by the court.

At Level 1 the guidelines recommend that the least restrictive sentencing options be imposed. Level 1 sentencing options are those non-confinement sentencing options that are the least restrictive in terms of constraint of offender's liberties, do not involve the housing of the offender (either full or part time), and focus on restoring the victim to pre-offense status.

A sentence that includes either incarceration or a restrictive intermediate punishment as a condition of probation shall be considered to be a departure from the standard range of the guidelines.

The following is a list of programs that may be considered as Level 1 Non-confinement Options:

- Individualized service programs³
- Drug testing programs
- Outpatient treatment programs
- Community service programs
- Fines programs
- Restitution programs
- Fines
- Restitution
- Standard probation
- Guilt without further penalty
- Other programs or combination of programs
that meet the definition of least restrictive sentencing options.

³ Where this particular IPP is placed in the hierarchy depends upon exactly what is entailed in the program. Some involve inpatient treatment options which would place it in the RIP category whereas others do not.

PROPOSED SENTENCES FOR
STANDARD RANGES (13 OGS LEVELS)

PRIOR RECORD SCORE

Level	Offense Gravity Score (w/example offenses)	0	1	2	3	4	5	6	9 (RVO)
Level 4 Incar	13 Murder 3; drug delivery resulting in death	72-90	75-83	78-96	84-120	90-120	96-120	112-120	120
	12 Rape/IDSI (SBI and weapon)	60-78	63-81	66-84	72-90	78-96	84-120	90-120	120
	11 Rape; IDSI (SBI or weapon; robbery (SBI); agg.assault (SBI);	42-60	45-63	48-66	54-72	60-78	66-84	72-96	120
	10 Voluntary manslaughter; rape; IDSI; arson (person inside); cocaine (> 100 gm)	30-48	33-51	36-54	42-60	48-66	54-72	60-84	120
Level 3 Incar RIP	9 Burglary (home; person present); agg.assault (cause BI/w weapon); robbery (threatens SBI); robbery (inflicts BI); agg.assault (attempt SBI)	8-24*	12-27*	15-30*	21-36*	27-42	33-48	39-60	
	8 Invol. mansl; homicide by vehicle (when DUI); cocaine, etc., (5-100 gm); arson (person not inside); burglary (home; person not present)	6-18*	9-21*	12-24*	18-30*	24-36*	30-42	36-48	
	7 Invol. mansl; homicide by vehicle (no DUI); robbery (threatens BI); statutory rape	4-12*	7-15*	10-18*	16-24*	22-30*	28-36	34-42	
	6 Agg.assault (attempt BI w/weapon); burglary (not a home, person present); arson (property); escape (secure facility); cocaine. (<5 gms)	3-9	6-11½	9-15*	12-18*	15-21*	18-24*	21-27*	
Level 2 Incar RIP LRIP	5 Burglary (not a home, no one present); theft (>\$2000); corruption of minors; firearms (loaded); robbery (removes property by force)	NC-6	1-6	3-9	6-11½	9-15*	12-18*	15-21*	
	4 Indecent assault; forgery (will, etc.); firearms (unloaded); criminal trespass (breaks into buildings)	NC-3	NC-6	NC-9	3-9	6-11½	9-15*	12-18*	
	3 Theft (\$200-\$2000); marijuana (< 1 lb.); drug possession; forgery (money, etc.); REAP; simple assault; retail theft (3rd., subsequent)	NC-RIP	NC-3	NC-6	NC-9	3-9	6-11½	9-15*	
Level 1 LRIP	2 Theft (<\$200); bad checks; retail theft (1st, 2nd >\$150); retail theft (2nd <\$150)	NC	NC	NC-RIP	NC-3	NC-6	1-6	3-9	
	1 Most misdemeanor 3's; drug paraphernalia; small amt. of marijuana	NC	NC	NC-RIP	NC-RIP	NC-3	NC-6	NC-6	

* Indicates eligibility for boot camp.

1. Shaded areas of the matrix indicate that only restrictive intermediate punishments may be imposed as a substitute for incarceration.
2. When the cell indicates that a restrictive intermediate punishment may be appropriate, the duration of the restrictive intermediate punishment program should not exceed the recommended sentence lengths within the range.
3. When RIP is the upper limit of the sentence recommendation, the length of the restrictive intermediate punishment programs should not exceed 30 days.
4. NC refers to non-confinement sentencing options.

**PROPOSED SENTENCES FOR
MITIGATED RANGES (13 OGS LEVELS)**

PRIOR RECORD SCORE

Level	Offense Gravity Score (w/example offenses)	0	1	2	3	4	5	6	8(RVO)
Level 4 Incar	13 Murder 3; drug delivery resulting in death	59-71	62-74	65-77	68-83	71-89	77-95	93-111	101-119
	12 Rape/IDSI (SBI and weapon)	47-59	50-62	53-65	59-71	65-77	68-83	71-89	101-119
	11 Rape; IDSI (SBI or weapon); robbery (SBI); agg. assault (SBI)	29-41	32-44	35-47	41-53	47-59	53-65	56-71	101-119
	10 Voluntary manslaughter; rape; IDSI; arson (person inside); cocaine (> 100 gm)	17-29*	20-32*	23-35*	29-41	35-47	41-53	44-59	101-119
Level 3 Incar RIP	9 Burglary (home; person present); agg. assault (cause BI/w weapon); robbery (threatens SBI); robbery (inflicts BI); agg. assault (attempt SBI)	1-7	5-11½	8-14*	14-20*	20-26*	26-32	32-38	
	8 Invol. mansl; homicide by vehicle (when DUI); cocaine, etc., (5-100 gm); arson (person not inside); burglary (home; person not present)	1-5	4-8	7-11½	13-17*	19-23*	25-29	31-35	
	7 Invol. mansl; homicide by vehicle (no DUI); robbery (threatens BI); statutory rape	1-3	2-6	5-9	11-15*	17-21*	23-27*	29-33	
Level 2 Incar RIP LRIP	6 Agg. assault (attempt BI w/weapon); burglary (not a home, person present); arson (property); escape (secure facility); cocaine, (<5 gms)	IP-2	IP-5	5-8	8-11½	11-14*	14-17*	17-20*	
Level 1 LRIP	5 Burglary (not a home, no one present); theft (>\$2000); corruption of minors, firearms (loaded); robbery (removes property by force)	NC	NC	IP-2	2-5	5-8	8-11½	11½-14*	
	4 Indecent assault; forgery (will, etc.); firearms (unloaded); criminal trespass (breaks into buildings)	NC	NC	NC	IP-2	2-5	5-8	8-11½	
	3 Theft (\$200-\$2000); marijuana (< 1 lb.); drug possession; forgery (money, etc.); REAP; simple assault; retail theft (3rd., subsequent)	NC	NC	NC	NC	IP-2	2-5	5-8	
	2 Theft (<\$200); bad checks; retail theft (1st, 2nd >\$150); retail theft (2nd <\$150)	NC	NC	NC	NC	NC	NC-IP	IP-2	
	1 Most misdemeanor 3's; drug paraphernalia; small amt. of marijuana	NC	NC	NC	NC	NC	NC	NC	

* Indicates eligibility for boot camp

1. Shaded areas of the matrix indicate that only restrictive intermediate punishment may be imposed as a substitute for incarceration.
2. When the cell indicates that a restrictive intermediate punishment may be appropriate, the duration of the restrictive intermediate punishment program should not exceed the recommended sentence lengths within the range.
3. When RIP is the upper limit of the sentence recommendations, the length of the restrictive intermediate punishment programs should not exceed 30 days.
4. NC refers to non-confinement sentencing options.

**PROPOSED SENTENCES FOR
AGGRAVATED RANGES (13 OGS LEVELS)**

PRIOR RECORD SCORE

Level	Offense Gravity Score (w/example offenses)	0	1	2	3	4	5	6	9(RVO)
Level 4 Incar	13 Murder 3; drug delivery resulting in death	91-103	94-106	97-109	120	120	120	120	120
	12 Rape/IDSI (SBI and weapon)	79-91	82-94	85-97	91-103	97-109	120	120	120
	11 Rape; IDSI (SBI or weapon; robbery (SBI); agg.assault (SBI);	61-73	64-78	67-79	73-85	79-91	85-97	97-112	120
	10 Voluntary manslaughter; rape; IDSI; arson (person inside); cocaine, (> 100 gm)	49-61	52-64	55-67	61-73	67-79	73-85	85-100	120
	9 Burglary (home; person present); agg.assault (cause BI w/ weapon); robbery (threatens SBI); robbery (inflicts BI); agg.assault (attempt SBI)	25-31	28-34	31-37	37-43	43-49	49-55	61-70	
	8 Invol. mansl; homicide by vehicle (when DUI); cocaine, etc., (5-100 gm); arson (person not inside); burglary (home; person not present)	19-23*	22-26*	25-29	31-35	37-41	43-47	49-53	
	7 Invol. mansl; homicide by vehicle (no DUI); robbery (threatens BI); statutory rape	13-17*	16-20*	19-23*	25-29	31-35	37-41	43-47	
Level 3 Incar RIP	6 Agg.assault (attempt BI w/weapon); burglary (not a home, person present); arson (property); escape (secure facility); cocaine (<5 grms)	10-13*	12-16*	16-19*	19-22*	22-25*	25-28	28-31	
	5 Burglary (not a home, no one present); theft (>\$2000); corruption of minors; firearms (loaded); robbery (removes property by force)	6-9	7-10	10-13*	12-15*	16-19*	19-22*	22-25*	
	4 Indecent assault; forgery (will, etc.); firearms (unloaded); criminal trespass (breaks into buildings)	4-7	7-10	10-13*	10-13*	12-15*	16-19*	19-22*	
	3 Theft (\$200-\$2000); marijuana (< 1 lb.); drug possession; forgery (money, etc.); REAP; simple assault; retail theft (3rd., subsequent)	RIP-3	4-7	7-10	10-13*	10-13*	12-15*	16-19*	
Level 2 Incar RIP LRIP	2 Theft (<\$200); bad checks; retail theft (1st, 2nd >\$150); retail theft (2nd <\$150)	IP-3	IP-3	1-3*	4-6	7-9	7-9	10-12*	
	1 Most misdemeanor 3's; drug paraphernalia; small amt. of marijuana	IP	IP-3	1-3*	1-3	4-6	6	6	

* Indicates eligibility for boot camp.

1. Shaded areas of the matrix indicate that only restrictive intermediate punishments may be imposed as a substitute for incarceration.
2. When the cell indicates that a restrictive intermediate punishment may be appropriate, the duration of the restrictive intermediate punishment program should not exceed the recommended sentence lengths within the range.
3. When RIP is the upper limit of the sentence recommendation, the length of the restrictive intermediate punishment programs should not exceed 30 days.
4. NC refers to non-confinement sentencing options.

ATTACHMENT 1

In Act 201 of 1990 (providing for intermediate punishment) the Commission on Sentencing was mandated to:

adopt guidelines to identify offenders who would be eligible and appropriate for participation in intermediate punishment programs. The guidelines shall: (1) Use the definition of "eligible offender" provided in section 9729 (relating to intermediate punishment). (2) Give primary consideration to protection of public safety.

"Eligible offender" was defined as follows:

a person convicted of an offense who would otherwise be sentenced to a county correctional facility, who does not demonstrate a present or past violent behavior and who would otherwise be sentenced to partial confinement pursuant to 42 Pa. C.S. §9724 (relating to partial confinement) or total confinement pursuant to 42 Pa. C.S. §9725 (relating to total confinement).

A person convicted of any of the following offenses shall be ineligible for sentencing under this section:

- 18 Pa.C.S. § 2502 (relating to murder).
- 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).
- 18 Pa.C.S. § 2702 (relating to aggravated assault).
- 18 Pa.C.S. § 2703 (relating to assault by prisoner).
- 18 Pa.C.S. § 2704 (relating to assault by life prisoner).
- 18 Pa.C.S. § 2901 (relating to kidnapping).
- 18 Pa.C.S. § 3121 (relating to rape).
- 18 Pa.C.S. § 3122 (relating to statutory rape).
- 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- 18 Pa.C.S. § 3126 (relating to indecent assault).
- 18 Pa.C.S. § 3301 (relating to arson and related offenses).
- 18 Pa.C.S. § 3701 (relating to robbery).
- 18 Pa.C.S. § 3923 (relating to theft by extortion).
- 18 Pa.C.S. § 5121 (relating to escape).

An offense under this subsection also includes a conviction under 18 Pa.C.S. § 3502 (relating to burglary) where the grading of the offense was a felony of the first degree under section 3502(c)(1).

A person sentenced under 18 Pa.C.S. § 6314 (relating to sentencing and penalties for trafficking drugs to minors) or 7508 (relating to drug trafficking sentencing and penalties) shall be ineligible for sentencing under this section. (Note: The section related to the drug mandatories reflects an amendment that was included in Act 13 of 1991.)

OTHER ISSUES CONSIDERED BUT NOT ADOPTED

1) Aggravated Assault

- Current:** Aggravated assault is subcategorized based upon whether or not the defendant attempts or causes injury, with offenses that actually involve injury being ranked higher.
- Considered:** Due to the very diverse sentences imposed for aggravated assault, the high departure rate below the guidelines, and in response to a number of requests, the Commission considered numerous options for subcategorizing this offense. A telephone survey of some district attorneys was conducted questioning the reason for the wide sentence distribution. It was generally agreed upon that the reason most likely to explain the high departure rate and wide sentence distributions was some type of relationship (domestic/friendship) between the victim and the offender. The second most likely explanation was that there was some level of culpability on the part of the victim. The Commission was unable to define clear and fair criteria for a different subcategorization of aggravated assault. Therefore it was decided to leave the issue of a relationship between the offender and the victim to the court's discretion at the time of sentencing. In the future, the Commission may approach the legislature with a proposal for the establishment of a new level of an assault that falls between simple and aggravated in terms of severity.

2) Statutory rape

- Current:** The guidelines do not subcategorize this offense.
- Considered:** Again due to very wide sentencing patterns, high departure rates below the guidelines and requests from practitioners, the Commission considered various options for subcategorizing the offense of statutory rape. As part of the telephone survey of some district attorneys, a question was asked regarding this offense. The majority of district attorneys were strongly opposed to a break down of this offense. They indicated that any type of subcategorization could make convictions more difficult to achieve and that the current recommendations were about right for this offense. The Commission decided not to move forward with a recommendation for subcategorization.

3) Voluntary Manslaughter

- Current:** The guidelines do not subcategorize this offense.
- Considered:** The Commission considered subcategorizing this offense based upon whether (1) the manslaughter was committed under sudden and intense passion resulting from serious provocation or (2) manslaughter in which

the defendant believed the circumstances to be such that they would justify the killing. The Commission ultimately decided that these were unworkable classifications and decided not to recommend subcategorizing this offense.

4) Other offenses considered for subcategorization

The Commission also reviewed the offenses of corruption of minors, indecent assault, and endangering the welfare of children. For these offenses it was very difficult to determine clear criteria on which the Commission could subcategorize. For this reason, the Commission has not recommended any changes in the classification of these offenses.

5) Status at the time of the offense

Current: The guidelines do not make a distinction based upon whether or not the offender was under some type of criminal justice control at the time of the current offense.

Considered: The Commission considered adding points to the prior record score if the offender was under criminal justice supervision at the time of the commission of the current offense. However, it was decided not to move forward with this recommendation due to the other avenues available to the court for a violation of a criminal justice sentence.

CURRENT AND PROPOSED GUIDELINE RANGES (PRS OF 0)

* Statute excludes persons convicted of these offenses from being eligible for intermediate punishment programs.

OGS	Offense	Current Range	Proposed Range
13	Murder 3*	48-120	72-90
	Drug Delivery Resulting in Death	48-120	72-90
12	Rape (SBI <u>and</u> weapon)*	-	60-78
	I.D.S.I. (SBI <u>and</u> weapon)*	-	60-78
11	Rape (SBI <u>or</u> weapon)*	-	42-60
	IDS I (SBI <u>or</u> weapon)*	-	42-60
	Robbery (inflicts SBI)*	36-60	42-60
	Agg. Asslt. (causing SBI)*	36-60	42-60
	Agg. Asslt. (causing SBI to police, etc.)*	36-60	42-60
10	Voluntary Manslaughter*	24-48	30-48
	Rape*	36-60	30-48
	I.D.S.I.*	36-60	30-48
	Heroin (>100 gms)	30-42	30-48
	Cocaine (>100 gms)	27-39	30-48
	Meth. (> 100 g)	27-39	30-48
	PCP (>100 g)	27-39	30-48
	Murder 1st; 2nd degree (att.; sol., consp.)	24-48	30-48
	Kidnapping*	24-48	30-48
	Arson (endangering persons; person inside)*	24-48	30-48
	Catastrophe, Causing	24-48	30-48
9	Burglary (home-person present)*	8-12	8-20
	Robbery (threatens SBI)*	8-12	8-20
	Robbery (inflicts bodily injury)*	4-12	8-20
	Agg. Asslt. (attempt SBI)*	24-48	8-20
	Spousal Sexual Asslt.	8-12	8-20
	Robbery (commits/threatens F1 or F2)*	8-12	8-20
	Corrupt Organizations	8-12	8-20
	Retaliation Against Witness/Victim	8-12	8-20
	Weapons, Providing to Inmate	8-12	8-20
	Prostitution (Including Minors)	8-12	8-20
	Agg. Asslt. (attempt SBI-police, etc.)*	24-48	8-20
	Agg. asslt. (cause bodily injury-w/weapon)*	8-12	8-20

OGS	Offense	Current Range	Proposed Range
8	Intimidation of witness/victim	8-12	6-18
	Aggravated Indecent Assault	24-48	6-18
	Heroin (5 g to 100 g)	18-30	6-18
	Cocaine (5 g to 100 g)	15-27	6-18
	Meth (5 g to 100 g)	15-27	6-18
	PCP (5 g to 100 g)	15-27	6-18
	Burglary (home-person not present)*	4-12	6-18
	Involuntary Manslaughter (and DUI)	4-12	6-18
	Homicide by Vehicle (and DUI)	4-12	6-18
	Arson (endangering persons; person not inside)	24-48	6-18
7	Statutory Rape*	4-12	4-12
	Incest	4-12	4-12
	Sexual Abuse of Child (taking photos)	8-12	4-12
	Marijuana (>50 lbs. or >50 live plants)	12-18	4-12
	Involuntary Manslaughter (and no DUI)	0-11½	4-12
	Homicide by Vehicle (and no DUI)	0-11½	4-12
6	Agg. Asslt. (attempt bodily injury w/weapon)*	4-12	3-9
	Robbery (threatens bodily injury)*	0-11½	3-9
	Burglary (not a home-person present)*	4-12	3-9
	Sexual Abuse of Child (selling photos)	0-11½	3-9
	Agg. Asslt. (teacher, etc.)*	4-12	3-9
	Arson (endangering property)*	4-12	3-9
	Suicide (assists)	0-11½	3-9
	Assault by Prisoner*	4-12	3-9
	Interference W/Custody of Child	4-12	3-9
	Catastrophe (reckless)	4-12	3-9
	Agg. Asslt. (bodily injury-police, etc.)*	4-12	3-9
	Escape F3 secure facility)	8-12	3-9
	Marijuana(> 10 lb to 50 lbs or >21 to 50 plants)	6-12	3-9
	Heroin (<5 g)	7-18	3-9
	Cocaine (<5 g)	6-15	3-9
	Meth (<5 g)	6-15	3-9
	PCP (<5 g)	6-15	3-9
	Theft by Extortion (>\$2000)	4-12	3-9

OGS	Offense	Current Range	Proposed Range
5	Firearm, Poss. by Former Convict (loaded) Firearms, Carry in Phila. (loaded) Robbery (removes property by force) Burglary (not a home-no one present) Theft (\$2000 or more) Intimidation of Witness/Victim Retaliation Against Witness/Victim Endangering Welfare of Children Luring a Child into a Motor Vehicle Bribery Ransom Criminal Mischief (>\$5000) Theft by Extortion (>\$2000 by Threat) Theft of Trade Secrets (by force, etc.) Theft of Unpublished Drama, etc. (>\$2000) Fraudulent Destruction Threats in Political Matters Perjury Witnesses Taking Bribes Aiding Consummation of Crime Interception of Wire Communications Poss/Sale of Interception Devices Firearms without license (loaded) Corruption of Minors Escape (non-secure facility) Indecent Assault (involving minors)*	4-12 4-12 0-11½ 0-11½ 0-11½ 4-12 4-12 0-6 0-11½ 4-12 0-6 4-12 0-11½	0-IP-6 0-IP-6

OGS	Offense	Current Range	Proposed Range	
4	Indecent Assault*	0-6	0-IP-3	
	Criminal Trespass (breaks into building)	0-11½	0-IP-3	
	Forgery (will, deed, etc.)	0-11½	0-IP-3	
	Poss. Inst. of Crime (weapon)	0-11½	0-IP-3	
	Catastrophe, Risking	0-11½	0-IP-3	
	Default in Required Appearance	0-11½	0-IP-3	
	Riot	0-11½	0-IP-3	
	Prohibited Offensive Weapon	0-11½	0-IP-3	
	Interference W/Custody of Child	0-11½	0-IP-3	
	Concealment of Whereabouts of Child	0-11½	0-IP-3	
	Theft by Extortion (\$200-\$2000)	0-11½	0-IP-3	
	Deception re: Certification of Minority Enterprise	0-11½	0-IP-3	
	Insurance Fraud	0-11½	0-IP-3	
	Tampering W/Public Records	0-11½	0-IP-3	
	Hindering Apprehension	0-11½	0-IP-3	
	Weapons, Poss. by Inmate	0-11½	0-IP-3	
	Firearms without License (unloaded)	0-11½	0-IP-3	
	Firearm, Poss. by Former Convict (unloaded)	0-11½	0-IP-3	
	Firearms, Carry in Phila. (unloaded)	0-11½	0-IP-3	
	Firearms, (Sale to Minors, etc.)	0-11½	0-IP-3	
Firearms (Sale)	0-11½	0-IP-3		
3	Criminal Trespass (enters building)	0-6	0-RIP	
	Theft (\$200-\$2000)	0-6	0-RIP	
	Forgery (money, stocks, etc.)	0-11½	0-RIP	
	Forgery (other)	0-6	0-RIP	
	Marijuana (<1 lb or < 10 live plants)	3-6	0-RIP	
	Poss. Instruments of Crime (criminal instruments)	0-6	0-RIP	
	Credit Cards (>\$500)	0-6	0-RIP	
	Asstt. on Sports Official	0-6	0-RIP	
	Insurance Fraud	0-6	0-RIP	
	Weapons of Escape	0-6	0-RIP	
	Simple Assault	0-IP	0-RIP	
	Terroristic Threats	0-6	0-RIP	
	Retail Theft (3rd or subsequent)	0-11½	0-RIP	
	Recklessly Endangering Another Person	0-IP	0-RIP	
	Drug possession	0-IP	0-RIP	
	2	Theft (less than \$200)	0-IP	n/c
		Bad Checks	0-IP	n/c
Retail Theft (1st or 2nd offense >\$150)		0-6	n/c	
Retail Theft (2nd offense; <\$150)		0-IP	n/c	
1	Small amount of marijuana	0-IP	n/c	
	Drug paraphernalia	0-IP	n/c	
	Most Misdemeanor 3's	0-IP	n/c	

GUIDELINE RECOMMENDATIONS, SENTENCING PATTERNS AND CONFORMITY RATE BY OFFENSE¹

OGS	Offense	Stat. Grade	SENTENCING RECOMMENDATIONS			SENTENCING PATTERNS			GUIDELINE CONFORMITY				
			Current Range	Proposed Range	Inc. Rate	Median ² Sentence	Stand.	Above	A88	Below	Mit	N	
13	Murder 3 [*] Drug Delivery Resulting in Death	F1	48-120	72-90	99%	90 (90)	67%	1%	17%	3%	11%	92	
		F1	48-120	72-90	-	-	-	-	-	-	-	-	
12	Rape (SBI and weapon) [*] I.D.S.I. (SBI and weapon) [*]	F1	-	60-78	-	-	-	-	-	-	-	-	
		F1	-	60-78	-	-	-	-	-	-	-	-	
11	Rape (SBI or weapon) [*] IDSI (SBI or weapon) [*] Robbery (inflicts SBI) [*] Agg. Asslt. (causing SBI) [*] Agg. Asslt. (causing SBI to police, etc.) [*] Heroin (>100 gms) Cocaine (>100 gms)	-	-	42-60	-	-	-	-	-	-	-	-	
		-	-	42-60	-	-	-	-	-	-	-	-	
		F1	36-60	42-60	93%	27 (26)	21%	0%	18%	54%	7%	29	
		F1	36-60	42-60	78%	30 (24)	24%	1%	6%	54%	15%	140	
		F1	36-60	42-60	-	-	-	-	-	-	-	-	-
		F	30-42	42-60	-	-	-	-	-	-	-	-	-
10	Voluntary Manslaughter [*] Rape. I.D.S.I. [*] Meth. (> 100 g) PCP (>100 g) Murder 1st; 2nd degree (att.; sol., consp.) Kidnapping [*] Arson (endangering persons; person inside) [*] Catastrophe, Causing	F	27-39	42-60	79%	30 (27)	33%	0%	15%	37%	15%	29	
		F	27-39	42-60	-	-	-	-	-	-	-	-	
		F2	24-48	30-48	84%	24 (24)	36%	0%	16%	24%	24%	25	
		F1	36-60	30-48	94%	48 (48)	66%	0%	10%	16%	9%	101	
		F1	36-60	30-48	90%	36 (36)	41%	2%	15%	32%	10%	79	
		F	27-39	30-48	-	-	-	-	-	-	-	-	-
		F	27-39	30-48	-	-	-	-	-	-	-	-	-
		F2	24-48	30-48	93%	48 (48)	36%	0%	50%	7%	7%	14	
		F1	24-48	30-48	73%	27 (24)	50%	10%	0%	40%	0%	11	
		F1	24-48	30-48	68%	24 (12)	34%	0%	3%	54%	9%	35	
		F1	24-48	30-48	-	-	-	-	-	-	-		

OGS	Offense	Stat. Grade	SENTENCING RECOMMENDATIONS		SENTENCING PATTERNS		GUIDELINE CONFORMITY					
			Current Range	Proposed Range	Inc. Rate	Median ² Sentence	Stand.	Above	Agg	Below	Mit	N
7	Statutory Rape*	F2	4-12	4-12	79%	12 (10)	63%	0%	9%	20%	9%	83
	Incest	F2	4-12	4-12	67%	12 (6)	53%	0%	0%	47%	0%	21
	Sexual Abuse of Child (taking photos)	F2	8-12	4-12	-	-	-	-	-	-	-	-
	Marijuana (>50 lbs)	F	12-18	4-12	-	-	-	-	-	-	-	-
	Involuntary Manslaughter (and no DUI)	M1	0-11½	4-12	41%	12 (0)	87%	0%	14%	0%	0%	55
	Homicide by Vehicle (and no DUI)	M1	0-11½	4-12	48%	11 (6)	96%	4%	0%	0%	0%	25
6	Agg. Asslt. (attempt bodily injury w/weapon)	F2	4-12	3-9	-	-	-	-	-	-	-	-
	Burglary (not a home-person present)	F1	4-12	3-9	-	-	-	-	-	-	-	-
	Sexual Abuse of Child (selling photos)	F3	0-11½	3-9	-	-	-	-	-	-	-	-
	Agg. Asslt. (teacher, etc.)	F2	4-12	3-9	-	-	-	-	-	-	-	-
	Arson (endangering property)	F2	4-12	3-9	66%	8 (6)	65%	0%	0%	23%	12%	79
	Suicide (assists)	F2	0-11½	3-9	-	-	-	-	-	-	-	-
	Assault by Prisoner	F2	4-12	3-9	-	-	-	-	-	-	-	-
	Interference W/Custody of Child	F2	4-12	3-9	-	-	-	-	-	-	-	-
	Catastrophe (reckless)	F2	4-12	3-9	53%	6 (2)	43%	0%	2%	43%	13%	337
	Agg. Asslt. (bodily injury-police, etc.)	F3	8-12	3-9	80%	10 (8)	58%	0%	4%	21%	17%	25
	Escape F3 secure facility)	F	6-12	3-9	78%	7 (6)	51%	0%	9%	23%	18%	100
	Marijuana (>10 lbs to 50 lbs)	F	7-18	3-9	78%	7 (7)	56%	0%	4%	18%	23%	146
	Heroin (<5 g)	F	6-15	3-9	79%	6 (6)	59%	0%	3%	20%	18%	572
	Cocaine (<5 g)	F	6-15	3-9	82%	6 (6)	55%	0%	0%	23%	23%	23
	Meth (<5 g)	F	6-15	3-9	-	-	-	-	-	-	-	-
PCP (<5 g)	F	6-15	3-9	-	-	-	-	-	-	-	-	
Theft by Extortion (>\$2000)	F3	4-12	3-9	-	-	-	-	-	-	-	-	

OGS	Offense	Stat. Grade	SENTENCING RECOMMENDATIONS		SENTENCING PATTERNS		GUIDELINE CONFORMITY								
			Current Range	Proposed Range	Inc. Rate	Median ² Sentence	Stand.	Above	Agg	Below	Mit	N			
5	Poss. by Former Convict (loaded)	M1	4-12	0-IP-6	-	-	-	-	-	-	-	-	-	-	-
	Firearms, Carry in Phila. (loaded)	M1	4-12	0-IP-6	53%	12 (3)	39%	0%	9%	39%	13%	23			
	Robbery (removes property by force)	F3	0-11½	0-IP-6	40%	6 (0)	98%	1%	1%	1%	0%	218			
	Burglary (not a home-no one present)	F2	0-11½	0-IP-6	48%	6 (1)	97%	0%	3%	0%	0%	992			
	Theft (>2000 or more)	F3	0-11½	0-IP-6	37%	6 (0)	98%	0%	2%	0%	0%	2088			
	Intimidation of Witness/Victim	M2	4-12	0-IP-6	25%	7 (0)	33%	0%	0%	67%	0%	12			
	Retaliation Against Witness/Victim	M2	4-12	0-IP-6	-	-	-	-	-	-	-	-			
	Endangering Welfare of Children	M2	0-6	0-IP-6	24%	4 (0)	99%	0%	2%	0%	0%	133			
	Luring a Child into a Motor Vehicle	M1	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Bribery	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Ransom	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Criminal Mischief (>\$5000)	F3	0-11½	0-IP-6	19%	10 (0)	81%	0%	6%	13%	0%	32			
	Theft by Extortion (>\$2000 by Threat)	M1	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Theft of Trade Secrets (by force, etc.)	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Theft of Unpublished Drama, etc. (<\$2000)	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Fraudulent Destruction	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Threats in Political Matters	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Perjury	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Witnesses Taking Bribes	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
	Aiding Consumption of Crime	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-			
Interception of Wire Communications	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-				
Post/Sale of Interception Devices	F3	0-11½	0-IP-6	-	-	-	-	-	-	-	-				
Firearms without license (loaded)	M1	4-12	0-IP-6	55%	4 (2)	32%	0%	1%	46%	22%	240				
Corruption of Minors	M1	0-6	0-IP-6	38%	6 (0)	99%	0%	1%	0%	0%	308				
Escape - (non-secure facility)*	F3	4-12	0-IP-6	67%	4 (4)	61%	0%	0%	22%	17%	18				
Indecent assault (involving minors)	M1	0-11½	0-IP-6	52%	6 (1)	100%	0%	0%	0%	0%	77				

OGS	Offense	Stat. Grade	SENTENCING RECOMMENDATIONS		SENTENCING PATTERNS		GUIDELINE CONFORMITY					
			Current Range	Proposed Range	Inc. Rate	Median ² Sentence	Stand.	Above	Agg	Below	Mit	N
4	Indecent Assault	M2	0-6	0-IP-3	45%	6 (0)	98%	0%	2%	0%	0%	323
	Criminal Trespass (breaks into building)	F2	0-11½	0-IP-3	31%	4 (0)	97%	0%	2%	1%	0%	234
	Forgery (will, deed, etc.)	F3	0-11½	0-IP-3	26%	4 (0)	99%	0%	1%	3%	0%	489
	Poss. Inst. of Crime (weapon)	M1	0-11½	0-IP-3	17%	5 (0)	97%	0%	0%	0%	0%	35
	Catastrophe, Risking	F3	0-11½	0-IP-3	20%	5 (0)	100%	0%	0%	0%	0%	29
	Default in Required Appearance	F3	0-11½	0-IP-3	36%	4 (0)	100%	0%	0%	0%	0%	11
	Riot	F3	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Prohibited Offensive	M1	0-11½	0-IP-3	18%	5 (0)	100%	0%	0%	0%	0%	97
	Weapon	F3	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Interference W/Custody of Child	F3	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Concealment of	F3	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Whereabouts of Child	M1	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Theft by Extortion (\$200-\$2000)	F3	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Deception re: Certification of Minority Enterprise	F3	0-11½	0-IP-3	56%	6 (6)	92%	0%	8%	0%	0%	14
	Insurance Fraud	F3	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Tampering W/Public Records	F3	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	hindering Apprehension	M1	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Weapons, Poss. by Inmate	M1	0-11½	0-IP-3	25%	3 (0)	100%	0%	0%	0%	0%	111
	Firearms without License (unloaded)	M1	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Firearm, Poss. by Former Convict (unloaded)	M1	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Firearms, Carry in Phila. (unloaded)	M1	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Firearms, (Sale to Minors, etc.)	M1	0-11½	0-IP-3	-	-	-	-	-	-	-	-
	Firearms (Sale)	M1	0-11½	0-IP-3	-	-	-	-	-	-	-	-

OGS	Offense	Stat. Grade	SENTENCING RECOMMENDATIONS		SENTENCING PATTERNS		GUIDELINE CONFORMITY					N		
			Current Range	Proposed Range	Inc. Rate	Median ² Sentence	Stand.	Above	Agg	Below	Mit			
3	Trespass (enters building) Theft (\$200-\$2000) Forgery (money, stocks, etc.) Forgery (other) Marijuana (<1 lb) Poss. Instruments of Crime (criminal instruments) Credit Cards (>\$500) Asslt. on Sports Official Insurance Fraud Weapons of Escape Simple Assault Terroristic Threats Retail Theft (3rd or subsequent) Recklessly Endangering Another Person Drug possession	F3	0-6	0-RIP	29%	3 (0)	100%	0%	0%	0%	0%	0%	183	
		M1	0-6	0-RIP	27%	3 (0)	100%	0%	0%	0%	0%	0%	1508	
		F2	0-11½	0-RIP	37%	5 (0)	100%	0%	0%	0%	0%	0%	139	
		M1	0-6	0-RIP	19%	3 (0)	98%	0%	2%	0%	0%	0%	43	
		F	3-6	0-RIP	69%	3 (3)	54%	0%	5%	28%	14%	0%	644	
		M1	0-6	0-RIP	16%	5 (0)	99%	0%	1%	0%	0%	0%	73	
		F3	0-6	0-RIP	27%	7 (0)	100%	0%	0%	0%	0%	0%	55	
		M1	0-6	0-RIP	-	-	-	-	-	-	-	-	-	-
		M2	0-6	0-RIP	-	-	-	-	-	-	-	-	-	-
		M2	0-IP	0-RIP	24%	3 (0)	99%	0%	1%	0%	0%	0%	0%	2128
2	Theft (less than \$200) Bad Checks Retail Theft (1st or 2nd offense >\$150) Retail Theft (2nd offense; <\$150)	M1	0-6	0-RIP	29%	4 (0)	99%	0%	1%	0%	0%	0%	254	
		F3	0-11½	0-RIP	31%	3 (0)	99%	0%	1%	0%	0%	0%	416	
		M2	0-IP	0-RIP	34%	3 (0)	99%	0%	1%	0%	0%	0%	431	
		M	0-IP	0-RIP	24%	2 (0)	98%	0%	2%	0%	0%	0%	1822	
		M2	0-IP	n/c	31%	3 (0)	100%	0%	0%	0%	0%	0%	871	
		M2	0-IP	n/c	21%	3 (0)	100%	0%	0%	0%	0%	0%	720	
		M1	0-6	n/c	21%	2 (0)	100%	0%	0%	0%	0%	0%	451	
		M2	0-IP	n/c	20%	1 (0)	100%	0%	0%	0%	0%	0%	555	
		M	0-IP	n/c	20%	1 (0)	100%	0%	0%	0%	0%	0%	477	
		M3	0-IP	n/c	20%	1 (0)	99%	0%	1%	0%	0%	0%	2348	

* Statute excludes persons convicted of these offenses from being eligible for intermediate punishment programs.

¹ Sentencing information comes from sentences imposed during 1991 for defendants with a prior record score of zero. Sentencing information is not provided in this chart for offenses which had less than ten sentences reported during 1991.

² The median sentence length is provided two ways. The first number represents the median sentence for incarcerated offenders only. The second number represents the median sentence for all offenders (i.e. for offenders receiving incarceration and probation).

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
	Murder, Attempt, Solicitation or Conspiracy to Commit	F2	10
907(a)	Possessing Instruments of Crime (Criminal Instruments)	M1	3
907(b)	Possessing Instruments of Crime (Weapon)	M1	4
908	Prohibited Offensive Weapons	M1	4
909	Manufacture/Distribute Master Key for Motor Vehicles	M1	3
910	Manufacture/Deliver devices for theft of telecommunications	M1	3
910	Manufacture/Deliver devices for theft of telecommunications	M2	2
911	Corrupt Organizations	F1	9
912	Weapon on School Property	M1	4
2102	Desecration of Flag	M3	1
2103	Insults to Flag	M2	2
2502(c)	Murder/Third Degree	F1	13
2503	Manslaughter/Voluntary	F2	10
2504*	Manslaughter/Involuntary (when there is also a conviction for DUI arising from the same transaction)	M1	8
2504*	Manslaughter, Involuntary (when there is not a conviction for DUI arising from the same transaction)	M1	7
2505	Suicide or Attempted, Aids Solicits or Conduct Causes	F2	6
2506	Drug Delivery Resulting in Death	F1	13
2701(b)	Simple Assault	M2	3
2701(b)(1)	Simple Assault (mutual consent)	M3	1
2701(b)(2)	Simple Assault (against child by adult)	M1	4
2702(a)(1)	Aggravated Assault (causes serious bodily injury)	F1	11
2702(a)(1)	Aggravated Assault (attempts to cause serious bodily injury)	F1	9
2702(a)(2)	Aggravated Assault (causes serious bodily injury)(police, etc.)	F1	11
2702(a)(2)	Aggravated Assault (attempts to cause serious bodily injury) (police, etc.)	F1	9
2702(a)(3)	Aggravated Assault (causes or attempts to cause bodily injury, police, etc.)	F2	6
2702(a)(4)	Aggravated Assault (causes bodily injury with a deadly weapon)	F2	9

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
2702(a)(4)	Aggravated Assault (attempts to cause bodily injury with a deadly weapon)	F2	6
2702(a)(5)	Aggravated Assault (teacher)	F2	6
2703	Assault by Prisoner	F2	6
2705	Recklessly Endangering Another Person	M2	3
2706	Terroristic Threats	M1	3
2707(a)	Propulsion of Missiles into an Occupied Vehicle	M1	3
2707(b)	Propulsion of Missiles onto a Roadway	M2	2
2708	Use of Tear Gas in Labor Dispute	M1	3
2709(b)	Stalking, subsequent offense	F3	5
2709(b)	Stalking	M1	3
2710	Ethnic Intimidation	Varies	Varies
2712	Assault on Sports Official	M1	3
2901	Kidnapping	F1	10
2902	Unlawful Restraint	M1	3
2903	False Imprisonment	M2	2
2904(c)	Interference with the Custody of Children	F3	4
2904(c)(1)	Interference with the Custody of Children	F2	6
2904(c)(2)	Interference with the Custody of Children	M2	2
2905	Interference w/Custody of Committed Person	M2	4
2906	Criminal Coercion	M1	3
2906	Criminal Coercion	M2	2
2907	Disposition of Ransom	F3	5
2909	Concealment of Whereabouts of a child	F3	4
2910	Luring a Child into a Motor Vehicle	M1	5
3121*	Rape, where there is both serious bodily injury and possession of a deadly weapon	F1	12
3121*	Rape, where there is either serious bodily injury or possession of a deadly weapon	F1	11
3121*	Rape	F1	10
3122	Rape, Statutory	F2	7
3123*	Involuntary Deviate Sexual Intercourse, where there is both serious bodily injury and possession of a deadly weapon	F1	12

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
3123*	Involuntary Deviate Sexual Intercourse, where there is both serious bodily injury or possession of a deadly weapon	F1	11
3123*	Involuntary Deviate Sexual Intercourse	F1	10
3124	Voluntary Deviate Sexual Intercourse	M2	3
3125	Aggravated Indecent Assault	F2	8
3126(a)(1)-(5)	Indecent Assault	M2	4
3126(a)(6)	Indecent Assault (involving minors)	M1	5
3127	Indecent Exposure	M2	3
3128	Spousal Sexual Assault	F2	9
3301(a)	Arson Endangering Persons/Where a Person is Inside the Structure at the Time the Fire was Started	F1	10
3301(a)	Arson Endangering Persons/Where No Person is Inside the Structure at the Time the Fire was Started	F1	8
3301(c)	Arson, Endangering Property	F2	6
3302(a)	Catastrophe, Causing	F1	10
3302(a)	Catastrophe, Recklessly Causing	F2	6
3302(b)	Catastrophe, Risking	F3	4
3303	Failure to prevent catastrophe	M2	2
3304	Criminal Mischief	F3	5
3304	Criminal Mischief	M2	2
3304	Criminal Mischief	M3	1
3305	Tampering w/Fire Hydrants	M3	1
3307	Institutional Vandalism	F3	5
3307	Institutional Vandalism	M2	2
3309	Agricultural Vandalism	F3	5
3309	Agricultural Vandalism	M1	3
3309	Agricultural Vandalism	M2	2
3309	Agricultural Vandalism	M3	1
3502*	Burglary of a structure adapted for overnight accomodation in which at the time of the offense any person is present.	F1	9
3502*	Burglary of a structure adapted for overnight accommodation in which at the time of the offense no person is present.	F1	8
3502*	Burglary of a structure not adapted for overnight accommodation in which at the time of the offense any person is present.	F1	6

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
3502*	Burglary of a structure not adapted for overnight accommodation in which at the time of the offense no person is present.	F2	5
3503(a)(1)(ii)	Trespass, Criminal	F2	4
3503(a)(1)(i)	Trespass, Criminal	F3	3
3503(b)	Trespass, Defiant	M2	2
3701(a)(1)(i)	Robbery (inflicts serious bodily injury)	F1	11
3701(a)(1)(ii)	Robbery (threatens another with or intentionally puts him in fear of immediate serious bodily injury)	F1	9
3701(a)(1)(iii)	Robbery (commits or threatens immediately to commit any F1 or F2)	F1	9
3701*(a)(1)(iv)	Robbery (inflicts bodily injury)	F2	9
3701*(a)(1)(iv)	Robbery (threatens bodily injury or intentionally puts him in fear of immediate bodily injury)	F2	6
3701(a)(1)(v)	Robbery (physically takes or removes property by force, however slight)	F3	5
3702	Robbery of a Motor Vehicle	F1	9
3921	Theft by Unlawful Taking or Disposition (if the amount exceeds \$2,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3921	Theft by Unlawful Taking or Disposition (less than \$2,000, from person or by threat, or in breach of fiduciary obligation)	M1	3
3921	Theft by Unlawful Taking or Disposition (\$200 or more, less than \$2,000, when not from person or by threat, or in breach of fiduciary obligation)	M1	3
3921	Theft by Unlawful Taking or Disposition (\$50 or more, less than \$200)	M2	2
3921	Theft by Unlawful Taking or Disposition (less than \$50)	M3	1

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
3922	Theft by Deception (if the amount exceeds \$2,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3922	Theft by Deception (less than \$2,000, from person or by threat or in breach of fiduciary obligation)	M1	3
3922	Theft by Deception (\$200 or more/less than \$2,000, when not from person or by threat/or in breach of fiduciary obligation)	M1	3
3922	Theft by Deception (\$50 or more, less than \$200)	M2	2
3922	Theft by Deception (less than \$50)	M3	1
3923	Theft by Extortion (if the amount exceeds \$2,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	6
3923	Theft by Extortion (less than \$2,000, from person or by threat or in breach of fiduciary obligation)	M1	5
3923	Theft by Extortion (\$200 or more, less than \$2,000, when not from person or by threat or in breach of fiduciary obligation)	M1	4
3923	Theft by Extortion (\$50 or less than \$200)	M2	3
3923	Theft by Extortion (less than \$50)	M3	2
3924	Theft of Property Lost, Mislaid, or Delivered by Mistake (if the amount exceeds \$2,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle).	F3	5
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (less than \$2,000, from the person or by threat or in breach of fiduciary obligation)	M1	3
3924	Theft of Property Lost/Mislaid or Delivered by Mistake (\$200 or more/less than \$2,000, when not from person or by threat, or in breach of fiduciary obligation)	M1	3

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
3924	Theft of Property Lost/Mislaid or Delivered by Mistake (\$50 or more, less than \$200)	M2	2
3924	Theft of Property Lost/Mislaid or Delivered by Mistake (less than \$50)	M3	1
3925	Theft by Receiving Stolen Property (if the amount exceeds \$2,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle, or if the receiver is in the business of buying or selling stolen property)	F3	5
3925	Theft by Receiving Stolen Property (less than \$2,000, from the person or by threat or in breach of fiduciary obligation)	M1	3
3925	Theft by Receiving Stolen Property (\$200 or more/less than \$2,000/, when not from person or by threat, or in breach of fiduciary obligation)	M1	3
3925	Theft by Receiving Stolen Property (\$50 or more, less than \$200)	M2	2
3925	Theft by Receiving Stolen Property (less than \$50)	M3	1
3926	Theft of Services (if the amount exceeds \$2,000, or if the property is a firearm, automobile, airplane, motorcycle, motor-boat, or other motor-propelled vehicle)	F3	5
3926	Theft of Services (less than \$2,000, from person or by threat, or in breach of fiduciary obligation)	M1	3
3926	Theft of Services (\$200 or more/less than \$2,000, when not from person or by threat, or in breach of fiduciary obligation)	M1	3
3926	Theft of Services (\$50 or more, less than \$200)	M2	2
3926	Theft of Services (less than \$50)	M3	1

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
3927	Theft by Failure to Make Required Disposition of Funds Received (if the amount exceeds \$2,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3927	Disposition of Funds Received (less than \$2,000, from person or by threat, or in breach of fiduciary obligation)	M1	3
3927	Theft by Failure to Make Required Disposition of Funds Received (\$200 or more/less than \$2,000, when not in breach of fiduciary obligation)	M1	3
3927	Theft by Failure to Make Required Disposition of Funds Received(\$50 or more, less than \$200)	M2	2
3927	Theft by Failure to Make Required Disposition of Funds Received (less than \$50)	M3	1
3928	Unauthorized Use of Auto	M2	2
3929	Theft, Retail, Third or Subsequent Conviction	F3	3
3929	Theft, Retail, First or Second Offense, \$150 or more	M1	2
3929	Theft, Retail, Second Offense, less than \$150	M2	2
3929.1	Library Theft	F3	5
3929.1	Library Theft	M1	4
3929.1	Library Theft	M2	2
3930	Theft of Trade Secrets by Force, Violence, or Burglary	F3	5
3930	Theft of Trade Secrets	M1	3
3931	Theft of Unpublished Dramas and Musical Compositions (if the amount exceeds \$2,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3931	Theft of Unpublished Dramas and Musical Compositions (less than \$2,000, from the person or by threat, or in breach of fiduciary obligation)	M1	3

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
3931	Theft of Unpublished Dramas and Musical Compositions (\$200 or more/less than \$2,000, when not from person or by threat, or in breach of fiduciary obligation)	M1	3
3932	Theft-Leased Property	F3	5
3932	Theft-Leased Property	M1	3
3932	Theft-Leased Property	M2	2
3932	Theft-Leased Property	M3	1
3933	Unlawful Use of Computer	F3	5
3933	Unlawful Use of Computer	M1	3
4101	Forgery	F2	3
4101	Forgery	F3	4
4101	Forgery (other)	M1	3
4102	Simulating Antiques	M1	3
4103	Fraudulent Destruction of Recordable Instruments	F3	5
4103	Fraudulent Destruction	F3	5
4104	Tampering with Record or Identification	M1	3
4105	Bad Checks	M2	2
4106	Credit Cards (more than \$500)	F3	3
4106	Credit Cards (\$50 or more but less than \$500)	M2	2
4107	Deceptive Business Practices	M2	2
4107.1	Deception Relating to Kosher Foods	M3	1
4107.2	Deception Relating to Certification of Minority Business Enterprise or Women's Business Enterprise	F3	4
4108	Commercial Bribery and Breach of Duty	M2	2
4109	Rigging Public Contest	M1	3
4110	Defrauding Secured Creditors	M2	2
4111	Fraud in Insolvency	M2	2
4112	Receiving Deposits - Failed Institution	M2	2
4113	Misapplication of Entrusted Property	M2	2
4113	Misapplication of Entrusted Property	M3	1
4114	Securing Execution of Documents by Deception	M2	2
4115	Falsely Impersonating Persons Privately Employed	M2	2
4116	Copying; Recording Devices	M1	3
4117	Insurance Fraud	F3	4

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
4117	Insurance Fraud	M1	3
4301	Bigamy	M2	3
4302	Incest	F2	7
4303	Concealing Death of Child	M3	3
4304	Endangering Welfare of Children	M1	5
4305	Dealing in Infant Children	M1	4
4701	Bribery, Official and Political Matters	F3	5
4702	Threats, Official and Political Matters	F3	5
4703	Retaliation for Past Official Action	M2	2
4902	Perjury	F3	5
4903	False Swearing	M2	2
4903	False Swearing	M3	1
4904	Unsworn Falsification to Authorities	M2	2
4904	Unsworn Falsification to Authorities	M3	1
4905	False Alarms	M1	3
4906	False Reports to Law Enforcement Officials	M2	2
4906	False Reports to Law Enforcement Officials	M3	1
4909	Witness Taking Bribe	F3	5
4909	Witnesses, Taking Bribe	F3	5
4910	Tampering with Physical Evidence	M2	2
4911	Tampering w/Public Records or Information	F3	4
4911	Tampering w/Public Records or Information	M2	2
4912	Impersonating a Public Servant	M2	2
4952	Intimidation of Witnesses or Victims	F3	8
4952	Intimidation of Witnesses or Victims	M2	5
4953	Retaliation Against Witness or Victim	F3	9
4953	Retaliation Against Witness or Victim	M2	5
5101	Obstructing Justice	M2	3
5102	Obstruction of Justice by Picketing	M2	2
5103	Unlawfully Listening to Jury Deliberations	M3	1
5104	Resisting Arrest	M2	2
5105	Apprehension, Hindering (if conduct liable to be charged is F1 or F2)	F3	4

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
5105	Apprehension, Hindering	M2	2
5107	Aiding Consummation of Crime	F3	5
5107	Aiding Consummation of Crime	M2	2
5108	Compounding	M2	2
5109	Barratry	M3	1
5110	Contempt of General Assembly	M3	1
5111	Dealing in Proceeds of Unlawful Activities	F1	9
5121(i)	Escape - from a halfway house, pre-release center, treatment center, work-release center, work-release, or by failing to return from an authorized leave or furlough.	F3	5
5121(ii)	Escape - all other escapes from this subsection	F3	6
5121(ii)	Escape	F3	5
5121(iii)	Escape	F3	5
5122(a)(1)	Weapons, Providing to Inmate	M1	9
5122(a)(2)	Weapons, Possession by Inmate	M1	4
5122(a)(3)	Weapons or Implements of Escape (tools)	M2	3
5123(a)	Contraband (controlled substance)	F2	7
5123(b)	Contraband (money)	M3	1
5123(c)	Contraband (other)	M1	3
5124	Default in Required Appearance (if conduct charged is F1 or F2)	F3	4
5125	Absconding Witness	M3	1
5126	Avoiding Apprehension	F3	5
5126	Avoiding Apprehension	M2	2
5301	Official Oppression	M2	2
5302	Speculating on Official Action	M2	2
5501	Riot	F3	4
5502	Failure to Disperse	M2	2
5503	Disorderly Conduct	M3	1
5504	Harassment by Communication	M3	1
5506	Loitering and Prowling	M3	1
5507	Obstructing Highways	M3	1
5508	Disrupting Meetings	M3	1
5509	Desecration of Venerated Objects	M2	2
5510	Abuse of Corpse	M2	3
5511	Cruelty to Animals	F3	5
5511	Cruelty to Animals	M2	3
5512	Lotteries	M1	3
5513	Gambling Devices	M1	3
5514	Pool Selling and Bookmaking	M1	3
5515	Prohibiting Paramilitary Training	M1	3

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
5703	Interception, Disclosure or Use of Wire or Oral Communications	F3	5
5705	Possession, Sale, Distribution, Manufacture or Advertisement of Interception Devices	F3	5
5719	Unlawful Use of Intercepted Communications	M2	2
5901	Open Lewdness	M3	1
5902(a)	Prostitution	M3	1
5902(b)(4)(5)(6)(7)(8)when (c)(1)(ii,iv) applies	Prostitution and Related Offenses	F3	5
5902(b) when (c)(1)(iii) applies	Prostitution Involving Minors	F3	9
5902	Prostitution	M2	3
5902(e)	Patronizing Prostitutes	M3	1
5903	Obscene Materials (subsequent offense)	F3	5
5903	Obscene Materials	M1	3
5904	Public Exhibition of Insane or Deformed Person	M2	2
6105*	Firearm, Possession or Ownership by Former Convict (loaded or ammunition in possession or control of defendant)	M1	5
6105*	by Former Convict (unloaded and ammunition not in possession or control of defendant)	M1	4
6106*	Firearms, Not to be Carried Without a License (loaded or ammunition in possession or control of defendant)	M1	5
6106*	Firearms, Not to be Carried Without a License (unloaded and ammunition not in possession or control of defendant)	M1	4
6108*	Carrying Firearms on Public Streets or Public Property in Philadelphia (loaded or ammunition in possession or control of defendant)	M1	5

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
6108*	Carrying Firearms on Public Streets or Public Property in Philadelphia (unloaded and ammunition not in possession or control of defendant)	M1	4
6110*	Not be Made (loaded or ammunition in possession or control of defendant)	M1	5
6110*	Persons to Whom Delivery Shall Not be Made (unloaded or ammunition not in possession or control of defendant)	M1	4
6111	Sale of Firearms	M1	4
6121	Certain Bullets Prohibited	F3	5
6161	Carrying Explosives	M2	3
6162	Shipping Explosives	M3	3
6301	Corruption of Minors	M1	5
6302	Sale or Lease of Weapons	M1	4
6303	Sale of Starter Pistols	M1	4
6304	Sale of Air Rifles	M3	1
6306	Furnish Cigarettes to Minors - 3rd and subsequent offenses	M3	1
6307	Misrepresentation of Age to Secure Alcohol(subsequent offense)	M3	1
6309	Representing that Minor is of Age	M3	1
6310	Inducement of Minors to Buy Liquor	M3	1
6310.1	Selling Liquor to Minors	M3	1
6310.2	Sale of False ID	M2	2
6310.3	Carrying False ID	M3	1
6311	Tattooing	M3	1
6312(b)	Sexual Abuse of Children (taking photos)	F2	7
6312(c)	Sexual Abuse of Children (selling photos)	F3	6
6501	Scattering Rubbish	M1	3
6501	Scattering Rubbish	M2	2
6501	Scattering Rubbish	M3	1
6504	Public Nuisances	M2	2
6703	Military Decorations	M3	1
6707	False Registration of Domestic Animals	M3	1
6709	Use of Union Labels	M3	1
6901	Extension of Water Line	M3	1
6910	Unauthorized Sale of Tickets	M3	1
7102	Drugs to Race Horses	M1	3

CRIMES CODE OFFENSES

18 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
7103	Horse Racing	M3	1
7104	Fortune Telling	M3	1
7107	Unlawful Actions by Athletic Agents	M1	3
7302	Sale of Solidified Alcohol	M2	2
7303	Sale or Illegal Use of Solvents	M3	1
7306	Incendiary Devices	M1	3
7307	Out of State Convict Made Goods	M2	2
7308	Unlawful Advertising of Insurance Business	M2	2
7309	Unlawful Coercion in Contracting Insurance	M1	3
7310	Furnishing Free Insurance	M3	1
7311	Unlawful Collection Agency Practices	M3	1
7312	Debt Pooling	M3	1
7313	Buying Food Stamps	M3	1
7316	Keeping Bucket-Shop	M3	1
7317	Accessories-Bucket-Shop	M3	1
7318	Maintaining Bucket-Shop Premises	M3	1
7319	Bucketshop contracts	M3	1
7321	Lie Detector Tests	M2	2
7322	Demanding Property to Secure Employment	M3	1
7323	Discrimination on Account of Uniform	M2	2
7324	Unlawful sale of Dissertations/Thesis/Term Papers	M3	1
7326	Disclosure of Confidential Tax Information	M3	1
7503	Interest of Certain Architects in Public Works Contracts	M3	1
7504	Appointment of Special Police	M3	1
7507	Breach of Privacy	M2	2

DRUG OFFENSES

Crime 35P.S. 780- 113(a)	Description	Grade	Proposed
(1)	Manufacture/Sale/Delivery of Adulterated Drug	M	4
(2)	Adulteration of Controlled Substance	M	4
(3)	False Advertisement	M	4
(4)	Removal of Detained Substance	M	5
(5)	Adulteration of Sellable Controlled Substance	M	4
(6)	Forging ID Under Act	M	5
(7)	Defraud Trademark	M	5
(8)	Selling Defrauded Trademark	M	5
(9)	Having Equipment to Defraud	M	5
(10)	Illegal Sale of Nonproprietary Drug	M	4
(11)	Illegal Pharmacy Operations	M	5
(12)	Acquisition of Controlled Substance by Fraud	F	Determined by Type & Weight of Drug
	Narcotics, Cocaine, PCP, Methamphetamine	> 100 g.	10
	Narcotics, Cocaine, PCP, Methamphetamine	5 g. to 100g.	8
	Narcotics, Cocaine, PCP, Methamphetamine	< 5 g.	6
	Marijuana	> 50 lbs. or > 50 live plants	7
	Marijuana	> 10 lbs. to 50 lbs. or > 21 to 50 live plants	6
	Marijuana	1 lb. to 10 lbs. or 10 to 21 live plants	5
	Marijuana	< 1lb. or <10 live plants	3
	Schedule I, II, III drugs not listed	F	5
	Schedule IV	F	5
	Schedule V	M	1
(13)	Dispense of Drugs to Drug Dependant Person	M	4
(14)	Delivery by Practitioner	F	Determined by Type & Weight of Drug
	Narcotics, Cocaine, PCP, Methamphetamine	> 100 g.	10
	Narcotics, Cocaine, PCP, Methamphetamine	5 g. to 100g.	8
	Narcotics, Cocaine, PCP, Methamphetamine	< 5 g.	6
	Marijuana	> 50 lbs. or > 50 live plants	7
	Marijuana	> 10 lbs. to 50 lbs. or > 21 to 50 live plants.	6
	Marijuana	1 lb. to 10 lbs. or 10 to 21 live plants	5
	Marijuana	< 1lb. or <10 live plants	3
	Schedule I, II, III drugs not listed	F	5
	Schedule IV	F	5
	Schedule V	M	1

DRUG OFFENSES

Crime 35P.S. 780- 113(a)	Description	Grade	Proposed
(15)	Illegal Retail Sale	M	4
(16)	Simple Possession	M	3
(17)	Dispensing of Drugs Without Label	M	4
(18)	Illegal Sale Container	M	4
(19)	Intentional Unauthorized Purchase	M	5
(20)	Divulging Trade Secret	M	4
(21)	Failure to Keep Records	M	2
(22)	Refusal of Inspection	M	2
(23)	Unauthorized Removal of Seals	M	5
(24)	Failure to Obtain License	M	2
(25)	Manufacture by Unauthorized Party	M	5
(26)	Distribution by Registrant of Controlled Substance	M	5
(27)	Use of Fictitious Registration Number	M	5
(28)	False Application Material	M	5
(29)	Production of Counterfeit Trademarks	M	5
(30)	Possession With Intent to Deliver	F	Determined by Type & Weight of Drug
	Narcotics, Cocaine, PCP, Methamphetamine	> 100 g.	10
	Narcotics, Cocaine, PCP, Methamphetamine	5 g. to 100g.	8
	Narcotics, Cocaine, PCP, Methamphetamine	< 5 g.	6
	Marijuana	> 50 lbs. or > 50 live plants	7
	Marijuana	> 10 lbs. to 50 lbs. or > 21 to 50 live plants	6
	Marijuana	1 lb. to 10 lbs. or 10 to 21 live plants	5
	Marijuana	< 1lb. or < 10 live plants	3
	Schedule I, II, III drugs not listed	F	5
	Schedule IV	F	5
	Schedule V	M	1
(31)	Small Amount of Marijuana	M	1
(32)	Possession of Paraphernalia	M	1
(33)	PWID Paraphernalia No Minor	M	3
(34)	PWID Paraphernalia Minor w/Conditions	M	4
(35)	Illegal sale of Non controlled Substance	F	6
(36)	Designer Drugs	F	5

ENVIRONMENTAL OFFENSES

SOLID WASTE MANAGEMENT ACT			
CRIME 35 P.S.	OFFENSE TITLE	GRADE	OGS
6018.101-6018.1002	Knowingly Transports, etc. Hazardous Waste Without Permit	F1	9
6018.101-6018.1002	Transports, etc. Hazardous Without Permit	F2	7
6018.101-6018.1002	Violation of Act; DER Order, etc.	M3	1
CLEAN STREAMS LAW			
CRIME 35 P.S.	OFFENSE TITLE	GRADE	OGS
691.1-691.1001	Violation of Act; DER Order	M3	1
AIR POLLUTION CONTROL ACT			
CRIME 35 P.S.	OFFENSE TITLE	GRADE	OGS
4001-4015	Knowingly Releases Hazardous Air Pollutant	F1	9
4001-4015	Violation of Act ; DER Order	M2	2
4001-4015	Negligently Releases Hazardous Air Pollution	M3	1
SAFE DRINKING WATER ACT			
CRIME 35 P.S.	OFFENSE TITLE	GRADE	OGS
721.1-721.17	Knowingly Introduces Contaminant Into Public Water	M1	3
721.1-721.17	Violation of Act; DER Order	M3	1

75 Pa. C.S.	Offense Title	Statutory Classification	Offense Gravity Score
3732*	Homicide by Vehicle (when there is also a conviction for DUI arising from the same transaction)	M1	8
3732*	Homicide by Vehicle (when there is not a conviction for DUI arising from the same transaction)	M1	7
3742	Accident Involving Death or Injury	F3	5
3742	Accident Involving Death or Injury	M1	3
3742	Accident Involving Death or Injury	M3	1
7102	Falsify Vehicle Identification	M1	3
7102	Falsify Vehicle Identification	M3	1
7103	Deal in Vehicles with Removed Identification	M3	1
7103	Deal in Vehicles with Removed Identification	F3	5
7111	Deal in Stolen Plates	M1	3
7112	False Report of Theft or Vehicle Conversion	M3	1
7122	Altered or Forged Title or Plates	M1	3

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy auditing of the accounts.

In the second section, the author details the various methods used to collect and analyze data. This includes both primary and secondary research techniques. The primary research involves direct observation and interviews with key stakeholders, while secondary research involves reviewing existing literature and reports.

The third section focuses on the results of the data analysis. It shows that there is a significant correlation between the variables studied. The findings suggest that the current practices are effective, but there are areas for improvement. Specifically, the data indicates that more resources should be allocated to certain areas to optimize performance.

Finally, the document concludes with a series of recommendations based on the findings. These include implementing new procedures, training staff, and regularly reviewing the data to ensure ongoing success. The author believes that these steps will lead to a more efficient and profitable operation.



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Appendix: B

ENABLING LEGISLATION

3/21/89

Following is an updated version of Act 319 of 1978 [1978, Nov. 26, P.L. 1316, No. 319], as amended by 1980, Oct. 5, P.L. 693, No. 142 §218(a); 1980, July 10, P.L. 513, No. 105, §3; 1986, Apr. 30, P.L. 135, No. 41, §1 et seq.; 1986, Dec. 11, P.L. 152, No. 165, §3.

TITLE 42

Subchapter F

§2151. Pennsylvania Commission on Sentencing.

(a) General rule. --The Pennsylvania Commission on Sentencing shall be established as an agency of the General Assembly and shall consist of 11 persons selected as provided in this subchapter.

(b) Seal. --The Pennsylvania Commission on Sentencing shall have a seal engraved with its name and such other inscription as may be specified by regulation of the commission.

§2152. Composition of the commission.

(a) General rule.--The Pennsylvania Commission on Sentencing shall consist of:

(1) Two members of the House of Representatives selected by the Speaker of the House of Representatives, no more than one of whom shall be of the same political party.

(2) Two members of the Senate of Pennsylvania selected by the President pro tempore of the Senate, no more than one of whom shall be of the same political party.

(3) Four judges of courts of record selected by the Chief Justice of Pennsylvania.

(4) Three persons appointed by the Governor, who shall be, respectively:

(i) A district attorney.

(ii) A defense attorney.

(iii) Either a professor of law or a criminologist.

(b) Terms of office. --The members of the commission shall serve for terms of two years and until a successor has been selected and qualified. A vacancy on the commission shall be filled for the balance of the term.

(c) Chairman and executive director. --The commission shall select a chairman from its members and an executive director. The chairman shall:

(1) Preside at meetings of the commission.

(2) Direct the preparation of requests for appropriations for the commission and the use of funds made available to the commission.

(d) Meetings and quorum.

(1) The commission shall meet at least four times a year and not less than semiannually to establish its general policies and rules.

(2) The commission shall be deemed an "agency" within the meaning of and shall be subject to the provisions of the act of July 19, 1984 (P.L. 486, No. 175), referred to as the Public Agency Open Meeting Law.

(3) Seven commissioners shall constitute a quorum for the purpose of adopting proposed initial and initial and subsequent guidelines. A majority of commissioners shall constitute a quorum for all other purposes.

(4) Minutes of meetings shall be kept by the executive director and filed at the executive office of the commission.

(e) Records of action. --Except as otherwise provided by statute, the commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

(f) Expenses. --Each commissioner shall be entitled to reimbursement for his accountable expenses incurred while engaged in the business of the commission.

§2153. Powers and duties.

(a) General rule. --The commission, pursuant to rules and regulations shall have the power to:

(1) Establish general policies and promulgate such rules and regulations for the commission as are necessary to carry out the purposes of this subchapter and Chapter 97 (relating to sentencing).

(2) Utilize, with their consent, the services, equipment, personnel, information and facilities of Federal, State, local and private agencies and instrumentalities with or without reimbursement therefor.

(3) Enter into and perform such contracts, leases, cooperative agreements and other transactions as may be necessary in the conduct of the functions of the commission, with any public agency or with any person, firm, association, corporation, educational institution or nonprofit organization.

(4) Request such information, data and reports from any officer or agency of the Commonwealth government as the commission may from time to time require and as may be produced consistent with other law.

(5) Arrange with the head of any government unit for the performance by the government unit of any function of the commission, with or without reimbursement.

(6) Issue invitations requesting the attendance and testimony of witnesses and the production of any evidence that relates directly to a matter with respect to which the commission or any member thereof is empowered to make a determination under this subchapter.

(7) Establish a research and development program within the commission for the purpose of:

(i) Serving as a clearinghouse and information center for the collection, preparation and dissemination of information on Commonwealth sentencing practices.

(ii) Assisting and serving in a consulting capacity to State courts, departments and agencies in the development, maintenance and coordination of sound sentencing practices.

(8) Collect systematically the data obtained from studies, research and the empirical experience of public and private agencies concerning the sentencing processes.

(9) Publish data concerning the sentencing processes.

(10) Collect systematically and disseminate information concerning sentences actually imposed.

(11) Collect systematically and disseminate information regarding effectiveness of sentences imposed.

(12) Make recommendations to the General Assembly concerning modifications or enactment of sentencing and correctional statutes which the commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy.

(13) Establish a plan and timetable to collect and disseminate information relating to incapacitation, recidivism, deterrence and overall effectiveness of sentences imposed.

(14) Establish a program to systematically monitor compliance with the guidelines and with mandatory sentencing laws by:

(i) Promulgating forms which document the application of the guidelines or mandatory sentencing laws, or both.

(ii) Requiring the timely completion and submission of such forms to the commission.

(b) Annual reports. --The commission shall report annually to the General Assembly, the Administrative Office of Pennsylvania Courts and the Governor on the activities of the commission.

(c) Additional powers and duties. --The commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this subchapter or as may be provided under any other provision of law and may delegate to any commissioner or designated person such powers as may be appropriate other than the power to establish general policies, guidelines, rules and factors under subsection(a) (1).

§2154. Adoption of guidelines for sentencing.

(a) General rule. --The commission shall adopt guidelines for sentencing within the limits established by law which shall be considered by the sentencing court in determining the appropriate sentence for defendants who plead guilty or nolo contendere to, or who were found guilty of, felonies and misdemeanors. The guidelines shall:

(1) Specify the range of sentences applicable to crimes of a given degree of gravity.

(2) Specify a range of sentences of increased severity for defendants previously convicted of or adjudicated delinquent for one or more misdemeanor or felony offenses committed prior to the current offense. For purposes of this section "previously convicted or adjudicated delinquent" shall include any finding of guilty or adjudication of delinquency whether or not sentence has been imposed or disposition ordered prior to the commission of the current offense.

(3) Specify a range of sentences of increased severity for defendants who possessed a deadly weapon during the commission of the current conviction offense.

(4) Prescribe variations from the range of sentences applicable on account of aggravating or mitigating circumstances.

(b) Definition. --As used in this section the term "possessed" means on the defendant's person or within his immediate physical control.

§2155. Publication of guidelines for sentencing.

(a) General rule. --The commission shall:

(1) Prior to adoption, publish in the Pennsylvania Bulletin all proposed initial and subsequent sentencing guidelines and hold public hearings not earlier than 30 days and not later than 60 days thereafter to afford an opportunity for the following persons and organizations to testify:

- (i) Pennsylvania District Attorneys Association.
- (ii) Chiefs of Police Associations.
- (iii) Fraternal Order of Police.
- (iv) Public Defenders Organization.
- (v) Law school faculty members.
- (vi) State Board of Probation and Parole.
- (vii) Bureau of Correction.
- (viii) Pennsylvania Bar Association.
- (ix) Pennsylvania Wardens Association.
- (x) Pennsylvania Association on Probation, Parole and Corrections.
- (xi) Pennsylvania Conference of State Trial Judges.
- (xii) Any other interested person or organization.

(2) Publish in the Pennsylvania Bulletin all initial and subsequent sentencing guidelines as adopted by the commission.

(3) Adopt and publish in the Pennsylvania Bulletin pursuant to subsection (a)(2) the initial sentencing guidelines within 21 months of the first meeting of the Pennsylvania Commission on Sentencing.

(b) Rejection by the General Assembly. --The General Assembly may by concurrent resolution reject in their entirety any initial or subsequent guidelines adopted by the commission within 90 days of their publication in the Pennsylvania Bulletin pursuant to subsection (a)(2).

(c) Effective date. --Sentencing guidelines adopted by the commission shall become effective 90 days after publication in the Pennsylvania Bulletin pursuant to subsection (a)(2) unless disapproved pursuant to subsection (b). If not disapproved, the commissioners shall conduct training and orientation for trial court judges prior to the effective date of the guidelines.

§2156. Severability of Subchapter. The provisions of this subchapter are severable. If any provision of this subchapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application.

* * * *

Subchapter G

§9781. Appellate review of sentence.

(a) Right to appeal. --The defendant or the Commonwealth may appeal as of right the legality of the sentence.

(b) Allowance of appeal. --The defendant or the Commonwealth may file a petition for allowance of appeal of the discretionary aspects of a sentence for a felony or a misdemeanor to the appellate court that has initial jurisdiction for such appeals. Allowance of appeal may be granted at the discretion of the appellate court where it appears that there is a substantial question that the sentence imposed is not appropriate under this chapter.

(c) Determination on appeal. --The appellate court shall vacate the sentence and remand the case to the sentencing court with instructions if it finds:

(1) the sentencing court purported to sentence within the sentencing guidelines but applied the guidelines erroneously;

(2) the sentencing court sentenced within the sentencing guidelines but the case involves circumstances where the application of the guidelines would be clearly unreasonable; or

(3) the sentencing court sentenced outside the sentencing guidelines and the sentence is unreasonable.

In all other cases the appellate court shall affirm the sentence imposed by the sentencing court.

(d) Review of record. --In reviewing the record the appellate court shall have regard for:

(1) The nature and circumstances of the offense and the history and characteristics of the defendant.

(2) The opportunity of the sentencing court to observe the defendant, including any presentence investigation.

(3) The findings on which the sentence was based.

(4) The guidelines promulgated by the commission.

(e) Right to bail not enlarged. --Nothing in this chapter shall be construed to enlarge the defendant's right to bail pending appeal.

(f) Limitation on additional appellate review. --No appeal of the discretionary aspects of the sentence shall be permitted beyond the appellate court that has initial jurisdiction for such appeals.