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Manual

Sentencing Guidelines Implementation Manual:

7th Edition

Effective December 28, 2012

*The Pennsylvania Commission on Sentencing is an agency of the General Assembly
affiliated with The Pennsylvania State University.*



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PENNSYLVANIA COMMISSION ON SENTENCING

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To the Reader:

The Pennsylvania Commission on Sentencing is pleased to disseminate the *7th Edition Sentencing Guidelines Implementation Manual*. The guidelines contained in this manual apply to all sentences imposed for felony and misdemeanor offenses committed on or after December 28, 2012. This edition completely replaces the *6th Edition* and *6th Edition, Revised* editions of the *Sentencing Guidelines Implementation Manual* published on June 3, 2005 and December 5, 2008.

However, since the guidelines are based on the date of the commission of the offense, all previous editions of the guidelines should be retained for use with offenses committed prior to December 28, 2012. A complete set of sentencing guidelines and *Implementation Manuals* are available on the Commission's website at <http://pasentencing.us>.

This edition of the sentencing guidelines reflects updated policies, programs, and statutes as of September 2012. It also responds to suggestions, feedback, and comments received from the legislature, Governor's office, judges, and other practitioners through correspondence and during training sessions, public hearings, and other discussions. The Commission anticipates adopting an amendment to the *7th Edition Sentencing Guidelines* in 2013 which will incorporate the remaining legislation enacted through the end of the 2011-2012 legislative session. It will be available for download from the Commission's website (<http://pasentencing.us>).

The *7th Edition Sentencing Guidelines* reflect a substantial amount of work, cooperation, and input from a broad range of criminal justice practitioners. In particular, the Commission wishes to recognize the contributions from representatives of the following agencies and associations throughout this process: PA Board of Probation and Parole; PA Commission on Crime and Delinquency; County Commissioners Association of PA; PA Department of Corrections; PA Juvenile Court Judges' Commission; PA Office of Attorney General; PA Office of the Victim Advocate; PA Association of Criminal Defense Lawyers; PA Bar Association; PA County Chief Adult Probation Officers Association; PA District Attorneys Association; and the PA State Police.

The new guidelines were developed over a two-year period through efforts of Commission members, ex officio Commission members, and staff under the direction of the Commission's Policy Committee Chair, Judge Sheila A. Woods-Skipper. The Commission also wishes to acknowledge and express its appreciation to five former commission members for their extensive involvement in this process: retired Senator Mary Jo White; District Attorney Marjorie J. Fox; defense attorney Marc S. Raspanti; former Representative (now Judge) Douglas G. Reichley; and Senior Judge Harold E. Woelfel, Jr. Additionally, it acknowledges and thanks former ex officio members: former Chair Catherine C. McVey and former Acting Chair Lloyd A. White of the PA Board of Probation and Parole and Shirley Moore Smeal, Acting Secretary of the PA Department of Corrections.

We hope you find this *7th Edition of the Sentencing Guidelines Implementation Manual* to be a valuable resource. If you have any questions, please contact the Commission. Staff members are available to assist you by telephone, email, through local or regional training sessions, and the SGS Web Help Desk.

Sincerely,

Mark H. Bergstrom
Executive Director



Pennsylvania Commission on Sentencing

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Steven L. Chanenson

Chair

Sheila A. Woods-Skipper

Vice Chair

The Commission was created in 1979 for the primary purpose of creating a consistent and rational statewide sentencing policy to promote fairer and more uniform sentencing practices. Act 81 of 2008, expanded the Commission's responsibilities to include the creation of resentencing, parole, and state recommitment guidelines.

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TABLE OF CONTENTS

Preface	Page
Introductory letter	i
Commission Members	iii
Commission Staff	iv

Part I. Title 204. Judicial System General Provisions Part VII Criminal Sentencing

Chapter 303. Sentencing Guidelines

Section (§)	Page
303.1 Sentencing guidelines standards	1
303.2 Procedure for determining the guideline sentence	2
303.3 Offense Gravity Score – general	2
303.4 Prior Record Score – categories.....	3
303.5 Prior Record Score – prior convictions	3
303.6 Prior Record Score – prior juvenile adjudications	4
303.7 Prior Record Score – guideline points scoring	4
303.8 Prior Record Score – miscellaneous	5
303.9 Guideline sentence recommendation: general	6
303.10 Guideline sentence recommendation: enhancements	8
303.11 Guideline sentence recommendation: sentencing levels.....	9
303.12 Guideline sentence recommendation: sentencing programs	11
303.13 Guideline sentence recommendation: aggravated and mitigated circumstances.....	14
303.14 Guideline sentence recommendation: economic sanctions	15
303.15 Offense listing	
Crimes Code (18 Pa.C.S. §).....	17
Miscellaneous offenses: child support/child abuse reporting (23 P.S. §)	54
Operation of boats (30 Pa.C.S. §).....	55
Drug Act offenses (35. P.S. §780-113(a)).....	58
Judicial Code (42 Pa.C.S. §)	65
Vehicle Code offenses (75 Pa.C.S. §)	66
Omnibus assignments	70
303.16 Basic sentencing matrix	71
303.17 Deadly weapon enhancement/possessed matrix	73
303.18 Deadly weapon enhancement/used matrix	75
303.19 Youth/school enhancement/ youth enhancement matrix.....	77
Youth/school enhancement/school enhancement matrix.....	78
Youth/school enhancement/youth and school enhancement matrix	79



Part II: Analysis of the Guidelines

Section (§)	Guideline Standards	Page
303.1	Sentencing guidelines standards.....	81
303.1(a).	Consideration of the guidelines	81
303.1(b).	Guidelines do not apply	83
303.1(c).	Effective dates of guidelines	85
303.1(d).	Contemporaneous written statement	87
303.1(e).	SGS Web reporting requirement.....	89
303.1(f).	State identification number requirement.....	93
303.2	Procedure for determining the guideline sentence	95
303.2(a).	Overview of procedures	95
303.2(b).	Judicial proceeding.....	97
	Offense Gravity Score	
303.3	Offense Gravity Score – general.....	99
303.3(a).	All offenses	99
303.3(b).	Subcategorized offenses	103
303.3(c).	Inchoate offenses.....	107
303.3(d).	Ethnic intimidation offenses	109
303.3(e).	Drug offenses	111
303.3(f).	Omnibus scores	113
	Prior Record Score	
303.4	Prior Record Score – categories	115
303.4(a).	General categories	115
303.5	Prior Record Score – prior convictions.....	119
303.5(a).	Single offense in judicial proceeding.....	119
303.5(b).	Multiple offenses in judicial proceeding	123
303.5(c).	Un-Sentenced convictions.....	127
303.5(d).	Adequacy of prior record score.....	129
303.6	Prior Record Score – prior juvenile adjudications.....	131
303.6(a).	Certain adjudications counted	131
303.6(b).	Most serious adjudication offense.....	133
303.6(c).	Juvenile lapsing	135
303.7	Prior Record Score – guideline points scoring.....	137
303.7(a).	Scoring of prior convictions and adjudications	137
303.8	Prior Record Score – miscellaneous	143
303.8(a).	Definition of priors	143
303.8(b).	Inchoate priors	145
303.8(c).	Ethnic intimidation	147
303.8(d).	Former Pennsylvania priors.....	149
303.8(e).	Misgraded priors	151
303.8(f).	Out-of-state, federal, or foreign priors	153
303.8(g).	Excluded offenses, charges, and convictions	155



General Recommendations

303.9	Guideline sentence recommendation: general.....	159
303.9(a).	Basic sentencing recommendations.....	159
303.9(b).	Deadly weapon enhancement sentence recommendation.....	163
303.9(c).	Youth/school enhancement sentence recommendations.....	165
303.9(d).	Aggravated/mitigated sentencing recommendations	167
303.9(e).	Numeric sentence recommendations.....	169
303.9(f).	Alphabetic sentence recommendations	171
303.9(g).	Statutory maximum.....	173

Mandatory Minimum Sentences and Sentencing Enhancements

303.9(h).	Mandatory minimum	177
	Mandatory minimum sentencing provisions as of December 28, 2013 ...	179
303.9(i).	Mandatory sentences for which county intermediate punishment is authorized	187
303.10	Guideline sentence recommendations: enhancements	191
303.10(a).	Deadly weapon enhancement	191
303.10(b).	Youth/school enhancement.....	195

Sentencing Levels and Programs

303.11	Guideline sentence recommendation: sentencing levels	199
303.11(a).	Purpose of sentence.....	199
303.11(b).	Sentencing levels.....	201
303.12	Guideline sentence recommendations: sentencing programs	209
303.12(a).	County intermediate punishment.....	209
303.12(b).	State motivational boot camp.....	217
303.12(c).	State intermediate punishment.....	221
303.13	Guideline sentence recommendations: aggravated and mitigated circumstances.....	225
303.13(a).	Aggravating circumstances.....	225
303.13(b).	Mitigating circumstances	227
303.13(c).	Reasons on the record	231
303.14	Guideline sentence recommendations – economic sanctions	233
303.14(a).	Fines	233
303.14(b).	Costs and fees	239
303.14(c).	Restitution	241

Part III: Appendices

A.	Commission on Sentencing Enabling Legislation	247
B.	Frequently Used Abbreviations.....	271





Title 204. Judicial System General Provisions

Part VIII Criminal Sentencing

Chapter 303. Sentencing Guidelines

§303.1. Sentencing guidelines standards.

- (a) The court shall consider the sentencing guidelines in determining the appropriate sentence for offenders convicted of, or pleading guilty or nolo contendere to, felonies and misdemeanors. Where crimes merge for sentencing purposes, the court shall consider the sentencing guidelines only on the offense assigned the higher offense gravity score.
- (b) The sentencing guidelines do not apply to sentences imposed as a result of the following: accelerated rehabilitative disposition; disposition in lieu of trial; direct or indirect contempt of court; violations of protection from abuse orders; revocation of probation, intermediate punishment or parole.
- (c) The sentencing guidelines shall apply to all offenses committed on or after the effective date of the guidelines. Amendments to the guidelines shall apply to all offenses committed on or after the date the amendment becomes part of the guidelines.
 - (1) When there are current multiple convictions for offenses that overlap two sets of guidelines, the former guidelines shall apply to offenses that occur prior to the effective date of the amendment and the later guidelines shall apply to offenses that occur on or after the effective date of the amendment. If the specific dates of the offenses cannot be determined, then the later guidelines shall apply to all offenses.
 - (2) The initial sentencing guidelines 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 the guidelines due to a procedural error that occurred in 1981 when the legislature rejected the first set of guidelines. New guidelines were drafted and became effective on April, 25, 1988. Amendments to the guidelines went into effect August 9, 1991 and December 20, 1991. Revised sets of guidelines became effective August 12, 1994, June 13, 1997, June 3, 2005, and December 5, 2008.
- (d) In every case in which a court of record imposes a sentence for a felony or misdemeanor, the court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed. In every case where a court of record imposes a sentence outside the sentencing guidelines, the reason or reasons for the deviation from the guidelines shall be recorded on the Guideline Sentence Form, a copy of which shall be electronically transmitted to the Pennsylvania Commission on Sentencing in the manner described in §303.1(e).
- (e) Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software Web application (SGS Web) shall be used at the court's direction to prepare all guideline-required sentencing information. The completed Guideline Sentence Form shall be made a part of the record and the information electronically submitted to the Commission via SGS Web no later than 30 days after the date of sentencing.
- (f) Effective January 1, 2014, the State Identification Number (SID) for an offender shall be included as part of the record in the completed Guideline Sentence Form.



§303.2. Procedure for determining the guideline sentence.

- (a) For each conviction offense of a judicial proceeding, the procedure for determining the guideline sentence shall be as follows:
 - (1) Determine the Offense Gravity Score as described in §303.3 and §303.15.
 - (2) Determine the Prior Record Score as described in §303.4 - §303.8.
 - (3) Determine the guideline sentence recommendation as described in §303.9 - §303.14, including Deadly Weapon Enhancement and Youth/School Enhancement (§303.10), and aggravating or mitigating circumstances (§303.13).
- (b) Judicial proceeding. A judicial proceeding is a proceeding in which all offenses for which the offender has been convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple offenses and transactions.

§303.3. Offense Gravity Score - general.

- (a) An Offense Gravity Score is given for each offense. The Offense Gravity Scores are located in §303.15.
- (b) Subcategorized offenses. Certain offenses are subcategorized and scored by the Commission according to the particular circumstances of the offense. The court determines which Offense Gravity Score, located in §303.15, applies. These offenses are designated by an asterisk [*].
- (c) Inchoate offenses. Inchoate offenses are scored as follows:
 - (1) Convictions for attempt, solicitation, or conspiracy to commit a Felony 1 offense receive an Offense Gravity Score of one point less than the offense attempted, solicited, or which was the object of the conspiracy.
 - (2) Convictions for attempt, solicitation, or conspiracy to commit any offense which is not a Felony 1 offense, receive the Offense Gravity Score of the offense attempted, solicited, or which was the object of the conspiracy.
 - (3) Convictions for attempt, solicitation, or conspiracy to commit any offense under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §780-101 -- §780-144) receive the Offense Gravity Score of the offense attempted, solicited, or which was the object of the conspiracy.
 - (4) Exception for inchoate murder convictions. Convictions for attempt, solicitation, or conspiracy to commit murder receive the Offense Gravity Score of 14 if there is serious bodily injury and 13 if there is no serious bodily injury.
- (d) Ethnic Intimidation. Convictions for Ethnic Intimidation (18 Pa. C.S. §2710) receive an Offense Gravity Score that is one point higher than the offense which was the object of the Ethnic Intimidation. When the object offense is murder of the third degree, a conviction for Ethnic Intimidation receives the highest Offense Gravity Score.
- (e) Violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§780-101 -- 780-144). If any mixture or compound contains any detectable amount of a controlled substance, the entire amount of the mixture or compound shall be deemed to be composed of the controlled substance. If a mixture or compound contains a detectable amount of more than one controlled substance, the mixture or compound shall be deemed to be composed entirely of the controlled substance which has the highest Offense Gravity Score.
 - (1) Exception for prescription pills. For violations of 35 P.S. §780-113 (a)(12), (a)(14), and (a)(30) involving narcotic prescription pills of Schedule II, when both the weight and the number of pills are known, the higher Offense Gravity Score assignment applies. (See §303.15.)

- (f) **Omnibus Offense Gravity Scores.** The Omnibus Offense Gravity Score is applied when the offense is not otherwise listed in §303.15, or when the grade of an offense listed in §303.15 has changed, unless application of this section would result in a lower Offense Gravity Score for an increased grading of the offense. Where the definition of the crime is changed, but the grade or statutory maximum sentence is not changed, the previously assigned offense gravity score still applies. The Omnibus Offense Gravity Scores are provided below and in the listing at §303.15:

Felony 1	8
Felony 2	7
Felony 3	5
Felonies not subclassified by the General Assembly	5
Misdemeanor 1	3
Misdemeanor 2	2
Misdemeanor 3	1
Misdemeanors not subclassified by the General Assembly	1

§303.4. Prior Record Score - categories.

- (a) **Prior Record Score categories.** Determination of the correct Prior Record Score category under this section is based on the type and number of prior convictions (§303.5) and prior juvenile adjudications (§303.6). There are eight Prior Record Score categories: Repeat Violent Offender [REVOC], Repeat Felony 1 and Felony 2 Offender [RFEL], and point-based categories of 0, 1, 2, 3, 4 and 5.
- (1) **Repeat Violent Offender Category [REVOC].** Offenders who have two or more previous convictions or adjudications for four point offenses (§303.7(a)(1) and §303.15) and whose current conviction carries an Offense Gravity Score of 9 or higher shall be classified in the Repeat Violent Offender Category.
 - (2) **Repeat Felony 1 and Felony 2 Offender Category [RFEL].** Offenders who have previous convictions or adjudications for Felony 1 and/or Felony 2 offenses which total 6 or more in the prior record, and who do not fall within the Repeat Violent Offender Category, shall be classified in the repeat Felony 1 and Felony 2 Offender Category.
 - (3) **Point-based Categories (0-5).** Offenders who do not fall into the REVOC or RFEL categories shall be classified in a Point-based Category. The Prior Record Score shall be the sum of the points accrued based on previous convictions or adjudications, up to a maximum of five points.

§303.5. Prior Record Score – prior convictions.

- (a) If there is a single offense in the prior judicial proceeding, that offense shall be counted in the calculation of the Prior Record Score.
- (b) If there are multiple offenses in the prior judicial proceeding:
 - (1) The most serious offense of the judicial proceeding shall be counted in the calculation of the Prior Record Score.
 - (2) Any offense for which a sentence of supervision or confinement is imposed consecutive to a sentence for another offense in the judicial proceeding shall be counted in the calculation of the Prior Record Score.
- (c) **Un-sentenced convictions.** If no sentence has yet to be imposed on an offense, the offense shall not be counted in the calculation of the Prior Record Score.



- (d) Adequacy of the Prior Record Score. The court may consider at sentencing prior convictions, juvenile adjudications or dispositions not counted in the calculation of the Prior Record Score, in addition to other factors deemed appropriate by the court.

§303.6. Prior Record Score - prior juvenile adjudications.

- (a) Juvenile adjudication criteria. Prior juvenile adjudications are counted in the Prior Record Score when the following criteria are met:
 - (1) The juvenile offense occurred on or after the offender's 14th birthday, and
 - (2) There was an express finding by the juvenile court that the adjudication was for a felony or one of the Misdemeanor 1 offenses listed in §303.7(a)(4).
- (b) Only the most serious juvenile adjudication of each prior disposition is counted in the Prior Record Score. No other prior juvenile adjudication shall be counted in the Prior Record Score.
- (c) Lapsing of juvenile adjudications. Prior juvenile adjudications for four point offenses listed in §303.7(a)(1) shall always be included in the Prior Record Score, provided the criteria in subsection (a) above are met:
 - (1) All other juvenile adjudications not identified above in subsection (a) lapse and shall not be counted in the Prior Record Score if:
 - (i) The offender was 28 years of age or older at the time the current offense was committed; and
 - (ii) The offender remained crime-free during the ten-year period immediately preceding the offender's 28th birthday.
 - (iii) Crime-free. Included in the definition of crime-free is any summary offense and/or one misdemeanor offense with a statutory maximum of one year or less.
 - (2) Nothing in this section shall prevent the court from considering lapsed prior adjudications at the time of sentencing.

§303.7. Prior Record Score - guideline points scoring.

- (a) Scoring of prior convictions and adjudications is provided below and in the listing of offenses at §303.15:
 - (1) Four Point Offenses. Four points are added for each prior conviction or adjudication for the following offenses:
 - Murder, and attempt, solicitation or conspiracy to commit Murder
 - All other completed crimes of violence, as defined in 42 Pa.C.S. §9714(g), excluding inchoates.
 - Murder of Unborn Child, and attempt, solicitation or conspiracy to commit Murder of Unborn Child
 - Offenses with OGS 11 or greater, excluding inchoates and Violations of the Controlled Substance Act
 - Ethnic Intimidation to any Felony 1 offense
 - (2) Three Point Offenses. Three points are added for each prior conviction or adjudication for the following offenses:
 - All other Felony 1 offenses not listed in §303.7 (a)(1).
 - All other inchoates to offenses listed in §303.7 (a)(1).



Violation of 35 P.S. §§780-113(a)(12)(14) or (30) involving 50 grams or more, including inchoates involving 50 grams or more.

- (3) Two Point Offenses. Two points are added for each prior conviction or adjudication for the following offenses:

All other Felony 2 offenses not listed in §303.7 (a)(1) or (a)(2).

All felony drug violations not listed in §303.7 (a)(2), including inchoates.

- (4) One Point Offenses. One point is added for each prior conviction or adjudication for the following offenses:

All other felony offenses not listed in §303.7 (a)(1), (a)(2) or (a)(3).

Any of the following Misdemeanor 1 offenses that involve weapons:

Possessing Instruments of Crime (possession of a weapon)

Prohibited Offensive Weapons

Use or Possession of Electric or Electronic Incapacitation Device

Possession of Weapon on School Property

Possession of Firearm or Other Dangerous Weapon in Court Facility

Violations of the Pennsylvania Uniform Firearms Act

Any of the following Misdemeanor 1 offenses that involve death or danger to children:

Involuntary Manslaughter

Simple Assault (against child under 12 years of age by adult 21 years of age or older)

Luring a Child into a Vehicle

Indecent Assault (complainant is less than 13 years of age)

Indecent Exposure (persons present are less than age 16)

Endangering Welfare of Children

Dealing in Infant Children

Driving Under the Influence of Alcohol or Controlled Substance, except for a first lifetime conviction or adjudication.

Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, except for a first lifetime conviction or adjudication.

- (5) Other Misdemeanor Offenses. All other misdemeanor offenses, including a first lifetime conviction for Driving Under the Influence of Alcohol or a Controlled Substance or Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, are designated by an "m" in the offense listing at §303.15, and are scored as follows:

(i) One point is added if the offender was previously convicted of two or three misdemeanors.

(ii) Two points are added if the offender was previously convicted of four to six misdemeanors.

(iii) Three points are added if the offender was previously convicted of seven or more misdemeanors.

§303.8. Prior Record Score - miscellaneous.

- (a) Prior convictions and adjudications of delinquency. A prior conviction means "previously convicted" as defined in 42 Pa. C.S. §2154(a)(2). A prior adjudication of delinquency means "previously adjudicated delinquent" as defined in 42 Pa. C.S. §2154(a)(2). In order for an offense to be considered in the Prior Record Score, both the commission of and conviction for the previous offense must occur before the commission of the current offense.

- (b) Inchoate offenses. Unless otherwise provided in §303.7 or §303.15, a prior conviction or adjudication of delinquency for criminal attempt, criminal solicitation or criminal conspiracy is scored under §303.7 based upon the grade of the inchoate offense.



- (c) Ethnic Intimidation. Unless otherwise provided in §303.7 or §303.15, a prior conviction or adjudication of delinquency for Ethnic Intimidation is scored under §303.7 based upon the grade of the Ethnic Intimidation.
- (d) Former Pennsylvania offenses.
 - (1) A prior conviction or adjudication of delinquency under former Pennsylvania law is scored as a conviction for the current equivalent Pennsylvania offense.
 - (2) When there is no current equivalent Pennsylvania offense, prior convictions or adjudications of delinquency are scored under §303.7 based on the grade of the offense. When a prior conviction or adjudication of delinquency was for a felony, but the grade of the felony is unknown, it shall be treated as a Felony 3. When a prior conviction was for a misdemeanor, but the grade of the misdemeanor is unknown, it shall be treated as other misdemeanors. When it cannot be determined if the prior conviction was a felony, one point misdemeanors, or other misdemeanors, it shall be treated as other misdemeanors. When a prior conviction is for a crime which has a summary grade, and the grade of the conviction is unknown, the prior conviction shall not be counted in the Prior Record Score.
- (e) A prior conviction or adjudication of delinquency for an offense which was misgraded is scored as a conviction for the current equivalent Pennsylvania offense.
- (f) Out-of-state, federal or foreign offenses.
 - (1) An out-of-state, federal or foreign conviction or adjudication of delinquency is scored as a conviction for the current equivalent Pennsylvania offense.
 - (2) A court-martial for a criminal offense under the Uniform Code of Military Justice is considered a federal conviction and is scored as a conviction for the current equivalent Pennsylvania offense. Non-judicial punishments or administrative actions (e.g., Article 15, Article 134) which are not convictions shall not be counted in the Prior Record Score.
 - (3) When there is no current equivalent Pennsylvania offense, determine the current equivalent Pennsylvania grade of the offense based on the maximum sentence permitted, and then apply §303.8(d)(2).
- (g) Excluded offenses, charges and convictions. The following types of offenses, charges and convictions shall not be scored in the Prior Record Score:
 - (1) Summary offenses, violations of local ordinances, direct or indirect contempt of court, violation of protection from abuse orders, and dispositions under Pa.R.Crim.P. Rules 300-320 (relating to accelerated rehabilitative disposition), 35 P.S. §780-117 (relating to probation without verdict) or 35 P.S. §780-118 (relating to disposition in lieu of trial or criminal punishment).
 - (2) A charge which is nolle prossed, dismissed, or on which a demurrer is sustained.
 - (3) Any prior conviction which contributed to an increase in the grade of a subsequent conviction, except for prior Driving Under the Influence of Alcohol or Controlled Substance convictions.

§303.9. Guideline sentence recommendation: general.

- (a) Basic sentence recommendations. Guideline sentence recommendations are based on the Offense Gravity Score and Prior Record Score. In most cases, the sentence recommendations are found in the Basic Sentencing Matrix (§303.16). The Basic Sentencing Matrix specifies a range of sentences (i.e.-standard range) that shall be considered by the court for each combination of Offense Gravity Score (OGS) and Prior Record Score (PRS).

- (b) Deadly Weapon Enhancement sentence recommendations. If the court determines that an offender possessed a deadly weapon pursuant to §303.10(a)(1), the court shall instead consider the DWE/Possessed Matrix (§303.17). If the court determines that an offender used a deadly weapon pursuant to §303.10(a)(2), the court shall instead consider the DWE/Used Matrix (§303.18). Both enhanced matrices specify a range of sentences (i.e.-standard range) that shall be considered by the court for each combination of Offense Gravity Score (OGS) and Prior Record Score (PRS).
- (c) Youth/School Enhancement sentence recommendations. If the court determines that an offender violated the drug act pursuant to §303.10(b), the court shall consider the applicable matrix in 303.19, related to Youth, School, or Youth and School Enhancements. When applying the Youth Enhancement, 6 months are added to the lower limit of the standard range and 12 months are added to the upper limit of the standard range. When applying the School Enhancement, 12 months are added to the lower limit of the standard range and 24 months are added to the upper limit of the standard range. When the Youth and School Enhancement is applied, 18 months are added to the bottom of the standard range and 36 months are added to the upper limit of the standard range. The range of sentences (i.e.- standard range) shall be considered by the court for each combination of Offense Gravity Score (OGS) and Prior Record Score (PRS).
- (d) Aggravated and mitigated sentence recommendations. To determine the aggravated and mitigated sentence recommendations, apply §303.13.
- (e) Numeric sentence recommendations. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. §9755(b) (partial confinement) and §9756(b) (total confinement).
- (f) Alphabetic sentence recommendations. RS in the sentence recommendation, an abbreviation for Restorative Sanctions, suggests use of the least restrictive, non-confinement sentencing alternatives described in 42 Pa.C.S. §9753 (determination of guilt without further penalty), §9754 (order of probation) and §9758 (fine). 42 Pa.C.S. §9721(c) (mandatory restitution) is also included in RS. No specific recommendations are provided for periods of supervision for these non-confinement sentencing alternatives. Recommendations related to fines and community service are found at §303.14(a). RIP in the sentence recommendation, an abbreviation for Restrictive Intermediate Punishments, suggests use of Restrictive Intermediate Punishments pursuant to §303.12(a)(4).
- (g) When the guideline sentence recommendation exceeds that permitted by 18 Pa.C.S. §1103 and §1104 (relating to sentence of imprisonment for felony and misdemeanor) and 42 Pa.C.S. §9755(b) and §9756(b) (relating to sentence of partial and total confinement) or other applicable statute setting the maximum term of confinement, then the statutory limit is the longest guideline sentence recommendation. For the purposes of the guidelines, the statutory limit is the longest legal minimum sentence, which is one-half the maximum allowed by law.
- (h) Mandatory sentences. The court has no authority to impose a sentence less than that required by a mandatory minimum provision established in statute. When the guideline range is lower than that required by a mandatory sentencing statute, the mandatory minimum requirement supersedes the sentence recommendation. When the sentence recommendation is higher than that required by a mandatory sentencing statute, the court shall consider the guideline sentence recommendation.
- (i) Mandatory sentences for which county intermediate punishment is authorized. The court shall consider the sentence recommendations pursuant to this section (§303.9) for an offender convicted under 30 Pa.C.S. §5502 (Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance), 75 Pa.C.S. §1543(b) (Driving While Operating Privilege is Suspended or Revoked, Certain Offenses), 75 Pa.C.S. §3802 (Driving Under the Influence of Alcohol or Controlled Substance) or 75 Pa.C.S. §3808(a)(2) (Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock). The



court may use a Qualified Restrictive Intermediate Punishment pursuant to §303.12(a)(6) to satisfy the mandatory minimum requirement as provided by law.

§303.10. Guideline sentence recommendations: enhancements.

(a) Deadly Weapon Enhancement.

- (1) When the court determines that the offender possessed a deadly weapon during the commission of the current conviction offense, the court shall consider the DWE/Possessed Matrix (§303.17). An offender has possessed a deadly weapon if any of the following were on the offender's person or within his immediate physical control:
 - (i) Any firearm, (as defined in 42 Pa.C.S. §9712) whether loaded or unloaded, or
 - (ii) Any dangerous weapon (as defined in 18 Pa.C.S. §913), or
 - (iii) Any device, implement, or instrumentality designed as a weapon or capable of producing death or serious bodily injury where the court determines that the defendant intended to use the weapon to threaten or injure another individual.
- (2) When the court determines that the offender used a deadly weapon during the commission of the current conviction offense, the court shall consider the DWE/Used Matrix (§303.18). An offender has used a deadly weapon if any of the following were employed by the offender in a way that threatened or injured another individual:
 - (i) Any firearm, (as defined in 42 Pa.C.S. §9712) whether loaded or unloaded, or
 - (ii) Any dangerous weapon (as defined in 18 Pa.C.S. §913), or
 - (iii) Any device, implement, or instrumentality capable of producing death or serious bodily injury.
- (3) There shall be no Deadly Weapon Enhancement for the following offenses:
 - (i) Possessing Instruments of Crime
 - (ii) Prohibited Offensive Weapons
 - (iii) Possession of Weapon on School Property
 - (iv) Possession of Firearm or Other Dangerous Weapon in Court Facility
 - (v) Simple Assault (18 Pa.C.S. §2701(a)(2))
 - (vi) Aggravated Assault (18 Pa.C.S. §2702(a)(4))
 - (vii) Theft when property stolen is a firearm (18 Pa.C.S. Chapter 39)
 - (viii) Violations of the Pennsylvania Uniform Firearms Act
 - (ix) Any other offense for which possession of a deadly weapon is an element of the statutory definition.
- (4) The Deadly Weapon Enhancement shall apply to each conviction offense for which a deadly weapon is possessed or used.

(b) Youth/School Enhancement.

- (1) When the court determines that the offender distributed a controlled substance to a person or persons under the age of 18, the court shall consider the range of sentences described in §303.9(c).



- (2) When the court determines that the offender manufactured, delivered or possessed with intent to deliver a controlled substance within 250 feet of the real property on which is located a public or private elementary or secondary school, the court shall consider the range of sentences described in §303.9(c).
- (3) When the court determines both (b)(1) and (b)(2) apply, the court shall consider the range of sentences described in §303.9(c).
- (4) The Youth/School Enhancement only applies to violations of 35 P.S. §780-113(a)(14) and (a)(30).
- (5) The Youth/School Enhancement shall apply to each violation which meets the criteria above.

§303.11. Guideline sentence recommendation: sentencing levels.

- (a) Purpose of sentence. In writing the sentencing guidelines, the Pennsylvania Commission on Sentencing strives to provide a benchmark for the judges of Pennsylvania. The sentencing guidelines provide sanctions proportionate to the severity of the crime and the severity of the offender's prior conviction record. This establishes a sentencing system with a primary focus on retribution, but one in which the recommendations allow for the fulfillment of other sentencing purposes including rehabilitation, deterrence, and incapacitation. To facilitate consideration of sentencing options consistent with the intent of the sentencing guidelines, the Commission has established five sentencing levels. Each level targets certain types of offenders, and describes ranges of sentencing options available to the court.
- (b) Sentencing levels. The sentencing level is based on the standard range of the sentencing recommendation. Refer to §303.9 to determine which sentence recommendation (i.e. - Basic, Deadly Weapon Enhancement or Youth/School Enhancement) applies. When the individual or aggregate minimum sentence recommendation includes confinement in a county facility, county intermediate punishment should be considered in lieu of confinement for an eligible offender. When the individual or aggregate minimum sentence recommendation includes confinement in a state facility, county or state intermediate punishment should be considered in lieu of confinement for an eligible offender. The descriptions of the five sentencing levels are as follows:
 - (1) Level 1 - Level 1 provides sentence recommendations for the least serious offenders with no more than one prior misdemeanor conviction, such that the standard range is limited to Restorative Sanctions (RS). The primary purpose of this level is to provide the minimal control necessary to fulfill court-ordered obligations. The following sentencing option is available:

Restorative Sanctions (§303.9(f)) (also see §303.14(a)(4) for Fines/Community Service Guidelines)
 - (2) Level 2 - Level 2 provides sentence recommendations for generally non-violent offenders and those with numerous less serious prior convictions, such that the standard range requires a county sentence but permits both incarceration and non-confinement. The standard range is defined as having an upper limit of less than 12 months and a lower limit of Restorative Sanctions (RS). The primary purposes of this level are control over the offender and restitution to victims. Treatment is recommended for drug dependent offenders. The following sentencing options are available:

Total confinement in a county facility

Partial confinement in a county facility

County Intermediate Punishment (see §303.12(a) for eligibility criteria)

Restorative Sanctions (§303.9(f)) (also see §303.14(a)(4) for Fines/Community Service Guidelines)



- (3) Level 3 - Level 3 provides sentence recommendations for serious offenders and those with numerous prior convictions, such that the standard range requires incarceration or County Intermediate Punishment, but in all cases permits a county sentence. The standard range is defined as having a lower limit of incarceration of less than 12 months. Included in Level 3 are those offenses for which a mandatory minimum sentence of 12 months or less applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of this level are retribution and control over the offender. If eligible, treatment is recommended for drug dependent offenders in lieu of incarceration. The following sentencing options are available:

Total confinement in a state facility

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see §303.12(b) for eligibility criteria)

State Intermediate Punishment (see §303.12(c) for eligibility criteria)

Total confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

Partial confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

County Intermediate Punishment (see §303.12(a) for eligibility criteria)

- (4) Level 4 - Level 4 provides sentence recommendations for very serious offenders and those with numerous prior convictions, such that the standard range requires state incarceration but permits it to be served in a county facility pursuant to 42 Pa.C.S. §9762(b). The standard range is defined as having a lower limit of incarceration of 12 months or greater but less than 30 months, but limited to offenses with an Offense Gravity Score of less than 9. Included in Level 4 are those offenses for which a mandatory minimum sentence of less than 30 months applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of the sentencing options at this level are punishment and incapacitation. However, it is recognized that certain offenders at this level are permitted to serve a sentence of total confinement in a county facility, pursuant to 42 Pa.C.S. §9762(b), and some non-violent offenders may benefit from drug and alcohol treatment. If eligible, state or county intermediate punishment is recommended for drug dependent offenders. The following sentencing options are available:

Total confinement in a state facility

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see §303.12(b) for eligibility criteria)

State Intermediate Punishment (see §303.12(c) for eligibility criteria)

Total confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

Partial confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

County Intermediate Punishment (see §303.12.(a) for eligibility criteria)

- (5) Level 5 - Level 5 provides sentence recommendations for the most violent offenders and those with major drug convictions, such that the conviction has an Offense Gravity Score of 9 or greater or the standard range requires state incarceration in a state facility. The standard range in such a case is defined as having a lower limit of 12 months or greater. Included in Level 5 are



those offenses for which a mandatory minimum sentence of 30 months or greater applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of the sentencing options at this level are punishment commensurate with the seriousness of the criminal behavior and incapacitation to protect the public. If eligible, state or county intermediate punishment is recommended for drug dependent offenders. The following sentencing options are available:

Total confinement in a state facility

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see §303.12(b) for eligibility criteria)

State Intermediate Punishment (see §303.12(c) for eligibility criteria)

Total confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

Partial confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

County Intermediate Punishment (see §303.12.(a) for eligibility criteria)

§303.12. Guideline sentence recommendations: sentencing programs.

(a) County intermediate punishment (CIP).

(1) Eligibility.

(i) The following regulations and statutes govern operation of and eligibility for county intermediate punishment programs:

37 Pa.Code §451.1 et seq.

42 Pa.C.S. §9763, §9773 and Chapter 98

204 Pa.Code §303.8 and §303.9

(ii) Sentence recommendations which include an option of County Intermediate Punishment for certain offenders are designated in the guideline matrices.

(2) The county intermediate punishment plan provides a mechanism to advise the court of the extent and availability of services and programs authorized in the county. This plan includes information on the appropriate classification and use of county programs based on program-specific requirements.

(3) County intermediate punishments classifications. In order to incorporate county intermediate punishment programs into the sentencing levels, the Commission has classified county intermediate punishment programs as Restrictive Intermediate Punishments (RIP) and restorative sanction programs. Additionally, specific county intermediate punishment programs have been identified in legislation (42 Pa.C.S. §§9763(c) and 9804(b)) and regulation (37 Pa. Code §451.52) as authorized sentences for convictions relating to Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, Driving While Operating Privilege is Suspended or Revoked, Driving Under the Influence of Alcohol or Controlled Substance and Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock; the Commission has classified these programs as Qualified Restrictive Intermediate Punishments.

(4) Restrictive Intermediate Punishments (RIP). Restrictive Intermediate Punishments are defined as programs that provide for strict supervision of the offender. The county intermediate punishment board is required to develop assessment and evaluation procedures to assure the



appropriate targeting of offenders. All programs must meet the minimum standards provided in the Pennsylvania Commission on Crime and Delinquency regulations (37 Pa.Code Chapter 451) for county intermediate punishments.

(i) Restrictive Intermediate Punishments (RIP) either:

(A) house the offender full or part time; or

(B) significantly restrict the offender's movement and monitor the offender's compliance with the program(s); or

(C) involve a combination of programs that meet the standards set forth above.

(ii) An offender under consideration for Restrictive Intermediate Punishments at Level 4 or Level 3 shall have a diagnostic assessment of dependency on alcohol or other drugs conducted by one of the following: the Pennsylvania Department of Health's Bureau of Drug and Alcohol Programs (BDAP) or a designee; the county authority on drugs and alcohol or a designee; or clinical personnel of a facility licensed by the Bureau of Drug and Alcohol Programs.

(iii) An offender assessed to be dependent shall be evaluated for purposes of a treatment recommendation by one of the above listed assessors. The evaluation shall take into account the level of motivation of the offender. If sentenced to a Restrictive Intermediate Punishment, the sentence shall be consistent with the level of care and length of stay prescribed in the treatment recommendation, regardless of the standard range sentencing recommendation.

(iv) An offender assessed as not in need of drug or alcohol treatment may be placed in any approved Restrictive Intermediate Punishment program. Each day of participation in a Restrictive Intermediate Punishment program or combination of programs shall be considered the equivalent of one day of total confinement for guideline sentence recommendations.

(v) The court may impose a Qualified Restrictive Intermediate Punishment in lieu of incarceration for certain convictions under 75 Pa. C.S. §3802 (relating to Driving Under the Influence of Alcohol or Controlled Substance).

(5) Restorative sanction programs. Restorative sanction programs are the least restrictive, non-confinement intermediate punishments. Restorative sanction programs are generally used in conjunction with Restrictive Intermediate Punishments as the level of supervision is reduced, but may also be used as separate sanctions under any of the non-confinement sentencing alternatives provided in the statute (see §303.9(f)).

(i) Restorative sanction programs:

(A) are the least restrictive in terms of constraint of offender's liberties;

(B) do not involve the housing of the offender (either full or part time); and

(C) focus on restoring the victim to pre-offense status.

(6) Qualified Restrictive Intermediate Punishments. In accordance with 42 Pa.C.S. §§9763(c), 9804(b) and 37 Pa. Code §451, Qualified Restrictive Intermediate Punishment programs may be used to satisfy the mandatory minimum sentencing requirements of certain convictions under 30 Pa.C.S. §5502(c.1) for a first, second or third offense under 30 Pa.C.S. §5502, 75 Pa.C.S. §1543(b), former 75 Pa.C.S. §3731, 75 Pa.C.S. §3804 for a first, second or third offense under 75 Pa.C.S. Chapter 38, or 75 Pa.C.S. §3808(a)(2) Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock.



- (i) Unless otherwise provided in statute, Qualified Restrictive Intermediate Punishment programs include:
 - (A) if the defendant is determined to be in need of drug and alcohol treatment, and receives a penalty imposed under 75 Pa.C.S. §1543(b), former 75 Pa.C.S. §3731, 75 Pa.C.S. §3804, or 75 Pa.C.S. §3808(a)(2) a sentence to county intermediate punishment shall include participation in drug and alcohol treatment under 75 Pa.C.S. §3815(c), and may be combined with:
 - 1. a residential inpatient program or residential rehabilitative center;
 - 2. house arrest with electronic surveillance;
 - 3. a partial confinement program such as work release, a work camp or a halfway facility; or
 - 4. any combination of Qualified Restrictive Intermediate Punishment programs.
 - (B) if the defendant is determined not to be in need of drug and alcohol treatment, or if the defendant receives a penalty imposed under 30 Pa.C.S. §5502(c.1), a sentence to county intermediate punishment may only include:
 - 1. house arrest with electronic surveillance; or
 - 2. partial confinement programs such as work release, a work camp or a halfway facility; or
 - 3. any combination of Qualified Restrictive Intermediate Punishment programs.
- (b) State Motivational Boot Camp (BC).
 - (1) Eligibility.
 - (i) The following statute governs operation of and eligibility for the State Motivational Boot Camp: 61 Pa.C.S. Chapter 39.
 - (ii) Sentence recommendations which include boot camp eligible offenders are designated by the letters BC in the cells of the Basic Sentencing Matrix (§303.16).
 - (2) The court shall indicate on the offender's commitment order and the Guideline Sentence Form if the offender is authorized as eligible for the boot camp program. The Department of Corrections makes the final determination as to whether the offender will be accepted into the boot camp program.
- (c) State Intermediate Punishment (SIP).
 - (1) Eligibility.
 - (i) The following statute governs operation of and eligibility for State Intermediate Punishment: 61 Pa.C.S. Chapter 41.
 - (ii) Any person convicted of a drug-related offense for which the sentence recommendation includes total confinement in a state facility may be considered for state intermediate punishment.
 - (2) The court may, upon motion of the Commonwealth and agreement of the defendant, commit a defendant to the custody of the Department of Corrections for the purpose of evaluating whether the defendant would benefit from a drug offender treatment program and whether treatment in a drug offender treatment program is appropriate.
 - (3) Upon receipt of a recommendation for placement in a drug offender treatment program and an individualized treatment plan from the Department of Corrections, and agreement of the



attorney for the Commonwealth and the defendant, the court may sentence an eligible offender to a period of 24 months of state intermediate punishment.

- (4) The court may impose a consecutive period of probation. The total duration of a sentence of state intermediate punishment and consecutive probation may not exceed the maximum term for which the eligible offender could otherwise be sentenced.

§303.13. Guideline sentence recommendations: aggravated and mitigated circumstances.

- (a) When the court determines that an aggravating circumstance(s) is present, it may impose an aggravated sentence as follows:
 - (1) For the Offense Gravity Scores of 9, 10, 11, 12 and 13 the court may impose a sentence that is up to 12 months longer than the upper limit of the standard range.
 - (2) For the Offense Gravity Score of 8, the court may impose a sentence that is up to 9 months longer than the upper limit of the standard range.
 - (3) For the Offense Gravity Scores of 6 and 7, the court may impose a sentence that is up to 6 months longer than the upper limit of the standard range.
 - (4) For the Offense Gravity Scores of 1, 2, 3, 4, and 5, the court may impose a sentence that is up to 3 months longer than the upper limit of the standard range. When imposing a fine or community service pursuant to §303.14(a)(4), the court may impose a sentence that is up to 25 hours longer than the upper limit of the standard range.
 - (5) When the standard range is Restorative Sanctions (RS), the aggravated sentence recommendation is RIP-3.
- (b) When the court determines that a mitigating circumstance(s) is present, it may impose a mitigated sentence as follows:
 - (1) For the Offense Gravity Scores of 9, 10, 11, 12, 13, and 14 the court may impose a sentence that is up to 12 months shorter than the lower limit of the standard range.
 - (2) For the Offense Gravity Score of 8, the court may impose a sentence that is up to 9 months shorter than the lower limit of the standard range.
 - (3) For the Offense Gravity Scores of 6 and 7, the court may impose a sentence that is up to 6 months shorter than the lower limit of the standard range.
 - (4) For the Offense Gravity Scores of 1, 2, 3, 4, and 5, the court may impose a sentence that is up to 3 months shorter than the lower limit of the standard range. When imposing a fine or community service pursuant to §303.14(a)(4), the court may impose a sentence that is up to 25 hours shorter than the lower limit of the standard range.
 - (5) When the bottom of the standard range is less than or equal to 3 months of incarceration, the lower limit of the mitigated sentence recommendation is Restorative Sanctions (RS).
 - (6) In no case where a Deadly Weapon Enhancement is applied may the mitigated sentence recommendation be lower than 3 months.
 - (7) In no case where the Youth/School Enhancement is applied may the mitigated sentence recommendation be lower than 6 months for the Youth Enhancement, 12 months for the School Enhancement, and 18 months for the Youth and School Enhancement.
- (c) When the court imposes an aggravated or mitigated sentence, it shall state the reasons on the record and on the Guideline Sentence Form, a copy of which is electronically transmitted to the Commission on Sentencing in the manner described in §303.1(e).



§303.14. Guideline sentence recommendations – economic sanctions.

(a) Fines.

- (1) Fines may be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:
 - (i) 18 Pa.C.S. §1101 (relating to fines)
 - (ii) 35 P.S. §780-113(b)-(o) (relating to controlled substances)
 - (iii) 42 Pa.C.S. §9726 (relating to fine as a sentence)
 - (iv) 42 Pa.C.S. §9758 (relating to imposition of a fine)
 - (v) 75 Pa.C.S. §3804 (relating to fines for DUI)
- (2) A fine, within the limits established by law, shall be considered by the court when the offender is convicted of 35 P.S. §780-113(a)(12), (14) or (30), and the drug involved is any of the following: a controlled substance or counterfeit substance classified in Schedule I or II and which is a narcotic; phencyclidine, methamphetamine, or cocaine, including the isomers, salts, compounds, salts of isomers, or derivatives of phencyclidine, methamphetamine, or cocaine; or is in excess of one thousand pounds of marijuana. Such fine shall be of an amount that is at least sufficient to exhaust the assets utilized in, and the proceeds obtained by the offender from, the illegal possession, manufacture, or distribution of controlled substances. Such fine shall not include assets concerning which the attorney for the Commonwealth has filed a forfeiture petition or concerning which he has given notice to the court of his intent to file a forfeiture petition.
- (3) Fines may be utilized as part of a county intermediate punishment sentence or as a non-confinement sentencing alternative (see restorative sanction §303.9(f)).
- (4) Fines/Community Service Guidelines. The following guidelines shall be considered by the court when ordering fines or community service as a Restorative Sanction without confinement. Community service, when ordered, is imposed as a condition of probation. A fine, when ordered, is imposed as a non-confinement sentencing alternative or as a condition of probation. The fines guidelines are determined by multiplying the number of hours recommended by the offender's hourly wage or the current minimum wage, whichever is higher, but may not exceed the statutory maximum fine authorized by law
 - (A) OGS 1
 - i. PRS 0 25 hours-50 hours
 - ii. PRS 1 50 hours-75 hours
 - iii. PRS 2 75 hours-100 hours
 - iv. PRS 3 100 hours-125 hours
 - v. PRS 4 125 hours-150 hours
 - vi. PRS 5 150 hours-175 hours
 - (B) OGS 2
 - i. PRS 0 25 hours-50 hours
 - ii. PRS 1 75 hours-100 hours
 - iii. PRS 2 100 hours-125 hours
 - iv. PRS 3 125 hours-150 hours
 - v. PRS 4 150 hours-175 hours
 - (C) OGS 3
 - i. PRS 0 50 hours-75 hours
 - ii. PRS 1 150 hours-175 hours



- iii. PRS 2 225 hours-250 hours
- iv. PRS 3 300 hours-325 hours
- (D) OGS 4
 - i. PRS 0 100 hours-125 hours
 - ii. PRS 1 225 hours-250 hours
 - iii. PRS 2 300 hours-325 hours
- (E) OGS 5
 - i. PRS 0 225 hours-250 hours

(b) Costs and fees.

- (1) Costs and fees may be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:
 - (i) 18 Pa.C.S. §1109 (relating to costs of any reward)
 - (ii) 18 P.S. §11.1101 (relating to Crime Victim's Compensation Fund costs)
 - (iii) 18 P.S. §11.1102 (relating to costs of offender supervision programs)
 - (iv) 42 Pa.C.S. §1725 (relating to fees and charges)
 - (v) 42 Pa.C.S. §1725.1 (relating to costs)
 - (vi) 42 Pa.C.S. §1725.2 (relating to costs of summary convictions)
 - (vii) 42 Pa.C.S. §1725.3 (relating to criminal laboratory user fees)
 - (viii) 42 Pa.C.S. §1726.1 (relating to forensic exam)
 - (ix) 42 Pa.C.S. §1726.2 (relating to criminal prosecution involving domestic violence)
 - (x) 42 Pa.C.S. §9728(c) (relating to costs, etc.)

(c) Restitution

- (1) Restitution shall be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:
 - (i) 18 Pa.C.S. §1106 (relating to injuries to person or property)
 - (ii) 18 Pa.C.S. §1107 (relating to theft of timber)
 - (iii) 18 P.S. §11.1302 (relating to restitution to the Office of Victim Services)
 - (iv) 42 Pa.C.S. §9720.1 (relating to identity theft)
 - (v) 42 Pa.C.S. §9721(c) (relating to mandatory restitution)
- (2) Restitution may be imposed as a direct sentence or as a condition of probation or intermediate punishment, and is considered a non-confinement sentencing alternative (see restorative sanction §303.9(f)).



§303.15. Offense Listing.

CRIMES CODE OFFENSES

*=subcategorized offenses. See §303.3(b)

m=other misdemeanor offense. See §303.7(a)(5)

Inchoate=inchoate to 4 point PRS offenses. See §303.7(a)

See §§303.7(c) and 303.8(b) for all other inchoates

Italics=not in original text

18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
901	Criminal attempt (Inchoate)	18 Pa.C.S. §905	See §303.3(c)	See §303.8(b)
902	Criminal solicitation (Inchoate)	18 Pa.C.S. §905	See §303.3(c)	See §303.8(b)
903	Criminal conspiracy (Inchoate)	18 Pa.C.S. §905	See §303.3(c)	See §303.8(b)
907 (a)	Possessing instruments of crime (criminal instruments)	M-1	3	m
907 (b)	Possessing instruments of crime (weapon)	M-1	4	1
907 (c)	Possessing instruments of crime (unlawful body armor)	F-3	5	1
908 (a)	Prohibited offensive weapons	M-1	4	1
908.1 (a)(1)	Use electric incapacitation device (intent to commit felony)	F-2	8	2
908.1 (a)(1)	Use electric incapacitation device (no intent to commit felony)	M-1	5	1
908.1 (a)(2)	Possess electric incapacitation device (intent to commit felony)	F-2	7	2
908.1 (a)(2)	Possess electric incapacitation device (no intent to commit felony)	M-1	4	1
909 (a)	Manufacture/etc.-master key for motor vehicle	M-1	3	m
910 (a)(1)(i)	Manufacture/etc.-device for theft of telecommunications (>50 devices)	F-2	8	2
910 (a)(1)(i)	Manufacture/etc.-device for theft of telecommunications (10-50 devices)	F-3	6	1
910 (a)(1)(i)	Manufacture/etc.-device for theft of telecommunications (1st off)	M-1	4	m
910 (a)(1)(i)	Manufacture/etc.-device for theft of telecommunications (2nd off)	F-3	6	1
910 (a)(1)(i)	Manufacture/etc.-device for theft of telecommunications (3rd/subsq off)	F-2	8	2
910 (a)(1)(ii)	Manufacture/etc.-device to conceal telecommunications (>50 devices)	F-2	8	2
910 (a)(1)(ii)	Manufacture/etc.-device to conceal telecommunications (10-50 devices)	F-3	6	1
910 (a)(1)(ii)	Manufacture/etc.-device to conceal telecommunications (1st off)	M-1	4	m
910 (a)(1)(ii)	Manufacture/etc.-device to conceal telecommunications (2nd off)	F-3	6	1
910 (a)(1)(ii)	Manufacture/etc.-device to conceal telecommunications (3rd/subsq off)	F-2	8	2
910 (a)(2)(i)	Sell/etc. unlawful telecommunications device (>50 devices)	F-2	8	2
910 (a)(2)(i)	Sell/etc. unlawful telecommunications device (10-50 devices)	F-3	6	1
910 (a)(2)(i)	Sell/etc. unlawful telecommunications device (1st off)	M-1	4	m
910 (a)(2)(i)	Sell/etc. unlawful telecommunications device (2nd off)	F-3	6	1
910 (a)(2)(i)	Sell/etc. unlawful telecommunications device (3rd/subsq off)	F-2	8	2
910 (a)(2)(ii)	Sell/etc. material for unlawful telecommunications device (>50 devices)	F-2	8	2
910 (a)(2)(ii)	Sell/etc. material for unlawful telecommunications device (10-50 devices)	F-3	6	1
910 (a)(2)(ii)	Sell/etc. material for unlawful telecommunications device (1st off)	M-1	4	m
910 (a)(2)(ii)	Sell/etc. material for unlawful telecommunications device (2nd off)	F-3	6	1
910 (a)(2)(ii)	Sell/etc. material for unlawful telecommunications device (3rd/subsq)	F-2	8	2
911 (b)(1)	Corrupt organizations	F-1	8	3
911 (b)(2)	Corrupt organizations-interest in/control of enterprise	F-1	8	3
911 (b)(3)	Corrupt organizations-employee participation	F-1	8	3
911 (b)(4)	Corrupt organizations-conspire	F-1	8	3
912 (b)	Possession of weapon on school property	M-1	4	1
913 (a)(1)	Possession of weapon in court facility	M-3	1	m



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
913 (a)(2)	Possession of weapon in court facility (intend for crime)	M-1	3	1
2103	Insults to national or Commonwealth flag	M-2	2	m
2102 (a)(1)	Desecration of flag (marks or writing)	M-3	1	m
2102 (a)(2)	Desecration of flag (public view of defiled flag)	M-3	1	m
2102 (a)(3)	Desecration of flag (manufactures for advertisement)	M-3	1	m
2102 (a)(4)	Desecration of flag (defile/mutilate)	M-3	1	m
2502 Inchoate	--Attempt/solicitation/conspiracy to Murder (SBI)	18 Pa.C.S. §1102(c)	14	4
2502 Inchoate	--Attempt/solicitation/conspiracy to Murder (No SBI)	18 Pa.C.S. §1102(c)	13	4
2502 (a)	Murder-1st degree	Murder of 1st Degree	18 Pa.C.S. §1102(a)	4
2502 (b)	Murder-2nd degree	Murder of 2nd Degree	18 Pa.C.S. §1102(b)	4
2502 (c)	Murder-3rd degree	F-1	14	4
2503 (a)(1)	Voluntary manslaughter (provocation from victim)	F-1	11	4
2503 (a)(2)	Voluntary manslaughter (provocation from another)	F-1	11	4
2503 (b)	Voluntary manslaughter (believe justified)	F-1	11	4
2504 (a)	Involuntary manslaughter (victim <12 yrs)	F-2	8	2
2504 (a)*	Involuntary manslaughter (with DUI conviction)	M-1	8	1
2504 (a)*	Involuntary manslaughter (with BUI conviction)	M-1	8	1
2504 (a)*	Involuntary manslaughter	M-1	6	1
2505 (a)	Suicide, causing (as homicide/murder 1)	Murder of 1st Degree	18 Pa.C.S. §1102(a)	4
2505 (a)	Suicide, causing (as homicide/murder 2)	Murder of 2nd Degree	18 Pa.C.S. §1102(b)	4
2505 (a)	Suicide, causing (as homicide/murder 3)	F-1	14	4
2505 (a)	Suicide, causing (as homicide/vol manslaughter)	F-1	11	4
2505 (a)	Suicide, causing (as homicide/invol. manslaughter)	M-1	6	1
2505 (a)	Suicide, causing (as homicide/invol. manslaughter-victim <12 yrs)	F-2	8	2
2505 (a)	Suicide, causing (as homicide/invol. manslaughter-w/ DUI or BUI conv)	M-1	8	1
2505 (b)	Suicide, aiding or soliciting (positive result)	F-2	6	2
2505 (b)	Suicide, aiding or soliciting (no result)	M-2	2	m
2506 (a)	Drug delivery resulting in death	F-1	13	4
2507 Inchoate	--Attempt/solicitation/conspiracy to Murder of law enforcement officer (SBI)	18 Pa.C.S. §1102(c)	14	4
2507 Inchoate	--Attempt/solicitation/conspiracy to Murder of law enforcement officer (No SBI)	18 Pa.C.S. §1102(c)	13	4
2507 (a)	Murder of a law enforcement officer-1st degree	Murder of 1st Degree	18 Pa.C.S. §1102(a)	4



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
2507 (b)	Murder of a law enforcement officer-2nd degree	Murder of 2nd Degree	18 Pa.C.S. §1102(b)	4
2507 (c)(1)(i)	Manslaughter of a law enforcement officer (1st degree/provocation by victim)	F-1	14	4
2507 (c)(1)(ii)	Manslaughter of a law enforcement officer (1st degree/provocation by another)	F-1	14	4
2507 (c)(2)	Manslaughter of a law enforcement officer (1st degree/believe justified)	F-1	14	4
2507 (d)	Manslaughter of a law enforcement officer (2nd degree)	F-2	9	4
2604 Inchoate	--Attempt/solicitation/conspiracy to Murder of an unborn child (SBI)	18 Pa.C.S. § 1102(c)	14	4
2604 Inchoate	--Attempt/solicitation/conspiracy to Murder of an unborn child (No SBI)	18 Pa.C.S. § 1102(c)	13	4
2604 (a)(1)	Murder of an unborn child-1st degree	Murder of 1st Degree	18 Pa.C.S. §1102(a)	4
2604 (b)(1)	Murder of an unborn child-2nd degree	Murder of 2nd Degree	18 Pa.C.S. §1102(b)	4
2604 (c)(1)	Murder of an unborn child-3rd degree	F-1	14	4
2605 (a)(1)	Voluntary manslaughter of an unborn child (provocation from mother)	F-1	11	4
2605 (a)(2)	Voluntary manslaughter of an unborn child (provocation from another)	F-1	11	4
2605 (b)	Voluntary manslaughter of an unborn child (believe justified)	F-1	11	4
2606 (a)*	Aggravated assault of an unborn child (causes SBI)	F-1	11	4
2606 (a)*	Aggravated assault of an unborn child (attempts to cause SBI)	F-1	10	3
2701 (a)(1)	Simple assault-attempt/cause BI	M-2	3	m
2701 (a)(1)	Simple assault-attempt/cause BI (against child <12 by adult >=21)	M-1	4	1
2701 (a)(1)	Simple assault-attempt/cause BI (mutual consent)	M-3	1	m
2701 (a)(2)	Simple assault-cause BI w/ deadly weapon	M-2	3	m
2701 (a)(2)	Simple assault-cause BI w/ deadly weapon (against child <12 by adult >=21)	M-1	4	1
2701 (a)(2)	Simple assault-cause BI w/ deadly weapon (mutual consent)	M-3	1	m
2701 (a)(3)	Simple assault-cause fear of SBI	M-2	3	m
2701 (a)(3)	Simple assault-cause fear of SBI (against child <12 by adult 21+)	M-1	4	1
2701 (a)(3)	Simple assault-cause fear of SBI (mutual consent)	M-3	1	m
2701 (a)(4)	Simple assault-penetrate w/ hypodermic needle	M-2	3	m
2701 (a)(4)	Simple assault-penetrate w/ hypodermic needle (against child <12 by adult >=21)	M-1	4	1
2701 (a)(4)	Simple assault-penetrate w/ hypodermic needle (mutual consent)	M-3	1	m
2702 (a)(1)*	Aggravated assault-cause SBI	F-1	11	4
2702 (a)(1)*	Aggravated assault-attempt SBI	F-1	10	3
2702 (a)(2)*	Aggravated assault-cause SBI to police/enumerated persons	F-1	11	4
2702 (a)(2)*	Aggravated assault-attempt SBI to police/enumerated persons	F-1	10	3
2702 (a)(3)	Aggravated assault-cause BI to police/enumerated persons	F-2	6	2
2702 (a)(4)	Aggravated assault-cause BI w/ deadly weapon	F-2	8	2
2702 (a)(5)	Aggravated assault-cause BI to teacher, etc	F-2	6	2
2702 (a)(6)	Aggravated assault-cause fear of SBI	F-2	6	2
2702 (a)(7)	Aggravated assault-use tear gas/electronic device ag. police, etc.	F-2	6	2



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
2702.1 (a)	Assault of law enforcement officer-discharge firearm (1st degree)	F-1	13	4
2703 (a)	Assault by prisoner	F-2	7	2
2703.1	Aggravated harassment by prisoner	F-3	6	1
2704	Assault by life prisoner	Murder of 2nd Degree	18 Pa.C.S. §1102(b)	4
2704 Inchoate	--Attempt/solicitation/conspiracy to assault by life prisoner (SBI)	18 Pa.C.S. §1102(c)	14	4
2704 Inchoate	--Attempt/solicitation/conspiracy to assault by life prisoner (No SBI)	18 Pa.C.S. §1102(c)	13	4
2705	Recklessly endangering another person	M-2	3	m
2706 (a)(1)	Terroristic threats-intent to terrorize	M-1	3	m
2706 (a)(1)	Terroristic threats-intent to terrorize/divert from activities	F-3	5	1
2706 (a)(2)	Terroristic threats-cause evacuation of building	M-1	3	m
2706 (a)(2)	Terroristic threats-cause evacuation of building/divert from activities	F-3	5	1
2706 (a)(3)	Terroristic threats-serious public inconvenience	M-1	3	m
2706 (a)(3)	Terroristic threats-serious public inconvenience/divert from activities	F-3	5	1
2707 (a)	Propulsion of missiles into an occupied vehicle	M-1	3	m
2707 (b)	Propulsion of missiles onto a roadway	M-2	2	m
2707.1 (a)	Discharge of firearm into an occupied structure	F-3	10	1
2708 (a)	Use of tear gas in labor dispute	M-1	3	m
2709 (a)(4)	Harassment-lewd communication	M-3	1	m
2709 (a)(5)	Harassment-repeated, anonymous communication	M-3	1	m
2709 (a)(6)	Harassment-repeated communication: inconvenient hours	M-3	1	m
2709 (a)(7)	Harassment-repeated communication: other	M-3	1	m
2709.1 (a)(1)	Stalking-repeated acts to cause fear of BI (1st off)	M-1	4	m
2709.1 (a)(1)	Stalking-repeated acts to cause fear of BI (2nd/subsq off)	F-3	6	1
2709.1 (a)(1)	Stalking-repeated acts to cause fear of BI (prior crime of violence)	F-3	6	1
2709.1 (a)(2)	Stalking-course of conduct to cause fear of BI (1st off)	M-1	4	m
2709.1 (a)(2)	Stalking-course of conduct to cause fear of BI (2nd/subsq off)	F-3	6	1
2709.1 (a)(2)	Stalking-course of conduct to cause fear of BI (prior crime of violence)	F-3	6	1
2710	Ethnic Intimidation	18 Pa.C.S. §2710(b)	See §303.3(d)	See §303.8(c)
2712 (a)	Assault-sports official	M-1	3	m
2713 (a)(1)	Neglect of care-dependent person-no treatment (cause SBI)	F-1	10	3
2713 (a)(1)	Neglect of care-dependent person-no treatment (cause BI)	M-1	4	m
2713 (a)(2)	Neglect of care-dependent person-physical/chemical restraint (cause SBI)	F-1	10	3
2713 (a)(2)	Neglect of care-dependent person-physical/chemical restraint (cause BI)	M-1	4	m
2714	Unauthorized administration of intoxicant	F-3	8	1
2715 (a)(3)	Threat to use weapons of mass destruction-reports w/o knowledge	M-1	3	m
2715 (a)(3)	Threat to use weapons of mass destruction-reports w/o knowledge (divert from activities)	F-3	5	1
2715 (a)(3)	Threat to use weapons of mass destruction-reports w/o knowledge (during emergency)	F-2	7	2
2715 (a)(4)	Threat to use weapons of mass destruction-threaten placement	M-1	3	m



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
2715 (a)(4)	Threat to use weapons of mass destruction-threaten placement (divert from activities)	F-3	7	1
2715 (a)(4)	Threat to use weapons of mass destruction-threaten placement (during emergency)	F-2	7	2
2716 (a)	Weapons of mass destruction-possession (1st off)	F-2	7	2
2716 (a)	Weapons of mass destruction-possession (2nd/subsq off)	F-1	11	4
2716 (b)(1)	Weapons of mass destruction-use (cause death)	Murder of 2nd Degree	18 Pa.C.S. §1102(b)	4
2716 (b)(1)	Weapons of mass destruction-use (cause injury/illness)	F-1	13	4
2716 (b)(2)	Weapons of mass destruction-use (cause damage/disrupt water/food)	F-1	13	4
2716 (b)(3)	Weapons of mass destruction-use (cause evacuation of building etc.)	F-1	13	4
2717 (a)(1)	Terrorism-intim/coerce population (where violent offense is F-1)	F-1	one point higher than object offense	4
2717 (a)(1)	Terrorism-intim/coerce population (where violent offense is F-2)	F-1	one point higher than object offense	3
2717 (a)(1)	Terrorism-intim/coerce population (where violent offense is F-3 or ungraded felony)	F-2	one point higher than object offense	See §303.7(a)
2717 (a)(1)	Terrorism-intim/coerce population (where violent offense is M-1)	F-3	one point higher than object offense	See §303.7(a)
2717 (a)(1)	Terrorism-intim/coerce population (where violent offense is M-2)	M-1	one point higher than object offense	See §303.7(a)
2717 (a)(1)	Terrorism-intim/coerce population (where violent offense is M-3)	M-2	one point higher than object offense	See §303.7(a)
2717 (a)(2)	Terrorism-influence govt (where violent offense is F-1)	F-1	one point higher than object offense	4
2717 (a)(2)	Terrorism-influence govt (where violent offense is F-2)	F-1	one point higher than object offense	3
2717 (a)(2)	Terrorism-influence govt (where violent offense is F-3 or ungraded felony)	F-2	one point higher than object offense	See §303.7(a)
2717 (a)(2)	Terrorism-influence govt (where violent offense is M-1)	F-3	one point higher than object offense	See §303.7(a)



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
2717 (a)(2)	Terrorism-influence govt (where violent offense is M-2)	M-1	one point higher than object offense	See §303.7(a)
2717 (a)(2)	Terrorism-influence govt (where violent offense is M-3)	M-2	one point higher than object offense	See §303.7(a)
2901 (a)(1)	Kidnapping-for ransom (victim >=18 yrs)	F-1	10	4
2901 (a)(2)	Kidnapping-to facilitate a felony (victim >=18 yrs)	F-1	10	4
2901 (a)(3)	Kidnapping-to inflict terror, BI (victim >=18 yrs)	F-1	10	4
2901 (a)(4)	Kidnapping-to interfere w/ performance of pub. official (victim >=18 yrs)	F-1	10	4
2901 (a.1)(1)*	Kidnapping-minor, for ransom/etc. (victim 14-<18 yrs)	F-1	10	4
2901 (a.1)(1)*	Kidnapping-minor, for ransom/etc. (victim <14 yrs)	F-1	10	4
2901 (a.1)(2)*	Kidnapping-minor, to facilitate felony (victim 14-<18 yrs)	F-1	10	4
2901 (a.1)(2)*	Kidnapping-minor, to facilitate felony (victim <14 yrs)	F-1	10	4
2901 (a.1)(3)*	Kidnapping-minor, to inflict terror, BI (victim 14-<18 yrs)	F-1	10	4
2901 (a.1)(3)*	Kidnapping-minor, to inflict terror, BI (victim <14 yrs)	F-1	10	4
2901 (a.1)(4)*	Kidnapping-minor, to interfere w/ pub. official (victim 14-<18 yrs)	F-1	10	4
2901 (a.1)(4)*	Kidnapping-minor, to interfere w/ pub. official (victim <14 yrs)	F-1	10	4
2902 (a)(1)	Unlawful restraint-risk SBI	M-1	3	m
2902 (a)(2)	Unlawful restraint-involuntary servitude	M-1	3	m
2902 (b)(1)	Unlawful restraint-risk SBI (victim <18 yrs)	F-2	8	2
2902 (b)(2)	Unlawful restraint-involuntary servitude (victim <18 yrs)	F-2	8	2
2902 (c)(1)	Unlawful restraint by parent-risk SBI (victim <18 yrs)	F-2	8	2
2902 (c)(2)	Unlawful restraint by parent-involuntary servitude (victim <18 yrs)	F-2	8	2
2903 (a)	False imprisonment (victim >=18 yrs)	M-2	2	m
2903 (b)	False imprisonment (victim <18 yrs)	F-2	8	2
2903 (c)	False imprisonment by parent (victim<18 yrs)	F-2	7	2
2904 (a)	Interfere with custody of children	F-3	6	1
2904 (a)	Interfere with custody of children-good cause/time <24 hrs.	M-2	3	m
2904 (a)	Interfere with custody of children-w/ reckless disregard	F-2	8	2
2905 (a)	Interfere with custody of committed person	M-2	4	m
2906 (a)(1)	Criminal coercion-threat to commit crime	M-2	2	m
2906 (a)(1)	Criminal coercion-threat to commit crime (felony)	M-1	3	m
2906 (a)(2)	Criminal coercion-threat to accuse of crime	M-2	2	m
2906 (a)(2)	Criminal coercion-threat to accuse of crime (felony)	M-1	3	m
2906 (a)(3)	Criminal coercion-threat to expose secret	M-2	2	m
2906 (a)(3)	Criminal coercion-threat to expose secret (felony)	M-1	3	m
2906 (a)(4)	Criminal coercion-threaten official act	M-2	2	m
2906 (a)(4)	Criminal coercion-threaten official act (felony)	M-1	3	m
2907	Disposition of ransom	F-3	5	1
2909 (b)(1)	Concealment of whereabouts of a child-in Commonwealth	F-3	4	1
2909 (b)(2)	Concealment of whereabouts of a child-parents in Commonwealth	F-3	4	1
2910 (a)	Luring child into motor vehicle/structure	M-1	5	1



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3002 (a)	Trafficking of persons	F-2	9	2
3002 (a)	Trafficking of persons (victim <18 yrs)	F-1	10	4
3002 (a)	Trafficking of persons-w/ BI	F-1	10	4
3121 (a)(1)	Rape-forcible compulsion	F-1	12	4
3121 (a)(1)	Rape-forcible compulsion (uses substance to impair)	F-1	13	4
3121 (a)(2)	Rape-threat of forcible compulsion	F-1	12	4
3121 (a)(2)	Rape-threat of forcible compulsion (uses substance to impair)	F-1	13	4
3121 (a)(3)	Rape-unconscious victim	F-1	12	4
3121 (a)(3)	Rape-unconscious victim (uses substance to impair)	F-1	13	4
3121 (a)(4)	Rape-substantially impaired victim	F-1	12	4
3121 (a)(4)	Rape-substantially impaired victim (uses substance to impair)	F-1	13	4
3121 (a)(5)	Rape-mentally disabled victim	F-1	12	4
3121 (a)(5)	Rape-mentally disabled victim (uses substance to impair)	F-1	13	4
3121 (c)	Rape-child (victim <13 yrs)	F-1	14	4
3121 (d)	Rape-child w/ SBI (victim <13 yrs)	F-1	14	4
3122.1 (a)(1)	Statutory sexual assault-victim <16 yrs (person 4-<8 yrs older)	F-2	7	2
3122.1 (a)(2)	Statutory sexual assault-victim <16 yrs (person 8-<11 yrs older)	F-2	8	2
3122.1 (b)	Statutory sexual assault-victim <16 yrs (person >=11 yrs older)	F-1	9	3
3123 (a)(1)	IDSI-forcible compulsion	F-1	12	4
3123 (a)(2)	IDSI-threat of forcible compulsion	F-1	12	4
3123 (a)(3)	IDSI-unconscious victim	F-1	12	4
3123 (a)(4)	IDSI-substantially impaired victim	F-1	12	4
3123 (a)(5)	IDSI-mentally disabled victim	F-1	12	4
3123 (a)(7)	IDSI-victim <16 yrs (person >=4 yrs older)	F-1	12	4
3123 (b)	IDSI-child (victim <13 yrs)	F-1	14	4
3123 (c)	IDSI-child w/ SBI (victim <13 yrs)	F-1	14	4
3124.1	Sexual assault	F-2	11	4
3124.2 (a)	Institutional sexual assault-generally	F-3	6	1
3124.2 (a.1)	Institutional sexual assault-minor (victim <18 yrs)	F-3	6	1
3124.2 (a.2)	Institutional sexual assault-by school volunteer/employee	F-3	6	1
3124.2 (a.3)	Institutional sexual assault-by child care volunteer/employee	F-3	6	1
3125 (a)(1)	Aggravated indecent assault-w/o consent	F-2	10	4
3125 (a)(1)	Aggravated indecent assault-of a child w/out consent (victim <13 yrs)	F-1	12	4
3125 (a)(2)	Aggravated indecent assault-forcible compulsion	F-2	10	4
3125 (a)(2)	Aggravated indecent assault-of a child/forcible compulsion (victim <13 yrs)	F-1	12	4
3125 (a)(3)	Aggravated indecent assault-threat of forcible compulsion	F-2	10	4
3125 (a)(3)	Aggravated indecent assault-of a child/threat of forcible compulsion (victim <13 yrs)	F-1	12	4
3125 (a)(4)	Aggravated indecent assault-unconscious victim	F-2	10	4
3125 (a)(4)	Aggravated indecent assault-of a child/unconscious victim (victim <13 yrs)	F-1	12	4
3125 (a)(5)	Aggravated indecent assault-substantially impaired victim	F-2	10	4
3125 (a)(5)	Aggravated indecent assault-of a child/substantially impaired victim (<13 yrs)	F-1	12	4
3125 (a)(6)	Aggravated indecent assault-mentally disabled victim	F-2	10	4



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Italics=not in original text

18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3125 (a)(6)	Aggravated indecent assault-of a child/mentally disabled victim (<13 yrs)	F-1	12	4
3125 (a)(7)	Aggravated indecent assault-victim <13 yrs	F-2 **	10	4
3125 (a)(8)	Aggravated indecent assault-victim <16 yrs (person >=4 yrs older)	F-2	10	4
3126 (a)(1)	Indecent assault-w/o consent	M-2	4	m
3126 (a)(2)	Indecent assault-forcible compulsion	M-1	5	m
3126 (a)(3)	Indecent assault-threat of forcible compulsion	M-1	5	m
3126 (a)(4)	Indecent assault-unconscious victim	M-1	5	m
3126 (a)(5)	Indecent assault-substantially impaired victim	M-1	5	m
3126 (a)(6)	Indecent assault-mentally disabled victim	M-1	5	m
3126 (a)(7)	Indecent assault-victim <13 yrs	M-1	5	1
3126 (a)(7)	Indecent assault-victim <13 yrs (2nd/subsq)	F-3	6	1
3126 (a)(7)	Indecent assault-victim <13 yrs/course of conduct	F-3	6	1
3126 (a)(7)	Indecent assault-victim <13 yrs/touching victim's sexual parts w/ person's	F-3	6	1
3126 (a)(7)	Indecent assault-victim <13 yrs/touching person's sexual parts w/ victim's	F-3	6	1
3126 (a)(8)	Indecent assault-victim <16 yrs (person >=4 yrs older)	M-2	4	m
3127 (a)	Indecent exposure	M-2	3	m
3127 (a)	Indecent exposure-victim <16 yrs	M-1	4	1
3129	Sexual intercourse with animal	M-2	2	m
3130 (a)(1)	Conduct relating to sex offenders-withhold information	F-3	5	1
3130 (a)(2)	Conduct relating to sex offenders-harbor sex offender	F-3	5	1
3130 (a)(3)	Conduct relating to sex offenders-conceal sex offender	F-3	5	1
3130 (a)(4)	Conduct relating to sex offenders-provide false information	F-3	5	1
3301 (a)(1)(i)*	Arson endangering persons-danger of death (person in building or BI results)	F-1	10	4
3301 (a)(1)(i)*	Arson endangering persons-danger of death (no person in building and no BI)	F-1	9	4
3301 (a)(1)(ii)*	Arson endangering persons-inhabited building (person in building or BI results)	F-1	10	4
3301 (a)(1)(ii)*	Arson endangering persons-inhabited building (no person in building and no BI)	F-1	9	4
3301 (a)(2)	Arson endangering persons-cause death w/ intent (murder-1st degree)	Murder of 1st Degree	18 Pa.C.S. §1102(a)	4
3301 (a)(2)	Arson endangering persons-cause death (murder-2nd degree)	Murder of 2nd Degree	18 Pa.C.S. §1102(b)	4
3301 (c)(1)	Arson endangering property-intent to destroy unoccupied bldg	F-2	6	2
3301 (c)(2)	Arson endangering property-endangers inhabited building	F-2	6	2
3301 (c)(3)	Arson endangering property-intent to collect insurance	F-2	6	2
3301 (d)(1)	Arson-reckless burning or exploding (endanger unoccupied bldg)	F-3	5	1
3301 (d)(2)	Arson-reckless burning or exploding (endanger property >\$5000)	F-3	5	1
3301 (e)(1)	Arson-failure to control/report (duty)	M-1	3	m
3301 (e)(2)	Arson-failure to control/report (own property)	M-1	3	m
3301 (f)	Arson-possess explosive material (intent to use)	F-3	5	1
3301 (g)	Arson-failure to disclose true owner	M-3	1	m
3302 (a)	Catastrophe-causing (intentionally)	F-1	10	3
3302 (a)	Catastrophe-causing (recklessly)	F-2	6	2



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3302 (b)	Catastrophe-risking	F-3	4	1
3303 (1)	Failure to prevent catastrophe-duty	M-2	2	m
3303 (2)	Failure to prevent catastrophe-acted or assented to	M-2	2	m
3304 (a)(1)	Criminal mischief-damage prop/intent/reckless/neglig (>\$5,000)	F-3	5	1
3304 (a)(1)	Criminal mischief-damage prop/intent/reckless/neglig (>\$1,000)	M-2	2	m
3304 (a)(1)	Criminal mischief-damage prop/intent/reckless/neglig (>\$500)	M-3	1	m
3304 (a)(2)	Criminal mischief-tamper w/ property (>\$5,000)	F-3	5	1
3304 (a)(2)	Criminal mischief-tamper w/ property (>\$1,000)	M-2	2	m
3304 (a)(2)	Criminal mischief-tamper w/ property (>\$500)	M-3	1	m
3304 (a)(3)	Criminal mischief-cause pecuniary loss (>\$5,000)	F-3	5	1
3304 (a)(3)	Criminal mischief-cause pecuniary loss (>\$1,000)	M-2	2	m
3304 (a)(3)	Criminal mischief-cause pecuniary loss (>\$500)	M-3	1	m
3304 (a)(4)	Criminal mischief-graffiti (>\$5,000)	F-3	5	1
3304 (a)(4)	Criminal mischief-graffiti (>\$1,000)	M-2	2	m
3304 (a)(4)	Criminal mischief-graffiti (>\$150)	M-3	1	m
3304 (a)(5)	Criminal mischief-damage property (>\$5,000)	F-3	5	1
3304 (a)(5)	Criminal mischief-damage property (>\$1,000)	M-2	2	m
3304 (a)(5)	Criminal mischief-damage property (>\$500)	M-3	1	m
3304 (a)(6)	Criminal mischief-paintball (>\$5,000)	F-3	5	1
3304 (a)(6)	Criminal mischief-paintball (>\$1,000)	M-2	2	m
3304 (a)(6)	Criminal mischief-paintball (>\$500)	M-3	1	m
3305	Tampering w/ fire apparatus/hydrants	M-3	1	m
3307 (a)(1)	Institutional vandalism-place of worship (>\$5,000 or desecration)	F-3	5	1
3307 (a)(1)	Institutional vandalism-place of worship (<=\$5,000)	M-2	2	m
3307 (a)(2)	Institutional vandalism-cemetery (>\$5,000 or desecration)	F-3	5	1
3307 (a)(3)	Institutional vandalism-school (>\$5,000 or desecration)	F-3	5	1
3307 (a)(3)	Institutional vandalism-school (<=\$5,000)	M-2	2	m
3307 (a)(3)	Institutional vandalism-cemetery (<=\$5,000)	M-2	2	m
3307 (a)(4)	Institutional vandalism-adjacent grounds (>\$5,000 or desecration)	F-3	5	1
3307 (a)(4)	Institutional vandalism-adjacent grounds (<=\$5,000)	M-2	2	m
3307 (a)(5)	Institutional vandalism-personal property (>\$5,000 or desecration)	F-3	5	1
3307 (a)(5)	Institutional vandalism-personal property (<=\$5,000)	M-2	2	m
3307 (a.1)	Institutional vandalism-possess marking device on property	M-2	2	m
3309 (a)	Agricultural vandalism (>\$5,000)	F-3	5	1
3309 (a)	Agricultural vandalism (>\$1,000)	M-1	3	m
3309 (a)	Agricultural vandalism (>\$500)	M-2	2	m
3309 (a)	Agricultural vandalism (<=\$500)	M-3	1	m
3310 (a)	Agricultural crop destruction	F-2	7	2
3311 (a)(1)(i)	Ecoterrorism-intimidate individual participation (if off is F-1)	F-1	14	4
3311 (a)(1)(i)	Ecoterrorism-intimidate individual participation (if off is F-2)	F-1	one point higher than object offense	See §303.7(a)



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3311 (a)(1)(i)	Ecoterrorism-intimidate individual participation (if off is F-3/ungr fel)	F-2	one point higher than object offense	See §303.7(a)
3311 (a)(1)(i)	Ecoterrorism-intimidate individual participation (if off is M-1)	F-3	one point higher than object offense	See §303.7(a)
3311 (a)(1)(i)	Ecoterrorism-intimidate individual participation (if off is M-2)	M-1	one point higher than object offense	See §303.7(a)
3311 (a)(1)(i)	Ecoterrorism-intimidate individual participation (if off is M-3/ungr misd)	M-2	one point higher than object offense	See §303.7(a)
3311 (a)(1)(i)	Ecoterrorism-intimidate individual participation (if off is S)	M-3	one point higher than object offense	See §303.7(a)
3311 (a)(1)(ii)	Ecoterrorism-intimidate individ. using animal/plant/etc. (if off is F-1)	F-1	14	4
3311 (a)(1)(ii)	Ecoterrorism-intimidate individ. using animal/plant/etc. (if off is F-2)	F-1	one point higher than object offense	See §303.7(a)
3311 (a)(1)(ii)	Ecoterrorism-intimidate individ. using animal/plant/etc. (if off is F-3/ungr fel)	F-2	one point higher than object offense	See §303.7(a)
3311 (a)(1)(ii)	Ecoterrorism-intimidate individ. using animal/plant/etc. (if off is M-1)	F-3	one point higher than object offense	See §303.7(a)
3311 (a)(1)(ii)	Ecoterrorism-intimidate individ. using animal/plant/etc. (if off is M-2)	M-1	one point higher than object offense	See §303.7(a)
3311 (a)(1)(ii)	Ecoterrorism-intimidate individ. using animal/plant/etc. (if off is M-3/ungr misd)	M-2	one point higher than object offense	See §303.7(a)
3311 (a)(1)(ii)	Ecoterrorism-intimidate individ. using animal/plant/etc. (if off is S)	M-3	one point higher than object offense	See §303.7(a)
3311 (a)(2)(i)	Ecoterrorism-obstruct individ. from activity (if off is F-1)	F-1	14	4
3311 (a)(2)(i)	Ecoterrorism-obstruct individ. from activity (if off is F-2)	F-1	one point higher than object offense	See §303.7(a)
3311 (a)(2)(i)	Ecoterrorism-obstruct individ. from activity (if off is F-3/ungr fel)	F-2	one point higher than object offense	See §303.7(a)



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3311 (a)(2)(i)	Ecoterrorism-obstruct individ. from activity (if off is M-1)	F-3	one point higher than object offense	See §303.7(a)
3311 (a)(2)(i)	Ecoterrorism-obstruct individ. from activity (if off is M-2)	M-1	one point higher than object offense	See §303.7(a)
3311 (a)(2)(i)	Ecoterrorism-obstruct individ. from activity (if off is M-3/ungr misd)	M-2	one point higher than object offense	See §303.7(a)
3311 (a)(2)(i)	Ecoterrorism-obstruct individ. from activity (if off is S)	M-3	one point higher than object offense	See §303.7(a)
3311 (a)(2)(ii)	Ecoterrorism-obstruct individ. using animal/plant/etc. (if off is F-1)	F-1	14	4
3311 (a)(2)(ii)	Ecoterrorism-obstruct individ. using animal/plant/etc. (if off is F-2)	F-1	one point higher than object offense	See §303.7(a)
3311 (a)(2)(ii)	Ecoterrorism-obstruct individ. using animal/plant/etc. (if off is F-3/ungr fel)	F-2	one point higher than object offense	See §303.7(a)
3311 (a)(2)(ii)	Ecoterrorism-obstruct individ. using animal/plant/etc. (if off is M-1)	F-3	one point higher than object offense	See §303.7(a)
3311 (a)(2)(ii)	Ecoterrorism-obstruct individ. using animal/plant/etc. (if off is M-2)	M-1	one point higher than object offense	See §303.7(a)
3311 (a)(2)(ii)	Ecoterrorism-obstruct individ. using animal/plant/etc. (if off is M-3)	M-2	one point higher than object offense	See §303.7(a)
3311 (a)(2)(ii)	Ecoterrorism-obstruct individ. using animal/plant/etc. (if off is S)	M-3	one point higher than object offense	See §303.7(a)
3312 (a)(2)	Destruction of survey monument-call boundary into question	M-2	3	m
3313 (a)	Illegal dumping of methamphetamine waste	F-3	5	1
3502 (a)(1)	Burglary-home/person present	F-1	9	4
3502 (a)(2)	Burglary-home/no person present	F-1	7	3
3502 (a)(3)	Burglary-not a home/person present	F-1	6	3
3502 (a)(4)	Burglary-not a home/no person present	F-2	5	2
3503 (a)(1)(i)	Criminal trespass-buildings	F-3	3	1
3503 (a)(1)(ii)	Criminal trespass-buildings (break in)	F-2	4	2
3503 (b)(1)(i)	Criminal trespass-defiant (notice by communication)	M-3	1	m
3503 (b)(1)(ii)	Criminal trespass-defiant (notice posted)	M-3	1	m
3503 (b)(1)(iii)	Criminal trespass-defiant (notice by fencing)	M-3	1	m
3503 (b)(1)(iv)	Criminal trespass-defiant (notice posted/school grounds)	M-3	1	m



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3503 (b)(1)(v)	Criminal trespass-defiant (communication/leave school grounds)	M-1	3	m
3503 (b.2) (1)(i)	Criminal trespass-agricultural trespass (posted land)	M-3	1	m
3503 (b.2) (1)(ii)	Criminal trespass-agricultural trespass (defies order)	M-2	3	m
3503 (b.3) (1)(i)	Agricultural biosecurity trespass-enter w/o license	M-3	1	m
3503 (b.3) (1)(i)	Agricultural biosecurity trespass-enter w/o license (damage plant/animal)	M-1	3	m
3503 (b.3) (1)(ii)	Agricultural biosecurity trespass-fail to perform measure (damage plant/animal)	M-1	3	m
3504 (a)(1)(i)	Railroad vandalism to RR property-by disrupting train operation	M-3	1	m
3504 (a)(1)(ii)	Railroad vandalism to RR property-by driving vehicle	M-3	1	m
3504 (a)(1)(iii)	Railroad vandalism to RR property-by damaging property/equipment	M-3	1	m
3504 (b)	Railroad protection-stowaways prohibited	M-3	1	m
3701 (a)(1)(i)	Robbery-inflicts SBI	F-1	12	4
3701 (a)(1)(ii)	Robbery-threatens SBI	F-1	10	4
3701 (a)(1)(iii)	Robbery-commit/threaten any F1 or F2	F-1	9	4
3701 (a)(1)(iv)	Robbery-inflicts/threatens BI	F-2	7	2
3701 (a)(1)(v)	Robbery-takes property by force	F-3	5	1
3701 (a)(1)(vi)	Robbery-demand money from financial institution	F-2	7	2
3702 (a)*	Robbery of motor vehicle-with SBI	F-1	12	4
3702 (a)*	Robbery of motor vehicle-without SBI	F-1	9	4
3921 (a)	Theft by unlaw taking-movable property (anhydrous ammonia)	F-2	8	2
3921 (a)	Theft by unlaw taking-movable property (disaster)	F-2	8	2
3921 (a)	Theft by unlaw taking-movable property (firearm)	F-2	8	2
3921 (a)*	Theft by unlaw taking-movable property (>\$100,000)	F-3	8	1
3921 (a)*	Theft by unlaw taking-movable property (>\$50,000-\$100,000)	F-3	7	1
3921 (a)*	Theft by unlaw taking-movable property (>\$25,000-\$50,000)	F-3	6	1
3921 (a)*	Theft by unlaw taking-movable property (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3921 (a)	Theft by unlaw taking-movable property (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3921 (a)	Theft by unlaw taking-movable property (\$200-\$2,000/no threat)	M-1	3	m
3921 (a)	Theft by unlaw taking-movable property (\$50-<\$200/no threat)	M-2	2	m
3921 (a)	Theft by unlaw taking-movable property (<\$50/no threat)	M-3	1	m
3921 (b)	Theft by unlaw taking-immovable property (anhydrous ammonia)	F-2	8	2
3921 (b)	Theft by unlaw taking-immovable property (disaster)	F-2	8	2
3921 (b)	Theft by unlaw taking-immovable property (firearm)	F-2	8	2
3921 (b)*	Theft by unlaw taking-immovable property (>\$100,000)	F-3	8	1
3921 (b)*	Theft by unlaw taking-immovable property (>\$50,000-\$100,000)	F-3	7	1
3921 (b)*	Theft by unlaw taking-immovable property (>\$25,000-\$50,000)	F-3	6	1
3921 (b)*	Theft by unlaw taking-immovable property (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3921 (b)	Theft by unlaw taking-immovable property (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3921 (b)	Theft by unlaw taking-immovable property (\$200-\$2,000/no threat)	M-1	3	m
3921 (b)	Theft by unlaw taking-immovable property (\$50-<\$200/no threat)	M-2	2	m
3921 (b)	Theft by unlaw taking-immovable property (<\$50/no threat)	M-3	1	m
3922 (a)(1)	Theft by deception-false impression (anhydrous ammonia)	F-2	8	2



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3922 (a)(1)	Theft by deception-false impression (firearm)	F-2	8	2
3922 (a)(1)*	Theft by deception-false impression (>\$100,000)	F-3	8	1
3922 (a)(1)*	Theft by deception-false impression (>\$50,000-\$100,000)	F-3	7	1
3922 (a)(1)*	Theft by deception-false impression (>\$25,000-\$50,000)	F-3	6	1
3922 (a)(1)*	Theft by deception-false impression (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3922 (a)(1)	Theft by deception-false impression (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3922 (a)(1)	Theft by deception-false impression (\$200-\$2,000/no threat)	M-1	3	m
3922 (a)(1)	Theft by deception-false impression (>\$50-\$200/no threat)	M-2	2	m
3922 (a)(1)	Theft by deception-false impression (<\$50/no threat)	M-3	1	m
3922 (a)(2)	Theft by deception-conceal information (anhydrous ammonia)	F-2	8	2
3922 (a)(2)	Theft by deception-conceal information (firearm)	F-2	8	2
3922 (a)(2)*	Theft by deception-conceal information (>\$100,000)	F-3	8	1
3922 (a)(2)*	Theft by deception-conceal information (>\$50,000-\$100,000)	F-3	7	1
3922 (a)(2)*	Theft by deception-conceal information (>\$25,000-\$50,000)	F-3	6	1
3922 (a)(2)*	Theft by deception-conceal information (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3922 (a)(2)	Theft by deception-conceal information (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3922 (a)(2)	Theft by deception-conceal information (\$200-\$2,000/no threat)	M-1	3	m
3922 (a)(2)	Theft by deception-conceal information (\$50-<\$200/no threat)	M-2	2	m
3922 (a)(2)	Theft by deception-conceal information (<\$50/no threat)	M-3	1	m
3922 (a)(3)	Theft by deception-fail to correct (anhydrous ammonia)	F-2	8	2
3922 (a)(3)	Theft by deception-fail to correct (firearm)	F-2	8	2
3922 (a)(3)*	Theft by deception-fail to correct (>\$100,000)	F-3	8	1
3922 (a)(3)*	Theft by deception-fail to correct (>\$50,000-\$100,000)	F-3	7	1
3922 (a)(3)*	Theft by deception-fail to correct (>\$25,000-\$50,000)	F-3	6	1
3922 (a)(3)*	Theft by deception-fail to correct (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3922 (a)(3)	Theft by deception-fail to correct (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3922 (a)(3)	Theft by deception-fail to correct (\$200-\$2,000/no threat)	M-1	3	m
3922 (a)(3)	Theft by deception-fail to correct (\$50-<\$200/no threat)	M-2	2	m
3922 (a)(3)	Theft by deception-fail to correct (<\$50/no threat)	M-3	1	m
3923 (a)(1)	Theft by extortion-commit crime (anhydrous ammonia)	F-2	8	2
3923 (a)(1)	Theft by extortion-commit crime (firearm)	F-2	8	2
3923 (a)(1)*	Theft by extortion-commit crime (>\$100,000)	F-3	8	1
3923 (a)(1)*	Theft by extortion-commit crime (>\$50,000-\$100,000)	F-3	7	1
3923 (a)(1)*	Theft by extortion-commit crime (>\$25,000-\$50,000)	F-3	6	1
3923 (a)(1)*	Theft by extortion-commit crime (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3923 (a)(1)	Theft by extortion-commit crime (<=\$2,000/from indiv./by threat/breach)	M-1	4	m
3923 (a)(1)	Theft by extortion-commit crime (\$200-\$2,000/no threat)	M-1	4	m
3923 (a)(1)	Theft by extortion-commit crime (\$50-<\$200/no threat)	M-2	2	m
3923 (a)(1)	Theft by extortion-commit crime (<\$50/no threat)	M-3	1	m



*=subcategorized offenses. See §303.3(b)
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Inchoate=inchoate to 4 point PRS offenses. See §303.7(a)
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Italics=not in original text

18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3923 (a)(2)	Theft by extortion-accuse of crime (anhydrous ammonia)	F-2	8	2
3923 (a)(2)	Theft by extortion-accuse of crime (firearm)	F-2	8	2
3923 (a)(2)*	Theft by extortion-accuse of crime (>\$100,000)	F-3	8	1
3923 (a)(2)*	Theft by extortion-accuse of crime (>\$50,000-\$100,000)	F-3	7	1
3923 (a)(2)*	Theft by extortion-accuse of crime (>\$25,000-\$50,000)	F-3	6	1
3923 (a)(2)*	Theft by extortion-accuse of crime (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3923 (a)(2)	Theft by extortion-accuse of crime (<=\$2,000/from indiv./by threat/breach)	M-1	4	m
3923 (a)(2)	Theft by extortion-accuse of crime (\$200-\$2,000/no threat)	M-1	4	m
3923 (a)(2)	Theft by extortion-accuse of crime (\$50-<\$200/no threat)	M-2	2	m
3923 (a)(2)	Theft by extortion-accuse of crime (<\$50/no threat)	M-3	1	m
3923 (a)(3)	Theft by extortion-expose secret (anhydrous ammonia)	F-2	8	2
3923 (a)(3)	Theft by extortion-expose secret (firearm)	F-2	8	2
3923 (a)(3)*	Theft by extortion-expose secret (>\$100,000)	F-3	8	1
3923 (a)(3)*	Theft by extortion-expose secret (>\$50,000-\$100,000)	F-3	7	1
3923 (a)(3)*	Theft by extortion-expose secret (>\$25,000-\$50,000)	F-3	6	1
3923 (a)(3)*	Theft by extortion-expose secret (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3923 (a)(3)	Theft by extortion-expose secret (<=\$2,000/from indiv./by threat/breach)	M-1	4	m
3923 (a)(3)	Theft by extortion-expose secret (\$200-\$2,000/no threat)	M-1	4	m
3923 (a)(3)	Theft by extortion-expose secret (\$50-<\$200/no threat)	M-2	2	m
3923 (a)(3)	Theft by extortion-expose secret (<\$50/no threat)	M-3	1	m
3923 (a)(4)	Theft by extortion-official action (anhydrous ammonia)	F-2	8	2
3923 (a)(4)	Theft by extortion-official action (firearm)	F-2	8	2
3923 (a)(4)*	Theft by extortion-official action (>\$100,000)	F-3	8	1
3923 (a)(4)*	Theft by extortion-official action (>\$50,000-\$100,000)	F-3	7	1
3923 (a)(4)*	Theft by extortion-official action (>\$25,000-\$50,000)	F-3	6	1
3923 (a)(4)*	Theft by extortion-official action (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3923 (a)(4)	Theft by extortion-official action (<=\$2,000/from indiv./by threat/breach)	M-1	4	m
3923 (a)(4)	Theft by extortion-official action (\$200-\$2,000/no threat)	M-1	4	m
3923 (a)(4)	Theft by extortion-official action (\$50-<\$200/no threat)	M-2	2	m
3923 (a)(4)	Theft by extortion-official action (<\$50/no threat)	M-3	1	m
3923 (a)(5)	Theft by extortion-strike/boycott (anhydrous ammonia)	F-2	8	2
3923 (a)(5)	Theft by extortion-strike/boycott (firearm)	F-2	8	2
3923 (a)(5)*	Theft by extortion-strike/boycott (>\$100,000)	F-3	8	1
3923 (a)(5)*	Theft by extortion-strike/boycott (>\$50,000-\$100,000)	F-3	7	1
3923 (a)(5)*	Theft by extortion-strike/boycott (>\$25,000-\$50,000)	F-3	6	1
3923 (a)(5)*	Theft by extortion-strike/boycott (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3923 (a)(5)	Theft by extortion-strike/boycott (<=\$2,000/from indiv./by threat/breach)	M-1	4	m
3923 (a)(5)	Theft by extortion-strike/boycott (\$200-\$2,000/no threat)	M-1	4	m
3923 (a)(5)	Theft by extortion-strike/boycott (\$50-<\$200/no threat)	M-2	2	m



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3923 (a)(5)	Theft by extortion-strike/boycott (<\$50/no threat)	M-3	1	m
3923 (a)(6)	Theft by extortion-testimony (anhydrous ammonia)	F-2	8	2
3923 (a)(6)	Theft by extortion-testimony (firearm)	F-2	8	2
3923 (a)(6)*	Theft by extortion-testimony (>\$100,000)	F-3	8	1
3923 (a)(6)*	Theft by extortion-testimony (>\$50,000-\$100,000)	F-3	7	1
3923 (a)(6)*	Theft by extortion-testimony (>\$25,000-\$50,000)	F-3	6	1
3923 (a)(6)*	Theft by extortion-testimony (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3923 (a)(6)	Theft by extortion-testimony (<=\$2,000/from indiv./by threat/breach)	M-1	4	m
3923 (a)(6)	Theft by extortion-testimony (\$200-\$2,000/no threat)	M-1	4	m
3923 (a)(6)	Theft by extortion-testimony (\$50-<\$200/no threat)	M-2	2	m
3923 (a)(6)	Theft by extortion-testimony (<\$50/no threat)	M-3	1	m
3923 (a)(7)	Theft by extortion-inflict harm (anhydrous ammonia)	F-2	8	2
3923 (a)(7)	Theft by extortion-inflict harm (firearm)	F-2	8	2
3923 (a)(7)*	Theft by extortion-inflict harm (>\$100,000)	F-3	8	1
3923 (a)(7)*	Theft by extortion-inflict harm (>\$50,000-\$100,000)	F-3	7	1
3923 (a)(7)*	Theft by extortion-inflict harm (>\$25,000-\$50,000)	F-3	6	1
3923 (a)(7)*	Theft by extortion-inflict harm (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3923 (a)(7)	Theft by extortion-inflict harm (<=\$2,000/from indiv./by threat/breach)	M-1	4	m
3923 (a)(7)	Theft by extortion-inflict harm (\$200-\$2,000/no threat)	M-1	4	m
3923 (a)(7)	Theft by extortion-inflict harm (\$50-<\$200/no threat)	M-2	2	m
3923 (a)(7)	Theft by extortion-inflict harm (<\$50/no threat)	M-3	1	m
3924	Theft of property-lost/mislaid (anhydrous ammonia)	F-2	8	2
3924	Theft of property-lost/mislaid (firearm)	F-2	8	2
3924*	Theft of property-lost/mislaid (>\$100,000)	F-3	8	1
3924*	Theft of property-lost/mislaid (>\$50,000-\$100,000)	F-3	7	1
3924*	Theft of property-lost/mislaid (>\$25,000-\$50,000)	F-3	6	1
3924*	Theft of property-lost/mislaid (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3924	Theft of property-lost/mislaid (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3924	Theft of property-lost/mislaid (\$200-\$2,000/no threat)	M-1	3	m
3924	Theft of property-lost/mislaid (\$50-<\$200/no threat)	M-2	2	m
3924	Theft of property-lost/mislaid (<\$50/no threat)	M-3	1	m
3925 (a)	Theft by receiving stolen property (anhydrous ammonia)	F-2	8	2
3925 (a)	Theft by receiving stolen property (disaster)	F-2	8	2
3925 (a)	Theft by receiving stolen property (firearm/receiver in business)	F-1	8	3
3925 (a)	Theft by receiving stolen property (firearm/receiver not in business)	F-2	8	2
3925 (a)*	Theft by receiving stolen property (>\$100,000)	F-3	8	1
3925 (a)*	Theft by receiving stolen property (>\$50,000-\$100,000)	F-3	7	1
3925 (a)*	Theft by receiving stolen property (>\$25,000-\$50,000)	F-3	6	1
3925 (a)*	Theft by receiving stolen property (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3925 (a)	Theft by receiving stolen property (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3925 (a)	Theft by receiving stolen property (\$200-\$2,000/no threat)	M-1	3	m
3925 (a)	Theft by receiving stolen property (\$50-<\$200/no threat)	M-2	2	m
3925 (a)	Theft by receiving stolen property (<\$50/no threat)	M-3	1	m



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3926 (a)(1)	Theft of services-obtain service (anhydrous ammonia)	F-2	8	2
3926 (a)(1)	Theft of services-obtain service (firearm)	F-2	8	2
3926 (a)(1)*	Theft of services-obtain service (>\$100,000)	F-3	8	1
3926 (a)(1)*	Theft of services-obtain service (>\$50,000-\$100,000)	F-3	7	1
3926 (a)(1)*	Theft of services-obtain service (>\$25,000-\$50,000)	F-3	6	1
3926 (a)(1)*	Theft of services-obtain service (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3926 (a)(1)	Theft of services-obtain service (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3926 (a)(1)	Theft of services-obtain service (\$200-\$2,000/no threat)	M-1	3	m
3926 (a)(1)	Theft of services-obtain service (\$50-<\$200/no threat)	M-2	2	m
3926 (a)(1)	Theft of services-obtain service (<\$50/no threat)	M-3	1	m
3926 (a)(1.1)	Theft of services-obtain telecommunications (anhydrous ammonia)	F-2	8	2
3926 (a)(1.1)	Theft of services-obtain telecommunications (firearm)	F-2	8	2
3926 (a)(1.1)*	Theft of services-obtain telecommunications (>\$100,000)	F-3	8	1
3926 (a)(1.1)*	Theft of services-obtain telecommunications (>\$50,000-\$100,000)	F-3	7	1
3926 (a)(1.1)*	Theft of services-obtain telecommunications (>\$25,000-\$50,000)	F-3	6	1
3926 (a)(1.1)*	Theft of services-obtain telecommunications (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3926 (a)(1.1)	Theft of services-obtain telecommunications (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3926 (a)(1.1)	Theft of services-obtain telecommunications (\$200-\$2,000/no threat)	M-1	3	m
3926 (a)(1.1)	Theft of services-obtain telecommunications (\$50-<\$200/no threat)	M-2	2	m
3926 (a)(1.1)	Theft of services-obtain telecommunications (<\$50/no threat)	M-2	2	m
3926 (b)	Theft of services-divert service (anhydrous ammonia)	F-2	8	2
3926 (b)	Theft of services-divert service (firearm)	F-2	8	2
3926 (b)*	Theft of services-divert service (>\$100,000)	F-3	8	1
3926 (b)*	Theft of services-divert service (>\$50,000-\$100,000)	F-3	7	1
3926 (b)*	Theft of services-divert service (>\$25,000-\$50,000)	F-3	6	1
3926 (b)*	Theft of services-divert service (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3926 (b)	Theft of services-divert service (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3926 (b)	Theft of services-divert service (\$200-\$2,000/no threat)	M-1	3	m
3926 (b)	Theft of services-divert service (\$50-<\$200/no threat)	M-2	2	m
3926 (b)	Theft of services-divert service (<\$50/no threat)	M-3	1	m
3926 (e)	Theft of services-transfer device/plan	M-3	1	m
3927 (a)	Theft by failure-req. disposition funds (anhydrous ammonia)	F-2	8	2
3927 (a)	Theft by failure-req. disposition funds (firearm)	F-2	8	2
3927 (a)*	Theft by failure-req. disposition funds (>\$100,000)	F-3	8	1
3927 (a)*	Theft by failure-req. disposition funds (>\$50,000-\$100,000)	F-3	7	1
3927 (a)*	Theft by failure-req. disposition funds (>\$25,000-\$50,000)	F-3	6	1
3927 (a)*	Theft by failure-req. disposition funds (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3927 (a)	Theft by failure-req. disposition funds (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3927 (a)	Theft by failure-req. disposition funds (\$200-\$2,000/no threat)	M-1	3	m
3927 (a)	Theft by failure-req. disposition funds (\$50-<\$200/no threat)	M-2	2	m
3927 (a)	Theft by failure-req. disposition funds (<\$50/no threat)	M-3	1	m
3928 (a)	Unauthorized use of auto	M-2	2	m



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3928 (a)	Unauthorized use of auto (disaster)	F-2	8	2
3929 (a)(1)	Retail theft-take merchandise (>\$2000/or firearm/motor vehicle)	F-3	5	1
3929 (a)(1)	Retail theft-take merchandise (1st/2nd off & >=\$150)	M-1	2	m
3929 (a)(1)	Retail theft-take merchandise (2nd off & <\$150)	M-2	2	m
3929 (a)(1)	Retail theft-take merchandise (3rd/subsq off)	F-3	3	1
3929 (a)(1)	Retail theft-take merchandise (disaster)	F-2	8	2
3929 (a)(2)	Retail theft-alter price (>\$2000/or firearm/motor vehicle)	F-3	5	1
3929 (a)(2)	Retail theft-alter price (1st/2nd off & >=\$150)	M-1	2	m
3929 (a)(2)	Retail theft-alter price (2nd off & <\$150)	M-2	2	m
3929 (a)(2)	Retail theft-alter price (3rd/subsq off)	F-3	3	1
3929 (a)(2)	Retail theft-alter price (disaster)	F-2	8	2
3929 (a)(3)	Retail theft-transfer container (>\$2000/or firearm/motor vehicle)	F-3	5	1
3929 (a)(3)	Retail theft-transfer container (1st/2nd off & >=\$150)	M-1	2	m
3929 (a)(3)	Retail theft-transfer container (2nd off & <\$150)	M-2	2	m
3929 (a)(3)	Retail theft-transfer container (3rd/subsq off)	F-3	3	1
3929 (a)(3)	Retail theft-transfer container (disaster)	F-2	8	2
3929 (a)(4)	Retail theft-under-rings (>\$2000/or firearm/motor vehicle)	F-3	5	1
3929 (a)(4)	Retail theft-under-rings (1st/2nd off & >=\$150)	M-1	2	m
3929 (a)(4)	Retail theft-under-rings (2nd off & <\$150)	M-2	2	m
3929 (a)(4)	Retail theft-under-rings (3rd/subsq off)	F-3	3	1
3929 (a)(4)	Retail theft-under-rings (disaster)	F-2	8	2
3929 (a)(5)	Retail theft-tamper w/ inventory tag (>\$2000/or firearm/motor vehicle)	F-3	5	1
3929 (a)(5)	Retail theft-tamper w/ inventory tag (1st/2nd off & >=\$150)	M-1	2	m
3929 (a)(5)	Retail theft-tamper w/ inventory tag (2nd off & <\$150)	M-2	2	m
3929 (a)(5)	Retail theft-tamper w/ inventory tag (3rd/subsq off)	F-3	3	1
3929 (a)(5)	Retail theft-tamper w/ inventory tag (disaster)	F-2	8	2
3929.1 (a)	Library Theft (1st/2nd off & >=\$150)	M-1	3	m
3929.1 (a)	Library Theft (2nd off & <\$150)	M-2	2	m
3929.1 (a)	Library Theft (3rd/Subsq off)	F-3	5	1
3929.2 (a)	Unlawful possession-retail/library theft instruments	M-1	3	m
3929.3 (a)	Organized retail theft (>=\$20,000)	F-2	7	2
3929.3 (a)	Organized retail theft (\$5,000-\$19,999)	F-3	6	1
3930 (a)(1)	Theft of trade secrets-by force	F-2	7	2
3930 (a)(2)	Theft of trade secrets-willful entry of building	F-2	7	2
3930 (a)(3)	Theft of trade secrets-willful access of computer	F-2	7	2
3930 (b)(1)	Theft of trade secrets-unlawful possession	F-3	5	1
3930 (b)(2)	Theft of trade secrets-unlawful conversion to own use	F-3	5	1
3931	Theft of unpublished drama, etc. (>\$2,000)	F-3	5	1
3931	Theft of unpublished drama, etc. (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3931	Theft of unpublished drama, etc. (\$200-\$2,000/no threat)	M-1	3	m
3931	Theft of unpublished drama, etc. (\$50-<\$200/no threat)	M-2	2	m
3931	Theft of unpublished drama, etc. (<\$50/no threat)	M-3	1	m
3932 (a)	Theft of leased property (anhydrous ammonia)	F-2	8	2
3932 (a)	Theft of leased property (firearm)	F-2	8	2



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3932 (a)*	Theft of leased property (>\$100,000)	F-3	8	1
3932 (a)*	Theft of leased property (>\$50,000-\$100,000)	F-3	7	1
3932 (a)*	Theft of leased property (>\$25,000-\$50,000)	F-3	6	1
3932 (a)*	Theft of leased property (>\$2,000-\$25,000/or motorized vehicle)	F-3	5	1
3932 (a)	Theft of leased property (<=\$2,000/from indiv./by threat/breach)	M-1	3	m
3932 (a)	Theft of leased property (\$200-\$2,000/no threat)	M-1	3	m
3932 (a)	Theft of leased property (\$50-<\$200/no threat)	M-2	2	m
3932 (a)	Theft of leased property (<\$50/no threat)	M-3	1	m
3934 (a)	Theft from a motor vehicle (3rd/subsq w/in 5 yrs)	F-3	6	1
3934 (a)	Theft from a motor vehicle (>\$200)	M-1	3	m
3934 (a)	Theft from a motor vehicle (>=\$50-<\$200)	M-2	2	m
3934 (a)	Theft from a motor vehicle (<\$50)	M-3	1	m
4101 (a)(1)	Forgery-altered writing (money/stocks/govt docs/etc.)	F-2	4	2
4101 (a)(1)	Forgery-altered writing (will//deed/other legal doc)	F-3	3	1
4101 (a)(1)	Forgery-altered writing (other)	M-1	3	m
4101 (a)(2)	Forgery-unauthorized writing (money/stocks/govt docs/etc.)	F-2	4	2
4101 (a)(2)	Forgery-unauthorized writing (will//deed/other legal doc)	F-3	3	1
4101 (a)(2)	Forgery-unauthorized writing (other)	M-1	3	m
4101 (a)(3)	Forgery-utter forged writing (money/stocks/govt docs/etc.)	F-2	4	2
4101 (a)(3)	Forgery-utter forged writing (will//deed/other legal doc)	F-3	3	1
4101 (a)(3)	Forgery-utter forged writing (other)	M-1	3	m
4102	Simulating objects of antiquity	M-1	3	m
4103	Fraudulent destruction of recordable instruments	F-3	5	1
4104 (a)	Tampering w/ records or identification	M-1	3	m
4105 (a)(1)	Bad checks-issues/passes check (=>\$75,000)	F-3	5	1
4105 (a)(1)	Bad checks-issues/passes check (\$1,000-<\$75,000)	M-1	3	m
4105 (a)(1)	Bad checks--issues/passes check (\$500-<\$1,000)	M-2	2	m
4105 (a)(1)	Bad checks-issues/passes check (\$200-<\$500)	M-3	1	m
4105 (a)(1)	Bad checks--issues/passes check (3rd/subsq off & <\$75,000)	M-1	3	m
4105 (a)(2)	Bad checks-issues/passes check in Commonwealth (=>\$75,000)	F-3	5	1
4105 (a)(2)	Bad checks-issues/passes check in Commonwealth (\$1,000-<\$75,000)	M-1	3	m
4105 (a)(2)	Bad checks-issues/passes check in Commonwealth (\$500-<\$1,000)	M-2	2	m
4105 (a)(2)	Bad checks-issues/passes check in Commonwealth (\$200-<\$500)	M-3	1	m
4105 (a)(2)	Bad checks-issues/passes check in Commonwealth (3rd/subsq off & <\$75,000)	M-1	3	m
4106 (a)(1)(i)	Access device fraud-altered/counterfeit device (>=\$500)	F-3	5	1
4106 (a)(1)(i)	Access device fraud-altered/counterfeit device (\$50-<\$500)	M-1	4	m
4106 (a)(1)(i)	Access device fraud-altered/counterfeit device (<\$50)	M-2	3	m
4106 (a)(1)(ii)	Access device fraud-unauthorized use of device (>\$500)	F-3	5	1
4106 (a)(1)(ii)	Access device fraud-unauthorized use of device (\$50-<\$500)	M-1	4	m
4106 (a)(1)(ii)	Access device fraud-unauthorized use of device (<\$50)	M-2	3	m
4106 (a)(1)(iii)	Access device fraud-device revoked/cancelled (>=\$500)	F-3	5	1
4106 (a)(1)(iii)	Access device fraud-device revoked/cancelled (\$50-<\$500)	M-1	4	m
4106 (a)(1)(iii)	Access device fraud-device revoked/cancelled (<\$50)	M-2	3	m
4106 (a)(1)(iv)	Access device fraud-other (>=\$500)	F-3	5	1



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
4106 (a)(1)(iv)	Access device fraud-other (\$50-<\$500)	M-1	4	m
4106 (a)(1)(iv)	Access device fraud-other (<\$50)	M-2	3	m
4106 (a)(2)	Access device fraud-publishes/makes/sells illegal device	F-3	5	1
4106 (a)(3)	Access device fraud-knowingly possesses illegal device	M-3	2	m
4106.1 (a)(1)	Unlawful device-making equipment (produces/traffics)	F-3	6	1
4106.1 (a)(2)	Unlawful device-making equipment (possesses)	M-1	4	m
4107 (a)(1)	Deceptive business practices-false weight/measure (>\$2,000)	F-3	5	1
4107 (a)(1)	Deceptive business practices-false weight/measure (\$200-\$2,000)	M-1	3	m
4107 (a)(1)	Deceptive business practices-false weight/measure (<\$200/amt unk)	M-2	2	m
4107 (a)(1)	Deceptive business practices-false weight/measure (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(1)	Deceptive business practices-false weight/measure (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1
4107 (a)(1)	Deceptive business practices-false weight/measure (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107 (a)(2)	Deceptive business practices-sells < rep. quantity (>\$2,000)	F-3	5	1
4107 (a)(2)	Deceptive business practices-sells < rep. quantity (\$200-\$2,000)	M-1	3	m
4107 (a)(2)	Deceptive business practices-sells < rep. quantity (<\$200/amt unk)	M-2	2	m
4107 (a)(2)	Deceptive business practices-sells < rep. quantity (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(2)	Deceptive business practices-sells < rep. quantity (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1
4107 (a)(2)	Deceptive business practices-sells < rep. quantity (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107 (a)(3)	Deceptive business practices-take > rep. quantity (>\$2,000)	F-3	5	1
4107 (a)(3)	Deceptive business practices-take > rep. quantity (\$200-\$2,000)	M-1	3	m
4107 (a)(3)	Deceptive business practices-take > rep. quantity (<\$200/amt unk)	M-2	2	m
4107 (a)(3)	Deceptive business practices-take > rep. quantity (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(3)	Deceptive business practices-take > rep. quantity (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1
4107 (a)(3)	Deceptive business practices-take > rep. quantity (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107 (a)(4)	Deceptive business practices-sell adulterated goods (>\$2,000)	F-3	5	1
4107 (a)(4)	Deceptive business practices-sell adulterated goods (\$200-\$2,000)	M-1	3	m
4107 (a)(4)	Deceptive business practices-sell adulterated goods (<\$200/amt unk)	M-2	2	m
4107 (a)(4)	Deceptive business practices-sell adulterated goods (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(4)	Deceptive business practices-sell adulterated goods (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1
4107 (a)(4)	Deceptive business practices-sell adulterated goods (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107 (a)(5)	Deceptive business practices-false advertisement (>\$2,000)	F-3	5	1
4107 (a)(5)	Deceptive business practices-false advertisement (\$200-\$2,000)	M-1	3	m
4107 (a)(5)	Deceptive business practices-false advertisement (<\$200/amt unk)	M-2	2	m
4107 (a)(5)	Deceptive business practices-false advertisement (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(5)	Deceptive business practices-false advertisement (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
4107 (a)(5)	Deceptive business practices-false advertisement (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107 (a)(6)	Deceptive business practices-false statement to obtain credit (>\$2,000)	F-3	5	1
4107 (a)(6)	Deceptive business practices-false statement to obtain credit (\$200-\$2,000)	M-1	3	m
4107 (a)(6)	Deceptive business practices-false statement to obtain credit (<\$200/amt unk)	M-2	2	m
4107 (a)(6)	Deceptive business practices-false statement to obtain credit (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(6)	Deceptive business practices-false statement to obtain credit (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1
4107 (a)(6)	Deceptive business practices-false statement to obtain credit (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107 (a)(7)	Deceptive business practices-false statement to sell securities (>\$2,000)	F-3	5	1
4107 (a)(7)	Deceptive business practices-false statement to sell securities (\$200-\$2,000)	M-1	3	m
4107 (a)(7)	Deceptive business practices-false statement to sell securities (<\$200/amt unk)	M-2	2	m
4107 (a)(7)	Deceptive business practices-false statement to sell securities (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(7)	Deceptive business practices-false statement to sell securities (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1
4107 (a)(7)	Deceptive business practices-false statement to sell securities (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107 (a)(8)	Deceptive business practices-false statement to investor (>\$2,000)	F-3	5	1
4107 (a)(8)	Deceptive business practices-false statement to investor (\$200-\$2,000)	M-1	3	m
4107 (a)(8)	Deceptive business practices-false statement to investor (<\$200/amt unk)	M-2	2	m
4107 (a)(8)	Deceptive business practices-false statement to investor (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(8)	Deceptive business practices-false statement to investor (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1
4107 (a)(8)	Deceptive business practices-false statement to investor (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107 (a)(9)	Deceptive business practices-false statement via phone (>\$2,000)	F-3	5	1
4107 (a)(9)	Deceptive business practices-false statement via phone (\$200-\$2,000)	M-1	3	m
4107 (a)(9)	Deceptive business practices-false statement via phone (<\$200/amt unk)	M-2	2	m
4107 (a)(9)	Deceptive business practices-false statement via phone (>\$2,000 & victim >=60 yrs)	F-2	7	2
4107 (a)(9)	Deceptive business practices-false statement via phone (\$200-\$2,000 & victim >=60 yrs)	F-3	5	1
4107 (a)(9)	Deceptive business practices-false statement via phone (<\$200/amt unk & victim >=60 yrs)	M-1	3	m
4107.1 (a)	Deception relating to kosher food products	M-3	1	m
4107.2 (a)(1)	Deception minority/women's business-fraud to obtain certif.	F-3	4	1
4107.2 (a)(2)	Deception minority/women's business-false statement to deny certif.	F-3	4	1
4107.2 (a)(3)	Deception minority/women's business-obstruct investigation for certif.	F-3	4	1
4107.2 (a)(4)	Deception minority/women's business-fraudulent obtain public money	F-3	4	1
4108 (a)	Commercial bribery/breach of duty-corrupt employee/agent/fiduciary	M-2	2	m
4108 (b)	Commercial bribery/breach of duty-corrupt disinterested person	M-2	2	m
4108 (c)	Commercial bribery/breach of duty-solicitation	M-2	2	m



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4109 (a)(1)	Rigging publicly exhibited contest-confer benefit/threaten injury	M-1	3	m
4109 (a)(2)	Rigging publicly exhibited contest-tamper w/ person/animal/thing	M-1	3	m
4109 (b)	Rigging publicly exhibited contest-solicit/accept benefit for rigging	M-1	3	m
4109 (c)	Rigging publicly exhibited contest-participate in rigged contest	M-1	3	m
4110	Defrauding secured creditors	M-2	2	m
4111	Fraud in Insolvency	M-2	2	m
4111 (1)	Fraud in insolvency-destroys/etc. property to obstruct creditor claim	M-2	2	m
4111 (2)	Fraud in insolvency-falsify writing/record of property	M-2	2	m
4111 (3)	Fraud in insolvency-knowingly misrepresent/refuse to disclose property	M-2	2	m
4112	Receiving deposits in failing financial institution	M-2	2	m
4113 (a)	Misapplication of entrusted property (>\$50)	M-2	2	m
4113 (a)	Misapplication of entrusted property (<=\$50)	M-3	1	m
4114	Securing execution of documents by deception	M-2	2	m
4115	Falsely impersonating persons privately employed	M-2	2	m
4116 (b)(1)	Copying; recording devices-knowingly transfer sounds for profit (100+ motion pict./1000+ recordings)	F-3	5	1
4116 (b)(1)	Copying; recording devices-knowingly transfer sounds for profit (100+ motion pict./1000+ recordings and 2nd/subsq off)	F-2	7	2
4116 (b)(1)	Copying; recording devices-knowingly transfer sounds for profit (any other 1st off)	M-1	3	m
4116 (b)(1)	Copying; recording devices-knowingly transfer sounds for profit (any other 2nd/subsq off)	F-3	5	1
4116 (b)(2)	Copying; recording devices-manufacture/etc. w/ knowledge of transfer (100+ motion pict./1000+ recordings)	F-3	5	1
4116 (b)(2)	Copying; recording devices-manufacture/etc. w/ knowledge of transfer (100+ motion pict./1000+ recordings and 2nd/subsq off)	F-2	7	2
4116 (b)(2)	Copying; recording devices-manufacture/etc. w/ knowledge of transfer (any other 1st off)	M-1	3	m
4116 (b)(2)	Copying; recording devices-manufacture/etc. w/ knowledge of transfer (any other 2nd/subsq off)	F-3	5	1
4116 (d)	Copying; recording devices-sell/rent illegal recording device (100+ motion pict./1000+ recordings)	F-3	5	1
4116 (d)	Copying; recording devices-sell/rent illegal recording device (100+ motion pict./1000+ recordings and 2nd/subsq off)	F-2	7	2
4116 (d)	Copying; recording devices-sell/rent illegal recording device (any other 1st off)	M-1	3	m
4116 (d)	Copying; recording devices-sell/rent illegal recording device (any other 2nd/subsq off)	F-3	5	1
4116 (d.1)(1)	Copying; recording devices-sell/rent live recording w/o owner consent (100+ motion pict./1000+ recordings)	F-3	5	1
4116 (d.1)(1)	Copying; recording devices-sell/rent live recording w/o owner consent (100+ motion pict./1000+ recordings and 2nd/subsq off)	F-2	7	2
4116 (d.1)(1)	Copying; recording devices-sell/rent live recording w/o owner consent (any other 1st off)	M-1	3	m
4116 (d.1)(1)	Copying; recording devices-sell/rent live recording w/o owner consent (any other 2nd/subsq off)	F-3	5	1
4116 (e)	Copying; recording devices-mfr. name on packaging (100+ motion pict./1000+ recordings)	F-3	5	1
4116 (e)	Copying; recording devices-mfr. name on packaging (100+ motion pict./1000+ recordings & 2nd/subsq off)	F-2	7	2
4116 (e)	Copying; recording devices-mfr. name on packaging (any other 1st off)	M-1	3	m



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4116 (e)	Copying; recording devices-mfr. name on packaging (any other 2nd/subsq off)	F-3	5	1
4116.1 (a)	Unlawful use of recording device in movie theater (1st off)	M-1	3	m
4116.1 (a)	Unlawful use of recording device in movie theater (2nd/subsq off)	F-3	4	1
4117 (a)(1)	Insurance fraud-false document to gvt. agency for ins. rate	F-3	4	1
4117 (a)(2)	Insurance fraud-false insurance claim	F-3	4	1
4117 (a)(3)	Insurance fraud-assist/conspire/etc. in false insurance claim	F-3	4	1
4117 (a)(4)	Insurance fraud-unlicensed agent activity	F-3	4	1
4117 (a)(5)	Insurance fraud-knowingly benefits from proceeds	F-3	4	1
4117 (a)(6)	Insurance fraud-health care facility allows insurance fraud	F-3	4	1
4117 (a)(7)	Insurance fraud-borrows/uses another's ins. ID w/ intent to defraud	F-3	4	1
4117 (a)(8)	Insurance fraud-direct/indirect solicitation for pecuniary gain	F-3	4	1
4117 (b)(1)	Insurance fraud-unlawful compensation by attorney	M-1	3	m
4117 (b)(2)	Insurance fraud-unlawful compensation by provider	M-1	3	m
4117 (b)(3)	Insurance fraud-unlawful compensation for patient referral	M-1	3	m
4117 (b)(4)	Insurance fraud-false insurance application	M-1	3	m
4118	Washing vehicle titles	F-3	4	1
4119 (a)(1)	Trademark counterfeiting-mfr.	M-1	3	m
4119 (a)(1)	Trademark counterfeiting-mfr. (prev conv/>100 items-<1000 items/>\$2,000-<\$10,000 value)	F-3	5	1
4119 (a)(1)	Trademark counterfeiting-mfr. (2+ prev conv/mfr. of items/>=1000 items/>\$10,000 value)	F-2	7	2
4119 (a)(2)	Trademark counterfeiting-sells	M-1	3	m
4119 (a)(2)	Trademark counterfeiting-sells (prev conv/>100 items-<1000 items/>\$2,000-<\$10,000 value)	F-3	5	1
4119 (a)(2)	Trademark counterfeiting-sells (2+ prev conv/mfr. of items/>=1000 items/>\$10,000 value)	F-2	7	2
4119 (a)(3)	Trademark counterfeiting-offers for sale	M-1	3	m
4119 (a)(3)	Trademark counterfeiting-offers for sale (prev conv/>100 items-<1000 items/>\$2,000-<\$10,000 value)	F-3	5	1
4119 (a)(3)	Trademark counterfeiting-offers for sale (2+ prev conv/mfr. of items/>=1000 items/>\$10,000 value)	F-2	7	2
4119 (a)(4)	Trademark counterfeiting-displays	M-1	3	m
4119 (a)(4)	Trademark counterfeiting-displays (prev conv/>100 items-<1000 items/>\$2,000-<\$10,000 value)	F-3	5	1
4119 (a)(4)	Trademark counterfeiting-displays (2+ prev conv/mfr. of items/>=1000 items/>\$10,000 value)	F-2	7	2
4119 (a)(5)	Trademark counterfeiting-advertises	M-1	3	m
4119 (a)(5)	Trademark counterfeiting-advertises (prev conv/>100 items-<1000 items/>\$2,000-<\$10,000 value)	F-3	5	1
4119 (a)(5)	Trademark counterfeiting-advertises (2+ prev conv/mfr. of items/>=1000 items/>\$10,000 value)	F-2	7	2
4119 (a)(6)	Trademark counterfeiting-distributes	M-1	3	m
4119 (a)(6)	Trademark counterfeiting-distributes (prev conv/>100 items-<1000 items/>\$2,000-<\$10,000 value)	F-3	5	1
4119 (a)(6)	Trademark counterfeiting-distributes (2+ prev conv/mfr. of items/>=1000 items/>\$10,000 value)	F-2	7	2
4119 (a)(7)	Trademark counterfeiting-transport	M-1	3	m
4119 (a)(7)	Trademark counterfeiting-transport (prev conv/>100 items-<1000 items/>\$2,000-<\$10,000 value)	F-3	5	1



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4119 (a)(7)	Trademark counterfeiting-transport (2+ prev conv/mfr. of items/>=1000 items/>\$10,000 value)	F-2	7	2
4119 (c)(1)	Trademark counterfeiting	M-1	3	m
4119 (c)(2)	Trademark counterfeiting	F-3	5	1
4119 (c)(3)	Trademark counterfeiting	F-2	7	2
4120 (a)	Identity theft (>=\$2,000)	F-3	5	1
4120 (a)	Identity theft (<\$2,000)	M-1	3	m
4120 (a)	Identity theft (3rd/subsq off)	F-2	7	2
4120 (a)	Identity theft (furtherance of conspiracy)	F-3	5	1
4120 (a)	Identity theft (>=\$2,000 and victim >=60 yrs/care-dependent)	F-2	7	2
4120 (a)	Identity theft (<\$2,000 and victim >=60 yrs/care-dependent)	F-3	5	1
4120 (a)	Identity theft (3rd/subsq off and victim >=60 yrs/care-dependent)	F-1	8	3
4120 (a)	Identity theft (furtherance of conspiracy and victim >=60 yrs/care-dependent)	F-2	7	2
4301 (a)	Bigamy (by married person)	M-2	3	m
4301 (b)	Bigamy (knowing other person committing bigamy)	M-2	3	m
4302 (a)	Incest (victim >18 yrs.)	F-2	9	4
4302 (b)(1)	Incest-of a minor (victim <13 yrs.)	F-2	9	4
4302 (b)(2)	Incest-of a minor (victim 13-18 yrs. and offender at least 4 yrs. older)	F-2	9	4
4303 (a)	Concealing death of child	M-1	3	m
4304 (a)(1)	Endangering welfare of children-violate duty of care	M-1	5	1
4304 (a)(1)	Endangering welfare of children-violate duty of care (course of conduct)	F-3	6	1
4304 (a)(2)	Endangering welfare of children-official prevents/interferes w/ reporting	M-1	5	1
4304 (a)(2)	Endangering welfare of children-official prevents/interferes w/ reporting (course of conduct)	F-3	6	1
4305	Dealing in infant children	M-1	4	1
4701 (a)(1)	Bribery in official & political matters-pecuniary benefit as public servant	F-3	5	1
4701 (a)(2)	Bribery in official & political matters-benefit for judicial/admin./legis. proceedings	F-3	5	1
4701 (a)(3)	Bribery in official & political matters-benefit for legal duty as public servant	F-3	5	1
4702 (a)(1)	Threats-to influence decision as public servant	M-2	2	m
4702 (a)(1)	Threats-to influence decision as public servant (threat to commit crime)	F-3	5	1
4702 (a)(2)	Threats-to influence decision in judicial/admin. proceedings	M-2	2	m
4702 (a)(2)	Threats-to influence decision in judicial/admin. proceedings (threat to commit crime)	F-3	5	1
4702 (a)(3)	Threats-harm for legal duty as public servant	M-2	2	m
4702 (a)(3)	Threats-harm for legal duty as public servant (threat to commit crime)	F-3	5	1
4703	Retaliation for past official action	M-2	2	m
4902 (a)	Perjury	F-3	5	1
4903 (a)(1)	False swearing in official matters-in official proceeding	M-2	2	m
4903 (a)(2)	False swearing in official matters-to mislead public servant	M-2	2	m
4903 (b)	False swearing-statement required to be sworn	M-3	1	m
4904 (a)(1)	Unsworn falsification to authorities-written statement	M-2	2	m
4904 (a)(2)	Unsworn falsification to authorities-relies on false writing	M-2	2	m
4904 (a)(3)	Unsworn falsification to authorities-relies on false specimen/map/boundary, etc.	M-2	2	m



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4904 (b)	Unsworn falsification to authorities-statement under penalty	M-3	1	m
4905 (a)	False alarms to agency of public safety	M-1	3	m
4905 (a)	False alarms to agency of public safety (state of emergency)	F-3	5	1
4906 (a)	False reports-falsely incriminate another	M-2	2	m
4906 (a)	False reports-falsely incriminate another (report of theft/loss of firearm)	M-1	3	m
4906 (a)	False reports-falsely incriminate another (state of emergency)	M-1	3	m
4906 (b)(1)	False reports-fictitious report to law enforcement	M-3	1	m
4906 (b)(1)	False reports-fictitious report to law enforcement (report of theft/loss of firearm)	M-2	2	m
4906 (b)(1)	False reports-fictitious report to law enforcement (state of emergency)	M-2	2	m
4906 (b)(2)	False Reports-fictitious report of information	M-3	1	m
4906 (b)(2)	False Reports-fictitious report of information (report of theft/loss of firearm)	M-2	2	m
4906 (b)(2)	False Reports-fictitious report of information (state of emergency)	M-2	2	m
4909	Witness or informant taking bribe	F-3	5	1
4910 (1)	Tampering w/ physical evidence-intent to impair availability	M-2	2	m
4910 (2)	Tampering w/ physical evidence-false record etc.	M-2	2	m
4911 (a)(1)	Tampering w/ public records-false entry/govt. doc	M-2	2	m
4911 (a)(1)	Tampering w/ public records-false entry/govt. doc. (to defraud)	F-3	4	1
4911 (a)(2)	Tampering w/ public records-presenting false document	M-2	2	m
4911 (a)(2)	Tampering w/ public records-presenting false document (to defraud)	F-3	4	1
4911 (a)(3)	Tampering w/ public records-intent to impair doc. availability	M-2	2	m
4911 (a)(3)	Tampering w/ public records-intent to impair doc. availability (to defraud)	F-3	4	1
4912	Impersonating a public servant	M-2	2	m
4913 (a)	Impersonating a notary public	M-2	2	m
4913 (a)	Impersonating a notary public (intent to harm/defraud)	M-1	3	m
4914 (a)	False identification to law enforcement authorities	M-3	1	m
4915.1 (a)(1)	Fail to register with PSP-15 yr. registration (1st off)	F-3	6	1
4915.1 (a)(1)	Fail to register with PSP-15 yr. registration (2nd/subsq off)	F-2	8	2
4915.1 (a)(1)	Fail to register with PSP-25 yr. registration (1st off)	F-2	8	2
4915.1 (a)(1)	Fail to register with PSP-25 yr. registration (2nd/subsq off)	F-1	10	3
4915.1 (a)(1)	Fail to register with PSP-lifetime registration (1st off)	F-2	8	2
4915.1 (a)(1)	Fail to register with PSP-lifetime registration (2nd/subsq off)	F-1	10	3
4915.1 (a)(2)	Fail to verify address/be photo'd-15 yr. registration (1st off)	F-3	6	1
4915.1 (a)(2)	Fail to verify address/be photo'd-15 yr. registration (2nd/subsq off)	F-2	8	2
4915.1 (a)(2)	Fail to verify address/be photo'd-25 yr. registration (1st off)	F-2	8	2
4915.1 (a)(2)	Fail to verify address/be photo'd-25 yr. registration (2nd/subsq off)	F-1	10	3
4915.1 (a)(2)	Fail to verify address/be photo'd-lifetime registration (1st off)	F-2	8	2
4915.1 (a)(2)	Fail to verify address/be photo'd-lifetime registration (2nd/subsq off)	F-1	10	3
4915.1 (a)(3)	Fail to provide accurate information-15 yr. registration	F-2	8	2
4915.1 (a)(3)	Fail to provide accurate information-25 yr. registration	F-1	10	3
4915.1 (a)(3)	Fail to provide accurate information-lifetime registration	F-1	10	3
4915.1 (a.1)(1)	Fail to register with PSP: transient-15 yr. registration (1st off)	F-3	6	1
4915.1 (a.1)(1)	Fail to register with PSP: transient-15 yr. registration (2nd/subsq off)	F-2	8	2



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
4915.1 (a.1)(1)	Fail to register with PSP: transient-25 yr. registration (1st off)	F-2	8	2
4915.1 (a.1)(1)	Fail to register with PSP: transient-25 yr. registration (2nd/subsq off)	F-1	10	3
4915.1 (a.1)(1)	Fail to register with PSP: transient-lifetime registration (1st off)	F-2	8	2
4915.1 (a.1)(1)	Fail to register with PSP: transient-lifetime registration (2nd/subsq off)	F-1	10	3
4915.1 (a.1)(2)	Fail to verify address/be photo'd: transient-15 yr. registration (1st off)	F-3	6	1
4915.1 (a.1)(2)	Fail to verify address/be photo'd: transient-15 yr. registration (2nd/subsq off)	F-2	8	2
4915.1 (a.1)(2)	Fail to verify address/be photo'd: transient-25 yr. registration (1st off)	F-2	8	2
4915.1 (a.1)(2)	Fail to verify address/be photo'd: transient-25 yr. registration (2nd/subsq off)	F-1	10	3
4915.1 (a.1)(2)	Fail to verify address/be photo'd: transient-lifetime registration (1st off)	F-2	8	2
4915.1 (a.1)(2)	Fail to verify address/be photo'd: transient-lifetime registration (2nd/subsq off)	F-1	10	3
4915.1 (a.1)(3)	Fail to provide accurate info.: transient-15 yr. registration	F-2	8	2
4915.1 (a.1)(3)	Fail to provide accurate info.: transient-25 yr. registration	F-1	10	3
4915.1 (a.1)(3)	Fail to provide accurate info.: transient-lifetime registration	F-1	10	3
4915.1 (a.2)(1)	Fail to comply w/ SVP outpatient review/counseling	M-1	5	m
4915.1 (a.2)(2)	Fail to comply w/ counseling req. from other jurisdiction	M-1	5	m
4952 (a)(1)	Intimidation of witness/victim-refrain from reporting (listed factor & F-1/Murder 1 or 2)	F-1	11	4
4952 (a)(1)	Intimidation of witness/victim-refrain from reporting (listed factor & F-2)	F-2	9	2
4952 (a)(1)	Intimidation of witness/victim-refrain from reporting (listed factor)	F-3	7	1
4952 (a)(1)	Intimidation of witness/victim-refrain from reporting (general)	M-2	5	m
4952 (a)(2)	Intimidation of witness/victim-false/misleading info. (listed factor & F-1/Murder 1 or 2)	F-1	11	4
4952 (a)(2)	Intimidation of witness/victim-false/misleading info. (listed factor & F-2)	F-2	9	2
4952 (a)(2)	Intimidation of witness/victim-false/misleading info. (listed factor)	F-3	7	1
4952 (a)(2)	Intimidation of witness/victim-false/misleading info. (general)	M-2	5	m
4952 (a)(3)	Intimidation of witness/victim-Withhold Information, (listed factor & F-1/Murder 1 or 2)	F-1	11	4
4952 (a)(3)	Intimidation of witness/victim-withhold info. (listed factor & F-2)	F-2	9	2
4952 (a)(3)	Intimidation of witness/victim-withhold info. (listed factor)	F-3	7	1
4952 (a)(3)	Intimidation of witness/victim-withhold info. (general)	M-2	5	m
4952 (a)(4)	Intimidation of witness/victim-false info/refuse testimony (listed factor & F-1/Murder 1 or 2)	F-1	11	4
4952 (a)(4)	Intimidation of witness/victim-false info/refuse testimony (listed factor & F-2)	F-2	9	2
4952 (a)(4)	Intimidation of witness/victim-false info/refuse testimony (listed factor)	F-3	7	1
4952 (a)(4)	Intimidation of witness/victim-false info/refuse testimony (general)	M-2	5	m
4952 (a)(5)	Intimidation of witness/victim-evade/ignore summons (listed factor & F-1/Murder 1 or 2)	F-1	11	4
4952 (a)(5)	Intimidation of witness/victim-evade/ignore summons (listed factor & F-2)	F-2	9	2
4952 (a)(5)	Intimidation of witness/victim-evade/ignore summons (listed factor)	F-3	7	1
4952 (a)(5)	Intimidation of witness/victim-evade/ignore summons (general)	M-2	5	m
4952 (a)(6)	Intimidation of witness/victim-absent from proceeding, (listed factor & F-1/Murder 1 or 2)	F-1	11	4



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
4952 (a)(6)	Intimidation of witness/victim-absent from proceeding (listed factor & F-2)	F-2	9	2
4952 (a)(6)	Intimidation of witness/victim-absent from proceeding (listed factor)	F-3	7	1
4952 (a)(6)	Intimidation of witness/victim-absent from proceeding (general)	M-2	5	m
4953 (a)	Retaliation against witness/victim-listed factor	F-3	8	1
4953 (a)	Retaliation against witness/victim-general	M-2	5	m
4953.1 (a)	Retaliation against prosecutor/judicial official-listed factor	F-2	9	2
4953.1 (a)	Retaliation against prosecutor/judicial official-general	M-1	6	m
5101	Obstructing admin. of law/other govt. function	M-2	3	m
5102 (a)	Obstructing/impeding justice by picketing	M-2	2	m
5103	Unlawfully listening into deliberations of jury	M-3	1	m
5104	Resisting arrest, etc.	M-2	2	m
5104.1 (a)	Disarming law enforcement officer	F-3	5	1
5105 (a)(1)	Hindering apprehension-harbors/conceals	M-2	2	m
5105 (a)(1)	Hindering apprehension-harbors/conceals (charge is F1/F2)	F-3	4	1
5105 (a)(2)	Hindering apprehension-provides aid to avoid apprehension	M-2	2	m
5105 (a)(2)	Hindering apprehension-provides aid to avoid apprehension (charge is F1/F2)	F-3	4	1
5105 (a)(3)	Hindering apprehension-conceal/destroy evidence	M-2	2	m
5105 (a)(3)	Hindering apprehension-conceal/destroy evidence (charge is F1/F2)	F-3	4	1
5105 (a)(4)	Hindering apprehension-warn of apprehension	M-2	2	m
5105 (a)(4)	Hindering apprehension-warn of apprehension (charge is F1/F2)	F-3	4	1
5105 (a)(5)	Hindering apprehension-false info. to law enforcement ofc.	M-2	2	m
5105 (a)(5)	Hindering apprehension-false info. to law enforcement ofc. (charge is F1/F2)	F-3	4	1
5107 (a)	Aiding consummation of crime	M-2	2	m
5107 (a)	Aiding consummation of crime (principal off is F1/F2)	F-3	5	1
5108 (a)	Compounding	M-2	2	m
5109	Barratry-vex with unjust/vexatious suits	M-3	1	m
5110	Contempt of General Assembly	M-3	1	m
5111 (a)(1)	Dealing in proceeds of unlawful activities-intent to promote act	F-1	8	3
5111 (a)(2)	Dealing in proceeds of unlawful activities-designed to conceal proceeds	F-1	8	3
5111 (a)(3)	Dealing in proceeds of unlawful activities-avoid transaction report req.	F-1	8	3
5112 (a)	Obstructing emergency services	M-3	1	m
5121 (a)	Permitting/facilitating escape	M-2	3	m
5121 (a)	Escape	M-2	3	m
5121 (a)*	Escape (from: halfway house, pre-release ctr., treatment ctr., work-release ctr., work-release, or failure to return from an authorized leave/furlough)	F-3	5	1
5121 (a)*	Escape (all other specified escapes)	F-3	6	1
5121 (a)*	Permitting/facilitating escape (from: halfway house, pre-release ctr., treatment ctr., work-release ctr., work-release, or failure to return from an authorized leave/furlough)	F-3	5	1
5121 (a)*	Permitting/facilitating escape (all other specified escapes)	F-3	6	1
5122 (a)(1)	Weapons/implements for escape-provide to inmate	M-1	8	m
5122 (a)(2)	Weapons/implements for escape-possession by inmate	M-1	4	m
5123 (a)	Contraband-provide controlled substance to inmate	F-2	7	2



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5123 (a.2)	Contraband-possession of controlled substance by inmate	F-2	7	2
5123 (b)	Contraband-provide money to inmate	M-3	1	m
5123 (c)	Contraband-provide other contraband to inmate	M-1	3	m
5123 (c.1)	Contraband-provide telecom. device to inmate	M-1	5	m
5123 (c.2)	Contraband-possession of telecom. device by inmate	M-1	3	m
5124 (a)	Default in required appearance (felony)	F-3	4	1
5124 (a)	Default in required appearance (non-felony)	M-2	2	m
5125	Absconding witness	M-3	1	m
5126 (a)	Flight to avoid apprehension (felony)	F-3	5	1
5126 (a)	Flight to avoid apprehension (misd.)	M-2	2	m
5301 (1)	Official oppression-subjects another to arrest, etc.	M-2	2	m
5301 (2)	Official oppression-denies another enjoyment of rights	M-2	2	m
5302 (1)	Speculating/wagering on official action-acquires pecuniary interest	M-2	2	m
5302 (2)	Speculating/wagering on official action-speculates on information	M-2	2	m
5302 (3)	Speculating/wagering on official action-aids another	M-2	2	m
5501 (1)	Riot-intent to commit felony/misd.	F-3	4	1
5501 (2)	Riot-intent to prevent/coerce official action	F-3	4	1
5501 (3)	Riot-actor/other plans to use deadly weapon	F-3	4	1
5502	Failure to disperse upon official order	M-2	2	m
5503 (a)(1)	Disorderly conduct-frightening/threatening behavior (substantial harm/persist after warning)	M-3	1	m
5503 (a)(2)	Disorderly conduct-unreasonable noise (substantial harm/persist after warning)	M-3	1	m
5503 (a)(3)	Disorderly conduct-obscene language (substantial harm/persist after warning)	M-3	1	m
5503 (a)(4)	Disorderly conduct-hazardous condition (substantial harm/persist after warning)	M-3	1	m
5506	Loitering and prowling at night time	M-3	1	m
5507 (a)	Obstructing highway, etc.-after warning	M-3	1	m
5508	Disrupting meetings and processions	M-3	1	m
5509 (a)(1)	Desecration of venerated objects-intentional (public monument, etc.)	M-2	2	m
5509 (a)(2)	Desecration of venerated objects-intentional (object of veneration)	M-2	2	m
5509 (a)(3)	Desecration of venerated objects-sell veteran's marker	M-2	2	m
5509 (a.1)	Desecration of venerated objects-historic burial lots	M-1	3	m
5510	Abuse of corpse	M-2	3	m
5511 (a)(1)	Cruelty to animals-own dog that injures service dog	M-3	1	m
5511 (a)(1)(i)	Cruelty to animals-kill/maim domestic animal	M-2	3	m
5511 (a)(1)(ii)	Cruelty to animals-poisons domestic animal	M-2	3	m
5511 (a)(1)(iii)	Cruelty to animals-harasses/injure etc. service/guide dog	M-2	3	m
5511 (a)(2)(i)	Cruelty to animals-kill/maim zoo animal	F-3	5	1
5511 (a)(2)(ii)	Cruelty to animals-poison zoo animal	F-3	5	1
5511 (a)(2.1)(i)(a)	Cruelty to animals-kill/maim dog/cat/service dog (1st off)	M-1	3	m
5511 (a)(2.1)(i)(a)	Cruelty to animals-kill/maim dog/cat/service dog (2nd/subsq off)	F-3	5	1
5511 (a)(2.1)(i)(b)	Cruelty to animals-poison dog/cat (1st off)	M-1	3	m
5511 (a)(2.1)(i)(b)	Cruelty to animals-poison dog/cat (2nd/subsq off)	F-3	5	1
5511 (c)(1)	Cruelty to animals-neglect/mistreat animal in care (2nd/subsq off)	M-3	1	m



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5511 (e.1)	Cruelty to animals-transport equines in cruel manner (2nd/subsq off)	M-3	1	m
5511 (h.1)(1)	Cruelty to animals-animal fighting (for amusement/gain)	F-3	5	1
5511 (h.1)(2)	Cruelty to animals-animal fighting (receives compensation)	F-3	5	1
5511 (h.1)(3)	Cruelty to animals-animal fighting (owns fighting animal)	F-3	5	1
5511 (h.1)(4)	Cruelty to animals-animal fighting (encourage/aid/assist)	F-3	5	1
5511 (h.1)(5)	Cruelty to animals-animal fighting (wagers on fight outcome)	F-3	5	1
5511 (h.1)(6)	Cruelty to animals-animal fighting (pays admission)	F-3	5	1
5511 (h.1)(7)	Cruelty to animals-animal fighting (permits use of animal for fight)	F-3	5	1
5511.2 (a)	Police animals-illegal to taunt	F-3	5	1
5511.2 (b)	Police animals-illegal to torture	F-3	7	1
5511.3	Assault w/ biological agent on animal/fowl/honey bee	F-2	7	2
5512 (b)(1)	Lotteries-set up unlawful game	M-1	3	m
5512 (b)(2)	Lotteries-manuf./etc. unlawful tickets	M-1	3	m
5512 (b)(3)	Lotteries-publish advertisement	M-1	3	m
5513 (a)(1)	Gambling devices-intentionally makes gambling device	M-1	3	m
5513 (a)(2)	Gambling devices-allows assemble for gambling	M-1	3	m
5513 (a)(3)	Gambling devices-solicits/invites person for gambling	M-1	3	m
5513 (a)(4)	Gambling devices-allows gambling on premises	M-1	3	m
5514 (1)	Pool selling and bookmaking-engage in	M-1	3	m
5514 (2)	Pool selling and bookmaking-occupy place	M-1	3	m
5514 (3)	Pool selling and bookmaking-receives bet on political outcome	M-1	3	m
5514 (4)	Pool selling and bookmaking-custodian of property wagered (for gain)	M-1	3	m
5514 (5)	Pool selling and bookmaking-knowingly permit premises to be used	M-1	3	m
5515 (b)(1)	Prohibiting of paramilitary training-teaching	M-1	3	m
5515 (b)(2)	Prohibiting of paramilitary training-assembles for training	M-1	3	m
5516 (a)(1)	Facsimile weapons of mass destruction-terrifying/etc. individual	F-3	5	1
5516 (a)(2)(i)	Facsimile weapons of mass destruction-reaction of org. wh/ deals w/ emergency	F-3	5	1
5516 (a)(2)(ii)	Facsimile weapons of mass destruction-reaction of law enforcement agency	F-3	5	1
5516 (a)(3)	Facsimile weapons of mass destruction-serious public inconvenience	F-3	5	1
5517 (a)	Unauthorized school bus entry	M-3	1	m
5703	Interception of wire/oral communication	F-3	5	1
5703 (1)	Interception of wire/oral communication-intentionally intercepts	F-3	5	1
5703 (2)	Interception of wire/oral communication-discloses contents	F-3	5	1
5703 (3)	Interception of wire/oral communication-use contents	F-3	5	1
5705 (1)	Possess/etc. of interception devices-intentionally possess/etc.	F-3	5	1
5705 (2)	Possess/etc. of interception devices-intentionally sells/etc.	F-3	5	1
5705 (3)	Possess/etc. of interception devices-intentionally manufactures/etc.	F-3	5	1
5705 (4)	Possess/etc. of interception devices-intentionally advertises/etc.	F-3	5	1
5719	Unlawful use of order concerning intercepted communications	M-2	2	m
5741 (a)(1)	Unlawf. access stored communications-access w/o authority-for gain (1st off)	M-3	1	m
5741 (a)(1)	Unlawf. access stored communications-access w/o authority-for gain (2nd/subsq off)	M-2	2	m



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5741 (a)(2)	Unlawf. access stored communications-exceed authorization-for gain (1st off)	M-3	1	m
5741 (a)(2)	Unlawf. access stored communications-exceed authorization-for gain (2nd/subsq off)	M-2	2	m
5771 (a)	Prohibit pen register & trap/trace device	M-3	1	m
5901	Open lewdness	M-3	1	m
5902 (a)(1)	Prostitution-business (1st/2nd off)	M-3	1	m
5902 (a)(1)	Prostitution-business (3rd off)	M-2	3	m
5902 (a)(1)	Prostitution-business (4th/subsq off)	M-1	4	m
5902 (a)(1)	Prostitution-business (HIV positive/AIDS)	F-3	7	1
5902 (a)(2)	Prostitution (1st/2nd off)	M-3	1	m
5902 (a)(2)	Prostitution (3rd off)	M-2	3	m
5902 (a)(2)	Prostitution (4th/subsq off)	M-1	4	m
5902 (a)(2)	Prostitution (HIV positive/AIDS)	F-3	7	1
5902 (b)(1)	Promoting prostitution-own house/business	F-3	5	1
5902 (b)(2)	Promoting prostitution-procure prostitute for house	F-3	5	1
5902 (b)(3)	Promoting prostitution-encourage prostitution	F-3	5	1
5902 (b)(4)	Promoting prostitution-solicit patron	M-2	3	m
5902 (b)(4)	Promoting prostitution-solicit patron (compel)	F-3	5	1
5902 (b)(4)	Promoting prostitution-solicit patron (HIV positive/AIDS)	F-3	5	1
5902 (b)(4)	Promoting prostitution-solicit patron (spouse/child/ward)	F-3	5	1
5902 (b)(5)	Promoting prostitution-procure prostitute	M-2	3	m
5902 (b)(5)	Promoting prostitution-procure prostitute (compel)	F-3	5	1
5902 (b)(5)	Promoting prostitution-procure prostitute (HIV positive/AIDS)	F-3	5	1
5902 (b)(5)	Promoting prostitution-procure prostitute (spouse/child/ward)	F-3	5	1
5902 (b)(6)	Promoting prostitution-transport prostitute	M-2	3	m
5902 (b)(6)	Promoting prostitution-transport prostitute (compel)	F-3	5	1
5902 (b)(6)	Promoting prostitution-transport prostitute (HIV positive/AIDS)	F-3	5	1
5902 (b)(6)	Promoting prostitution-transport prostitute (spouse/child/ward)	F-3	5	1
5902 (b)(7)	Promoting prostitution-provide place for prostitution	M-2	3	m
5902 (b)(7)	Promoting prostitution-provide place for prostitution (compel)	F-3	5	1
5902 (b)(7)	Promoting prostitution-provide place for prostitution (HIV positive/AIDS)	F-3	5	1
5902 (b)(7)	Promoting prostitution-provide place for prostitution (spouse/child/ward)	F-3	5	1
5902 (b)(8)	Promoting prostitution-receive benefit	M-2	3	m
5902 (b)(8)	Promoting prostitution-receive benefit (compel)	F-3	5	1
5902 (b)(8)	Promoting prostitution-receive benefit (HIV positive/AIDS)	F-3	5	1
5902 (b)(8)	Promoting prostitution-receive benefit (spouse/child/ward)	F-3	5	1
5902 (b.1)(1)*	Promoting prostitution of minor-business (16-<18 yrs)	F-3	6	1
5902 (b.1)(1)*	Promoting prostitution of minor-business (<16 yrs)	F-3	8	1
5902 (b.1)(2)*	Promoting prostitution of minor-procure (16-<18 yrs)	F-3	6	1
5902 (b.1)(2)*	Promoting prostitution of minor-procure (<16 yrs)	F-3	8	1
5902 (b.1)(3)*	Promoting prostitution of minor-induce (16-<18 yrs)	F-3	6	1
5902 (b.1)(3)*	Promoting prostitution of minor-induce (<16 yrs)	F-3	8	1
5902 (b.1)(4)*	Promoting prostitution of minor-solicit minor to patronize (16-<18 yrs)	F-3	6	1



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5902 (b.1)(4)*	Promoting prostitution of minor-solicit minor to patronize (<16 yrs)	F-3	8	1
5902 (b.1)(5)*	Promoting prostitution of minor-procure minor prostitute for patron (16-<18 yrs)	F-3	6	1
5902 (b.1)(5)*	Promoting prostitution of minor-procure minor prostitute for patron (<16 yrs)	F-3	8	1
5902 (b.1)(6)*	Promoting prostitution of minor-transport minor for prostitution (16-<18 yrs)	F-3	6	1
5902 (b.1)(6)*	Promoting prostitution of minor-transport minor for prostitution (<16 yrs)	F-3	8	1
5902 (b.1)(7)*	Promoting prostitution of minor-provide place for prostitution (16-<18 yrs)	F-3	6	1
5902 (b.1)(7)*	Promoting prostitution of minor-provide place for prostitution (<16 yrs)	F-3	8	1
5902 (b.1)(8)*	Promoting prostitution of minor-receive benefit (16-<18 yrs)	F-3	6	1
5902 (b.1)(8)*	Promoting prostitution of minor-receive benefit (<16 yrs)	F-3	8	1
5902 (d)	Living off prostitutes	M-2	3	m
5902 (d)	Living off prostitutes (compel)	F-3	5	1
5902 (d)	Living off prostitutes (HIV positive/AIDS)	F-3	5	1
5902 (d)	Living off prostitutes (spouse/child/ward)	F-3	5	1
5902 (e)	Patronizing prostitutes (1st/2nd off)	M-3	1	m
5902 (e)	Patronizing prostitutes (3rd off)	M-2	3	m
5902 (e)	Patronizing prostitutes (4th/subsq off)	M-1	4	m
5902 (e)	Patronizing prostitutes (HIV positive/AIDS)	F-3	7	1
5903 (a)(1)	Obscene materials-display (1st off & not for resale)	M-1	3	m
5903 (a)(1)	Obscene materials-display (2nd/subsq off or for resale)	F-3	5	1
5903 (a.1)	Obscene materials-disseminate via elec. comm. (1st off & not for resale)	M-1	3	m
5903 (a.1)	Obscene materials-disseminate via elec. comm: att. evade prosec. (1st (additional penalty)	M-1	3	m
5903 (a.1)	Obscene materials-disseminate via elec. comm: att. evade prosec. (2nd (additional penalty)	M-1	3	m
5903 (a)(2)	Obscene materials-sell (1st off & not for resale)	M-1	3	m
5903 (a)(2)	Obscene materials-sell (2nd/subsq off or for resale)	F-3	5	1
5903 (a)(3)(i)	Obscene materials-design (1st off & not for resale)	M-1	3	m
5903 (a)(3)(i)	Obscene materials-design (2nd/subsq off or for resale)	F-3	5	1
5903 (a)(3)(ii)	Obscene materials-design: minor depicted (1st off & not for resale)	M-1	4	m
5903 (a)(3)(ii)	Obscene materials-design: minor depicted (2nd/subsq off or for resale)	F-3	6	1
5903 (a)(4)(i)	Obscene materials-prepare ad (1st off & not for resale)	M-1	3	m
5903 (a)(4)(i)	Obscene materials-prepare ad (2nd/subsq off or for resale)	F-3	5	1
5903 (a)(4)(ii)	Obscene materials-prepare ad: minor included (1st off & not for resale)	M-1	4	m
5903 (a)(4)(ii)	Obscene materials-prepare ad: minor included (2nd/subsq off or for resale)	F-3	6	1
5903 (a)(5)(i)	Obscene materials-produce performance (1st off & not for resale)	M-1	3	m
5903 (a)(5)(i)	Obscene materials-produce performance (2nd/subsq off or for resale)	F-3	5	1
5903 (a)(5)(ii)	Obscene materials-produce performance: minor included (1st off & not for resale)	M-1	4	m
5903 (a)(5)(ii)	Obscene materials-produce performance: minor included (2nd/subsq off or for resale)	F-3	6	1
5903 (a)(6)	Obscene materials-use minor to assist (1st off & not for resale)	M-1	4	m
5903 (a)(6)	Obscene materials-use minor to assist (2nd/subsq off or for resale)	F-3	6	1



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
5903 (a)(7)	Obscene materials-deliver to correctnl facility (1st off & not for resale)	M-1	3	m
5903 (a)(7)	Obscene materials-deliver to correctnl facility (2nd/subsq off or for resale)	F-3	5	1
5903 (a)(8)	Obscene materials-inmate possesses (1st off & not for resale)	M-1	3	m
5903 (a)(8)	Obscene materials-inmate possesses (2nd/subsq off or for resale)	F-3	5	1
5903 (a)(9)	Obscene materials-permit into correctnl inst (1st off & not for resale)	M-1	3	m
5903 (a)(9)	Obscene materials-permit into correctnl inst (2nd/subsq off or for resale)	F-3	5	1
5903 (c)(1)	Obscene materials-disseminate pictures to minors (1st off)	F-3	5	1
5903 (c)(1)	Obscene materials-disseminate pictures to minors (2nd/subsq off)	F-2	7	2
5903 (c)(2)	Obscene materials-disseminate print/audio to minors (1st off)	F-3	5	1
5903 (c)(2)	Obscene materials-disseminate print/audio to minors (2nd/subsq off)	F-2	7	2
5903 (d)	Obscene materials-admit minor to show (1st off)	F-3	5	1
5903 (d)	Obscene materials-admit minor to show (2nd/subsq off)	F-2	7	2
5903 (f)	Obscene materials-require sale	M-1	3	m
5904	Public exhibition of insane/deformed person	M-2	2	m
6105 (a)(1)*	Firearms-persons not to possess: convicted of enumerated felony (loaded/ammo available) [(a.1)(1)]	F-2	10	2
6105 (a)(1)*	Firearms-persons not to possess: convicted of enumerated felony (unloaded/no ammo available) [(a.1)(1)]	F-2	9	2
6105 (a)(1)*	Firearms-persons not to possess: convicted of enumerated misd. (loaded/ammo available) [(a.1)(1)]	M-1	3	1
6105 (a)(1)*	Firearms-persons not to possess: convicted of enumerated misd. (unloaded/no ammo available) [(a.1)(1)]	M-1	3	1
6105 (a)(1)*	Firearms-persons not to possess: accept w/PFA (loaded/ammo available) [(a.1)(2)(i)]	M-3	2	m
6105 (a)(1)*	Firearms-persons not to possess: accept w/PFA (unloaded/no ammo available) [(a.1)(2)(i)]	M-3	1	m
6105 (a)(1)*	Firearms-persons not to possess: fail to relinquish w/PFA (loaded/ammo available) [(a.1)(2)]	M-1	5	1
6105 (a)(1)*	Firearms-persons not to possess: fail to relinquish w/PFA (unloaded/no ammo available) [(a.1)(2)]	M-1	4	1
6105 (a)(1)*	Firearms-persons not to possess: return to person w/PFA (loaded/ammo available) [(a.1)(5)]	M-1	6	1
6105 (a)(1)*	Firearms-persons not to possess: return to person w/PFA (unloaded/no ammo available) (a.1)(5)	M-1	5	1
6106 (a)(1)*	Firearms-carried w/o license: ineligible (loaded/ammo available)	F-3	9	1
6106 (a)(1)*	Firearms-carried w/o license: ineligible (unloaded/no ammo available)	F-3	7	1
6106 (a)(2)*	Firearms-carried w/o license: eligible (loaded/ammo available & crim act.)	F-2	9	1
6106 (a)(2)*	Firearms-carried w/o license: eligible (unloaded/no ammo available & crim act.)	F-3 **	7	1
6106 (a)(2)*	Firearms-carried w/o license (loaded/ammo available/no other crim. act.)	M-1	4	1
6106 (a)(2)*	Firearms-carried w/o license (unloaded/no ammo available/ no other crim. act.)	M-1	3	1
6107 (a)	Firearms-prohibited conduct during emergency	M-1	3	1
6108*	Firearms-carrying in Philadelphia (loaded/ammo available)	M-1	5	1
6108*	Firearms-carrying in Philadelphia (unloaded/no ammo available)	M-1	4	1
6108.5	Penalties for release info (list of any firearm or other weapon or ammunition ordered to be relinquished)	M-3	1	m



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
6110.1 (a)	Firearms-possession by minor	M-1	3	1
6110.1 (c)	Firearms-delivery to minor by adult	F-3	7	1
6110.2 (a)*	Firearms-possession w/ altered mfr. num. (loaded/ammo available)	F-2	10	2
6110.2 (a)*	Firearms-possession w/ altered mfr. num. (unloaded/no ammo available)	F-2	9	2
6111 (a)(1)	Firearms-sale/transfer: deliver before 48 hrs	M-2	2	m
6111 (a)(1)	Firearms-sale/transfer: deliver before 48 hrs (2nd/subsq off)	F-2	9	2
6111 (a)(1)	Firearms-sale/transfer: deliver before 48 hrs (false statements)	F-3	8	1
6111 (a)(1)	Firearms-sale/transfer: deliver before 48 hrs (inappropriate use of crim history)	F-3	5	1
6111 (a)(1)	Firearms-sale/transfer: deliver before 48 hrs (sell to ineligible)	F-3	8	1
6111 (a)(1)	Firearms-sale/transfer: deliver before 48 hrs (unlawful crim history request)	F-3	5	1
6111 (a)(2)	Firearms-sale/transfer: deliver w/o crim history check	M-2	2	m
6111 (a)(2)	Firearms-sale/transfer: deliver w/o crim history check (2nd/subsq off)	F-2	9	2
6111 (a)(2)	Firearms-sale/transfer: deliver w/o crim history check (false statements)	F-3	8	1
6111 (a)(2)	Firearms-sale/transfer: deliver w/o crim history check (inappropriate use of crim history)	F-3	5	1
6111 (a)(2)	Firearms-sale/transfer: deliver w/o crim history check (sell to ineligible)	F-3	8	1
6111 (a)(2)	Firearms-sale/transfer: deliver w/o crim history check (unlawful crim history request)	F-3	5	1
6111 (b)(1)	Firearms-sale/transfer: full app/record of sale	M-2	2	m
6111 (b)(1)	Firearms-sale/transfer: full app/record of sale (2nd/subsq off)	F-2	9	2
6111 (b)(1)	Firearms-sale/transfer: full app/record of sale (false statements)	F-3	8	1
6111 (b)(1)	Firearms-sale/transfer: full app/record of sale (inappropriate use of crim history)	F-3	5	1
6111 (b)(1)	Firearms-sale/transfer: full app/record of sale (sell to ineligible)	F-3	8	1
6111 (b)(1)	Firearms-sale/transfer: full app/record of sale (unlawful crim history request)	F-3	5	1
6111 (b)(1.2)	Firearms-sale/transfer: transmit fee	M-2	2	m
6111 (b)(1.2)	Firearms-sale/transfer: transmit fee (2nd/subsq off)	F-2	9	2
6111 (b)(1.2)	Firearms-sale/transfer: transmit fee (false statements)	F-3	8	1
6111 (b)(1.2)	Firearms-sale/transfer: transmit fee (inappropriate use of crim history)	F-3	5	1
6111 (b)(1.2)	Firearms-sale/transfer: transmit fee (sell to ineligible)	F-3	8	1
6111 (b)(1.2)	Firearms-sale/transfer: transmit fee (unlawful crim history request)	F-3	5	1
6111 (c)	Firearms-sale/transfer: thru licensed dealer	M-2	2	m
6111 (c)	Firearms-sale/transfer: thru licensed dealer (2nd/subsq off)	F-2	9	2
6111 (c)	Firearms-sale/transfer: thru licensed dealer (false statements)	F-3	8	1
6111 (c)	Firearms-sale/transfer: thru licensed dealer (inappropriate use of crim history)	F-3	5	1
6111 (c)	Firearms-sale/transfer: thru licensed dealer (sell to ineligible)	F-3	8	1
6111 (c)	Firearms-sale/transfer: thru licensed dealer (unlawful crim history request)	F-3	5	1
6112	Firearms-dealer to be licensed	M-1	3	1
6113 (a)(1)	Firearms-dealer license: sell in undesignated area	M-1	3	1
6113 (a)(2)	Firearms-dealer license: fail to display license	M-1	3	1
6113 (a)(3)	Firearms-dealer license: violation of act	M-1	3	1
6113 (a)(4)	Firearms-dealer license: w/o knowledge of purchaser	M-1	3	1



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18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
6113 (a)(5)	Firearms-dealer license: fail to keep record	M-1	3	1
6113 (a)(6)	Firearms-dealer license: display firearm in public view	M-1	3	1
6115 (a)	Firearms-lending prohibited	M-1	3	1
6116	Firearms-give false info/identity for purchase	M-1	3	1
6117 (a)	Firearms-alter mfr. number/ID	F-2	7	2
6121 (a)	Firearms-certain bullets prohibited	F-3	5	1
6122	Firearms-proof of license	M-1	3	1
6161 (a)	Carrying explosives on conveyances	M-2	3	m
6162 (a)	Shipping explosives	M-3	3	m
6301 (a)(1)(i)	Corruption of minors	M-1	4	m
6301 (a)(1)(ii)	Corruption of minors-course of conduct (of a sexual nature)	F-3	6	1
6301 (a)(2)	Corruption of minors-encourage 2nd truancy in one year	M-3	1	m
6302 (a)	Sale/lease of weapons/explosives (to minor)	M-1	4	m
6303 (a)	Sale of starter pistols-to minors	M-1	4	m
6304 (a)(1)	Sale/use of air rifles-sale or transfer (to minor)	M-3	1	m
6307 (a)	Misrepresentation of age to secure alcohol (2nd/subsq off)	M-3	1	m
6309 (a)	Representing that minor is of age	M-3	1	m
6310 (a)	Inducement of minors to buy liquor/beer	M-3	1	m
6310.1 (a)	Selling/furnishing liquor/beer to minors	M-3	1	m
6310.2 (a)	Manufacture/sale of false ID card	M-2	2	m
6310.3 (a)	Carrying a false ID card (2nd/subsq off)	M-3	1	m
6311 (a)	Tattooing a minor (1st off)	M-3	1	m
6311 (a)	Tattooing a minor (2nd/subsq off)	M-2	2	m
6311 (b)	Body piercing a minor (1st off)	M-3	1	m
6311 (b)	Body piercing a minor (2nd/subsq off)	M-2	2	m
6312 (b)*	Sexual abuse of children-photographing/etc. sexual acts (13-<18 yrs)	F-2	8	2
6312 (b)*	Sexual abuse of children-photographing/etc. sexual acts (<13 yrs)	F-2	9	2
6312 (c)*	Sexual abuse of children-dissemination (13-<18 yrs) (1st off)	F-3	6	1
6312 (c)*	Sexual abuse of children-dissemination (13-<18 yrs) (2nd/subsq off)	F-2	8	2
6312 (c)*	Sexual abuse of children-dissemination (<13 yrs) (1st off)	F-3	7	1
6312 (c)*	Sexual abuse of children-dissemination (<13 yrs) (2nd/subsq off)	F-2	9	2
6312 (d)*	Sexual abuse of children-possess child pornography (13-<18 yrs) (1st off)	F-3	6	1
6312 (d)*	Sexual abuse of children-possess child pornography (13-<18 yrs) (2nd/subsq off)	F-2	8	2
6312 (d)*	Sexual abuse of children-possess child pornography (<13 yrs) (1st off)	F-3	7	1
6312 (d)*	Sexual abuse of children-possess child pornography (<13 yrs) (2nd/subsq off)	F-2	9	2
6318 (a)(1)	Unlaw. contact w/ minor-sexual offenses [underlying offense=F-3 or greater]	Same as underlying offense	same as underlying offense, or OGS 6, whichever is greater	same as underlying offense, or 1, whichever is greater
6318 (a)(1)	Unlaw. contact w/ minor-sexual offenses [underlying offense <F-3]	F-3	6	1



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6318 (a)(2)	Unlaw. contact w/ minor-open lewdness [underlying offense=F-3 or greater]	Same as underlying offense	same as underlying offense, or OGS 6, whichever is greater	same as underlying offense, or 1, whichever is greater
6318 (a)(2)	Unlaw. contact w/ minor-open lewdness [underlying offense <F-3]	F-3	6	1
6318 (a)(3)	Unlaw. contact w/ minor-prostitution [underlying offense=F-3 or greater]	Same as underlying offense	same as underlying offense, or OGS 6, whichever is greater	same as underlying offense, or 1, whichever is greater
6318 (a)(3)	Unlaw. contact w/ minor-prostitution [underlying offense <F-3]	F-3	6	1
6318 (a)(4)	Unlaw. contact w/ minor-sexual materials [underlying offense=F-3 or greater]	Same as underlying offense	same as underlying offense, or OGS 6, whichever is greater	same as underlying offense, or 1, whichever is greater
6318 (a)(4)	Unlaw. contact w/ minor-sexual materials [underlying offense <F-3]	F-3	6	1
6318 (a)(5)	Unlaw. contact w/ minor-sexual abuse [underlying offense=F-3 or greater]	Same as underlying offense	same as underlying offense, or OGS 6, whichever is greater	same as underlying offense, or 1, whichever is greater
6318 (a)(5)	Unlaw. contact w/ minor-sexual abuse [underlying offense <F-3]	F-3	6	1
6318 (a)(6)	Unlaw. contact w/ minor-sexual exploitation[underlying offense=F-3 or greater]	Same as underlying offense	same as underlying offense, or OGS 6, whichever is greater	same as underlying offense, or 1, whichever is greater
6318 (a)(6)	Unlaw. contact w/ minor-sexual exploitation [underlying offense <F-3]	F-3	6	1
6319 (a)	Solicitation of minors to traffic drugs-general	F-2	9	2
6319 (b)	Solicitation of minors to traffic drugs-drug-free school zone	F-1	10	3
6320	Sexual exploitation of children	F-2	9	2
6501 (a)(1)	Scattering rubbish-upon land/stream (2nd/subsq off)	M-3	1	m
6501 (a)(2)	Scattering rubbish-interferes w/ contents of receptacle (2nd/subsq off)	M-3	1	m
6501 (a)(3)	Scattering rubbish-deposit trash on street (2nd/subsq off)	M-1	3	m
6501 (a)(3)	Scattering rubbish-deposit trash on street (1st off)	M-2	2	m
6504	Public nuisances	M-2	2	m
6703	Dealing in military decorations	M-3	1	m
6707	False registration of domestic animals	M-3	1	m
6709 (1)	Use of union labels-insignia	M-3	1	m
6709 (2)	Use of union labels-nonunion product	M-3	1	m
6709 (3)	Use of union labels-not authorized by union	M-3	1	m
6901	Extension of water line-w/o permit	M-3	1	m
6910 (a)	Unauthorized sale of tickets	M-3	1	m
7102	Administer drugs to race horses	M-1	3	m



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7103 (a)	Horse racing	M-3	1	m
7104 (a)	Fortune telling-for gain or lucre	M-3	1	m
7107 (a)(1)	Unlawf. action by athlete agent-prior to eligibility expired	M-1	3	m
7107 (a)(2)	Unlawf. action by athlete agent-give prior to eligibility expired	M-1	3	m
7107 (a)(3)	Unlawf. action by athlete agent-agreement w/ univ. employee for referral	M-1	3	m
7302 (a)	Sale of solidified alcohol	M-2	2	m
7302 (b)	Labeling of solidified alcohol	M-1	3	m
7303 (a)	Sale/illegal use of certain solvents-smell/inhale toxic subst	M-3	1	m
7303 (c)	Sale/illegal use of certain solvents-possess solvent for toxic vapors	M-3	1	m
7303 (d)	Sale/illegal use of certain solvents-sell solvent for toxic vapors	M-3	1	m
7306 (a)	Incendiary devices	M-1	3	m
7307	Out-of-state convict made goods-sell/exchange	M-2	2	m
7308 (a)	Unlawful advertising of insurance business	M-2	2	m
7309 (a)	Unlawful coercion in contracting insurance	M-1	3	m
7310 (a)	Furnishing free insurance as inducement for purchase	M-3	1	m
7311 (a)	Unlawful collection agency practices-assignment of claims	M-3	1	m
7311 (b)	Unlawful collection agency practices-appearance for creditor	M-3	1	m
7311 (b.1)	Unlawful collection agency practices-unfair/deceptive methods	M-3	1	m
7311 (c)	Unlawful collection agency practices-unlaw. furnish legal services	M-3	1	m
7311 (d)	Unlawful collection agency practices-unlaw. service for debtor	M-3	1	m
7311 (e)	Unlawful collection agency practices-unlaw. solicit job for attorney	M-3	1	m
7311 (f)	Unlawful collection agency practices-unlaw. coercion/intimidation	M-3	1	m
7312 (a)	Debt pooling	M-3	1	m
7313 (a)	Buying/exchanging food stamps (>=\$1,000)	F-3	5	1
7313 (a)	Buying/exchanging food stamps (<\$1,000)	M-1	3	m
7314 (a)	Fraudulent traffic in food orders (>=\$1,000)	F-3	5	1
7314 (a)	Fraudulent traffic in food orders (<\$1,000)	M-1	3	m
7316 (a)	Keeping bucket-shop	M-3	1	m
7317 (a)	Accessories in conduct of bucket-shop	M-3	1	m
7318 (a)	Maintaining premises of bucket-shop	M-3	1	m
7319 (b)	Bucket-shop contracts	M-3	1	m
7321 (a)	Lie detector tests-require for employment	M-2	2	m
7322	Demanding property/money to secure employment	M-3	1	m
7323	Discrimination on account of U.S. armed forces uniform	M-2	2	m
7324 (b)	Unlaw. sale of dissertations/etc.-sale of assistance	M-3	1	m
7324 (c)	Unlaw. sale of dissertations/etc.-sale of assignment	M-3	1	m
7324 (d)	Unlaw. sale of dissertations/etc.-distribution for sale	M-3	1	m
7326 (a)	Disclosure of confidential tax information	M-3	1	m
7328 (a)	Operation of unauthorized bottle club	M-3	1	m
7503 (a)	Architects/engineers-interest in public works contracts	M-3	1	m
7504 (a)	Appointment of special police	M-3	1	m
7507	Breach of privacy-use stress monitor w/o consent	M-2	2	m
7507.1 (a)(1)	Invasion of privacy-view/photograph person w/o consent (single violation)	M-3	2	m



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7507.1 (a)(1)	Invasion of privacy-view/photograph person w/o consent (>1 violation)	M-2	3	m
7507.1 (a)(2)	Invasion of privacy-view/photograph intimate parts w/o consent (single violation)	M-3	2	m
7507.1 (a)(2)	Invasion of privacy-view/photograph intimate parts w/o consent (>1 violation)	M-2	3	m
7507.1 (a)(3)	Invasion of privacy-transfer image (single violation)	M-3	2	m
7507.1 (a)(3)	Invasion of privacy-transfer image (>1 violation)	M-2	3	m
7508.2 (a)	Operate meth lab-cause chemical reaction	F-2	8	2
7508.2 (a)	Operate meth lab-cause chemical reaction (w/in 1000 ft of school)	F-1	9	3
7509 (a)	Furnishing drug-free urine: unlaw. sale	M-3	1	m
7509 (b)	Furnishing drug-free urine: unlaw. use	M-3	1	m
7510 (a)	Municipal housing code avoidance (4th off)	M-2	2	m
7510 (a)	Municipal housing code avoidance (5th/subsq off)	M-1	3	m
7512 (a)	Criminal use of communication facility	F-3	5	1
7515 (a)(1)	Contingent compensation-compensate other	M-3	1	m
7515 (a)(2)	Contingent compensation-agree to lobby	M-3	1	m
7516 (a)	Greyhound racing-for remuneration	M-1	3	m
7517 (b)	Commemorative service demonstration activities	M-3	1	m
7611 (a)(1)	Unlawful use of computer-access w/ intent to disrupt function	F-3	7	1
7611 (a)(2)	Unlawful use of computer-access/interfere/damage/destroy	F-3	7	1
7611 (a)(3)	Unlawful use of computer-provide password/ID code/PIN/etc.	F-3	7	1
7612 (a)	Disruption of computer service	F-3	7	1
7613 (a)	Computer theft	F-3	7	1
7614 (a)	Unlawful duplication (>\$2500)	F-2	7	2
7614 (a)	Unlawful duplication (<=\$2500)	F-3	5	1
7615 (a)(1)	Computer trespass-remove data/programs	F-3	7	1
7615 (a)(2)	Computer trespass-cause malfunction	F-3	7	1
7615 (a)(3)	Computer trespass-alter/erase data	F-3	7	1
7615 (a)(4)	Computer trespass-transfer funds	F-3	7	1
7615 (a)(5)	Computer trespass-cause physical injury to property	F-3	7	1
7616 (a)(1)	Distribution of a computer virus-prevent/disrupt operation	F-3	7	1
7616 (a)(2)	Distribution of a computer virus-degrade/destroy performance	F-3	7	1
7622	Duty of internet provider-disable child porn access (1st off)	M-3	1	m
7622	Duty of internet provider-disable child porn access (2nd off)	M-2	2	m
7622	Internet service provider-disable child porn access (3rd/subsq off)	F-3	5	1
7641 (a)	Computer-assisted remote harvesting of animals	M-3	1	m
7661 (a)(1)	Unlaw. transmis. email-forgery/falsify	M-3	1	m
7661 (a)(1)	Unlaw. transmis. email-forgery/falsify (malicious damage; >=\$2500)	F-3	7	1
7661 (a)(1)	Unlaw. transmis. email-forgery/falsify (reckless damage; >=\$2500)	M-1	5	m
7661 (a)(2)(i)	Unlaw. transmis. email-sell software to falsify	M-3	1	m
7661 (a)(2)(i)	Unlaw. transmis. email-sell software to falsify (malicious damage; >=\$2500)	F-3	7	1
7661 (a)(2)(ii)	Unlaw. transmis. email-sell software to falsify (reckless damage; >=\$2500)	M-1	5	m
7661 (a)(2)(ii)	Unlaw. transmis. email-sell software w/ limited purpose	M-3	1	m



*=subcategorized offenses. See §303.3(b)
m=other misdemeanor offense. See §303.7(a)(5)
Inchoate=inchoate to 4 point PRS offenses. See §303.7(a)
See §§303.7(c) and 303.8(b) for all other inchoates
Italics=not in original text

18 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
7661 (a)(2)(ii)	Unlaw. transmis. email-sell software w/ limited purpose (malicious damage; >=\$2500)	F-3	7	1
7661 (a)(2)(ii)	Unlaw. transmis. email-sell software w/ limited purpose (reckless damage; >=\$2500)	M-1	5	m
7661 (a)(2)(iii)	Unlaw. transmis. email-sell software known to falsify	M-3	1	m
7661 (a)(2)(iii)	Unlaw. transmis. email-sell software known to falsify (malicious damage; >=\$2500)	F-3	7	1
7661 (a)(2)(iii)	Unlaw. transmis. email-sell software known to falsify (reckless damage; >=\$2500)	M-1	5	m
7702 (1)	<i>Owning/operating/conducting a chop shop</i>	<i>F-2</i>	7	2
7702 (2)	<i>Owning/operating/conducting a chop shop-transfer/sell vehicle</i>	<i>F-2</i>	7	2
7703	<i>Altered or illegally obtained property-veh ID num</i>	<i>F-3</i>	5	1
7704	<i>Altered or illegally obtained property-disposition</i>	<i>F-3</i>	5	1



MISCELLANEOUS OFFENSES
(Child Support/Child Abuse Reporting)

*=subcategorized offenses. See §303.3(b)
m=other misdemeanor offense. See §303.7(a)(5)

23 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
4354(d)(2)	Willful failure to pay child support (special circumstances)	M-3	1	m
6319	Penalties for failure to report or to refer-suspected child abuse (1 st violation)	M-3	2	m
6319	Penalties for failure to report or to refer-suspected child abuse (2 nd /subsq violation)	M-2	3	m



OPERATION OF BOATS

* = Subcategorized Offenses. See 303.3(b).

m = Other Misdemeanor Offenses. See 303.7(a)(5).

30 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
5502 (a)(1)	Oper. watercraft under influence-general impairment/incapable of safe operation (1st off)	M	1	m
5502 (a)(1)	Oper. watercraft under influence-general impairment/incapable of safe operation (2nd off)	M	1	1
5502 (a)(1)	Oper. watercraft under influence-general impairment/incapable of safe operation (3rd/subsq off)	M-2	3	1
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: refused testing (1st off)	M	1	m
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: refused testing (2nd off)	M-1	5	1
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: refused testing (3rd/subsq off)	M-1	5	1
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: accident w/BI/SBI/death (1st off)	M	1	m
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: accident w/BI/SBI/death (2nd off)	M	1	1
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: accident w/BI/SBI/death (3rd off)	M-1	5	1
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: accident w/BI/SBI/death (4th/subsq off)	M-1	5	1
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: accident w/ damage (1st off)	M	1	m
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: accident w/ damage (2nd off)	M	1	1
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: accident w/ damage (3rd off)	M-1	5	1
5502 (a)(1)	Oper. watercraft under influence-incapable of safe operation: accident w/ damage (4th/subsq off)	M-1	5	1
5502 (a.1)	Oper. watercraft under influence-high rate of alcohol: BAC .10-<.16 (1st off)	M	1	m
5502 (a.1)	Oper. watercraft under influence-high rate of alcohol: BAC .10-<.16 (2nd off)	M	1	1
5502 (a.1)	Oper. watercraft under influence-high rate of alcohol: BAC .10-<.16 (3rd off)	M-1	5	1
5502 (a.1)	Oper. watercraft under influence-high rate of alcohol: BAC .10-<.16 (4th/subsq off)	M-1	5	1
5502 (a)(2)	Oper. watercraft under influence-general impairment: BAC .08-<.10 (1st off)	M	1	m
5502 (a)(2)	Oper. watercraft under influence-general impairment: BAC .08-<.10 (2nd off)	M	1	1
5502 (a)(2)	Oper. watercraft under influence-general impairment: BAC .08-<.10 (3rd/subsq off)	M-2	3	1



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

30 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
5502 (a.2)	Oper. watercraft under influence-highest rate of alcohol: BAC >=.16 (1st off)	M	1	m
5502 (a.2)	Oper. watercraft under influence-highest rate of alcohol: BAC >=.16 (2nd off)	M-1	5	1
5502 (a.2)	Oper. watercraft under influence-highest rate of alcohol: BAC >=.16 (3rd/subsq off)	M-1	5	1
5502 (a.3)(1)(i)	Oper. watercraft under influence-controlled substances: Sched I (1st off)	M	1	m
5502 (a.3)(1)(i)	Oper. watercraft under influence-controlled substances: Sched I (2nd off)	M-1	5	1
5502 (a.3)(1)(i)	Oper. watercraft under influence-controlled substances: Sched I (3rd/subsq off)	M-1	5	1
5502 (a.3)(1)(ii)	Oper. watercraft under influence-controlled substances: Sched II/III (1st off)	M	1	m
5502 (a.3)(1)(ii)	Oper. watercraft under influence-controlled substances: Sched II/III (2nd off)	M-1	5	1
5502 (a.3)(1)(ii)	Oper. watercraft under influence-controlled substances: Sched II/III (3rd/subsq off)	M-1	5	1
5502 (a.3)(1)(iii)	Oper. watercraft under influence-controlled substances: metabolite of Sched I/II/III (1st off)	M	1	m
5502 (a.3)(1)(iii)	Oper. watercraft under influence-controlled substances: metabolite of Sched I/II/III (2nd off)	M-1	5	1
5502 (a.3)(1)(iii)	Oper. watercraft under influence-controlled substances: metabolite of Sched I/II/III (3rd/subsq off)	M-1	5	1
5502 (a.3)(2)	Oper. watercraft under influence-controlled substances & incapable of safe operation (1st off)	M	1	m
5502 (a.3)(2)	Oper. watercraft under influence-controlled substances & incapable of safe operation (2nd off)	M-1	5	1
5502 (a.3)(2)	Oper. watercraft under influence-controlled substances & incapable of safe operation (3rd/subsq off)	M-1	5	1
5502 (a.3)(3)	Oper. watercraft under influence-controlled substances & alcohol & incapable of safe operation (1st off)	M	1	m
5502 (a.3)(3)	Oper. watercraft under influence-controlled substances & alcohol & incapable of safe operation (2nd off)	M-1	5	1
5502 (a.3)(3)	Oper. watercraft under influence-controlled substances & alcohol & incapable of safe operation (3rd/subsq off)	M-1	5	1
5502 (a.3)(4)	Oper. watercraft under influence-controlled substances: solvent, etc. (1st off)	M	1	m
5502 (a.3)(4)	Oper. watercraft under influence-controlled substances: solvent, etc. (2nd off)	M-1	5	1
5502 (a.3)(4)	Oper. watercraft under influence-controlled substances: solvent, etc. (3rd/subsq off)	M-1	5	1
5502 (a.4)	Oper. watercraft under influence-minor operator (1st off)	M	1	m
5502 (a.4)	Oper. watercraft under influence-minor operator (2nd off)	M	1	1
5502 (a.4)	Oper. watercraft under influence-minor operator (3rd off)	M-1	5	1
5502 (a.4)	Oper. watercraft under influence-minor operator (4th/subsq off)	M-1	5	1



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

30 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
5502.1 (a)	Homicide by watercraft while operating under influence	F-2	10	2
5502.2*	Homicide by watercraft (when there is a conviction for operating under the influence)	M-1	8	1
5502.2*	Homicide by watercraft (when there is not a conviction for operating under the influence)	M-1	6	1
5502.3 (a)	Aggravated assault by watercraft while operating under influence	F-2	7	2



DRUG ACT OFFENSES

* = Subcategorized Offenses. See 303.3(b).

m = Other Misdemeanor Offenses. See 303.7(a)(5).

35 P.S. §780-113	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(1)	Manufacture/sale/delivery-adulterated controlled substance (1st off)	M	4	m
(a)(1)	Manufacture/sale/delivery-adulterated controlled substance (2nd/subsq off)	M	4	m
(a)(2)	Adulterate/misbrand-controlled substance (1st off)	M	4	m
(a)(2)	Adulterate/misbrand-controlled substance (2nd/subsq off)	M	4	m
(a)(3)	False/misleading advertisement (1st off)	M	4	m
(a)(3)	False/misleading advertisement (2nd/subsq off)	M	4	m
(a)(4)	Removal/disposal-detained substance (1st off)	M	5	m
(a)(4)	Removal/disposal-detained substance (2nd/subsq off)	M	5	m
(a)(5)	Adulterate/destroy label-controlled substance for sale (1st off)	M	4	m
(a)(5)	Adulterate/destroy label-controlled substance for sale (2nd/subsq off)	M	4	m
(a)(6)	Forge/counterfeit w/ mark/ID symbol (1st off)	M	5	m
(a)(6)	Forge/counterfeit w/ mark/ID symbol (2nd/subsq off)	M	5	m
(a)(7)	Place trademark on controlled substance to defraud (1st off)	M	5	m
(a)(7)	Place trademark on controlled substance to defraud (2nd/subsq off)	M	5	m
(a)(8)	Selling controlled substance w/ defrauded trademark (1st off)	M	5	m
(a)(8)	Selling controlled substance w/ defrauded trademark (2nd/subsq off)	M	5	m
(a)(9)	Selling trademark equipment to defraud (1st off)	M	5	m
(a)(9)	Selling trademark equipment to defraud (2nd/subsq off)	M	5	m
(a)(10)	Illegal sale of nonproprietary drug (1st off)	M	4	m
(a)(10)	Illegal sale of nonproprietary drug (2nd/subsq off)	M	4	m
(a)(11)	Illegal pharmacy operations (1st off)	M	5	m
(a)(11)	Illegal pharmacy operations (2nd/subsq off)	M	5	m
(a)(12)*	Acquisition of controlled substance by fraud-heroin (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-heroin (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-heroin (50-<100 g)	F	10	2
(a)(12)*	Acquisition of controlled substance by fraud-heroin (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-heroin (1-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-heroin (<1 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (>1000 pills)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (100-1000 pills)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (50-<100 pills)	F	10	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (10-<50 pills)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (1-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (1-<10 pills)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (<1 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (>1000 g)	F	13	3



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

35 P.S. §780-113	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (10-<50 g)	F	8	3
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (5-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (2-<5 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (<2 g)	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (2.5-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (<2.5 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-PCP (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-PCP (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-PCP (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-PCP (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-PCP (2.5-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-PCP (<2.5 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (2.5-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (<2.5 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (>1000 lbs.)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (>5000 plants)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (50-1000 lbs.)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (51-5000 plants)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (10-<50 lbs.)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (21-<51 plants)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (1-<10 lbs.)	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (10-<21 plants)	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (<1 lb.)	F	3	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (<10 plants)	F	3	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched I	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched II	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched III	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched IV	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched V	M	3	m
(a)(13)	Dispense drugs to dependent person (1st off)	M	4	m
(a)(13)	Dispense drugs to dependent person (2nd/subsq off)	M	4	m
(a)(14)*	Delivery by practitioner-heroin (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-heroin (100-1000 g)	F	11	3



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

35 P.S. §780-113	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(14)*	Delivery by practitioner-heroin (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-heroin (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-heroin (1-<10 g)	F	7	2
(a)(14)*	Delivery by practitioner-heroin (<1 g)	F	6	2
(a)(14)*	Delivery by practitioner-other narcotics Sched I & II (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (>1000 pills)	F	13	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (100-1000 pills)	F	11	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (50-<100 pills)	F	10	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (10-<50 pills)	F	8	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (1-<10 g)	F	7	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (1-<10 pills)	F	7	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (<1 g)	F	6	2
(a)(14)*	Delivery by practitioner-cocaine (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-cocaine (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-cocaine (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-cocaine (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-cocaine (5-<10 g)	F	7	2
(a)(14)*	Delivery by practitioner-cocaine (2-<5 g)	F	6	2
(a)(14)*	Delivery by practitioner-cocaine (<2 g)	F	5	2
(a)(14)*	Delivery by practitioner-methamphetamine (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-methamphetamine (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-methamphetamine (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-methamphetamine (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-methamphetamine (2.5-<10 g)	F	7	2
(a)(14)*	Delivery by practitioner-methamphetamine (<2.5 g)	F	6	2
(a)(14)*	Delivery by practitioner-PCP (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-PCP (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-PCP (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-PCP (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-PCP (2.5-< 10 g)	F	7	2
(a)(14)*	Delivery by practitioner-PCP (<2.5 g)	F	6	2
(a)(14)*	Delivery by practitioner-MDMA (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-MDMA (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-MDMA (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-MDMA (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-MDMA (2.5-< 10 g)	F	7	2
(a)(14)*	Delivery by practitioner-MDMA (<2.5 g)	F	6	2
(a)(14)*	Delivery by practitioner-marijuana (>1000 lbs.)	F	10	3
(a)(14)*	Delivery by practitioner-marijuana (>5000 plants)	F	10	3
(a)(14)*	Delivery by practitioner-marijuana (50-1000 lbs.)	F	8	2



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

35 P.S. §780-113	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(14)*	Delivery by practitioner-marijuana (51-5000 plants)	F	8	2
(a)(14)*	Delivery by practitioner-marijuana (10-<50 lbs.)	F	7	2
(a)(14)*	Delivery by practitioner-marijuana (21-<51 plants)	F	7	2
(a)(14)*	Delivery by practitioner-marijuana (1-<10 lbs.)	F	5	2
(a)(14)*	Delivery by practitioner-marijuana (10-<21 plants)	F	5	2
(a)(14)*	Delivery by practitioner-marijuana (<1 lb.)	F	3	2
(a)(14)*	Delivery by practitioner-marijuana (<10 plants)	F	3	2
(a)(14)*	Delivery by practitioner-Sched I	F	5	2
(a)(14)*	Delivery by practitioner-Sched II	F	5	2
(a)(14)*	Delivery by practitioner-Sched III	F	5	2
(a)(14)*	Delivery by practitioner-Sched IV	F	5	2
(a)(14)*	Delivery by practitioner-Sched V	M	3	m
(a)(15)	Illegal retail sale-controlled substance (1st off)	M	4	m
(a)(15)	Illegal retail sale-controlled substance (2nd/subsq off)	M	4	m
(a)(16)	Simple possession (1st off)	M	3	m
(a)(16)	Simple possession (2nd/subsq off)	M	3	m
(a)(17)	Dispense drugs w/o label by practitioner (1st off)	M	4	m
(a)(17)	Dispense drugs w/o label by practitioner (2nd/subsq off)	M	4	m
(a)(18)	Illegal sale container (1st off)	M	4	m
(a)(18)	Illegal sale container (2nd/subsq off)	M	4	m
(a)(19)	Intentional unauthorized purchase (1st off)	M	5	m
(a)(19)	Intentional unauthorized purchase (2nd/subsq off)	M	5	m
(a)(20)	Divulging trade secret (1st off)	M	4	m
(a)(20)	Divulging trade secret (2nd/subsq off)	M	4	m
(a)(21)	Failure to keep records (1st off)	M	2	m
(a)(21)	Failure to keep records (2nd/subsq off)	M	2	m
(a)(22)	Refusal of inspection (1st off)	M	2	m
(a)(22)	Refusal of inspection (2nd/subsq off)	M	2	m
(a)(23)	Unauthorized removal of seals	M	5	m
(a)(24)	Failure to obtain license (1st off)	M	2	m
(a)(24)	Failure to obtain license (2nd/subsq off)	M	2	m
(a)(25)	Manufacture by unauthorized party	M	5	m
(a)(26)	Distribution by registrant of Schedule I or II	M	5	m
(a)(27)	Use of fictitious registration number	M	5	m
(a)(28)	Furnish false application material	M	5	m
(a)(29)	Production of counterfeit trademarks equipment	M	5	m
(a)(30)*	Possession with intent to deliver-heroin (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-heroin (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-heroin (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-heroin (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-heroin (1-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-heroin (<1 g)	F	6	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (>1000 g)	F	13	3



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

35 P.S. §780-113	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (>1000 pills)	F	13	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (100-1000 pills)	F	11	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (50-<100 pills)	F	10	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (10-<50 pills)	F	8	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (1-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (1-<10 pills)	F	7	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (<1 g)	F	6	2
(a)(30)*	Possession with intent to deliver-cocaine (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-cocaine (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-cocaine (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-cocaine (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-cocaine (5-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-cocaine (2-<5 g)	F	6	2
(a)(30)*	Possession with intent to deliver-cocaine (<2 g)	F	5	2
(a)(30)*	Possession with intent to deliver-methamphetamine (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-methamphetamine (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-methamphetamine (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-methamphetamine (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-methamphetamine (2.5-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-methamphetamine (<2.5 g)	F	6	2
(a)(30)*	Possession with intent to deliver-PCP (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-PCP (100-<1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-PCP (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-PCP (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-PCP (2.5-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-PCP (<2.5 g)	F	6	2
(a)(30)*	Possession with intent to deliver-MDMA (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-MDMA (100-<1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-MDMA (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-MDMA (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-MDMA (2.5-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-MDMA (<2.5 g)	F	6	2
(a)(30)*	Possession with intent to deliver-marijuana (>1000 lbs.)	F	10	3
(a)(30)*	Possession with intent to deliver-marijuana (>5000 plants)	F	10	3
(a)(30)*	Possession with intent to deliver-marijuana (50-1000 lbs.)	F	8	2
(a)(30)*	Possession with intent to deliver-marijuana (51-5000 plants)	F	8	2
(a)(30)*	Possession with intent to deliver-marijuana (10-<50 lbs.)	F	7	2
(a)(30)*	Possession with intent to deliver-marijuana (21-<51 plants)	F	7	2
(a)(30)*	Possession with intent to deliver-marijuana (1-<10 lbs.)	F	5	2
(a)(30)*	Possession with intent to deliver-marijuana (10-<21 plants)	F	5	2



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

35 P.S. §780-113	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(30)*	Possession with intent to deliver-marijuana (<1 lb.)	F	3	2
(a)(30)*	Possession with intent to deliver-marijuana (<10 plants)	F	3	2
(a)(30)*	Possession with intent to deliver-Sched I	F	5	2
(a)(30)*	Possession with intent to deliver-Sched II	F	5	2
(a)(30)*	Possession with intent to deliver-Sched III	F	5	2
(a)(30)*	Possession with intent to deliver-Sched IV	F	5	2
(a)(30)*	Possession with intent to deliver-Sched V	M	3	m
(a)(31)	Possession-small amt. of marijuana (<=30 g/<=8 g hashish)	M	1	m
(a)(31)	Possession-small amt. of marijuana (<=30 g/<=8 g hashish): personal use	M	1	m
(a)(31)	Possession-small amt. of marijuana (<=30 g/<=8 g hashish): intent to distribute, not sell	M	1	m
(a)(31)	Possession-small amt. of marijuana (<=30 g/<=8 g hashish): distribution, not sale	M	1	m
(a)(32)	Possession-drug paraphernalia	M	1	m
(a)(33)	Possession w/ intent to deliver paraphernalia-under 18/3 yrs or more junior	M-2	4	m
(a)(33)	Possession w/ intent to deliver paraphernalia-not to a minor	M	3	m
(a)(34)	Place ad for sale of drug paraphernalia	M	1	m
(a)(35)(i)	Illegal sale of noncontrolled substance-intent to distribute	F	5	2
(a)(35)(ii)	Illegal sale of noncontrolled substance-represent as controlled substance	F	5	2
(a)(35)(iii)	Illegal sale of noncontrolled substance-distribute for redistribution	F	5	2
(a)(36)	Possession w/ intent to deliver-designer drugs	F	5	2
(a)(37)	Possession >30 doses-anabolic steroid (1st off)	M	4	m
(a)(37)	Possession >30 doses-anabolic steroid (2nd/subsq off)	M	4	m
(a)(38)(II)	Unlawful manufacture-methamphetamine (BI of child <18)	F-2	9	2
(a)(38)(I)	Unlawful manufacture-methamphetamine (child <18 present)	F-3	7	1
(a)(39)	Possess ephedrine, etc. w/ intent to manuf. methamphetamine (1st off)	M	2	m
(a)(39)	Possess ephedrine, etc. w/ intent to manuf. methamphetamine (2nd/subsq off)	M	2	m
(a)(40)	Retail sale-product containing ephedrine, etc. (1st off)	M	2	m
(a)(40)	Retail sale-product containing ephedrine, etc. (2nd/subsq off)	M	2	m



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

35 P.S. §780-113.1	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(1)(i)	Possess liquefied ammonia-purpose other than agriculture/industrial	M	3	m
(a)(1)(ii)	Possess liquefied ammonia-unapproved container	M	3	m
(a)(2)	Possess liquefied ammonia-intent to manuf controlled substance	F	5	2
(a)(3)	Possess red phosphorous-intent to manuf controlled substance	F	5	2
(a)(4)	Possess esters/salts/etc. w/ intent to manuf controlled substance	F	5	2

35 P.S. §780-113.4	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(1)	Operate meth lab-create chemical reaction	F-2	7	2
(a)(3)	Operate meth lab-create chemical reaction (w/in 1000 ft. of school)	F-1	8	3
(b)(1)	Operate meth lab-stores/disposes substance used in manuf.	F-3	5	1

35 P.S.	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
6018.101- 6018.1002	Solid Waste Management Act			
	Knowingly transports, etc. hazardous waste without permit	F-1	9	1
	Transports, etc. hazardous waste without permit	F-2	7	2
	Violation of Act, DER Order, etc.	M-3	1	m
691.1- 691.1001	Clean Streams Law			
	Violation of Act, DER Order, etc.	M-3	1	m
4001-4015	Air Pollution Control Act			
	Knowingly releases hazardous air pollutant	F-1	9	1
	Violation of Act, DER Order, etc.	M-2	2	m
	Negligently releases hazardous air pollution	M-3	1	m



JUDICIAL CODE

* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

42 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
(a)(1)	Agg. jury tampering-employ force/violence (charged crime Mur 1/Mur 2/F-1)	F-1	11	4
(a)(1)	Agg. jury tampering-employ force/violence (charged crime F-2)	F-2	9	2
(a)(1)	Agg. jury tampering-employ force/violence (any other charged crime)	F-3	7	1
(a)(2)	Agg. jury tampering-pecuniary/benefit (charged crime Mur 1/Mur 2/F-1)	F-1	11	4
(a)(2)	Agg. jury tampering-pecuniary/benefit (charged crime F-2)	F-2	9	2
(a)(2)	Agg. jury tampering-pecuniary/benefit (any other charged crime)	F-3	7	1
(a)(3)	Agg. jury tampering-further conspiracy (charged crime Mur 1/Mur 2/F-1)	F-1	11	4
(a)(3)	Agg. jury tampering-further conspiracy (charged crime F-2)	F-2	9	2
(a)(3)	Agg. jury tampering-further conspiracy (any other charged crime)	F-3	7	1
(a)(4)	Agg. jury tampering-accept pecuniary benefit (charged crime Mur 1/Mur 2/F-1)	F-1	11	4
(a)(4)	Agg. jury tampering-accept pecuniary benefit (charged crime F-2)	F-2	9	2
(a)(4)	Agg. jury tampering-accept pecuniary benefit (any other charged crime)	F-3	7	1

VEHICLE CODE OFFENSES

* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

75 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
1543 (a)	Drive w/ susp. lic. (2nd/subsq off)	M	1	m
1543 (b)(1.1)(ii)	Drive w/ susp. lic. & BAC >=0.02% /or under influence of controlled subst. (2nd off)	M-3	1	m
1543 (b)(1.1)(iii)	Drive w/ susp. lic. & BAC >=0.02% /or under influence of controlled subst. (3rd/subsq off)	M-1	3	m
1571 (a.1)	Violations concerning licenses-agents issuing altered driver's license	F-3	5	1
1571 (a)(5)	Violations concerning licenses-exhibit fictitious driver's license	M-1	3	m
3105 (g)(2)	Unauth. operation of preemptive device	M-3	1	m
3367	Racing on highways (2nd/subsq off)	M	1	m
3712 (a)	Abandonment of vehicles-on highway (3rd/subsq off)	M-3	1	m
3712 (b)	Abandonment of vehicles-public/private property (3rd/subsq off)	M-3	1	m
3712.2 (a)	Stripping abandoned vehicles (2nd/subsq off)	F-3	5	1
3712.2 (a)	Stripping abandoned vehicles (1st off)	M-3	1	m
3732 (a)*	Homicide by vehicle-w/DUI conviction & active work zone	F-3 ¹	10	1
3732 (a)*	Homicide by vehicle-w/DUI conviction & conviction for 75-3325/75-3327	F-3 ¹	10	1
3732 (a)*	Homicide by vehicle-w/ DUI conviction	F-3	8	1
3732 (a)*	Homicide by vehicle-active work zone	F-3 ¹	8	1
3732 (a)*	Homicide by vehicle-w/ conviction for 75-3325/75-3327	F-3 ¹	8	1
3732 (a)*	Homicide by vehicle	F-3	6	1
3732.1 (a)*	Aggravated assault by vehicle-w/ DUI conviction & active work zone	F-3 ²	9	1
3732.1 (a)*	Aggravated assault by vehicle-w/ DUI conviction & conviction for 75-3325/75-3327	F-3 ²	9	1
3732.1 (a)*	Aggravated assault by vehicle-w/ DUI conviction	F-3	7	1
3732.1 (a)*	Aggravated assault by vehicle-active work zone	F-3 ²	7	1
3732.1 (a)*	Aggravated assault by vehicle-w/ conviction for 75-3325/75-3327	F-3 ²	7	1
3732.1 (a)*	Aggravated assault by vehicle	F-3	5	1
3733 (a)	Fleeing or eluding police officer	M-2	2	m
3733 (a)	Fleeing or eluding police officer-with DUI/cross state line/high-speed chase	F-3	5	1
3735 (a)	Homicide by vehicle while DUI	F-2	10	2
3735.1 (a)	Aggravated assault by vehicle while DUI	F-2	9	2
3742 (a)	Accident involving death/personal injury-failure to stop (death)	F-2	8	1
3742 (a)	Accident involving death/personal injury-failure to stop (SBI)	F-3	5	1
3742 (a)	Accident involving death/personal injury-failure to stop (injury)	M-1	3	m
3742.1 (a)*	Accident involving death/personal injury-not properly licensed (death)	F-3	6	1
3742.1 (a)*	Accident involving death/personal injury-not properly licensed (SBI)	F-3	5	1
3742.1 (a)*	Accident involving death/personal injury-not properly licensed	M-2	2	m
3743 (a)	Accident involving damage to attended vehicle or property	M-3	1	m

¹ statutory maximum increased by 5 years if offense occurred in active work zone (maximum=12 years)
statutory maximum increased by 5 years if also convicted of 75 §3325 or 75 §3327 (maximum=12 years)

² statutory maximum increased by 2 years if offense occurred in active work zone (maximum=9 years)
statutory maximum increased by 2 years if also convicted of 75 §3325 or 75 §3327 (maximum=9 years)



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

75 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3802	Driving under the influence of alcohol or controlled substance (DUI) (See mandatory provisions §303.9(ii))			§303.7(a)
3802 (a)(1)	DUI-general impairment/incapable of safe driving (1st off)	M	1	m
3802 (a)(1)	DUI-general impairment/incapable of safe driving (2nd off)	M	1	1
3802 (a)(1)	DUI-general impairment/incapable of safe driving (3rd/subsq off)	M-2	3	1
3802 (a)(1)	DUI-general impairment/incapable of safe driving (minor occupant)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: refused testing (1st off)	M	1	m
3802 (a)(1)	DUI-incapable of safe driving: refused testing (2nd off)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: refused testing (3rd/subsq off)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: refused testing (minor occupant)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: accident w/BI/SBI/death (1st off)	M	1	m
3802 (a)(1)	DUI-incapable of safe driving: accident w/BI/SBI/death (2nd off)	M	1	1
3802 (a)(1)	DUI-incapable of safe driving: accident w/BI/SBI/death (3rd off)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: accident w/BI/SBI/death (4th/subsq off)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: accident w/BI/SBI/death (minor occupant)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: damage to vehicle/property (1st off)	M	1	m
3802 (a)(1)	DUI-incapable of safe driving: damage to vehicle/property (2nd off)	M	1	1
3802 (a)(1)	DUI-incapable of safe driving: damage to vehicle/property (3rd off)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: damage to vehicle/property (4th/subsq off)	M-1	5	1
3802 (a)(1)	DUI-incapable of safe driving: damage to vehicle/property (minor occupant)	M-1	5	1
3802 (a)(2)	DUI-general impairment: BAC .08-<.10 (1st off)	M	1	m
3802 (a)(2)	DUI-general impairment: BAC .08-<.10 (2nd off)	M	1	1
3802 (a)(2)	DUI-general impairment: BAC .08-<.10 (3rd/subsq off)	M-2	3	1
3802 (a)(2)	DUI-general impairment: BAC .08-<.10 (minor occupant)	M-1	5	1
3802 (b)	DUI-high rate of alcohol: BAC .10-<.16 (1st off)	M	1	m
3802 (b)	DUI-high rate of alcohol: BAC .10-<.16 (2nd off)	M	1	1
3802 (b)	DUI-high rate of alcohol: BAC .10-<.16 (3rd off)	M-1	5	1
3802 (b)	DUI-high rate of alcohol: BAC .10-<.16 (4th/subsq off)	M-1	5	1
3802 (b)	DUI-high rate of alcohol: BAC .10-<.16 (minor occupant)	M-1	5	1
3802 (c)	DUI-highest rate of alcohol: BAC >=.16 (1st off)	M	1	m
3802 (c)	DUI-highest rate of alcohol: BAC >=.16 (2nd off)	M-1	5	1
3802 (c)	DUI-highest rate of alcohol: BAC >=.16 (3rd/subsq off)	M-1	5	1
3802 (c)	DUI-highest rate of alcohol: BAC >=.16 (minor occupant)	M-1	5	1
3802 (d)(1)(i)	DUI-controlled substances: Sched I (1st off)	M	1	m
3802 (d)(1)(i)	DUI-controlled substances: Sched I (2nd off)	M-1	5	1
3802 (d)(1)(i)	DUI-controlled substances: Sched I (3rd/subsq off)	M-1	5	1
3802 (d)(1)(i)	DUI-controlled substances: Sched I (minor occupant)	M-1	5	1
3802 (d)(1)(ii)	DUI-controlled substances: Sched II/III (1st off)	M	1	m
3802 (d)(1)(ii)	DUI-controlled substances: Sched II/III (2nd off)	M-1	5	1
3802 (d)(1)(ii)	DUI-controlled substances: Sched II/III (3rd/subsq off)	M-1	5	1
3802 (d)(1)(ii)	DUI-controlled substances: Sched II/III (minor occupant)	M-1	5	1
3802 (d)(1)(iii)	DUI-controlled substances: metabolite of Sched I/II/III (1st off)	M	1	m
3802 (d)(1)(iii)	DUI-controlled substances: metabolite of Sched I/II/III (2nd off)	M-1	5	1

* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

75 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3802 (d)(1)(iii)	DUI-controlled substances: metabolite of Sched I/II/III (3rd/subsq off)	M-1	5	1
3802 (d)(1)(iii)	DUI-controlled substances: metabolite of Sched I/II/III (minor occupant)	M-1	5	1
3802 (d)(2)	DUI-controlled substances & incapable of safe driving (1st off)	M	1	m
3802 (d)(2)	DUI-controlled substances & incapable of safe driving (2nd off)	M-1	5	1
3802 (d)(2)	DUI-controlled substances & incapable of safe driving (3rd/subsq off)	M-1	5	1
3802 (d)(2)	DUI-controlled substances & incapable of safe driving (minor occupant)	M-1	5	1
3802 (d)(3)	DUI-controlled substances & alcohol & incapable of safe driving (1st off)	M	1	m
3802 (d)(3)	DUI-controlled substances & alcohol & incapable of safe driving (2nd off)	M-1	5	1
3802 (d)(3)	DUI-controlled substances & alcohol & incapable of safe driving (3rd/subsq off)	M-1	5	1
3802 (d)(3)	DUI-controlled substances & alcohol & incapable of safe driving (minor occupant)	M-1	5	1
3802 (d)(4)	DUI-controlled substances: solvent, etc. (1st off)	M	1	m
3802 (d)(4)	DUI-controlled substances: solvent, etc. (2nd off)	M-1	5	1
3802 (d)(4)	DUI-controlled substances: solvent, etc. (3rd/subsq off)	M-1	5	1
3802 (d)(4)	DUI-controlled substances: solvent, etc. (minor occupant)	M-1	5	1
3802 (e)	DUI-minor driver (1st off)	M	1	m
3802 (e)	DUI-minor driver (2nd off)	M	1	1
3802 (e)	DUI-minor driver (3rd off)	M-1	5	1
3802 (e)	DUI-minor driver (4th/subsq off)	M-1	5	1
3802 (e)	DUI-minor driver (minor occupant)	M-1	5	1
3802 (f)(1)(i)	DUI-commercial vehicles (1st off)	M	1	m
3802 (f)(1)(i)	DUI-commercial vehicles (2nd off)	M	1	1
3802 (f)(1)(i)	DUI-commercial vehicles (3rd off)	M-1	6	1
3802 (f)(1)(i)	DUI-commercial vehicles (4th/subsq off)	M-1	7	1
3802 (f)(1)(i)	DUI-commercial vehicles (minor occupant)	M-1	5	1
3802 (f)(1)(ii)	DUI-school vehicles (1st off)	M	1	m
3802 (f)(1)(ii)	DUI-school vehicles (2nd off)	M	1	1
3802 (f)(1)(ii)	DUI-school vehicles (3rd off)	M-1	6	1
3802 (f)(1)(ii)	DUI-school vehicles (4th/subsq off)	M-1	7	1
3802 (f)(1)(ii)	DUI-school vehicles (minor occupant)	M-1	5	1
3802 (f)(2)	DUI-commercial/school vehicles & incapable of safe driving (1st off)	M	1	m
3802 (f)(2)	DUI-commercial/school vehicles & incapable of safe driving (2nd off)	M	1	1
3802 (f)(2)	DUI-commercial/school vehicles & incapable of safe driving (3rd off)	M-1	6	1
3802 (f)(2)	DUI-commercial/school vehicles & incapable of safe driving (4th/subsq off)	M-1	7	1
3802 (f)(2)	DUI-commercial/school vehicles & incapable of safe driving (minor occupant)	M-1	5	1
3802 (f)(3)	DUI-commercial/school vehicles & controlled substances (1st off)	M	1	m
3802 (f)(3)	DUI-commercial/school vehicles & controlled substances (2nd off)	M	1	1
3802 (f)(3)	DUI-commercial/school vehicles & controlled substances (3rd off)	M-1	6	1
3802 (f)(3)	DUI-commercial/school vehicles & controlled substances (4th/subsq)	M-1	7	1
3802 (f)(3)	DUI-commercial/school vehicles & controlled substances (minor occupant)	M-1	5	1
3802 (f)(4)	DUI-commercial/school vehicles & controlled substances & alcohol (1st off)	M	1	m



* = Subcategorized Offenses. See 303.3(b).
m = Other Misdemeanor Offenses. See 303.7(a)(5).

75 Pa.C.S. §	DESCRIPTION	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD SCORE POINTS
3802 (f)(4)	DUI-commercial/school vehicles & controlled substances & alcohol (2nd off)	M	1	1
3802 (f)(4)	DUI-commercial/school vehicles & controlled substances & alcohol (3rd off)	M-1	6	1
3802 (f)(4)	DUI-commercial/school vehicles & controlled substances & alcohol (4th/subsq off)	M-1	7	1
3802 (f)(4)	DUI-commercial/school vehicles & controlled substances & alcohol (minor occupant)	M-1	5	1
3808 (a)(1)	Illegally operating motor vehicle not equipped with ignition interlock-no BAC	M	1	m
3808 (a)(2)	Illegally operating motor vehicle not equipped with ignition interlock-BAC >=.025)	M-3	1	m
3808 (b)	Tampering with ignition interlock system-using/providing breath sample	M	1	m
6308 (d)	Investigation by police officers-records	M-3	1	m
6503.1	Habitual offenders	M-2	2	m
7111	Deal in titles/plates for stolen vehicles	M-1	3	m
7112	False report of theft or conversion of vehicle	M-3	1	m
7121	False application for title or registration	M-1	3	m
7122	Altered/forged/counterfeit title/plates	M-1	3	m
8306 (b)	Willful violation-hazardous materials transportation regs (1st off)	M-3	1	m
8306 (c)	Subsq willful violation-hazardous materials transportation regs (w/in 2 yrs)	M-2	2	m

**OMNIBUS ASSIGNMENTS**

	STATUTORY CLASS	§303.3 OFFENSE GRAVITY SCORE	§303.7 PRIOR RECORD POINTS
Omnibus Assignments			
Offenses not otherwise listed and new offenses:	F-1	8	3
	F-2	7	2
	F-3	5	1
	Felony Not Classified	5	1
	M-1	3	m
	M-2	2	m
	M-3	1	m
	Misdemeanor Not Classified	1	m



§303.16. Basic Sentencing Matrix.

Level	OGS	Example Offenses	Prior Record Score								
			0	1	2	3	4	5	RFEL	REVOC	AGG/MIT
LEVEL 5 State Incar	14	Murder 3 Inchoate Murder (SBI) Rape (victim <13 yrs)	72-SL	84-SL	96-SL	120-SL	168-SL	192-SL	204-SL	SL	~/-12
	13	Inchoate Murder (No SBI) Weapons Mass Destr-Use PWID Cocaine (>1,000 g)	60-78	66-84	72-90	78-96	84-102	96-114	108-126	240	+/- 12
	12	Rape-Forcible Compulsion IDSI-Forceible Compulsion Robbery-Inflics SBI	48-66	54-72	60-78	66-84	72-90	84-102	96-114	120	+/- 12
	11	Agg Assault-Cause SBI Voluntary Manslaughter Sexual Assault PWID Cocaine (100-1,000 g)	36-54 BC	42-60	48-66	54-72	60-78	72-90	84-102	120	+/- 12
	10	Kidnapping Agg Indecent Assault F2 Hom by Vehicle-DUI & Work Zone PWID Cocaine(50-<100 g)	22-36 BC	30-42 BC	36-48 BC	42-54	48-60	60-72	72-84	120	+/- 12
	9	Sexual Exploitation of Children Robbery-Commit/Threat F1/F2 Burglary-Home/Person Present Arson-No Person in Building	12-24 BC	18-30 BC	24-36 BC	30-42 BC	36-48 BC	48-60	60-72	120	+/- 12
LEVEL 4 State Incar/ RIP trade	8 (F1)	Agg Assault -Cause BI w/DW Theft (Firearm) Identity theft (3rd/+ & Vic>=60 yrs) Hom by Veh-DUI or Work Zone Theft (>\$100,000) PWID Cocaine (10-<50 g)	9-16 BC	12-18 BC	15-21 BC	18-24 BC	21-27 BC	27-33 BC	40-52	NA	+/- 9
LEVEL 3 State/ Cnty Incar RIP trade	7 (F2)	Robbery-Inflicts/Threatens BI Burglary-Home/No Person Present Statutory Sexual Assault Theft (>\$50,000-\$100,000) Identity Theft (3rd/subq) PWID Cocaine (5-<10 g)	6-14 BC	9-16 BC	12-18 BC	15-21 BC	18-24 BC	24-30 BC	35-45 BC	NA	+/- 6
	6	Agg Assault-Cause Fear of SBI Homicide by Vehicle Burglary-Not a Home/Person Prsnt Theft (>\$25,000-\$50,000) Arson-Endanger Property PWID Cocaine (2<5 g)	3-12 BC	6-14 BC	9-16 BC	12-18 BC	15-21 BC	21-27 BC	27-40 BC	NA	+/- 6
LEVEL 2 Cnty Incar RIP RS	5 (F3)	Burglary F2 Theft (>\$2000-\$25,000) Bribery PWID Marij (1-<10 lbs)	RS-9	1-12 BC	3-14 BC	6-16 BC	9-16 BC	12-18 BC	24-36 BC	NA	+/- 3
	4	Indecent Assault M2 Forgery (Money, Stocks) Weapon on School Property Crim Trespass F2	RS-3	RS-9	RS-<12	3-14 BC	6-16 BC	9-16 BC	21-30 BC	NA	+/- 3
	3 (M1)	Simple Assault-Attempt/Cause BI Theft (\$200-\$2000) Carrying Explosives Simple Possession	RS-1	RS-6	RS-9	RS-<12	3-14 BC	6-16 BC	12-18 BC	NA	+/- 3
LEVEL 1 RS	2 (M2)	Theft (\$50-<\$200) Retail Theft (1st/2nd Offense) Bad Checks (\$500-<\$1,000)	RS	RS-2	RS-3	RS-4	RS-6	1-9	6- <12	NA	+/- 3
	1 (M3)	Most Misd. 3's;Theft (<\$50) DUI (M) Poss. Small Amount Marij.	RS	RS-1	RS-2	RS-3	RS-4	RS-6	3-6	NA	+/- 3

1. Designated areas of the matrix indicate restrictive intermediate punishments may be imposed as a substitute for incarceration.

2. When restrictive intermediate punishments are appropriate, the duration of the restrictive intermediate punishment programs are recommended not to exceed the guideline ranges.

3. When the range is RS through a number of months (e.g. RS-6), RIP may be appropriate.

4. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. 9755(b) and 9756(b).

5. Statutory classification (e.g., F1, F2, etc.) in brackets reflect the omnibus OGS assignment for the given grade.

Key:

BC = boot camp

CNTY = county

INCAR = incarceration

PWID = possession with intent to deliver

REVOC = repeat violent offender category

RFEL = repeat felony 1 and felony 2 offender category

RIP = restrictive intermediate punishments

RS = restorative sanctions

SBI = serious bodily injury

SL = statutory limit (longest minimum sentence)

~ = no recommendation (aggravated sentence would exceed statutory limit)

< > = less than; greater than





§303.17. Deadly Weapon Enhancement/Possessed Matrix.

Level	OGS	Deadly Weapon	Prior Record Score								AGG/MIT
			0	1	2	3	4	5	RFEL	REVOC	
Level 5	14	Possessed	81-SL	93-SL	105-SL	129-SL	177-SL	201-SL	213-SL	240	~/- 12
	13	Possessed	69-87	75-93	81-99	87-105	93-111	105-123	117-135	240	+/-12
	12	Possessed	57-75	63-81	69-87	75-93	81-99	93-111	105-123	120	+/-12
	11	Possessed	45-63	51-69	57-75	63-81	69-87	81-99	93-111	120	+/-12
	10	Possessed	31-45	39-51	45-57	51-63	57-69	69-81	81-93	120	+/-12
	9	Possessed	21-33	27-39	33-45	39-51	45-57	57-69	69-81	120	+/-12
Level 4	8	Possessed	15-22	18-24	21-27	24-30	27-33	33-39	46-58	NA	+/-9
	7	Possessed	12-20	15-22	18-24	21-27	24-30	30-36	41-51	NA	+/-6
	6	Possessed	9-18	12-20	15-22	18-24	21-27	27-33	33-46	NA	+/-6
Level 3	5	Possessed	6-15	7-18	9-20	12-22	15-22	18-24	30-42	NA	+/-3
	4	Possessed	3-6	3-12	3-<15	6-17	9-19	12-19	24-33	NA	+/-3
	3	Possessed	3-4	3-9	3-12	3-<15	6-17	9-19	15-21	NA	+/-3
	2	Possessed	3-3	3-5	3-6	3-7	3-9	4-12	9-<15	NA	+/-3
	1	Possessed	3-3	3-4	3-5	3-6	3-7	3-9	6-9	NA	+/-3

1. Level 3 and Level 4 indicate restrictive intermediate punishments may be substituted for incarceration.
2. When county intermediate punishment is appropriate, the duration of the restrictive intermediate punishment program(s) shall not exceed the guideline ranges.
3. The mitigated recommendation is never less than three months (§303.10(a)).
4. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. §9755(b) and §9756(b).
5. If the standard range includes the statutory limit, there is no aggravated recommendation.
6. If any recommendation is longer than the statutory limit, see §303.9(g).





303.18. Deadly Weapon Enhancement/Used Matrix.

Level	OGS	Deadly Weapon	Prior Record Score								
			0	1	2	3	4	5	RFEL	REVOC	AGG/MIT
Level 5	14	Used	90-SL	102-SL	114-SL	138-SL	186-SL	210-SL	222-SL	SL	~/- 12
	13	Used	78-96	84-102	90-108	96-114	102-120	114-132	126-144	240	+/-12
	12	Used	66-84	72-90	78-96	84-102	90-108	102-120	114-132	120	+/-12
	11	Used	54-72	60-78	66-84	72-90	78-96	90-108	102-120	120	+/-12
	10	Used	40-54	48-60	54-66	60-72	66-78	78-90	90-102	120	+/-12
	9	Used	30-42	36-48	42-54	48-60	54-66	66-78	78-90	120	+/-12
Level 4	8	Used	21-28	24-30	27-33	30-36	33-39	39-45	52-64	NA	+/-9
	7	Used	18-26	21-28	24-30	27-33	30-36	36-42	47-57	NA	+/-6
	6	Used	15-24	18-26	21-28	24-30	27-33	33-39	39-52	NA	+/-6
	5	Used	12-21	13-24	15-26	18-28	21-28	24-30	36-48	NA	+/-3
Level 3	4	Used	6-9	6-15	6-<18	9-20	12-22	15-22	27-36	NA	+/-3
	3	Used	6-7	6-12	6-15	6-<18	9-20	12-22	18-24	NA	+/-3
	2	Used	6-6	6-8	6-9	6-10	6-12	7-15	12-<18	NA	+/-3
	1	Used	6-6	6-7	6-8	6-9	6-10	6-12	9-12	NA	+/-3

1. Level 3 and Level 4 indicate restrictive intermediate punishments may be substituted for incarceration.
2. When county intermediate punishment is appropriate, the duration of the restrictive intermediate punishment program shall not exceed the guideline ranges.
3. The mitigated recommendation is never less than six months (§303.10(a)).
4. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. §9755(b) and §9756(b).
5. If the standard range includes the statutory limit, there is no aggravated recommendation.
6. If any recommendation is longer than the statutory limit, see §303.9(g).





§303.19. Youth/School Enhancement Matrices.

Youth Enhancement

Level	OGS	Prior Record Score								Agg/Mit
		0	1	2	3	4	5	RFEL	REVOC	
5	14	NA	NA	NA	NA	NA	NA	NA	NA	~/-12
	13	66 - 90	72 - 96	78 - 102	84 - 108	90 - 114	102 - 126	114 - 138	240	+/-12
	12	NA	NA	NA	NA	NA	NA	NA	NA	+/-12
	11	42 - 66	48 - 72	54 - 78	60 - 84	66 - 90	78 - 102	90 - 114	120	+/-12
4	10	28 - 48	36 - 54	42 - 60	48 - 66	54 - 72	66 - 84	78 - 96	120	+/-12
	9	18 - 36	24 - 42	30 - 48	36 - 54	42 - 60	54 - 72	66 - 84	120	+/-12
	8	15 - 28	18 - 30	21 - 33	24 - 36	27 - 39	33 - 45	46 - 64	NA	+/-9
	7	12 - 26	15 - 28	18 - 30	21 - 33	24 - 36	30 - 42	41 - 57	NA	+/-6
3	6	9 - 24	12 - 26	15 - 28	18 - 30	21 - 33	27 - 39	33 - 52	NA	+/-6
	5	6 - 21	7 - 24	9 - 26	12 - 28	15 - 28	18 - 30	30 - 48	NA	+/-3
	4	6 - 15	6 - 21	6 - <24	9 - 26	12 - 28	15 - 28	27 - 42	NA	+/-3
	3	6 - 13	6 - 18	6 - 21	6 - <24	9 - 26	12 - 28	18 - 30	NA	+/-3

1. This enhancement may only be applied to violations of 35 P.S. §780-113(a)(14) and (a)(30).
2. Level 4 indicates restrictive intermediate punishments may be substituted for incarceration.
3. When county intermediate punishment is appropriate, the duration of the restrictive intermediate punishment program shall not exceed the guideline ranges.
4. The mitigated recommendation is never less than six months (§303.10(b)).
5. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. §9755(b) and §9756(b).
6. If the standard range includes the statutory limit, there is no aggravated recommendation.
7. If any recommendation is longer than the statutory limit, see §303.9(g).



School Enhancement

Level	OGS	Prior Record Score								Agg/Mit
		0	1	2	3	4	5	RFEL	REVOC	
5	14	NA	NA	NA	NA	NA	NA	NA	NA	~/-12
	13	72 - 102	78 - 108	84 - 114	90 - 120	96 - 126	108 - 138	120 - 150	240	+/-12
	12	NA	NA	NA	NA	NA	NA	NA	NA	+/-12
	11	48 - 78	54 - 84	60 - 90	66 - 96	72 - 102	84 - 114	96 - 120	120	+/-12
	10	34 - 60	42 - 66	48 - 72	54 - 78	60 - 84	72 - 96	84 - 108	120	+/-12
	9	24 - 48	30 - 54	36 - 60	42 - 66	48 - 72	60 - 84	72 - 96	120	+/-12
4	8	21 - 40	24 - 42	27 - 45	30 - 48	33 - 51	39 - 57	52 - 76	NA	+/-9
	7	18 - 38	21 - 40	24 - 42	27 - 45	30 - 48	36 - 54	47 - 69	NA	+/-6
	6	15 - 36	18 - 38	21 - 40	24 - 42	27 - 45	33 - 51	39 - 64	NA	+/-6
	5	12 - 33	13 - 36	15 - 38	18 - 40	21 - 40	24 - 42	36 - 60	NA	+/-3
	4	12 - 27	12 - 33	12 - <36	15 - 38	18 - 40	21 - 40	33 - 54	NA	+/-3
	3	12 - 25	12 - 30	12 - 33	12 - <36	15 - 38	18 - 40	24 - 42	NA	+/-3

1. This enhancement may only be applied to violations of 35 P.S. §780-113(a)(14) and (a)(30).
2. Level 4 indicates restrictive intermediate punishments may be substituted for incarceration.
3. When county intermediate punishment is appropriate, the duration of the restrictive intermediate punishment program shall not exceed the guideline ranges.
4. The mitigated recommendation is never less than twelve months (§303.10(b)).
5. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. §9755(b) and §9756(b).
6. If the standard range includes the statutory limit, there is no aggravated recommendation.
7. If any recommendation is longer than the statutory limit, see §303.9(g).



Youth and School Enhancement

Level	OGS	Prior Record Score								Agg/Mit
		0	1	2	3	4	5	RFEL	REVOC	
5	14	NA	NA	NA	NA	NA	NA	NA	NA	~/-12
	13	78 - 114	84 - 120	90 - 126	96 - 132	102 - 138	114 - 150	126 - 162	240	+/-12
	12	NA	NA	NA	NA	NA	NA	NA	NA	+/-12
	11	54 - 90	60 - 96	66 - 102	72 - 108	78 - 114	90 - 120	102 - 120	120	+/-12
	10	40 - 72	48 - 78	54 - 84	60 - 90	66 - 96	78 - 108	90 - 120	120	+/-12
	9	30 - 60	36 - 66	42 - 72	48 - 78	54 - 84	66 - 96	78 - 108	120	+/-12
4	8	27 - 52	30 - 54	33 - 57	36 - 60	39 - 63	45 - 69	58 - 88	NA	+/-9
	7	24 - 50	27 - 52	30 - 54	33 - 57	36 - 60	42 - 66	53 - 81	NA	+/-6
	6	21 - 48	24 - 50	27 - 52	30 - 54	33 - 57	39 - 63	45 - 76	NA	+/-6
	5	18 - 45	19 - 48	21 - 50	24 - 52	27 - 52	30 - 54	42 - 72	NA	+/-3
	4	18 - 39	18 - 45	18 - <48	21 - 50	24 - 52	27 - 52	39 - 66	NA	+/-3
	3	18 - 37	18 - 42	18 - 45	18 - <48	21 - 50	24 - 52	30 - 54	NA	+/-3

1. Level 3 and Level 4 indicate restrictive intermediate punishments may be substituted for incarceration.
2. When county intermediate punishment is appropriate, the duration of the restrictive intermediate punishment program shall not exceed the guideline ranges.
3. The mitigated recommendation is never less than eighteen months (§303.10(b)).
4. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. §9755(b) and §9756(b).
5. If the standard range includes the statutory limit, there is no aggravated recommendation.
6. If any recommendation is longer than the statutory limit, see §303.9(g).



§303.1 SENTENCING GUIDELINES STANDARDS

§303.1(a) CONSIDERATION OF THE GUIDELINES

GUIDELINE TEXT:

§303.1(a). The court shall consider the sentencing guidelines in determining the appropriate sentence for offenders convicted of, or pleading guilty or nolo contendere to, felonies and misdemeanors. Where crimes merge for sentencing purposes, the court shall consider the sentencing guidelines only on the offense assigned the higher offense gravity score.

PRIOR GUIDELINES:

An identical provision was included in the 6th Edition, Revised guidelines (§303.1(a)).

DESCRIPTION:

- Sentencing guidelines must be considered when imposing a sentence for a misdemeanor or felony.
- Sentencing guidelines must be considered in determining the appropriate sentence for offenders who plead or are found “guilty but mentally ill” pursuant to 18 Pa.C.S. §314.
- Sentencing guidelines apply only when the original sentences are imposed. Sentencing guidelines do not apply to certain diversion programs, contempt, or revocations (see §303.1(b)). The Commission was mandated to develop guidelines for resentencing and county and state parole, and state parole recommitment ranges. The Commission was also mandated to develop a risk assessment tool for use at sentencing.
- Sentencing guidelines do not apply to convictions for lesser offenses which merge for sentencing purposes into greater offenses (42 Pa.C.S. §9765).
- Sentencing guidelines do not apply to summary convictions, to violations of local ordinances, or to current juvenile adjudications of delinquency. Sentencing guidelines only apply to misdemeanor and felony convictions.
- Sentencing guidelines must be considered by all courts when imposing sentences on misdemeanors and felonies, including Courts of Common Pleas, Philadelphia’s Municipal Court, and sentences imposed by Magisterial District Judges. Although the Commission has determined that only courts of record are required to submit completed Guideline Sentence Forms, all courts are required by statute to consider the guidelines prior to imposing a sentence.
- The sentencing guidelines do not restrict the court’s discretion to impose a fine, restitution, or other economic sanctions in addition to any other sentence that may be imposed.

GUIDELINE FORM/SGS WEB APPLICATION:

Beginning with the 5th Edition, all guideline-required sentencing information is completed and submitted using the JNET-based SGS Web application. A Guideline Sentence Form can be printed either prior to sentencing or after sentencing. All previous editions of the sentencing guidelines as well as the paper Guideline Sentence Forms are available on the Commission’s website (<http://www.pasentencing.us>).

COMMENTARY:

This subsection paraphrases 42 Pa.C.S. §9721(b) which states, in part, that: "The court shall also consider any guidelines for sentencing adopted by the Pennsylvania Commission on Sentencing." This was a provision of Act 319 of 1978, which established the Commission and authorized the guidelines.

The Commission included in previous Sentencing Guidelines Implementation Manuals commentary regarding the merger of sentences, advising courts that the guidelines do not apply to convictions for lesser offenses which merge for sentencing purposes into greater offenses. Consistent with this long-standing policy and in light of the recent enactment of a merger statute 42 Pa.C.S. §9765, the Commission included a specific reference to merger of sentences in this section.

The 6th Edition Sentencing Guidelines required the court to consider only the higher graded offense in circumstances where crimes merge for sentencing purposes. With the 6th Edition, Revised Sentencing Guidelines, the Commission required the court to consider instead only the offense with the higher Offense Gravity Score.

As part of the correctional reform legislation passed in 2008, Act 2008-81 required the Commission to develop and adopt new guidelines for parole (county and state) and re-parole, as well as for re-sentencing following revocation of probation, County Intermediate Punishment (CIP), and State Intermediate Punishment (SIP) and for state parole recommitment ranges. In developing guidelines for parole, Act 2008-81 mandates that the guidelines consider validated risk assessment tools and take into account available research relating to the risk of recidivism. Additionally, Act 2010-95 mandated the Commission to develop a risk assessment instrument to assist the court at sentencing.

§303.1(b) GUIDELINES DO NOT APPLY

GUIDELINE TEXT:

§303.1(b). The sentencing guidelines do not apply to sentences imposed as a result of the following: accelerated rehabilitative disposition; disposition in lieu of trial; direct or indirect contempt of court; violations of protection from abuse orders; revocation of probation, intermediate punishment or parole.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.1(b)).

DESCRIPTION:

- These sentencing guidelines apply only when the original sentence is imposed. They do not apply to diversion programs such as accelerated rehabilitative dispositions under Pa.R.Crim.P. Chapter 3, to probation without verdict dispositions under 35 P.S. §780-117, or to dispositions in lieu of trial or criminal punishment under 35 P.S. §780-118.
- These sentencing guidelines do not apply in contempt proceedings, to violations of protection from abuse orders, or for failure to pay fines.
- These sentencing guidelines do not apply during resentencing for violation of probation, CIP, or SIP.
- These sentencing guidelines do not apply to revocations of parole.
- In construing this subsection, it does not matter whether the original sentence conformed or departed from the guidelines.

GUIDELINE FORM/SGS WEB APPLICATION:

No guideline-required sentencing information is required for sentences imposed under this subsection.

COMMENTARY:

The sentencing guidelines are designed to structure the discretion of the sentencing court without denying the court the power to craft sentences to the particular needs of the offender and the interests of justice. The Commission thought that sentencing under this subsection required the court to consider factors not included in the guidelines, such as the seriousness of the violation and other unique circumstances often present in such cases.



§303.1(c) EFFECTIVE DATES OF GUIDELINES

GUIDELINE TEXT:

§303.1(c). The sentencing guidelines shall apply to all offenses committed on or after the effective date of the guidelines. Amendments to the guidelines shall apply to all offenses committed on or after the date the amendment becomes part of the guidelines.

- (1) When there are current multiple convictions for offenses that overlap two sets of guidelines, the former guidelines shall apply to offenses that occur prior to the effective date of the amendment and the later guidelines shall apply to offenses that occur on or after the effective date of the amendment. If the specific dates of the offenses cannot be determined, then the later guidelines shall apply to all offenses.
- (2) The initial sentencing guidelines 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 the guidelines due to a procedural error that occurred in 1981 when the legislature rejected the first set of guidelines. New guidelines were drafted and became effective on April, 25, 1988. Amendments to the guidelines went into effect August 9, 1991 and December 20, 1991. Revised sets of guidelines became effective August 12, 1994, June 13, 1997, June 3, 2005, and December 5, 2008.

PRIOR GUIDELINES:

A similar provision was included in previous sentencing guidelines (§303.1(c)). The text of this section was amended to include the date of the 7th Edition Sentencing Guidelines.

DESCRIPTION:

- The effective dates of the applicable sentencing guidelines, based on the date of the offense, are found below. All amendments to the sentencing guidelines apply prospectively.

<u>Date of offense(s) on or after...</u>	<u>Applicable Sentencing Guidelines</u>
7/22/1982	1 st Edition
6/3/1983	1 st Edition, Amend. 1
1/2/1986	1 st Edition, Amend. 2
6/5/1986	2 nd Edition
10/7/1987	Sessoms Decision (invalidated previous guidelines)
4/25/1988	3 rd Edition
8/9/1991	3 rd Edition, Revised
12/20/1991	3 rd Edition, Revised, Amend. 1
8/12/1994	4 th Edition
6/13/1997	5 th Edition
6/3/2005	6 th Edition
12/5/2008	6 th Edition, Revised
12/28/2012	7 th Edition

- The current edition of the sentencing guidelines became effective December 28, 2012 and applies to all offenses committed on or after that date.

- The sentencing guidelines have legal force only when sentencing crimes committed on or after April 25, 1988.
- The sentencing guidelines which apply in a case are the guidelines which were in effect at the time the crime was committed. When a range of offense dates overlap two different editions of guidelines, and the specific dates of the offenses cannot be determined, the more recent of the editions of sentencing guidelines shall be used. Courts may, but are not required to, consider the applicable sentencing guidelines when imposing sentences for crimes committed prior to April 25, 1988.
- Upon submission to the Commission of proposed amendments to the sentencing guidelines, the General Assembly has 90 days to consider the proposals. Unless the proposed amendments are rejected in their entirety by a concurrent resolution which is signed by the governor, amendments to the sentencing guidelines become effective 90 days after their submission. The 7th Edition Sentencing Guidelines were submitted to the General Assembly on September 28, 2012.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.1(a).

COMMENTARY:

This sentencing guideline section has always reproduced the key statutory features governing guideline promulgation, with the exception of the "prospectiveness" of the sentencing guidelines' application. The Commission determined that the guidelines should apply prospectively. This decision was based on principles of fairness and constitutionality. The procedure for promulgating sentencing guidelines is prescribed by 42 Pa.C.S. §§2151--2156.

All Pennsylvania sentencing guidelines relating to offenses committed prior to April 25, 1988 were invalidated by the Pennsylvania Supreme Court in *Com. v. Sessoms*, 516 Pa. 365, 532 A.2d 775 (1987). While these earlier sentencing guidelines may be considered by the court when sentencing of offenses which occurred when they were in effect, they have no legal force. Only the sentencing guidelines pertaining to offenses committed on or after April 25, 1988 have legal force.

The Commission adopted changes which resulted in this 7th Edition to the sentencing guidelines for the following reasons:

- (1) modification of Youth/School Enhancement;
- (2) integration of Act 95 of 2010 and Act 111 of 2011 (Adam Walsh Act) sex offense tiered structure and sexually violent predator status;
- (3) assignment of new Offense Gravity Scores to certain offenses or modified offenses; and
- (4) correction of typographical errors and omissions in the 6th Edition, Revised sentencing guidelines.

§303.1(d) CONTEMPORANEOUS WRITTEN STATEMENT

GUIDELINE TEXT:

§303.1(d). In every case in which a court of record imposes a sentence for a felony or misdemeanor, the court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed. In every case where a court of record imposes a sentence outside the sentencing guidelines, the reason or reasons for the deviation from the guidelines shall be recorded on the Guideline Sentence Form, a copy of which shall be electronically transmitted to the Pennsylvania Commission on Sentencing in the manner described in §303.1(e).

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.1(d)). The text of this section was amended in the 6th Edition to limit the reporting requirement to courts of record and to require the electronic transmission of completed guideline-required sentencing information to the Commission.

DESCRIPTION:

- A statement of the reason or reasons for the sentence imposed must be disclosed in open court and made part of the record whenever a sentence is imposed for a felony or misdemeanor. This is the general requirement for any sentence, regardless of its conformity to the sentencing guidelines.
- The statement of reasons must be contemporaneous with the imposition of sentence.
- When a sentence departs from the guidelines such that the sentence is longer than that recommended as an aggravated sentence or shorter than that recommended as a mitigated sentence, the fact that the sentence is a departure must be stated on the record.
- In addition to the general requirement that a reason be given for any sentence, a written statement of the reason or reasons for any sentence that departs from the guidelines must be provided as part of guideline-required sentencing information in SGS Web.
- The Commission encourages, but does not require, courts to provide reasons for aggravated and mitigated sentences in SGS Web.
- The sentencing guidelines cannot be circumvented by use of a "suspended sentence." The court must either impose a sentence consistent with the guidelines or depart from the guidelines, and state the reasons for the sentence on the record.
- All courts of record are required to complete and submit a guideline-required sentencing information for each conviction offense consistent with the provisions of §303.1(e).

GUIDELINE FORM/SGS WEB APPLICATION:

- Beginning with the 5th Edition, all guideline-required sentencing information is completed and submitted using the JNET-based SGS Web application. A Guideline Sentence Form can be printed for the court prior to sentencing and after sentencing. Reasons entered are displayed on the printed Guideline Sentence Form. All previous editions of the sentencing guidelines as well as the

appropriate paper Guideline Sentence Form are available on the Commission's website (<http://www.pasentencing.us>).

- When a sentence departs from the guidelines such that the sentence is longer than that recommended as an aggravated sentence or shorter than that recommended as a mitigated sentence, the reason(s) for a departure sentence as well as any other comments regarding the sentence must be part of the guideline-required sentencing information in SGS Web.
- SGS Web provides three options for providing reason(s) for a departure sentence as well as other comments for sentences imposed, beginning with the 5th Edition guidelines: (1) a pull-down list of common reasons submitted to the Commission; (2) a text box labeled 'Other Reasons' for brief reasons or comments; and (3) a text box labeled 'Narrative' for longer, more detailed reasons or comments.
- For previous editions of the guidelines, a space is provided on the Guideline Sentence Form for recording departure reasons as well as other comments.

COMMENTARY:

This subsection incorporates into the guidelines the statutory language of 42 Pa.C.S. §9721(b). When sentencing an offender, the court is limited to use of the sentencing alternatives described in 42 Pa.C.S. §9721, which includes: an order of probation, a determination of guilt without further penalty, partial confinement, total confinement, a fine, CIP, and SIP, as well as restitution (see §303.9(e), §303.9(f), §303.12 and §303.14 for further Commentary). The Judicial Code also provides that multiple sentencing alternatives may be ordered to be served concurrently or consecutively (see §303.2(a) and §303.11(a)).

The Commission discourages the use of an indefinitely suspended sentence, as such a sentence is not provided for in the Sentencing Code (*Com. v. Hamilton*, 488 A.2d 277, Pa.Super. 1985). Any other suspension of a sentence of incarceration in which conditions are placed on the offender has been held to be the equivalent of probation (*Com. v. Duffy*, 681 A.2d 219, Pa.Super. 1996).

It is essential that the sentencing court determine the correct guideline ranges for each offense and state those ranges on the record. This is advisable whether the offender has pleaded guilty or whether they have been found guilty at trial. It should be done even if the court chooses to depart from the guidelines. This provides a clear record for a higher court in the event of an appeal.

Where the sentencing court departs from the guidelines, the reasons supporting the departure should be detailed. These reasons should not include aspects of the case that are incorporated in the guidelines. The Commission relies on the recorded statement of reasons reported in SGS Web for information on conformance with the guidelines and the possible need to revise particular aspects of the guidelines. The Commission requires that the reasons for departure be provided in SGS Web to facilitate this evaluation. The Commission also encourages, but does not require, courts to provide reasons for aggravated and mitigated sentences in SGS Web.

As required by statute, 42 Pa.C.S. §9721(b), all courts must consider the guidelines when imposing sentences for felonies and misdemeanors. While this requirement to consider the guidelines has consistently been interpreted by the Commission to apply to the minor judiciary, the Commission has only required the completion and electronic submission of guideline-required sentencing information, as required by 42 Pa.C.S. §2153(a)(14), from courts of record. Prior amendments to this section clarify this policy: the guidelines should be considered by all courts when imposing sentences for felonies and misdemeanors, but only courts of record are required to complete and electronically submit all guideline-required sentencing information.

§303.1(e) SGS WEB REPORTING REQUIREMENT

GUIDELINE TEXT:

§303.1(e). Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software Web application (SGS Web) shall be used at the court's direction to prepare all guideline-required sentencing information. The completed Guideline Sentence Form shall be made a part of the record and the information electronically submitted to the Commission via SGS Web no later than 30 days after the date of sentencing.

PRIOR GUIDELINES:

A similar reporting provision was included in previous guidelines (§303.1(e)). The 6th Edition amended this section to include a new requirement that the JNET-based SGS Web application be used to prepare and submit all guideline-required sentencing information under the 6th Edition guidelines.

DESCRIPTION:

- The court is responsible for submitting required information to the Commission, and therefore for determining the process by which all guideline-required sentencing information is prepared and submitted via SGS Web. In most judicial districts, the president judge has specified the procedures for completing this information.
- The 30-day time period for submission of all guideline-required sentencing information is consistent with 42 Pa.C.S. §5505 (Modification of Orders) and Pa.R.Crim.P. Rule 720 (Post-Sentence Procedures; Appeal).
- All guideline-required information is to be provided in SGS Web for every felony and misdemeanor sentenced. This includes all sentences for DUI and any other cases subject to a mandatory minimum sentence. And, while the sentencing guidelines do not apply to Murder 1 or Murder 2, courts are encouraged to report all such sentences so that the Commission can meet its statutory obligation to systematically monitor mandatory sentencing laws.
- *For offenses committed on or after December 28, 2012*, all guideline-required sentencing information for the 7th Edition should be completed using the JNET-based SGS Web application. Information for each offense should be consistent with the provisions for a judicial proceeding (303.2(b)).
- *For offenses committed on or after December 5, 2008 but prior to December 28, 2012*, all guideline-required sentencing information for the 6th Edition, Revised should be completed using the JNET-based SGS Web application.
- *For offenses committed on or after June 3, 2005 but prior to December 5, 2008*, all guideline-required sentencing information for the 6th Edition should be completed using the JNET-based SGS Web application.
- *For offenses committed on or after June 13, 1997 but prior to June 3, 2005*, all guideline-required sentencing information for the 5th Edition should be completed using the JNET-based SGS Web application.
- *For offenses committed on or after August 12, 1994 but prior to June 13, 1997*, the 4th Edition Guideline Sentence Form, available on the Commission's website, should be used. The 4th Edition

form is offender-based, meaning that one set of forms is completed for all offenses sentenced during a judicial proceeding.

- *For offenses committed prior to August 12, 1994*, use the appropriate paper Guideline Sentence Form that corresponds to the applicable guidelines based on the date of the offense. Forms are available on the Commission's website. These forms are transaction-based, meaning that one set of forms is completed for all offenses which occurred at the same time.

GUIDELINE FORM/SGS WEB APPLICATION:

- **Offender Judicial Proceeding.** For all offenses committed on or after June 13, 1997, guideline-related information must be prepared and submitted using the JNET-based SGS Web application described in this section. One case is created using SGS Web for each Judicial Proceeding. A Judicial Proceeding is defined as a proceeding in which all offenses for which an offender has been convicted are pending before the court for sentencing at the same time. Within each Judicial Proceeding, information for each offense for which an offender has been convicted is obtained separately. Sentence recommendations are provided through SGS Web for each offense, based on the Offense Gravity Score, Prior Record Score, and other relevant information.
- Only registered Justice Network (JNET) users authorized by the Court and assigned an SGS Web user role may use the application. For information on becoming a JNET and SGS Web user, consult your agency's JNET Registrar and/or contact the Commission.
- In order to create a judicial proceeding using SGS Web, offender information may be imported from the Administrative Office of Pennsylvania Courts (AOPC) using the 'OTN Search' option.
- The following offender information is required by the SGS Web application as part of the offender record: name, date of birth, gender, and race. Other information is requested but not required: social security number, state identification number, and other identifiers. The state identification number will be required beginning January 1, 2014. (see §303.1(f))
- Upon completion of creating a judicial proceeding screen, which includes judge, docket number, and county contact, save the information. Remaining steps for preparation and completion of guideline-required sentencing information include: Prior Record Score Module; Offense Module; and Sentence Module.
- For previous editions of the guidelines, the appropriate paper Guideline Sentence Form developed for that edition of the guidelines must be prepared and mailed to the Commission.

COMMENTARY:

The Commission is authorized to promulgate and require the completion of guideline-required sentencing information:

"(a) General Rule.--The Commission, pursuant to rules and regulations, shall have the power to:...

(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."
(42 Pa.C.S. §2153).

The guideline-required sentencing information is essential for the Commission to meet its statutory responsibilities to:

- "(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...
- (10) Collect systematically and disseminate information concerning sentences actually imposed.
- (11) Collect systematically and disseminate information regarding the effectiveness of sentences imposed.
- (12) Make recommendations to the General Assembly concerning modification 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." (42 Pa.C.S. §2153).

The Guideline Sentence Form printed from SGS Web, serves as part of the official record on how the court applied the guidelines in a case, and has been used by appellate courts when deciding appeals. The court can print the Guideline Sentence Form prior to sentencing to use as a worksheet in applying the guidelines. The Commission uses the guideline-required sentencing information to assess the impact and effectiveness of the guidelines and other sentencing statutes, and in evaluating proposed changes in the guidelines and other sentencing law. Information contained in SGS Web is disseminated in the Commission's *Annual Report* and in other reports to the judiciary and to the General Assembly, and is available for public dissemination consistent with the Commission's *Release of Information Policy*.

A brief listing of reasons as part of the guideline-required sentencing information in SGS Web is requested so that the Commission can meet its statutory obligation "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" (42 Pa.C.S. §2153(14)). This requirement is intended to "further the policy of accountability inherent in the Sentencing Code" *Com. v. Hoover*, 342 Pa. Super. 163, 166, 492 A.2d 443, 444 (1985).

In January 2002 the Commission launched SGS Web, a JNET-based sentencing application that allows authorized users to prepare sentencing guidelines and submit completed guideline-required sentencing information electronically using the secure JNET infrastructure. The Commission notified all courts of record in February 2004 of a requirement that SGS Web be used to report all sentences beginning in January 2005, and incorporated that requirement into the 6th Edition guidelines. By mandating the use of SGS Web to prepare and submit guideline-required sentencing information, the Commission enhances the quality and timeliness of sentencing data, advances the virtual integration of sentencing records with other criminal justice data, and substantially improves the availability of detailed sentencing information, including information on concurrent and consecutive sentences, required for the calculation of the Prior Record Score consistent with the guidelines.

The requirement for courts to use SGS Web for the preparation and submission of Guideline Sentence Forms, the development of the SGS Web application to provide accurate information on the details of the sentence for each offense of a judicial proceeding, and the ability for authorized SGS Web users to

obtain previous sentencing information for preparation of prior record scores, should substantially improve compliance with and implementation of this policy.

In addition, the offender's 'crime-free' status for the juvenile lapsing provision is calculated by SGS Web based on information entered on the PRS screen.

§303.1(f) STATE IDENTIFICATION NUMBER REPORTING REQUIREMENT

GUIDELINE TEXT:

§303.1(f). Effective January 1, 2014, the State Identification Number (SID) for an offender shall be included as part of the record in the completed Guideline Sentence Form.

PRIOR GUIDELINES:

This is a new requirement in the 7th Edition Sentencing Guidelines.

DESCRIPTION:

- The State Identification Number (SID) is a unique identifier assigned when the offender is fingerprinted.
- The SID allows for a means of tracking the offender through the criminal justice system.
- The SID is more reliable than social security number or date of birth for offender identification.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.1(e).

COMMENTARY:

The SID is a unique identifier assigned when an offender is fingerprinted. The SID allows tracking an offender from booking through conviction and sentencing, and follows any revocation or parole. As the Commission moves forward towards fulfilling the mandate of formulating parole guidelines, the SID will play an even greater role in tracking offender information.



§303.2 PROCEDURE FOR DETERMINING THE GUIDELINE SENTENCE

§303.2(a) OVERVIEW OF PROCEDURES

GUIDELINE TEXT:

§303.2(a). For each conviction offense of a judicial proceeding, the procedure for determining the guideline sentence shall be as follows:

- (1) Determine the Offense Gravity Score as described in §303.3 and §303.15.**
- (2) Determine the Prior Record Score as described in §303.4 - §303.8.**
- (3) Determine the guideline sentence recommendation as described in §303.9 - §303.14, including Deadly Weapon Enhancement and Youth/School Enhancement (§303.10), and aggravating or mitigating circumstances (§303.13).**

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.2(a)). The text of this section was amended in the 6th Edition to include reference to a judicial proceeding, a term used to describe a hearing in which all offenses for which an offender has been convicted are pending before the court for sentencing at the same time.

DESCRIPTION:

- This section specifies the procedural steps in applying the guidelines to each offense of a judicial proceeding.
- Each step in applying the guidelines is discussed in detail under the appropriate guideline section.
- Upon determination of the correct guideline sentence recommendation, the court must consider the recommendation before imposing a sentence on each conviction offense. The court may sentence an offender to one or more of the sentencing alternatives provided in 42 Pa.C.S. §9721, and may impose those alternatives either concurrently or consecutively.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.1(e).

COMMENTARY:

This section was included in order to better clarify how the guidelines should be applied, and to highlight the relationship between various aspects of the guidelines.

During the development of the 4th Edition guidelines in 1994, the Commission adopted the term ‘judicial proceeding’ to describe a hearing in which all offenses for which an offender has been convicted are pending before the court for sentencing at the same time. The judicial proceeding is used to group offenses sentenced during the same sentencing hearing into a single case for the determination of Prior Record Score and the preparation of guideline-required sentencing information using SGS Web.

During each judicial proceeding, the court should first consider the most serious of all offenses pending before it for sentencing. After the imposition of the sentence on the most serious offense, the court should then impose sentences individually on each of the remaining offenses pending before it, indicating after each sentence whether it is to be served concurrently or consecutively to the previous sentence(s).

Pursuant to Pa.R.Crim.P. Rule 705 (Imposition of Sentence), when more than one sentence is imposed, or when a sentence is imposed on an offender who is sentenced for another offense, the judge must state whether the sentences shall run concurrently or consecutively; if concurrent, the sentence shall commence from the date of imposition unless otherwise ordered by the judge. When imposing a sentence to imprisonment, the judge shall state the date the sentence is to commence. “There is simply no statutory provision which would permit a sentencing judge to either commence a second sentence retroactively, i.e., to have it commence at the same time as a prior sentence, or to provide credit for the time served on a prior unrelated charge”, *Wassell v. Com.*, 658 A.2d 466 (Pa.Cmwlth, 1995).

Relevant case law requires that consecutive sentences be automatically aggregated, even if imposed by different judges, even if imposed by different courts, and even if imposed at different times, and that, where the total aggregate sentence carries a maximum of two years or more, exclusive parole authority lies with the Pennsylvania Board of Probation and Parole, *Com. v. Miller*, 770 A.2d 362 (PA Super., 2001).

Act 81 of 2008 provided changes to the place of confinement (42 Pa.C.S. §9762) that became effective November 24, 2011. A sentence of confinement when the maximum sentence is 24 months or more is presumptively considered a state sentence and will be served in state prison. However, if the county jail is certified less than 110% of the rated capacity an offender may be housed in a county jail. Offenders sentenced to confinement for the offense of DUI and subject to the extended supervision of the court provision in Chapter 38 of the DUI Statute may serve their sentences in county jails. Additionally, a provision was added addressing aggregation (42 Pa.C.S. 9762(g)) for the purpose of determining the place of confinement. This provision is as follows; “For the purposes of this section, the sentences or terms of incarceration shall mean the entire continuous term of incarceration to which a person is subject, notwithstanding whether the sentence is the result of any of the following: (1) One or more sentences, (2) Sentences imposed for violations of probation or intermediate punishment, (3) Sentences to be served upon recommitment for violations of parole, (4) Any other manner of sentence.

§303.2(b) JUDICIAL PROCEEDING

GUIDELINE TEXT:

§303.2(b). Judicial proceeding. A judicial proceeding is a proceeding in which all offenses for which the offender has been convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple offenses and transactions.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines. This provides for the grouping of offenses by 'judicial proceeding' in order to determine the prior record score and prepare guideline-related sentencing information via SGS Web.

DESCRIPTION:

- This section defines the term 'judicial proceeding' as a hearing in which all offenses for which an offender has been convicted are pending before the court for sentencing at the same time, even if previous convictions occurred on different dates or before different judges.
- The judicial proceeding is used to group offenses sentenced during the same proceeding into a single case for the determination of prior record score. The most serious offense of each judicial proceeding, and any other offense for which a sentence of supervision or confinement is imposed consecutive to another offense in the judicial proceeding, is included in the calculation of the prior record score.
- The judicial proceeding is used to group offenses sentenced during the same proceeding into a single case for preparation of guideline-required sentencing information via SGS Web.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.1(e).

COMMENTARY:

During the development of the 4th Edition guidelines in 1994, the Commission adopted the term 'judicial proceeding' to describe a hearing in which all offenses for which an offender has been convicted are pending before the court for sentencing at the same time. While this term was used in describing the procedure for completing a Guideline Sentence Form, it was not defined in the text of the guidelines. The Commission added this term and definition to the text of the 6th Edition guidelines to both highlight the importance of this grouping of offenses for purposes of completing guideline-required sentencing information, and to correspond with the revised Prior Record Score policies. Under these policies, the most serious offense of each judicial proceeding is included in the calculation of the Prior Record Score. Additionally, an offense for which a sentence is imposed consecutive to another in the judicial proceeding is also included in the calculation of the Prior Record Score (see §303.5).



§303.3 OFFENSE GRAVITY SCORE - GENERAL

§303.3(a) ALL OFFENSES

GUIDELINE TEXT:

§303.3(a). An Offense Gravity Score is given for each offense. The Offense Gravity Scores are located in §303.15.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.3(a)). The listing in §303.15 has been updated to reflect any changes in Offense Gravity Score (OGS) assignments through the end of the 2011-2012 Session of the General Assembly, as well as provide a new format listing individual subsections.

DESCRIPTION:

- The Offense Gravity Score (OGS) measures the seriousness of the current conviction. It is the primary determinant of the suggested guideline sentence ranges. The OGS ranges from 1, the lowest score possible, to 14, the highest score possible.
- The sentencing guidelines apply only to misdemeanor and felony convictions. As a result, the following do not have an OGS: Murder of the First Degree, Murder of the Second Degree and summary offenses.
- An OGS is assigned to the offense for which the offender was actually convicted, not the offense charged. All scores are assigned at §303.15.
- There is a single correct OGS for each conviction offense. If an offense is not listed in §303.15, refer to the Omnibus OGS, §303.3(f). Special rules apply to Inchoate Offenses, §303.3(c), and Ethnic Intimidation, §303.3(d).
- Offense Gravity Scores are assigned by the Commission. The court has no discretion to set the OGS for a crime. However, when there is a dispute about which score the Commission has assigned to a particular offense, the court must decide which score is correct.
- Many offenses with the same name have different Offense Gravity Scores depending on the statutory grade of the conviction or on particular facts related to the crime (see Subcategorized Offenses §303.3(b)). In order to assign the correct score to these offenses, it is necessary to know specifically the grade of the offense and certain facts related to it.
- Offenses that require registration under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders) are listed in §303.15, and the OGS assignment is a minimum of one point greater than the Omnibus OGS, §303.3(f).

GUIDELINE FORM/SGS WEB APPLICATION:

- Offense Module. Gather current offense information, including a complete citation of the offense of plea or conviction, the grade of the offense, the date of the offense, the docket/count number and offense-specific details (e.g., object offense if conviction offense is an inchoate; type and amount of

controlled substance if conviction offense is a drug offense; amount of loss if conviction offense is a property offense).

- Determine the correct OGS as provided in §303.3 and §303.15.
- From the Offense Module, enter the date of the offense, whether it was an inchoate or completed offense, and choose whether it was a controlled substance offense, a DUI offense, or a non-controlled substance offense. Choose whether to search by statutory citation or description, enter all appropriate information, and click 'Find.'
- From the returned list of offenses, choose one by clicking on the underlined description that reflects the conviction offense and enter outstanding offense information, including: docket number (if different from the number entered when creating the judicial proceeding); count number (based on county preference for tracking offenses); offense tracking number (OTN - this is a required field); and victim age, if known and applicable. Violations of the Controlled Substance, Drug, Device and Cosmetic Act require information on the type and quantity of the drug involved.
- Choose any applicable mandatory minimum provision. For mandatory provisions requiring prosecutorial notice, the mandatory should only be selected if notice has been given, and should be removed if notice has been withdrawn.
- Choose any applicable enhancement. The enhancement provision must be selected if the court has determined that the specific sentencing factor related to the enhancement (e.g., deadly weapon possessed, deadly weapon used, drugs to minor or in school zone) was present during the commission of the crime.
- Repeat process for each offense. After all conviction offenses are entered, click 'Module Complete' button.

COMMENTARY:

Statute requires that the guidelines: "Specify the range of sentences applicable to crimes of a given degree of gravity." (42 Pa.C.S. §2154(a)(1)).

The Commission decided that the gravity of the current offense should be the primary determinant of the guideline sentence ranges. Discussions with legislators, judges, and others, confirmed that this view was nearly universal. Analysis of sentencing patterns in Pennsylvania reveals that the courts have traditionally given more weight to the seriousness of the current conviction offense than to such factors as prior record, social status of the offender or the victim, or predictions about the offender's future conduct or need for treatment.

The OGS is based on the legal offense for which the offender has actually been convicted. This decision was based on principles of fairness to the offender and concern about the legality of guidelines if they were based primarily on "real offense behavior." There are some offenses, listed in §303.3(b) and discussed below, in which additional, specified features of the crime that are associated with dangerousness or with injury to the victim play a role in determining the OGS. These features include such things as whether the victim suffered serious bodily injury or the actual dollar amount of stolen property.

Act 319 of 1978 spoke of "crimes of a given degree of gravity" rather than crimes of the same statutory grade or classification (42 Pa.C.S. §2154(a)(1)). The Commission decided that more than the six statutory grades (F1, 2, 3; misdemeanor 1, 2, 3) were necessary to distinguish reasonably among offenses. In the 1994 revisions the Commission chose to include all offenses on one thirteen-category numeric scale. This was done to ensure proportionality in the sentence recommendations for all

offenses. This scale was expanded in 1997 to include OGS 14 for offenses with a 40-year statutory maximum. OGS 14 was modified under the 6th Edition guidelines to take into account those offenses with a statutory maximum of life.

Most of the scores are based on the statutory classification of the offense in addition to the level of harm involved in the offense. Not all offenses of the same statutory classification are assigned the same OGS. Assigning offenses an OGS by statutory classification, when rigidly applied, resulted in inequitable scores being assigned to some offenses. This occurred, not because the statutory grade of the crime was too low or too high, but rather because when the General Assembly assigned the statutory grade, it was assigning the maximum penalty. The legislature had to grade the crime based on the most serious possible instance of the offense. The Commission, on the other hand, had to assign a score to the crime based on the seriousness of the average, typical instance of the offense. In addition, the statutory classifications were the same for some offenses which are generally thought to be of different seriousness levels. For example, both Robbery inflicting serious bodily injury and Robbery threatening injury are F1s. Finally, some statutory definitions are necessarily broad and give all forms of the crime the same classification. Greater specificity is desirable for purposes of imposing sentence.

While rejecting the exclusive use of statutory classifications as the measure of the gravity of the offense, the Commission nevertheless consciously balanced the need to adhere as closely as possible to the General Assembly's statutory grades with the need to differentiate crimes as much as was practical and necessary in the guidelines. The Commission therefore took the initial, statutory grade-based scores, examined each crime carefully, and modified the score based on the following factors: the physical injury or potential physical injury to the victim; the harm or potential harm to the victim and to the community; the culpability of the offender; and the proportionality of the score assigned to this offense when compared to the scores of other offenses.

The Commission also chose to specifically assign an OGS to all of the Crimes Code offenses and most other offenses from other codes that the Commission receives information on regularly. The guidelines still contain Omnibus Offense Gravity Scores, based upon the grading of the offense, that are to be used when the Commission has not specifically ranked an offense.

To provide some consistency between the 'Three Strikes' legislation and the guideline recommendations, the Commission continues to include the offenses designated as completed "crimes of violence" under the 'Three Strikes' legislation in the upper tier of the guidelines (OGS 9 - OGS 14), thereby recommending state incarceration in all cases. Three additional crimes of violence were added to this tier as part of the 6th Edition guidelines: Sexual Assault, Aggravated Indecent Assault, and Incest.

Under the 7th Edition, additional crimes of violence offenses have been added: Manslaughter of a Law Enforcement Officer, Murder of the Third Degree Involving an Unborn Child, Aggravated Assault of an Unborn Child, Assault of a Law Enforcement Officer, Use of Weapons of Mass Destruction, Terrorism, Trafficking of Persons when the offense is graded as a F1, and Ecoterrorism. In addition, as part of the 7th Edition Sentencing Guidelines, the Commission assigned offenses that fall under Act 111 of 2011 (Adam Walsh Act), an OGS of one point greater than the Omnibus OGS.

In preparing the 7th Edition guidelines, the Commission conducted a comprehensive review of the previous OGS assignments as well as recently enacted legislation. During the four years since the promulgation of the 6th Edition, Revised Guidelines, the General Assembly enacted, amended or repealed numerous statutes that impact on the sentencing guidelines.



§303.3(b) SUBCATEGORIZED OFFENSES

GUIDELINE TEXT:

§303.3(b). Subcategorized offenses. Certain offenses are subcategorized and scored by the Commission according to the particular circumstances of the offense. The court determines which Offense Gravity Score, located in §303.15, applies. These offenses are designated by an asterisk [*].

PRIOR GUIDELINES:

An identical provision was included in previous guidelines(§303.3(b)). An updated listing of the subcategorized offenses was included in the 6th Edition guidelines description.

The text of this section was amended in the 6th Edition, Revised guidelines to include additional subcategorized offenses, specifically 18 Pa.C.S. §2901, 18 Pa.C.S. §3301(a) with an OGS of 8, 18 Pa.C.S. §5903(a)(3)(4)(5), and 18 Pa.C.S. §6105 (a.1)(1)(2)(3)(5).

An updated listing of the subcategorized offenses is included below in the descriptive section.

DESCRIPTION:

- The OGS for most offenses can be found in the Offense Listing at §303.15. For offenses with multiple grades, multiple OGS assignments may apply. Offenses further subcategorized by the Commission are identified with an asterisk in the Offense Listing. (See §303.15)
- Certain offenses are subcategorized by the Commission beyond statute, based on certain factors determined by the court (by a preponderance of the evidence). For these offenses, in order to identify the correct OGS, certain facts about the offense must be known, in addition to the citation and name of the crime and its statutory grade. These subcategorized offenses are listed below:
- Involuntary Manslaughter (18 Pa.C.S. §2504) is subcategorized on the basis of whether or not there is a conviction for Driving Under the Influence (DUI) (75 Pa.C.S. §3802) or Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance (BUI) (30 Pa.C.S. §5502) arising from the same incident (OGS=6, 8).
- Aggravated Assault of an Unborn Child (18 Pa.C.S. §2606) is subcategorized on the basis of whether the offender attempted or caused serious bodily injury. Aggravated Assault of an Unborn Child includes attempts within the statutory definition; as a result, the subcategorized OGS assignment for attempt is the same as that for an inchoate (OGS=10, 11).
- Aggravated Assault (18 Pa.C.S. §2702(a)(1) and(2), a F1) is subcategorized on the basis of whether the offender attempted or caused serious bodily injury. Aggravated Assault includes attempts within the statutory definition; as a result the subcategorized OGS assignment for attempt is the same as that for an inchoate (OGS=10, 11).
- Kidnapping (18 Pa.C.S. §2901) is subcategorized on the basis of whether the victim is younger than age 14 or age 14 to less than age 18 (OGS=10).
- Arson Endangering Persons (18 Pa.C.S. §3301(a)) is subcategorized on the basis of whether a person other than the actor was inside the building or occupied structure when the fire was started, or bodily injury resulted, either directly or indirectly, at the scene of the fire (OGS=9, 10).

- Robbery of a Motor Vehicle (18 Pa.C.S. §3702) is subcategorized based upon whether or not the offender inflicted serious bodily injury upon the victim (OGS=9, 12).
- Theft Offenses (18 Pa.C.S. §3921 through §3927 and §3932), when a Felony 3, has been subcategorized based upon the dollar amount involved in the offense:

>\$100,000	OGS = 8
>\$50,000 - \$100,000	OGS = 7
>\$25,000 - \$50,000	OGS = 6
>\$2,000 - \$25,000	OGS = 5
- Escape (18 Pa. C.S. §5121), when a Felony 3, is subcategorized based upon the type of facility from which the offender escaped (OGS=5, 6).
- Prostitution (18 Pa. C.S. §5902(b.1)(1)(2)(3)(4)(5)(6)(7)(8)), when Felony 3, is subcategorized based on a minor less than age 16, or minor age 16 to less than age 18 (OGS=6, 8), to reflect Megan's Law registration provisions (42 Pa.C.S. §9799.14).
- Firearms Offenses (18 Pa.C.S. §6105, §6106, §6108, and §6110.2 only) are subcategorized by the Commission based upon whether the firearm was loaded or the ammunition was in possession or control of the offender, compared to when the firearm was unloaded and the ammunition was not in possession or control of the offender, as noted below:

§6105(a.1)(1)	Person Not to Possess, etc.	F2	OGS = 9, 10
§6105(a.1)(2)	Person Not to Possess, etc.	M1	OGS = 4, 5
§6105(a.1)(3)	Person Not to Possess, etc.	M3	OGS = 1, 2
§6105(a.1)(5)	Person Not to Possess, etc.	M1	OGS = 5, 6
§6106(a)(1)	Firearms Not to be Carried	F3	OGS = 7, 9
§6106(a)(2)	Firearms Not to be Carried	F3	OGS = 7, 9
§6106(a)(2)	Firearms Not to be Carried	M1	OGS = 3, 4
§6108	Carrying Firearms, Philadelphia	M1	OGS = 4, 5
§6110.2	Possession of Firearms, Altered #	F2	OGS = 9, 10
- Sexual Abuse of Children (18 Pa.C.S. §6312(c)(d)), when a Felony 3, is subcategorized on the basis of the age of the victim (younger than age 13 and age 13 to less than age 18) (OGS=6, 7) to reflect Adam Walsh Act provisions (42 Pa.C.S. §9799.14).
- Sexual Abuse of Children (18 Pa.C.S. §6312(b)(c)(d)), when a Felony 2, is subcategorized on the basis of the age of the victim (younger than age 13, and age 13 to less than age 18) (OGS=8, 9) to reflect Adam Walsh Act provisions (42 Pa.C.S. §9799.14).
- Violations of the Controlled Substance, Drug, Device and Cosmetic Act (when 35 P.S. §780-113(a)(12), (a)(14), and (a)(30)) are subcategorized based on the type and amount of drug involved in the offense. See §303.3(c) for more information on OGS assignments for drug offenses, and §303.15 for a complete offense listing including all subcategorizations.
- Homicide by Vehicle (75 Pa.C.S. §3732) is subcategorized on the basis of whether or not there is a conviction for Driving Under the Influence (DUI) (75 Pa.C.S. §3802) arising from the same incident, and whether or not the offense occurred in an active work zone, or there is a violation of duty of driver on approach of emergency vehicle or in emergency response area (75 Pa.C.S. §3325, §3327):

Homicide by Vehicle	OGS = 6
Homicide by Vehicle, with conviction for DUI	OGS = 8
Homicide by Vehicle, that occurs in active work zone	OGS = 8
Homicide by Vehicle, with conviction for DUI and occurs in active work zone	OGS = 10

Homicide by Vehicle, with violation of §3325 or §3327	OGS = 8
Homicide by Vehicle, with conviction for DUI and violation of §3325 or §3327	OGS = 10

- Aggravated Assault by Vehicle (75 Pa.C.S. §3732.1) is subcategorized on the basis of whether or not there is a conviction for Driving Under the Influence (DUI) (75 Pa.C.S. §3802) arising from the same incident, and whether or not the offense occurred in an active work zone, or there is a violation of duty of driver on approach of emergency vehicle or in emergency response area (75 Pa C.S. §3325, §3327):

Aggravated Assault by Vehicle	OGS = 5
Aggravated Assault by Vehicle, with conviction for DUI	OGS = 7
Aggravated Assault by Vehicle, occurs in active work zone	OGS = 7
Aggravated Assault by Vehicle, with violation of §3325 or §3327	OGS = 7
Aggravated Assault by Vehicle, with violation of §3325 or §3327	OGS = 9
Aggravated Assault by Vehicle, with conviction for DUI and violation of §3325 or §3327	OGS = 9

- Accidents Involving Death or Personal Injury While Not Properly Licensed (75 Pa.C.S. §3742.1(a)), when a Felony 3, is subcategorized on the basis of whether the accident resulted in serious bodily injury or death (OGS=5, 6).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.3(a).

COMMENTARY:

The statutory definitions of some crimes are very broad and prohibit behaviors of very different levels of seriousness. It, therefore, would have been unfair to assign a single OGS to all instances of such crimes. These offenses are subcategorized on the basis of objective aspects of the crime which are related to the seriousness of the crime, the potential for injury to the victim, or the culpability of the offender. The criteria on which the crime is subcategorized are easily discoverable in every instance of the offense.

Kidnapping (18 Pa.C.S. §2901) is subcategorized on the basis of whether the victim is younger than age 14, or age 14 to less than age 18.

The Arson Endangering Persons (18 Pa.C.S. §3301(a)) offense subcategorization is intended to differentiate between when a person other than the actor was inside the building or structure when the fire was started. Additionally, it distinguishes between offenses that cause bodily injury and those that do not.

The Commission received a specific mandate to provide for a sentencing enhancement for Robbery of a Motor Vehicle (18 Pa.C.S. §3702). The Commission addressed this mandate by subcategorizing the offense based upon whether or not the offender inflicted serious bodily injury upon the victim.

The subcategorization of Escape (18 Pa.C.S. §5121) was intended to distinguish between escapes which involve violence or a high potential for violence, from escapes which are simply "walk-offs" or failures to return from furlough. This subcategorization, implemented in 1986, was made after examination of the high rate of departures below the guidelines for this offense.

The firearms offenses (18 Pa. C.S. §6105(a.1)(1)(2)(3)(5), §6106(a)(1)(2), §6108, §6110.2) are subcategorized to differentiate between defendants whose illegal weapon possession had the immediate potential of danger, and defendants whose illegal weapon possession had no potential of immediate danger. For this reason, the Commission has subcategorized under this section based upon

whether the firearm was loaded or the ammunition is in possession or control of the offender, compared to when the firearm is unloaded and the ammunition is not in possession or control of the offender. In addition, 18 Pa.C.S. §6105(a.1)(1) requires the offender to be previously convicted of an enumerated felony. The enumerated felony offenses are found in 18 Pa.C.S. §6105(b).

In previous editions, the primary drug felony offenses were subcategorized based upon the type and amount of drug involved in the offense. For most narcotics of Schedule I and II, cocaine, PCP, and methamphetamine, there were six rankings of the offenses ranging from delivery of less than 2.5 grams to greater than 1,000 grams. In 1997, a lower threshold of less than 1 gram was established for heroin to take into account its greater impact relative to its weight. The Commission specifically rejected a proposal that the lower threshold for cocaine be increased to less than 5 grams. Marijuana had five categories, including a new category of greater than 1,000 pounds, based upon either the weight of the drug or the number of plants involved in the offense.

In the 7th Edition, the primary drug felony offenses continue to be subcategorized based upon the type and amount of drug involved in the offense. There are six rankings for heroin and other narcotics of Schedule I and II, less than 1 gram to greater than 1,000 grams, or 1 pill to greater than 1000 pills. When both the number of pills and weight are known, the higher OGS assignment applies. The drug MDMA, methamphetamine, and PCP also have six rankings of Offense Gravity Scores ranging from less than 2.5 grams to greater than 1,000 grams. Pill amounts have been removed from this group in the 7th Edition. Also, in the 7th Edition, the quantities for cocaine were changed to realign with the amounts found in drug trafficking and sentencing penalties (18 Pa.C.S. §7508) and include a new weight assignment of less than 2 grams with an OGS of 5.

The Commission was required, pursuant to Act 2002-229, to provide a sentencing enhancement for the offense of Homicide by Vehicle when the violation occurs in an active work zone. The Commission decided to expand the previous enhancement related to Homicide by Vehicle and DUI to create four categories: Homicide by Vehicle; Homicide by Vehicle with conviction for DUI; Homicide by Vehicle that occurs in active work zone; and Homicide by Vehicle with conviction for DUI and occurs in active work zone.

In the 6th Edition, Revised, the Commission again enhanced Homicide by Vehicle, pursuant to Act 2010-81. Two more categories were created: 1) Homicide by Vehicle when there is a violation of duty of driver on approach of emergency vehicle or in emergency response area (75 Pa.C.S. §3325, §3327); and 2) Homicide by Vehicle with conviction for DUI and there is a violation of duty of driver on approach of emergency vehicle or in emergency response area.

The subcategorization of Burglary offenses was removed in the 7th Edition, as a result of Act 2012-122, which applied the same language used by the Commission to the burglary statute.

§303.3(c) INCHOATE OFFENSES

GUIDELINE TEXT:

§303.3(c). Inchoate offenses. Inchoate offenses are scored as follows:

- (1) Convictions for attempt, solicitation, or conspiracy to commit a Felony 1 offense receive an Offense Gravity Score of one point less than the offense attempted, solicited, or which was the object of the conspiracy.**
- (2) Convictions for attempt, solicitation, or conspiracy to commit any offense which is not a Felony 1 offense, receive the Offense Gravity Score of the offense attempted, solicited, or which was the object of the conspiracy.**
- (3) Convictions for attempt, solicitation, or conspiracy to commit any offense under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §780-101 -- §780-144) receive the Offense Gravity Score of the offense attempted, solicited, or which was the object of the conspiracy.**
- (4) Exception for inchoate murder convictions. Convictions for attempt, solicitation, or conspiracy to commit murder receive the Offense Gravity Score of 14 if there is serious bodily injury and 13 if there is no serious bodily injury.**

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.3(c)).

DESCRIPTION:

- This section assigns the Offense Gravity Scores for inchoate offenses. In order to determine the OGS for an attempt, conspiracy, or solicitation offense, it is necessary to know which offense was attempted, conspired to or solicited in order to determine the correct OGS assignment.
- The OGS for attempt, conspiracy, or solicitation to commit any F1 offense is one point less than the object offense, unless otherwise provided.
- The OGS for attempt, conspiracy, or solicitation to commit any other offense receives the same OGS as the completed offense.
- The OGS for attempt, conspiracy, or solicitation to commit any Drug Act offense receives the same OGS as the completed offense.
- The OGS assigned to an inchoate to an F1 is one point less than the OGS of the object offense.
- An inchoate to Murder, Murder of a Law Enforcement Officer, Murder of an Unborn Child, or Assault by Life Prisoner, is assigned an OGS based on whether serious bodily injury occurred (OGS 13, 14). The statutory maximum for these offenses when resulting in serious bodily injury is 40 years (20 year statutory limit).
- Aggravated Assault of an Unborn Child (18 Pa.C.S. §2606, F1) includes attempt to cause serious bodily injury in the statutory definition. The Commission subcategorized this offense consistent with inchoate OGS and PRS policies. As a result, Aggravated Assault of an Unborn Child causing serious bodily injury is assigned an OGS 11 and four prior record points; attempt to cause serious bodily injury, or any other inchoate to Aggravated Assault of an Unborn Child, is assigned an OGS 10 and three prior record points.

- Aggravated Assault (18 Pa.C.S. §2702(a)(1) and (2), F1) includes attempt to cause serious bodily injury in the statutory definition. The Commission subcategorized this offense consistent with inchoate OGS and PRS policies. As a result, Aggravated Assault causing serious bodily injury is assigned an OGS 11 and four prior record points; attempt to cause serious bodily injury, or any other inchoate to F1 Aggravated Assault, is assigned an OGS 10 and three prior record points.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.3(a).

COMMENTARY:

This section assigns the Offense Gravity Scores to inchoate or unfinished crimes. Act 1995-3 (SS1) increased the grade of any attempt, solicitation or conspiracy to an F1 offense to an F1. Previously, these inchoates to F1 offenses were F2 offenses. As a result, with the exception of inchoates to Murder, all inchoates to felonies and misdemeanors are assigned the same grade and maximum penalty as the completed object offense. During the Special Session on Crime, the General Assembly also increased the statutory maximum for inchoate to Murder to 40 years if the victim suffered serious bodily injury.

Notwithstanding these changes, the Commission decided to retain the previous distinction which assigned a lower OGS to attempts, solicitations, or conspiracies to F1 offenses, due to the inherent seriousness of a completed F1 offense that may not be present in an inchoate. Inchoates to Murder are assigned specific Offense Gravity Scores based on whether serious bodily injury occurred. Inchoate offenses for convictions of the Controlled Substance, Drug, Device and Cosmetic Act receive the same OGS as the object offense.

§303.3(d) ETHNIC INTIMIDATION OFFENSES

GUIDELINE TEXT:

§303.3(d). Ethnic Intimidation. Convictions for Ethnic Intimidation (18 Pa. C.S. §2710) receive an Offense Gravity Score that is one point higher than the offense which was the object of the Ethnic Intimidation. When the object offense is Murder of the third degree, a conviction for Ethnic Intimidation receives the highest Offense Gravity Score.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.3(d)).

DESCRIPTION:

- This section assigns an OGS to convictions for Ethnic Intimidation that is one point higher than the object offense.
- By statute (18 Pa.C.S. §2710 (a)) "a person commits the offense of ethnic intimidation if, with malicious intention toward the actual or perceived race, color, religion, national origin, ancestry, mental or physical disability, sexual orientation, gender or gender identity of another individual or group of individuals, he commits an offense under any other provision of this article (Article B) or under Chapter 33 (relating to arson, criminal mischief and other property destruction) exclusive of section 3307 (relating to institutional vandalism) or under section 3503 (relating to criminal trespass) with respect to such individual or his or her property or with respect to one or more members of such group to their property."
- The offender must be convicted of one of the offenses in the sections listed above in order to also be convicted of Ethnic Intimidation. Conviction for Ethnic Intimidation necessarily requires conviction for one of the underlying offenses listed.
- Grading of Ethnic Intimidation is based upon the statutory classification of the offense that involved the Ethnic Intimidation. By statute, (18 Pa.C.S. §2710 (b)) "an offense under this section (Ethnic Intimidation) shall be classified as a misdemeanor of the third degree if the other offense is classified as a summary offense. Otherwise, an offense under this section (Ethnic Intimidation) shall be classified one degree higher in the classification specified in section 106 (relating to classes of offenses) than the classification of the other offense."
- It is necessary to know what offense was involved in the Ethnic Intimidation in order to determine the OGS for the Ethnic Intimidation.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.3(a).

COMMENTARY:

The Commission specifically assigns Ethnic Intimidation an OGS that is one point higher than the OGS for the object offense. This was done to ensure that convictions of Ethnic Intimidation are assigned an OGS that reflects the increased culpability of the offender and the increased seriousness of the victimization.



§303.3(e) VIOLATIONS OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT (35 P.S. §§780-101 – 780-144) (DRUG OFFENSES)

GUIDELINE TEXT:

§303.3(e). Violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§780-101 -- 780-144). If any mixture or compound contains any detectable amount of a controlled substance, the entire amount of the mixture or compound shall be deemed to be composed of the controlled substance. If a mixture or compound contains a detectable amount of more than one controlled substance, the mixture or compound shall be deemed to be composed entirely of the controlled substance which has the highest Offense Gravity Score.

(1) Exception for prescription pills. For violations of 35 P.S. §780-113 (a)(12), (a)(14), and (a)(30) involving narcotic prescription pills of Schedule II, when both the weight and the number of pills are known, the higher Offense Gravity Score assignment applies. (See §303.15.)

PRIOR GUIDELINES:

A similar provision was included in the 6th Edition guidelines. The text of this section was amended to limit the exception for prescription pills to narcotic prescription pills of Schedule II, while at the same time expanding this exception to 35 P.S. §780-113(a)(12), (a)(14) and (a)(30).

DESCRIPTION:

- When the current conviction is for a violation of 35 P.S. §§780-113(a)(12), (a)(14), or (a)(30), and the drug is a narcotic of Schedules I or II, PCP (phencyclidine), cocaine, methamphetamine, or marijuana, the guideline ranges are dependent upon the quantity of the drug involved. This subsection indicates how to determine the OGS when the offense involves more than one substance.
- To measure the quantity of the drug, the entire mixture is weighed, including any substance in which the drug is mixed or with which it is combined.
- When more than one illegal substance is contained within a mixture or compound, the OGS is assigned based upon the controlled substance that has the highest OGS.
- Violations of 35 P.S. §780-113(a)(12), (a)(14), and (a)(30) are subcategorized based on the type and amount of drug involved in the offense.
- When the current conviction is for a violation of 35 P.S. §780-113(a)(12) (relating to fraudulent prescriptions), (a)(14) (relating to delivery by a practitioner), or (a)(30) (relating to possession with intent to deliver, etc.) and the offense involves narcotic prescription pills of Schedule II, the OGS is based upon either the number of pills or the total weight. When both the number of pills and weight are known, the higher OGS assignment applies.
- When the current conviction is for a violation of 35 P.S. §780-113(a)(16) (relating to Simple Possession), the type and quantity of the drug involved are not relevant. The Simple Possession offense has an OGS of 3.
- Mandatory minimum sentencing provisions or sentencing guideline enhancements may apply to convictions under this section. See §303.9(h) for information on Mandatory Sentences and §303.10 for information on Enhancements.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.3(a).

COMMENTARY:

In 1988, specific Offense Gravity Scores were assigned to drug offenses based on the legal penalties assigned to these offenses, the proposals of various guideline critics and proponents, and the harmfulness of the particular drug or schedule of drugs. Narcotics of Schedules I and II, methamphetamine, cocaine, phencyclidine, and marijuana were specifically assigned Offense Gravity Scores. This was modeled on the distinction of these offenses in the statute assigning maximum penalties (35 P.S. §780-113(f)). All other drugs were grouped according to drug schedule, or according to maximum penalty. Again, this followed the statutory framework. The Offense Gravity Scores for violations of the Controlled Substance, Drug, Device and Cosmetic Act 35 P.S. §780-113 sections (a)(12) (relating to Fraudulent Prescriptions), (a)(14) (relating to Delivery by a Practitioner), and (a)(30) (relating to Possession with Intent to Deliver) are determined by the type and weight of the drug involved in the offense. This section requires that the total weight of any mixture be used in determining the OGS. The total weight includes both the weight of the controlled substance and the weight of any compound with which the substance is mixed.

In 1994, the Commission adopted a prescription pill exception for convictions under (a)(12) (relating to Fraudulent Prescriptions), in which the number of prescription pills, rather than the weight of the substance, would be used to subcategorize the OGS. The Commission chose to limit this exception to (a)(12) since it was considered less serious than (a)(14), which represented a breach of authority or trust, or (a)(30) which involved manufacture, delivery and possession with intent to deliver.

In 1997, the Commission decided to limit the prescription pill exception to Schedule II drugs. The original exception policy covered all drug schedules. It was intended to counter the overrepresentation of the weight of a small amount of controlled substance in a prescription pill due to the density of the pill. However, for drugs of Schedules III, IV, and V, the result ran counter to the policy. In addition to restricting the policy to Schedule II, the pill categories were realigned to correspond more closely with the weight categories for other drugs.

In 2005, the Commission further limited the prescription pill exception to narcotics of Schedule II, since application of the exception to non-narcotic pills of Schedule II, much like the earlier application of this exception to drugs of Schedule III, IV, and V, resulted in an unintentional increase in the sentence recommendation counter to the intent of the policy. As a result of this change, non-narcotic pills of Schedule II not otherwise listed in the guidelines were assigned an OGS 5. At the same time the Commission narrowed this exception to narcotic pills of Schedule II, it expanded the application to include violations of 35 P.S. §780-113 (a)(14) and (a)(30). This change was intended to address the increase in convictions and sentences for violations of these sections involving narcotic prescription pills, including but not limited to oxycodone, oxyContin and percocet.

In the 7th Edition, the Commission removed the pill amounts from MDMA, methamphetamine, and PCP; however, pill amounts were included for other narcotics of Schedule I and II. When both the number of pills and weight are known, the higher OGS assignment applies. The quantities for cocaine were changed to realign with the amounts in drug trafficking and sentencing penalties (18 Pa.C.S. §7508) and include a new weight quantity of less than 2 grams.

§303.3(f) OMNIBUS OFFENSE GRAVITY SCORES

GUIDELINE TEXT:

§303.3(f). Omnibus Offense Gravity Scores. The Omnibus Offense Gravity Score is applied when the offense is not otherwise listed in §303.15, or when the grade of an offense listed in §303.15 has changed, unless application of this section would result in a lower Offense Gravity Score for an increased grading of the offense. Where the definition of the crime is changed, but the grade or statutory maximum sentence is not changed, the previously assigned Offense Gravity Score still applies. The Omnibus Offense Gravity Scores are provided below and in the listing at §303.15:

Felony 1	8
Felony 2	7
Felony 3	5
Felonies not subclassified by the General Assembly	5
Misdemeanor 1	3
Misdemeanor 2	2
Misdemeanor 3	1
Misdemeanors not subclassified by the General Assembly	1

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.3(f)).

DESCRIPTION:

- This section is used to score any crime which has not yet been assigned a specific OGS in §303.15.
- It is always necessary to check §303.15 before using the Omnibus scores in this section. Do not assume that all crimes of the same grade receive the same OGS.
- Most offenses are now specifically scored in §303.15. Thus, only on rare occasions will it be necessary to use the Omnibus scores of this section.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.3(a).

COMMENTARY:

In order to simplify the procedure for determining the correct OGS, the Commission chose to specifically assign Offense Gravity Scores to most offenses. Specifically included in §303.15 are Offense Gravity Scores for most Crimes Code offenses, Drug Act offenses, select vehicle offenses, chop shop offenses, child abuse reporting offenses, boats and boating offenses, judicial code offenses, and select environmental offenses. The Omnibus Offense Gravity Scores of §303.3(f) were retained to apply to any offense not listed in §303.15. The Omnibus Offense Gravity Scores should be utilized for offenses which are not otherwise assigned an OGS, or when the General Assembly creates a new crime or changes the grade of an offense. However, where the definition of the crime is changed, but the grade or statutory maximum sentence is not changed, the previously assigned OGS still applies.



During the 1995 Special Session on Crime, the General Assembly increased the statutory grading of some offenses (e.g., Attempted Murder was changed from a F2 to a F1) which resulted in a lower recommendation based upon the Omnibus OGS. To address this type of problem, the Commission adopted a change to the Omnibus policy to ensure that when the statutory grading for an offense is raised, the OGS will not be reduced.

In the 7th Edition, language was added to further clarify where the definition of the crime changed, but the grade or statutory maximum sentence is not changed, the previously assigned OGS still applies.

§303.4 PRIOR RECORD SCORE - CATEGORIES

§303.4(a) GENERAL CATEGORIES

GUIDELINE TEXT:

§303.4(a). Prior Record Score categories. Determination of the correct Prior Record Score category under this section is based on the type and number of prior convictions (§303.5) and prior juvenile adjudications (§303.6). There are eight Prior Record Score categories: Repeat Violent Offender (REVOC), Repeat Felony 1 and Felony 2 Offender (RFEL), and point-based categories of 0, 1, 2, 3, 4 and 5.

- (1) Repeat Violent Offender Category (REVOC).** Offenders who have two or more previous convictions or adjudications for four point offenses (§303.7(a)(1) and §303.15) and whose current conviction carries an Offense Gravity Score of 9 or higher shall be classified in the Repeat Violent Offender Category.
- (2) Repeat Felony 1 and Felony 2 Offender Category (RFEL).** Offenders who have previous convictions or adjudications for Felony 1 and/or Felony 2 offenses which total 6 or more in the prior record, and who do not fall within the Repeat Violent Offender Category, shall be classified in the repeat Felony 1 and Felony 2 Offender Category.
- (3) Point-based Categories (0-5).** Offenders who do not fall into the REVOC or RFEL categories shall be classified in a Point-based Category. The Prior Record Score shall be the sum of the points accrued based on previous convictions or adjudications, up to a maximum of five points.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.4(a)).

DESCRIPTION:

- The Prior Record Score (PRS) must be computed in all cases. Some previous editions of the guidelines did not require the calculation of a PRS for Driving Under the Influence of Alcohol or Controlled Substance, or Homicide by Vehicle While Driving Under the Influence. The 6th Edition guidelines and forward incorporate these offenses into the guidelines, and thus the PRS is calculated for these offenses the same as all other offenses.
- The PRS reflects both the number and the severity of prior convictions and some juvenile adjudications of delinquency.
- The PRS is not a separate punishment, but rather a reflection of the seriousness of previous offenses.
- The Repeat Violent Offender Category (REVOC) includes the most heinous, repeat, violent offenders. The REVOC category applies when at least two of the prior convictions and/or adjudications are for offenses that are assigned four points in the PRS, and when the current offense of conviction is a serious or violent offense. The Commission has defined such serious or violent offenses as those assigned an OGS of 9 or greater. Consistent with this, completed 'crimes of violence' have been assigned an OGS of 9 or greater.

- The minimum sentence recommendation for offenders in the REVOC category is the statutory limit. In most cases, convictions to which REVOC may be applied are F1 offenses, with a statutory limit of 120 months. In any case in which the REVOC sentence recommendation exceeds the statutory limit for the conviction offense, the statutory limit is the minimum sentence recommendation for that offense.
- The Repeat Felony 1/Felony 2 Offender Category (RFEL) includes serious repeat felony offenders who have previous convictions and/or adjudications for F1 and F2 offenses that total 6 points or more and who are not classified in the REVOC category.
- Prior convictions and adjudications for any drug offenses, F3 offenses and Misdemeanor offenses are not included in the RFEL category.
- The Point-based Categories are used for all other offenders. The PRS total can vary between 0 and 5, with 5 reflecting the most serious prior record. When the points scored under this section exceed 5, the PRS is 5.

GUIDELINE FORM/SGS WEB APPLICATION:

- Prior Record Module. Gather all possible prior record information, including a detailed record of all prior juvenile adjudications and adult convictions, with the date(s) on which they occurred, the dates of adjudication or conviction, and the sentence imposed, as well as whether the sentence was imposed concurrently or consecutively to any other sentence.
- Identify the applicable prior adjudications or convictions to be used in determining the PRS as provided in §303.5, and based on the date of the current offense and the offender's age at the time of the current offense, pursuant to §303.6 and §303.8. The age of the offender is calculated by SGS Web based on the date of birth and the date of the offense.
- Since the PRS is calculated for and applied to each conviction offense, when two offenses are sentenced on the same date but the offenses were committed on different dates, the PRS may change. This is possible if the offender's age at the time of each offense is different based on the date of the offense.
- For 5th, 6th, 6th Revised, and 7th Edition guidelines, enter all applicable prior convictions in the Prior Record Score worksheet of SGS Web in the categories and spaces provided. SGS Web assigns prior record points automatically based on §303.7 and determines potential Prior Record Scores. If the judicial proceeding also includes offenses which are to be imposed under the 5th Edition guidelines, switch to the separate 5th Edition's PRS worksheet.
- Once all prior record information has been entered, click on 'Save' and 'PRS Complete' buttons.

COMMENTARY:

Statute requires that the guidelines "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." (42 Pa.C.S. §2154(a)(2)).

The Commission chose not to include factors related to social status and stability in the PRS, even though other jurisdictions have included these factors in their guidelines' "Defendant's Score." These factors include educational achievement, current employment and employment history, and residential stability.

The Commission excluded these factors for three reasons. First, unlike the guidelines of some other jurisdictions, the Pennsylvania guidelines contain relatively wide guideline sentence ranges. The judge can use status and stability factors -- when appropriate -- to decide the specific sentence which should be imposed from the available ranges. It seemed fairer to exclude these factors from the PRS and permit their use as reasons to sentence within a given guideline sentence range. Second, these factors are highly correlated with race, ethnicity, and gender. Including them in the guidelines might well have resulted in a systematic sentencing system which had invidious results. Third, offender's employment status may be a factor used to determine whether to incarcerate or not due to loss of job.

The Commission also chose not to include factors related to violations of court orders and supervision status in the PRS. The Commission thinks that the best means of acting on violations of probation, CIP, SIP, parole, or violations of the bail agreement, is through revocation proceedings against the offender or by increasing the bail amount. Defendants who have escaped or absconded while on bail should be prosecuted for those crimes.

Including such factors in the guidelines would have had two undesirable effects. Some defendants, who had already forfeited their bail, had their probation or parole revoked, or had been prosecuted for escape or default in required appearance, would be penalized twice for the same behavior. This would have violated the Commission's precept against "double counting." The prohibition against double counting was adopted by the Commission because it was concerned with the appearance of unfairness, and the potential for actual unfairness, which such double counting engendered. In addition, including legal status factors in the guidelines could discourage prosecutors from pursuing other courses of action against the offender on the theory that these factors would be included in determining the sentence on new crimes.

An equitable PRS must measure both the number and the seriousness of prior convictions. During the 1994 revisions to the guidelines, the Commission decided to expand the number of PRS categories from seven to eight, and to reserve two of the categories (REVOC and RFEL) for the most serious offenders. The targeting of serious offenders in these two PRS categories allowed the Commission to make more appropriate sentence recommendations and, in some cases, call for the most severe sentence allowed by law.

The Commission created the Repeat Violent Offender Category (REVOC) as a means of isolating offenders who have demonstrated repeated violent criminal activity against persons. The category provides the Commission with the opportunity to recommend the imposition of the longest minimum sentence allowed by law when the offender's current conviction is for a violent offense and the offender also has a violent criminal history. This recommendation is consistent with the Commission's desire to increase severity in order to incapacitate violent offenders and to impose severe sentences to reflect the seriousness of the victimization and the culpability of the offender.

Prior guidelines allowed any combination of PRS points to count toward reaching a score of six, which was the highest PRS category. The Commission decided to reserve the PRS of six for the most serious felonies to help isolate serious repeat offenders, and in so doing, renamed the category to RFEL (Repeat Felony 1/Felony 2) to reflect the type of offender in this category. This allowed the Commission to establish incapacitative sentence recommendations for those offenders who have demonstrated continued dangerousness.



§303.5. PRIOR RECORD SCORE – PRIOR CONVICTIONS

§303.5(a) SINGLE OFFENSE IN JUDICIAL PROCEEDINGS

GUIDELINE TEXT:

§303.5(a). If there is a single offense in the prior judicial proceeding, that offense shall be counted in the calculation of the Prior Record Score.

PRIOR GUIDELINES:

A similar provision was included in the 6th Edition guidelines. The text of this section was amended in the 6th Edition, Revised guidelines to include the term 'prior' to more clearly define a prior judicial proceeding.

DESCRIPTION:

- It is important that all possible information regarding previous convictions and sentences, including that available through SGS Web, be gathered in order for the court to make a correct determination.
- The definition and description of prior conviction is found at §303.8(a). In order for a previous offense to be included in the calculation of the PRS, the commission of and conviction for the previous offense must occur prior to the commission of the current offense.
- As a general policy, the most serious offense of each previous judicial proceeding is included in the calculation of the PRS. If there is a single offense in the judicial proceeding, it is counted in the PRS.
- The former policies of considering only the most serious offense of a previous transaction, or considering all offenses except for those imposed or served totally concurrently, do not apply under these guidelines.
- Technical violations of probation, CIP, SIP or parole are not new convictions, and therefore are not counted in the PRS.
- The guidelines do not include factors related to the legal status of the offender at the time of the current offense, such as whether they were on bail, probation, CIP, SIP or parole, or whether they had escaped from custody or were in default of bail at the time of the current offense. Some other jurisdictions have included such factors in the "Defendant's Score" in their guidelines.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The Commission encourages courts to obtain all possible information on prior convictions as part of its fact-finding role. If necessary, the court may wish to adopt local policies to deal with incomplete information relating to prior convictions and sentences. Whenever a question exists regarding prior convictions, the court is required to make a determination based upon a preponderance of the evidence, the same standard of proof used for all sentencing issues. Detailed information on sentences reported via SGS Web is available to the court to assist in this determination.

Prior to the 1997, all editions of the sentencing guidelines utilized the concept of transaction to determine how the prior record was applied to multiple offenses and how current multiple offenses were counted in future Prior Record Scores. The definition of transaction was important as it influenced current and future sentence recommendations. A transaction was defined as a crime or crimes which were committed by an offender at a single time or in temporally continuous actions that are part of the same episode, event, or incident, or which are conspiracy and the object offense. Spree crimes were not considered part of the same transaction unless they occurred as continuous actions not separated in time by law-abiding behavior. Under transaction-based guidelines, only the most serious offense of a previous transaction was included in the calculation of the PRS, and the PRS was only used to determine the sentence recommendation for the most serious offense of the current transaction. The intent of this former policy was to prevent the offender's prior record from counting against him/her more than once when computing guidelines for multiple offenses within one criminal transaction. This was consistent with the Commission's general policy against the "double counting" of the same behavior in the guidelines.

Unfortunately, there was inconsistent application of transaction from county to county and from judge to judge. As the Commission studied this issue, it found several fundamental problems with the transaction policy. First, the court was required to make a determination regarding whether multiple offenses were part of the same or different transaction based on whether 'law abiding behavior' separated the offenses, but such specific information on the timing of multiple offenses was often not available. Second, even if the court had the necessary information on the timing of the offenses, it was not clear what constituted 'law abiding behavior.' And third, many previous convictions were excluded from the PRS based solely on the grouping of offenses at sentencing. The Commission considered a number of alternate approaches for grouping offenses (e.g., criminal episode, date of offense, date of conviction/sentencing, exceptions to existing transaction for crimes of violence, etc.). However, all of the alternatives considered would have resulted in inconsistent application or inappropriate groupings of offenses.

As part of the 5th Edition guidelines, the Commission adopted a policy that eliminated any grouping of offenses and instead considered each offense individually. The effect of this policy change was that the sentence recommendation for every offense was based on the combination of the OGS and the PRS. Under these offense-based guidelines, the presumption was that all previous convictions were included in the calculation of the PRS, and that the PRS was used to determine the sentence recommendation for each current offense. However, the Commission decided that such a policy, without any exceptions, could result in disproportionate sentence recommendations. Since the original sentencing court was in the best position to determine the seriousness of those previous convictions, the Commission decided to link the PRS to that sentence. If the original sentencing court felt that an additional penalty was required for a conviction (represented by a concurrent or consecutive sentence that extended the period of incarceration or supervision), the Commission would include that conviction in future Prior Record Scores. However, if the original court felt that no further penalty was required (represented by no sentence imposed or a concurrent sentence that did not extend the period of incarceration or supervision), the Commission would not include that conviction in the PRS. The Commission developed the definition of totally concurrent to distinguish between those sentences that included an additional penalty and those that did not. This policy placed greater significance on the court's decision to impose a new sentence consecutively or concurrently to another sentence, and on the order of imposition of sentences. The court's use of a consecutive or concurrent sentence to increase an existing sentence reflected the seriousness of that offense, and was therefore reflected in the future in the PRS.

Several persistent problems with the totally concurrent policy led to changes in the PRS policies under the 6th Edition guidelines. First, the offense-specific information required regarding the previous sentences imposed was often not available, or not of sufficient detail to determine the PRS consistent

with the totally concurrent policy. Second, in cases where all sentences imposed during a judicial proceeding were concurrent to previous sentences, no additional points were reflected in the PRS. And third, subsequent sentencing decisions and credit for time served could undermine an earlier court's intent related to prior record point assignments.

The 6th Edition guidelines attempt to address some of these concerns while streamlining the policy. Under these guidelines, the most serious offense of each judicial proceeding is included in the calculation of the PRS, as well as any other offense from the judicial proceeding for which a consecutive sentence of supervision or confinement within the proceeding has been imposed. Consistent with the 5th Edition policy, the PRS continues to be used to determine the sentence recommendation for each current offense. The requirement for courts to use SGS Web for the preparation and submission of Guideline Sentence Forms, the development of the SGS Web application to provide accurate information on the details of the sentence for each offense of a judicial proceeding, and the ability for authorized SGS Web users to obtain previous sentencing information for preparation of prior record scores, should substantially improve compliance with and implementation of this policy.

In the 6th Edition, Revised guidelines, the Commission added a reference to 'prior' judicial proceedings as a clarification and to make the text of these sections more consistent with that used in other sections.



§303.5(b) MULTIPLE OFFENSES IN JUDICIAL PROCEEDING

GUIDELINE TEXT:

§303.5(b). If there are multiple offenses in the prior judicial proceeding:

- (1) The most serious offense of the judicial proceeding shall be counted in the calculation of the Prior Record Score.**
- (2) Any offense for which a sentence of supervision or confinement is imposed consecutive to a sentence for another offense in the judicial proceeding shall be counted in the calculation of the Prior Record Score.**

PRIOR GUIDELINES:

This was a provision added in the 6th Edition guidelines consistent with efforts to consider each offense separately for purposes of PRS calculation and sentence recommendation. The text of this section was amended in the 6th Edition, Revised guidelines to include the term ‘prior’ to more clearly define a prior judicial proceeding.

DESCRIPTION:

- It is important that all possible information regarding previous convictions and sentences, including that available through SGS Web, be gathered in order for the court to make a correct determination.
- The definition and description of prior conviction is found at §303.8(a). In order for a previous offense to be included in the calculation of the PRS, the commission of and conviction for the previous offense must occur prior to the commission of the current offense.
- The most serious offense of each previous judicial proceeding is included in the PRS.
- The former policies of considering only the most serious offense of a previous transaction, or considering all offenses except for those imposed or served totally concurrent, do not apply under these guidelines.
- Since offenses with the same grade and citation may be assigned a different number of points in the PRS, the court is responsible for determining the appropriate point value for prior convictions. It is important that all possible information regarding previous convictions and sentences be gathered in order for the court to make a correct determination.
- Except as provided in §303.5(a) and §303.5(b)(1), an offense for which a sentence is imposed concurrent to another sentence, or for which a sentence is imposed consecutive to another sentence but does not include supervision or incarceration (e.g., guilt without further penalty, a fine, restitution, or other economic sanctions), is not included in the PRS.
- An offense for which a sentence of probation, CIP, SIP, partial confinement or total confinement is imposed consecutive to a sentence for another offense in the same judicial proceeding is included in the PRS.
- An offense for which a sentence of probation, CIP, SIP, partial confinement or total confinement is imposed consecutive to a sentence for another offense in the same judicial proceeding, but concurrent to the sentence for an offense in another judicial proceeding, is included in the PRS.

- Except as provided in §303.5(a) and §303.5(b)(1), an offense for which a sentence of probation, CIP, SIP, partial confinement or total confinement is imposed concurrent to a sentence for another offense in the same judicial proceeding, but consecutive to the sentence for an offense in another judicial proceeding, is not included in the PRS.
- An offense for which a split sentence is imposed (e.g., multiple sentencing alternatives, such as confinement and CIP, or confinement and probation, or county or SIP and probation, are imposed consecutively for a single offense) consecutive to a sentence for another offense in the same judicial proceeding is included in the PRS.
- Except as provided in §303.5(a) and §303.5(b)(1), an offense for which a split sentence is imposed (e.g., multiple sentencing alternatives, such as confinement and CIP, or confinement and probation, or county or SIP and probation, are imposed consecutively for a single offense) concurrent to a sentence for another offense in the same judicial proceeding, but consecutive to the sentence for an offense in another judicial proceeding, is not included in the PRS.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The Commission encourages courts to obtain all possible information on prior convictions as part of its fact-finding role. If necessary, the court may wish to adopt local policies to deal with incomplete information relating to prior convictions and sentences. Whenever a question exists regarding prior convictions, the court is required to make a determination based upon a preponderance of the evidence, the same standard of proof used for all sentencing issues. Detailed information on sentences reported via SGS Web is available to the court to assist in this determination.

The sentencing alternatives described in 42 Pa.C.S. §9721 are limited to an order of probation, a determination of guilt without further penalty, partial confinement, total confinement, a fine, CIP and SIP, as well as restitution. (See §303.9(e), §303.9(f), §303.12(a) and §303.14 for further Commentary.) This statute also provides that multiple sentencing alternatives may be ordered to be served concurrently or consecutively.

During each judicial proceeding, the court should first consider the most serious of all offenses pending before it for sentencing. If the offender is serving any other sentence, the court must indicate whether the new sentence is concurrent or consecutive to the previous sentence. Since a previous sentence may be the result of two or more aggregated consecutive sentences, it is necessary to have information on all prior convictions that contributed to the previous sentence. After sentence is imposed on this most serious offense, the court should then impose sentence individually on each of the remaining offenses pending before it, indicating after each sentence whether it is to be served concurrently or consecutively to the previous sentence(s).

Pursuant to Pa.R.Crim.P. Rule 705 (Imposition of Sentence), when more than one sentence is imposed, or when a sentence is imposed on an offender who is sentenced for another offense, the court must state whether the sentences shall run concurrently or consecutively; if concurrent, the sentence shall commence from the date of imposition unless otherwise ordered by the court. When imposing a sentence to imprisonment, the court shall state the date the sentence is to commence. "There is simply no statutory provision which would permit a sentencing judge to either commence a second sentence retroactively, i.e., to have it commence at the same time as a prior sentence, or to provide credit for the time served on a prior unrelated charge" *Wassell v. Com.*, 658 A.2d 466 (Pa.Cmwlth, 1995).

There are two instances under the guidelines in which concurrent or consecutive sentences come into play. In the first instance, the court may consider one or more of the sentencing alternatives and may impose them concurrently or consecutively for a given offense. The court must consider the sentencing guidelines in fashioning this sentence, and the total sentence imposed may not exceed the statutory maximum of the conviction offense. In the second instance, whenever more than one sentence is imposed at the same time, or a sentence is imposed on an offender already sentenced for another offense, the court must impose the new sentence either concurrently or consecutively to the other. The court's decision to impose sentences for multiple offenses concurrently or consecutively has a significant impact on a future PRS.

Prior to 1997, the fact that a sentence was imposed concurrently or consecutively to another sentence had no bearing on the PRS. However, under the 5th Edition guidelines, when a sentence was imposed or served totally concurrent to any other sentence, only the more serious of the two offenses was counted in the PRS. The most serious offense was that offense assigned the highest number of points for PRS purposes. Under the 6th Edition guidelines, the most serious offense of each judicial proceeding, and any other offense for which a sentence of confinement or supervision is imposed consecutive to a sentence for another offense in the judicial proceeding, is included in the calculation of the PRS.

In most cases under the 6th Edition and forward (including 6th Revised and 7th Edition) guidelines, if the sentence for an offense is imposed concurrently to the sentence for another offense in the judicial proceeding, it is not counted in the PRS; if imposed consecutively to a sentence for another offense in the judicial proceeding, and the sentence includes confinement or supervision, it is included in the PRS. Exceptions to this policy include stand-alone offenses (e.g., a single offense in a judicial proceeding) and the most serious offense of a judicial proceeding, both of which always count in the PRS; and sentences that do not include confinement or supervision (e.g., guilt without further penalty, fines, restitution, costs, fees), which do not count in the PRS.

The requirement for courts to use SGS Web for the preparation and submission of guideline-required sentencing information, the development of the SGS Web application to provide accurate information on the details of the sentence for each offense of a judicial proceeding, and the ability of authorized SGS Web users to obtain previous sentencing information for preparation of prior record scores, should substantially improve compliance with and implementation of this policy.



§303.5(c) UN-SENTENCED CONVICTIONS

GUIDELINE TEXT:

§303.5(c). Un-sentenced convictions. If no sentence has yet to be imposed on an offense, the offense shall not be counted in the calculation of the Prior Record Score.

PRIOR GUIDELINES:

This provision was added in the 6th Edition guidelines for consistency with recent efforts to consider each offense separately for purposes of PRS calculation and sentence recommendation.

DESCRIPTION:

- It is important that all possible information regarding previous convictions and sentences, including that available through SGS Web, be gathered in order for the court to make a correct determination.
- The definition and description of prior conviction is found at §303.8(a). In order for a previous offense to be included in the calculation of the PRS, the commission of and conviction for the previous offense must occur prior to the commission of the current offense.
- Under the 6th Edition and forward (including 6th Revised and 7th Edition) guidelines, in order for a previous offense to be included in the calculation of the PRS, a sentence for the previous offense must have been imposed prior to sentencing for the current offense. However, the court may consider such previous convictions at sentencing (see §303.5(d)).
- If a sentence for a previous offense(s) was imposed prior to the sentence for the current offense, but the details (i.e. concurrent or consecutive) of the previous sentence are unknown, the most serious offense of the previous judicial proceeding is included in the calculation of the PRS.
- Considering together this policy and that found at §303.8 (a), the following criteria must be met in order for a prior conviction or adjudication to be included in the calculation of the PRS: (a) the previous offense must have been committed prior to the current offense; (b) the conviction on the prior offense must have occurred prior to the commission of the current offense; and (c) the sentence for the previous offense must have been imposed prior to the sentence for the current offense. However, the court may consider prior adjudications or convictions not included in the calculation of the PRS, along with any other legally permissible factors, when imposing a sentence (see §303.5(d)).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The Commission encourages courts to obtain all possible information on prior convictions as part of its fact-finding role. If necessary, the court may wish to adopt local policies to deal with incomplete information relating to prior convictions and sentences. Whenever a question exists regarding prior convictions, the court is required to make a determination based upon a preponderance of the

evidence, the same standard of proof used for all sentencing issues. Detailed information on sentences reported via SGS Web is available to the court to assist in this determination.

The sentencing guidelines provide that any offense resulting in a conviction prior to the commission of the current offense should be included in the calculation of the PRS. However, the 5th, 6th, 6th Revised, and 7th Edition guidelines contain PRS policies that take into account information on the nature of the previous sentence imposed. Although previous un-sentenced convictions are not included in the calculation of the PRS under the 7th Edition guidelines, they may nonetheless be considered by the court at sentencing.

§303.5(d) ADEQUACY OF PRIOR RECORD SCORE

GUIDELINE TEXT:

§303.5(d). Adequacy of the Prior Record Score. The court may consider at sentencing prior convictions, juvenile adjudications or dispositions not counted in the calculation of the Prior Record Score, in addition to other factors deemed appropriate by the court.

PRIOR GUIDELINES:

This provision was added in the 6th Edition guidelines consistent with efforts to consider each offense separately for purposes of PRS calculation and sentence recommendation.

DESCRIPTION:

- It is important that all possible information regarding previous convictions and sentences, including that available through SGS Web, be gathered in order for the court to make a correct determination.
- The definition and description of prior conviction is found at §303.8(a). In order for a previous offense to be included in the calculation of the PRS, the commission of and conviction for the previous offense must occur prior to the commission of the current offense.
- Under the 7th Edition guidelines, in order for a previous offense to be included in the calculation of the PRS, a sentence for the previous offense must be imposed prior to the sentence for the current offense.
- The court may also consider any other legally permissible factors not otherwise included in the calculation of the PRS. These include, but are not limited to, previous convictions that are not reflected in the PRS (e.g., one prior ‘Other Misdemeanor’ conviction; numerous prior misdemeanor and F3 convictions beyond the PRS 5 limits; numerous prior F1 and F2 convictions beyond PRS RFEL limits, juvenile adjudications not otherwise included in the calculation of the PRS, etc.).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The Commission encourages courts to obtain all possible information on prior convictions as part of its fact-finding role. If necessary, the court may wish to adopt local policies to deal with incomplete information relating to prior convictions and sentences. Whenever a question exists regarding prior convictions, the court is required to make a determination based upon a preponderance of the evidence, the same standard of proof used for all sentencing issues. Detailed information on sentences reported via SGS Web is available to the court to assist in this determination.

The sentencing guidelines provide that any offense resulting in a conviction prior to the commission of the current offense should be included in the calculation of the PRS. However, the 5th, 6th, 6th Revised, and 7th Edition guidelines contain PRS policies that take into account information on the nature of the previous sentence imposed. Although previous un-sentenced convictions are not included in the calculation of the PRS under the 7th Edition guidelines, they may nonetheless be considered by the court

at sentencing. Additionally, prior sentenced convictions not adequately reflected in the PRS, and other legally permissible factors not otherwise considered in the guidelines, may be considered by the court. (Also see: Commentary, § 303.4(a)).

§303.6 PRIOR RECORD SCORE - PRIOR JUVENILE ADJUDICATIONS

§303.6(a) CERTAIN ADJUDICATIONS COUNTED

GUIDELINE TEXT:

§303.6(a). Juvenile adjudication criteria. Prior juvenile adjudications are counted in the Prior Record Score when the following criteria are met:

- (1) The juvenile offense occurred on or after the offender's 14th birthday, and**
- (2) There was an express finding by the juvenile court that the adjudication was for a felony or one of the Misdemeanor 1 offenses listed in §303.7(a)(4).**

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.6(a)).

DESCRIPTION:

- Previous juvenile offenses that occurred prior to age 14 are excluded from the PRS.
- Previous juvenile offenses for which there is no record of adjudication are excluded from the PRS.
- Except for those M1 offenses listed in §303.7(a)(4), previous juvenile misdemeanor offenses are excluded from the PRS.
- If an offender is less than 28 years of age at the time of the current offense, all previous juvenile offenses not otherwise excluded are counted in the PRS pursuant to §303.6(b).
- If an offender is 28 years of age or older at the time of the current offense, only the previous juvenile offenses listed in §303.7(a)(1) and not otherwise excluded are counted in the PRS pursuant to §303.6(b). Also see Lapsing of Juvenile Adjudications (§303.6(c)).
- The Juvenile Act provides that juvenile adjudications may be considered in criminal proceedings (see 42 Pa.C.S. §6354(b)(4)).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The Commission decided that some juvenile adjudications of delinquency should be included in the PRS. It concluded that it would be inequitable for defendants with serious juvenile records to be treated the same as defendants who were first offenders. This decision was made after extensive discussions with the Juvenile Court Judges' Commission, individual judges, legislators, attorneys and other criminal justice professionals, as well as after several public hearings.

The juvenile adjudications of delinquency which may be counted in the PRS are strictly limited. The Commission concluded that it would be unfair to count prior juvenile crimes committed by the offender when the juvenile was very young, or when the juvenile crimes were not very serious. In addition, there was testimony at the Commission's public hearings that some juvenile adjudication orders are

ambiguous. Apparently, in some jurisdictions the petitions alleging delinquency contain numerous charges and the adjudication order does not make clear which of these offenses the court found the juvenile had committed.

To accommodate these concerns, the guidelines require that adjudication of delinquency orders must expressly have found that the juvenile had committed a felony or one of the misdemeanors listed in §303.7(a)(4). This list has been expanded from previous editions of the guidelines. Further, the delinquent act must have occurred on or after the offender's 14th birthday. A previous requirement that the current adult offense must be a felony was removed consistent with amendments to 42 Pa.C.S. §6354. The inclusion of prior juvenile adjudications of delinquency in the guidelines was upheld in *Com. v. Woodward*, 368 Pa. Super. 363, 534 A.2d 478 (1987).

During the comprehensive review conducted prior to the adoption of the 6th Edition guidelines, the Commission received a recommendation from the Defender Association of Philadelphia that previous juvenile adjudications of delinquency be removed from the calculation of the PRS, although these previous adjudications could be considered by the court in considering an appropriate sentence. The Commission had received similar recommendations from others, with many concerned that the varying practices in Juvenile Courts from county to county could lead to the inconsistent consideration of previous adjudications in the PRS calculation. The Commission consulted with the Juvenile Court Judges' Commission (JCJC) and solicited comments from legislators and practitioners. The JCJC voted unanimously to recommend that the Commission make no modification to the existing (5th Edition) policy, and offered their assistance in encouraging courts to enter specific findings regarding the particular offense and counts thereof which an alleged delinquent child is found to have committed.

Subsequently, 42 Pa.C.S. §6341(b) was amended to require juvenile courts to "... specify the particular offenses including the grading and counts thereof which the child is found to have committed." The House Judiciary Committee also wrote to the Commission cautioning against a change in policy. The Commission voted to retain the existing policy.

§303.6(b) MOST SERIOUS ADJUDICATION OFFENSE

GUIDELINE TEXT:

§303.6(b). Only the most serious juvenile adjudication of each prior disposition is counted in the Prior Record Score. No other prior juvenile adjudication shall be counted in the Prior Record Score.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.6(b)).

DESCRIPTION:

- Only the most serious adjudicated offense from each Juvenile Court Disposition hearing is counted in the PRS.
- The most serious adjudicated offense is that offense assigned the most points under §303.7.
- Certain previous juvenile offenses are excluded from the PRS (see §303.6(a)).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The Commission decided that only the most serious offense of each Juvenile Court Disposition should be included in the PRS. By limiting the use of previous juvenile adjudications in this manner, it most closely reflected the pattern of sentencing in Criminal Court where most less serious convictions during a Judicial Proceeding are sentenced concurrently to the most serious offense of the proceeding.

In earlier editions of the guidelines, only the most serious juvenile adjudication or adult conviction of each prior transaction was counted in the PRS. With the elimination of transaction as a means of grouping offenses under the guidelines in 1997, the Commission developed a policy based on a totally concurrent sentence for counting prior adult convictions. However, since dispositions in Juvenile Court differ significantly from sentencing procedures in Criminal Court, this new policy for juvenile adjudications was developed. The streamlining of the PRS policies in 2005 to eliminate 'totally concurrent,' and to always consider the most serious offense of each judicial proceeding, provides greater consistency with the practice of considering only the most serious adjudication for a juvenile court dispositional hearing.



§303.6(c) JUVENILE LAPSING

GUIDELINE TEXT:

§303.6(c). Lapsing of juvenile adjudications. Prior juvenile adjudications for four point offenses listed in §303.7(a)(1) shall always be included in the Prior Record Score, provided the criteria in subsection (a) above are met:

- (1) All other juvenile adjudications not identified above in subsection (a) lapse and shall not be counted in the Prior Record Score if:**
 - (i) The offender was 28 years of age or older at the time the current offense was committed; and**
 - (ii) The offender remained crime-free during the ten-year period immediately preceding the offender's 28th birthday.**
 - (iii) Crime-free. Included in the definition of crime-free is any summary offense and/or one misdemeanor offense with a statutory maximum of one year or less.**
- (2) Nothing in this section shall prevent the court from considering lapsed prior adjudications at the time of sentencing.**

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.6). The text of the 6th Edition, Revised guidelines was amended to include a requirement of a ten-year 'crime-free' period in order for lapsing to occur.

DESCRIPTION:

- Completed crimes of violence and certain other serious offenses have been assigned four (4) points each in the PRS. Prior adjudications for these offenses always count in the PRS when the criteria in §303.6(a), relating to juvenile adjudication criteria, are met.
- If the offender is age 28 or older at the time the current offense is committed, and the offender remained crime-free during the ten-year period immediately preceding the 28th birthday, then no other prior adjudications count in the PRS.
- The lapsing provision applies only to certain juvenile adjudications. The lapsing provision does not apply to adult convictions.
- Though lapsed adjudications do not count in the PRS, the judge may still consider them in the sentencing of offenders.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The Commission policy on lapsing was adopted in 1994 for a variety of reasons. First, counties often do not have 'stale' juvenile records for defendants. The unavailability of records makes the scoring of prior juvenile adjudications haphazard and this introduces disparity. Second, it is often difficult to access

juvenile adjudications across counties and rarely are they accessed across state lines. This also results in disparity. Third, the Commission had concern that stale juvenile adjudications are no longer relevant as a predictor of future criminal activity.

Support for this policy also came from those who utilize the sentencing guidelines. A Commission questionnaire distributed prior to the 1994 revisions found support (64% of respondents) for a juvenile lapsing provision. Furthermore, Commission data indicated that judges often stated that a stale prior record was a reason for mitigating a sentence.

The Commission originally proposed age 25 as an appropriate age for the lapsing provision. This was changed to age 28 to reflect the fact that juveniles can be under the jurisdiction of juvenile authorities until age 21. Age 28 would allow for the seven-year period to be consistent with other recidivist statutes (e.g. 75 Pa.C.S. §3731, relating to mandatory penalties for Driving Under the Influence and 42 Pa.C.S. §9714, relating to mandatory penalties for repeat violent offenders). The 6th Edition guidelines provided a lapsing of certain juvenile adjudications if the offender is 28 years of age or older at the time the current offense was committed.

In the 6th Edition, Revised guidelines, the Commission amended its lapsing policy and adopted a policy requiring a ten-year crime-free period in order for lapsing to occur. Included in the definition of 'crime-free' is any summary offense (conviction) and/or one misdemeanor offense (conviction) with a statutory maximum of one year or less. While retaining the lapsing provision, this revision takes into account the higher risk for re-offending by youthful offenders that persist in criminal activity. The ten-year period is linked both to the existing time period for lapsing (i.e., ten years past 18 years of age), as well as the time period used in Pa.R.E. Rule 609 (Impeachment by Evidence of Conviction of Crime), and recognizes the availability of a provision for expungement of juvenile records under the Commonwealth's Criminal History Records Information Act (see 18 Pa.C.S. §9123).

The offender's 'crime-free' status for the juvenile lapsing provision is calculated by SGS Web based on information entered on the PRS screen.

§303.7 PRIOR RECORD SCORE - GUIDELINE POINTS SCORING

§303.7(a) SCORING OF PRIOR CONVICTIONS AND ADJUDICATIONS

GUIDELINE TEXT:

§303.7(a). Scoring of prior convictions and adjudications is provided below and in the listing of offenses at §303.15:

- (1) Four Point Offenses.** Four points are added for each prior conviction or adjudication for the following offenses:

Murder, and attempt, solicitation or conspiracy to commit Murder

All other completed crimes of violence, as defined in 42 Pa.C.S. §9714(g), excluding inchoates.

Murder of Unborn Child, and attempt, solicitation or conspiracy to commit Murder of Unborn Child

Offenses with OGS 11 or greater, excluding inchoates and Violations of the Controlled Substance Act

Ethnic Intimidation to any Felony 1 offense

- (2) Three Point Offenses.** Three points are added for each prior conviction or adjudication for the following offenses:

All other Felony 1 offenses not listed in §303.7 (a)(1).

All other inchoates to offenses listed in §303.7 (a)(1).

Violation of 35 P.S. §§780-113(a)(12)(14) or (30) involving 50 grams or more, including inchoates involving 50 grams or more.

- (3) Two Point Offenses.** Two points are added for each prior conviction or adjudication for the following offenses:

All other Felony 2 offenses not listed in §303.7 (a)(1) or (a)(2).

All felony drug violations not listed in §303.7 (a)(2), including inchoates.

- (4) One Point Offenses.** One point is added for each prior conviction or adjudication for the following offenses:

All other felony offenses not listed in §303.7 (a)(1), (a)(2) or (a)(3).

Any of the following Misdemeanor 1 offenses that involve weapons:

Possessing Instruments of Crime (possession of a weapon)

Prohibited Offensive Weapons

Use or Possession of Electric or Electronic Incapacitation Device

Possession of Weapon on School Property

Possession of Firearm or Other Dangerous Weapon in Court Facility

Violations of the Pennsylvania Uniform Firearms Act

Any of the following Misdemeanor 1 offenses that involve death or danger to children:

Involuntary Manslaughter

Simple Assault (against child under 12 years of age by adult 21 years of age or older)

Luring a Child into a Vehicle

Indecent Assault (complainant is less than 13 years of age)

**Indecent Exposure (persons present are less than age 16)
Endangering Welfare of Children
Dealing in Infant Children**

Driving Under the Influence of Alcohol or Controlled Substance, except for a first lifetime conviction or adjudication.

Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, except for a first lifetime conviction or adjudication.

- (5) Other Misdemeanor Offenses.** All other misdemeanor offenses, including a first lifetime conviction for Driving Under the Influence of Alcohol or a Controlled Substance or Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, are designated by an “m” in the offense listing at §303.15, and are scored as follows:
- (i) One point is added if the offender was previously convicted of two or three misdemeanors.**
 - (ii) Two points are added if the offender was previously convicted of four to six misdemeanors.**
 - (iii) Three points are added if the offender was previously convicted of seven or more misdemeanors.**

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.7(a)). The 6th Edition, Revised listing in this section and in section 303.15 was updated to reflect additions to the One Point Offenses and a clarification to Other Misdemeanor Offenses. The listing in this section and in section 303.15 has been updated to reflect any changes in prior record point assignments.

DESCRIPTION:

- The point value assigned to each offense is found in the listing under §303.15.
- The specific value assigned to each offense as described under §303.15 applies whether the offense is included as a juvenile adjudication or an adult conviction. The standards governing prior juvenile adjudications are found in §303.6. The standards governing prior adult convictions are found in §303.5.
- Murder and Murder of an Unborn Child, and attempts, solicitation, or conspiracy to these offenses, are assigned four points, as is Ethnic Intimidation to a felony of the first degree, and any completed offense which is a felony of the first degree with an OGS 11 or greater.
- Any completed Crime of Violence as defined in 42 Pa.C.S. §9714(g), excluding inchoates, is also assigned four points.
- Unless otherwise assigned a higher point value, a felony of the first degree is assigned three points, a felony of the second degree is assigned two points, and a felony of the third degree is assigned one point.
- Felony drug violations with an OGS 10 or greater are assigned three points in the PRS; all other felony drug violations are assigned two points. The same number of points is assigned to an inchoate to a drug offense as assigned to the completed drug offense.

- Certain misdemeanors of the first degree are assigned one point in the PRS. These include M1 offenses that involve weapons, death or danger to children, and DUI (see further discussion of DUI below).
- Under the 6th, 6th Revised, and 7th Edition guidelines, only a first lifetime conviction for DUI or equivalent offense in another jurisdiction is assigned points as an Other Misdemeanor based on the formula below. All other previous convictions for DUI or equivalent offenses in another jurisdiction are assigned one point in the PRS. Under Pennsylvania statute, these subsequent DUI convictions may be classified as M1, M2, or ungraded misdemeanors.
- Other misdemeanor convictions are assigned points based on the following formula:

1 prior misdemeanor	=	0 points
2-3 prior misdemeanors	=	1 point
4-6 prior misdemeanors	=	2 points
7 or more prior misdemeanors	=	3 points

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

Because different prior offenses have different levels of seriousness, the number of prior record score points assigned to a crime are based on the statutory grade of the crime and the Commission's view of the harmfulness of a typical instance of the crime. So that the number of points assigned a prior conviction more closely reflects the seriousness of that previous offense, the Commission decided to link the prior record score points to the OGS assignments. Therefore, an offense which is subcategorized for OGS purposes may have multiple point values for PRS purposes.

A single comprehensive list of prior record point assignments, included as part of §303.15, was developed to provide clarity for specific assignments. This list is incorporated into the SGS Web application for the electronic preparation of the Guideline Sentence Form. The Commission has attempted through recent modifications of the guidelines to provide greater consistency between the OGS assignments and the prior record point assignments. Generally, completed Crimes of Violence are assigned four points for PRS calculations; inchoates to Crimes of Violence, other F1 offenses, certain other serious offenses and major drug offenses are assigned three points; all other Felony 2 offenses and other felony drug offenses are assigned two points; and all other felonies receive one point.

The listed misdemeanor offenses are also assigned one point each. The Commission felt that these misdemeanors were equal in seriousness to Felony 3 offenses that receive one point in the PRS. The M1 offenses listed, chosen due to the serious nature of the offenses, fall into three categories: M1 offenses involving weapons, M1 offenses involving death, or M1 offenses involving danger to children. The remaining one-point misdemeanors apply to DUI for all but the initial lifetime adjudication or conviction, resulting in a one-point assignment for an offense that could be an M1, M2 or ungraded misdemeanor. All other misdemeanors, including M2 or M3 weapons misdemeanors and the initial DUI, are designated as "Other Misdemeanors" and scored collectively based upon the total number of misdemeanors involved. Misdemeanors other than those listed in §303.7(a)(4) are assigned one point for two or three prior convictions, two points for four to six prior convictions, and three points for seven or more prior convictions. The inclusion of all prior misdemeanor convictions in the PRS has been upheld by the Pennsylvania Supreme Court in *Com. v. Samuels*, 516 Pa. 365, 532 A.2d 404 (1987), reversing 354 Pa. Super. 128, 511 A.2d 221 (1986). The guidelines contain a limit of three points for non-weapons

misdemeanors because, in the Commission's view, even a long record of comparatively minor offenses does not equal in seriousness a record of violent crime. No points are assigned if the offender has been previously convicted of only one prior misdemeanor. This scoring system avoids having to assign one point to both a prior F3 conviction and a prior non-weapons misdemeanor conviction.

The 6th Edition guidelines provided new categorical definitions for certain point assignments, and contained several new prior record point assignments. As one example of a categorical change, instead of listing all completed crimes of violence as four point offenses in the text of the guidelines, the Commission has replaced this list with the category 'completed Crimes of Violence.' As a result, if the General Assembly enacts legislation that expands the list of crimes of violence, as it did following the enactment of the 5th Edition guidelines by adding Sexual Assault, Aggravated Indecent Assault, and Incest, the new offenses are automatically assigned four points. Two other examples of categorical definitions under the 6th Edition guidelines included: the assignment of four points to all prior adjudications or convictions for offenses with a current OGS 11 or greater, excluding inchoates and drug felonies; and the assignment of one point to all prior DUI adjudications or convictions, except for the individual's first DUI conviction.

A number of changes in point assignments in the 6th Edition guidelines resulted from enactment of new legislation or amendments to existing statutes, while other changes were made as part of the Commission's comprehensive review of OGS and prior record point assignments. Some of the changes include:

- Increases to four-point offenses, including: Murder of an Unborn Child, and attempt, solicitation or conspiracy to commit Murder of an Unborn Child; Sexual Assault; Aggravated Indecent Assault; Arson Endangering Persons (F1); Robbery (F1); Robbery of a Motor Vehicle (F1); Incest; and any other offenses with OGS 11 or greater, excluding inchoates and violations of the Controlled Substance Act.
- Increases to one-point offenses, including: Use or Possession of Electric or Electronic Incapacitation Device (M1); Weapons on School Property; Possession of Firearm or Other Dangerous Weapon in Court Facility (M1); Possession of Firearm with Altered Manufacturer's Number; Unlawful Contact or Communication with Minor; Driving Under the Influence of Alcohol or Controlled Substance, except for the first lifetime conviction.
- The assignments for Possessing Instruments of Crime (criminal instrument, M1) was reduced to Other Misdemeanor; Possessing Instruments of Crime (weapon, M1) retains the one-point assignment.

The 6th Edition guidelines provide point assignments used in the PRS calculation. Amendments to the Operating a Watercraft Under the Influence of Alcohol or a Controlled Substances statute provide greater alignment between the penalties for this offense and those for DUI in the 6th Edition, Revised guidelines. The Commission extended the DUI point values to Operating a Watercraft Under the Influence.

Additional point assignments were amended in the 7th Edition guidelines as a result of the enactment of new legislation or amendments to existing statutes, while other changes were made as part of the Commission's comprehensive review of prior record point assignments. Some of the changes include:

- The addition of the following four-point offenses: Manslaughter of a Law Enforcement Officer; Murder of the Third Degree Involving an Unborn Child; Aggravated Assault of an Unborn Child; Assault of Law Enforcement Officer; Use of Weapons of Mass Destruction; Terrorism; Trafficking of Persons when the offense is graded as an F1 ; and Ecoterrorism.



- An amendment to M1 offenses that involve danger to children, which are assigned one point for each prior conviction or adjudication including: Corruption of a Minor (of a sexual nature), Unlawful Contact or Communication with a Minor. These offenses were removed from this category since these offenses are now graded as felony offenses.



§303.8 PRIOR RECORD SCORE - MISCELLANEOUS

§303.8(a) PRIOR CONVICTIONS AND ADJUDICATIONS OF DELINQUENCY

GUIDELINE TEXT:

§303.8(a). Prior convictions and adjudications of delinquency. A prior conviction means "previously convicted" as defined in 42 Pa. C.S. §2154(a)(2). A prior adjudication of delinquency means "previously adjudicated delinquent" as defined in 42 Pa. C.S. §2154(a)(2). In order for an offense to be considered in the Prior Record Score, both the commission of and conviction for the previous offense must occur before the commission of the current offense.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.8(a)).

DESCRIPTION:

- This subsection refers the reader to the statutory definition of "previously convicted or adjudicated delinquent." This definition was contained in Act 1986-165 (effective February 9, 1987), and is quoted below.
- The statutory definition states that: (The guidelines must) "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 guilt or adjudication of delinquency whether or not sentence has been imposed or disposition ordered prior to the commission of the current offense." (42 Pa.C.S. §2154(a)(2)).
- Considering together this policy and that found at §303.5 (c), the following criteria must be met in order for a prior conviction or adjudication to be included in the calculation of the PRS: (a) the previous offense must have been committed prior to the current offense; (b) the conviction on the prior offense must have occurred prior to the commission of the current offense; and (c) the sentence for the previous offense must have been imposed prior to the sentence for the current offense. However, the court may consider prior adjudications or convictions not included in the calculation of the PRS, along with any other legally permissible factors, when imposing a sentence (see §303.5(d)).
- This interpretation of "previously convicted" does not allow for stacking (i.e., the counting of prior offenses in the PRS when the offender is convicted or pleads guilty of those prior offenses at the same time), except those sentenced under 18 Pa.C.S. §7508 (Drug trafficking).
- A prior conviction counts in the PRS when an appeal before any court is pending.
- An offense which did not result in a conviction is not included in the PRS.
- A withdrawn plea which has been accepted by the court is not included in the PRS.
- A prior conviction which was pardoned or expunged is not included in the PRS.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The 1982 guidelines' definition of "prior conviction", which was amended in 1986 to make explicit reference to prior adjudications, was interpreted in *Com. v. Wolfe*, 349 Pa. Super. 415, 503 A.2d 435, 439 (1986) and *Com. v. Mourar*, 349 Pa. Super. 583, 504 A.2d 197 (1986). In these cases, the Superior Court held that a prior crime must have been sentenced before the current crime was committed in order for the prior crime to count in the PRS.

The statutory definition contained in 42 Pa.C.S. §2154(a)(2), quoted above, was explicitly designed to nullify the holdings of *Wolfe* and *Mourar*. Prior to the Superior Court decision in *Eyster*, the Commission interpretation of the "previously convicted" language relied upon legislative intent, which was designed to require that all crimes count in the PRS when: (a) they occurred before the current offense was committed; and (b) there was a finding of guilt on the prior offense before the current offense was sentenced. The Commission was aware that there was an alternative interpretation of "previously convicted" and believed that the courts would ultimately decide the meaning of the statutory language, which they did in *Eyster*.

Under the 5th Edition guidelines, the **Description** section contained a statement that "uncounseled convictions" were not to be counted in the PRS. The Commission reviewed and removed this statement from the 6th Edition guidelines, recognizing that the many pro se cases resulting in convictions should be counted in the PRS, and that the court has an obligation under the Rules of Criminal Procedure (Rule 121) to ascertain from the offender on the record that the waiver of counsel was made knowingly, voluntarily, and intelligently.

§303.8(b) INCHOATE OFFENSES

GUIDELINE TEXT:

§303.8(b). Inchoate offenses. Unless otherwise provided in §303.7 or §303.15, a prior conviction or adjudication of delinquency for criminal attempt, criminal solicitation or criminal conspiracy is scored under §303.7 based upon the grade of the inchoate offense.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.8(b)).

DESCRIPTION:

- This section assigns points for the PRS calculation for inchoate offenses. The values for some of these offenses are also found in §303.15.
- In order to determine the PRS for an attempt, conspiracy, or solicitation offense, it is necessary to know what offense was attempted, conspired to or solicited.
- An inchoate to murder is assigned four points in the PRS.
- An inchoate to any of the following offenses is assigned three points in the PRS:
 - Crime of Violence (four point offenses)
(Aggravated Assault, attempt to cause SBI, is assigned three points)
 - Any other F1 offense not listed
(Aggravated Assault of an Unborn Child, attempt to cause SBI, is assigned three points)
 - 35 P.S. §§780-113(a)(12)(14)(30) involving 50 grams or more
- Aggravated Assault of an Unborn Child (18 Pa. C.S. §2606, F1) includes attempt to cause serious bodily injury in the statutory definition. The Commission subcategorized this offense consistent with inchoate OGS and PRS policies. As a result, Aggravated Assault of an Unborn Child causing serious bodily injury is assigned an OGS 11 and four prior record points; attempt to cause serious bodily injury, or any other inchoate to Aggravated Assault of an Unborn Child is assigned an OGS 10, and three prior record points.
- Aggravated Assault (18 Pa. C.S. §2702(a)(1) and (2), a F1) includes attempt to cause serious bodily injury in the statutory definition. The Commission subcategorized this offense consistent with inchoate OGS and PRS policies. As a result, Aggravated Assault causing serious bodily injury is assigned an OGS 11 and four prior record points; attempt to cause serious bodily injury, or any other inchoate to F1 Aggravated Assault, is assigned an OGS 10, and three prior record points.
- Aggravated Indecent Assault (18 Pa. C.S. §3125) is a F1 if the victim is under 13 years of age; otherwise, it is a Felony 2. Consistent with OGS and PRS policies, an inchoate to F1 Aggravated Indecent Assault is assigned an OGS 11 and three prior record points; an inchoate to F2 Aggravated Indecent Assault is assigned an OGS 10 and three prior record points.

- An inchoate to any of the following offenses is assigned two points in the PRS:
 - Any other F2 offense not listed
 - Any other drug felony not listed
- An inchoate to any of the M1 offenses listed in §303.7(a)(4) is assigned one point in the PRS.
- An inchoate to any other misdemeanor offense is scored pursuant to §303.7(a)(5).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

This section assigns the PRS to inchoate or unfinished crimes. All inchoate offenses receive the same grade as the object offense. However, the Commission decided to assign a lower point value to certain previous inchoate offenses due to the inherent seriousness of a completed F1 offense that may not be present in an inchoate.

§303.8(c) ETHNIC INTIMIDATION

GUIDELINE TEXT:

§303.8(c). Ethnic Intimidation. Unless otherwise provided in §303.7 or §303.15, a prior conviction or adjudication of delinquency for Ethnic Intimidation is scored under §303.7 based upon the grade of the Ethnic Intimidation.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.8(c)).

DESCRIPTION:

- This section assigns points in the PRS for previous Ethnic Intimidation convictions based on the grade of the offense.
- By statute (18 Pa.C.S. §2710 (a)) "a person commits the offense of ethnic intimidation if, with malicious intention toward the actual or perceived race, color, religion, national origin, ancestry, mental or physical disability, sexual orientation, gender or gender identity of another individual or group of individuals, he commits an offense under any other provision of this article (Article B) or under Chapter 33 (relating to Arson, Criminal Mischief and other property destruction) exclusive of section 3307 (relating to Institutional Vandalism) or under section 3503 (relating to Criminal Trespass) with respect to such individual or his or her property or with respect to one or more members of such group to their property."
- The offender must be convicted of one of the offenses in the sections listed above in order to also be convicted of Ethnic Intimidation.
- Grading of Ethnic Intimidation is based upon the statutory classification of the offense that involved the Ethnic Intimidation. By statute, (18 Pa.C.S. §2710 (b)) "an offense under this section (Ethnic Intimidation) shall be classified as a misdemeanor of the third degree if the other offense is classified as a summary offense. Otherwise, an offense under this section (Ethnic Intimidation) shall be classified one degree higher in the classification specified in section 106 (relating to classes of offenses) than the classification of the other offense."
- It is necessary to know what offense was involved in the Ethnic Intimidation in order to determine the points assigned in the PRS for the Ethnic Intimidation.
- Ethnic Intimidation to an F1 offense is assigned four points in the PRS.
- Ethnic Intimidation to an F2 offense is assigned three points in the PRS.
- Ethnic Intimidation to an F3 offense is assigned two points in the PRS.
- Ethnic Intimidation to an M1 offense is assigned one point in the PRS.
- Ethnic Intimidation to any other misdemeanor or summary offense is scored pursuant to §303.7(a)(5).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

The Commission specifically assigns points in the PRS for Ethnic Intimidation based on the grade of the Ethnic Intimidation. Ethnic Intimidation is assigned a grade one degree higher than the object offense. This was done to ensure that points assigned in the PRS for Ethnic Intimidation reflect the increased culpability of the offender and the increased seriousness of the victimization.

§303.8(d) FORMER PENNSYLVANIA OFFENSES

GUIDELINE TEXT:

§303.8(d). Former Pennsylvania offenses.

- (1) A prior conviction or adjudication of delinquency under former Pennsylvania law is scored as a conviction for the current equivalent Pennsylvania offense.**
- (2) When there is no current equivalent Pennsylvania offense, prior convictions or adjudications of delinquency are scored under §303.7 based on the grade of the offense. When a prior conviction or adjudication of delinquency was for a felony, but the grade of the felony is unknown, it shall be treated as a Felony 3. When a prior conviction was for a misdemeanor, but the grade of the misdemeanor is unknown, it shall be treated as other misdemeanors. When it cannot be determined if the prior conviction was a felony, one point misdemeanors, or other misdemeanors, it shall be treated as other misdemeanors. When a prior conviction is for a crime which has a summary grade, and the grade of the conviction is unknown, the prior conviction shall not be counted in the Prior Record Score.**

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.8(d)).

DESCRIPTION:

- This subsection provides rules for scoring prior convictions and adjudications of delinquency for a Pennsylvania offense which has since been repealed, re-defined, re-graded or for which the maximum penalty has been changed.
- Prior convictions or adjudications under this section are scored as follows:
 - (a) where a current equivalent offense exists in Pennsylvania at the time of the current offense, score the prior offense the same as a conviction or adjudication for the current equivalent offense;
 - (b) where there is no equivalent crime in effect in Pennsylvania at the time of the current offense, score the prior offense based on the grading of the prior offense.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

This section requires a former Pennsylvania offense which has been re-graded by the General Assembly after the offender committed his prior crime to be given points under the new, higher scoring. This does not mean that the prior offense was a conviction for a crime of the higher grade, or that it has at some point been transformed into a conviction for the higher grade offense. The prior conviction was and remains for the grade of crime at the time of conviction.

However, an offender does not have a right to have a prior conviction treated with any particular weight by a court when sentencing a subsequent offense. The Commission believes that the prior offense



should be given the weight in the PRS which the General Assembly and the Commission now believe is proper for the crime. The Commission chose to address this issue by the general rule contained in this subsection.

§303.8(e) MISGRADED OFFENSES

GUIDELINE TEXT:

§303.8(e). A prior conviction or adjudication of delinquency for an offense which was misgraded is scored as a conviction for the current equivalent Pennsylvania offense.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.8(e)).

DESCRIPTION:

- When the grade of a prior adjudication or conviction is incorrect, and the grade used is not provided for in statute for that offense, the grade of the current equivalent offense is used to determine the points assigned in the PRS.
- When the grade of a prior adjudication or conviction is incorrect, but the grade used is provided for in statute for that offense, the grade used in the prior adjudication or conviction is used to determine the points assigned in the PRS.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

This section provides a policy for assigning points in the PRS for prior misgraded offenses. The Commission's general policy requires use of the grade provided, even if it appears incorrect, since the trial court was in the best position to determine the appropriate grade and the court's decision should not be undermined.

However, in cases where the grade assigned to a prior adjudication or conviction does not exist, the Commission thought it inappropriate to legitimize such an error by including a non-existent offense in the PRS. As a result, the Commission adopted a policy which requires the use of the current equivalent grade in place of the previous improper grade when determining the PRS.



§303.8(f) OUT-OF-STATE, FEDERAL, OR FOREIGN OFFENSES

GUIDELINE TEXT:

§303.8(f). Out-of-state, federal or foreign offenses.

- (1) An out-of-state, federal or foreign conviction or adjudication of delinquency is scored as a conviction for the current equivalent Pennsylvania offense.**
- (2) A court-martial for a criminal offense under the Uniform Code of Military Justice is considered a federal conviction and is scored as a conviction for the current equivalent Pennsylvania offense. Non-judicial punishments or administrative actions (e.g., Article 15, Article 134) which are not convictions shall not be counted in the Prior Record Score.**
- (3) When there is no current equivalent Pennsylvania offense, determine the current equivalent Pennsylvania grade of the offense based on the maximum sentence permitted, and then apply §303.8(d)(2).**

PRIOR GUIDELINES:

A similar provision was included in prior guidelines (§303.8(f)). In the 6th Edition guidelines, the text of this section was amended to incorporate language concerning court-martial for a criminal offense previously contained in the **Description** section of the *Implementation Manual*.

DESCRIPTION:

- This subsection provides rules for scoring prior adult convictions and adjudications of delinquency from a foreign jurisdiction, including federal court, courts of another state, military courts and courts of other countries.
- Prior convictions or adjudications under this section are scored as follows:
 - (a) where a current equivalent offense exists in Pennsylvania at the time of the current offense, score the prior offense the same as a conviction or adjudication for the current equivalent offense;
 - (b) where there is no equivalent crime in effect in Pennsylvania at the time of the current offense, score the prior offense based on the grading of the prior offense. Use the maximum sentence permitted for the offense in the foreign jurisdiction to determine the current equivalent Pennsylvania grade.
- Under the Uniform Code of Military Justice, a court-martial for a criminal offense is a federal conviction and as such should be included in the PRS. However, non-judicial punishments or administrative actions (e.g., Article 15, Article 134) which are not convictions should not be included in the PRS.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

Fairness requires that the PRS include convictions and adjudications of delinquency from other states and from the United States courts, even though a rule on this topic will sometimes be cumbersome to apply. To do otherwise would have treated some defendants as first offenders merely because they had committed their crimes in another jurisdiction. In addition, failing to provide a rule would have resulted in differing interpretations and inconsistency about how these prior convictions and adjudications were considered.

The Commission originally considered: (1) using the grade of the offense in the jurisdiction of conviction; or (2) assigning the Pennsylvania grade that was equivalent to the maximum penalty for the crime in the foreign jurisdiction or which corresponded to the sentence actually imposed. There were earlier concerns that defendants would have scored differently depending on where they committed their past crimes, and so the Commission decided to use "the current equivalent Pennsylvania offense" as the standard for scoring. Whenever possible, prior foreign convictions and adjudications of delinquency are to be scored in the light of Pennsylvania law, although the Commission recognizes the difficulties in establishing the equivalence of statutes.

There are cases where there appears to be no current equivalent Pennsylvania offense because of the difference between federal and state jurisdiction and because of the lack of correspondence among different states' ways of categorizing offenses (for example Minnesota's "criminal sexual misconduct", which may take the 1st, 2nd, 3rd, or 4th degrees, is substantially different from Pennsylvania's categorization of sex crimes).

The Commission considered it important to count all non-Pennsylvania crimes systematically, even when there was no obvious equivalent, and previously scored these crimes as non-weapons misdemeanors when there is no current equivalent Pennsylvania offense. This resulted in a low PRS for some offenders, especially those with uniquely federal offenses. As a result, in these circumstances the Commission decided to revise the previous policy and assigns points in the PRS based on the current equivalent Pennsylvania grade for that prior conviction.

There are two situations where the text of the guidelines is silent, but the Commission believes that prior convictions should not be used in the PRS, even if there is a current equivalent Pennsylvania offense. Where the prior conviction was for a violation of a statute that has been held to be unconstitutional, that prior conviction should not be counted in the PRS. Further, where the prior conviction occurred in a foreign jurisdiction where even minimal legal rights are not observed, such a conviction should not be counted in the PRS.

The Commission added specific reference to court-martial for a criminal offense to the 6th Edition guidelines in response to a Superior Court opinion that referenced this provision.

§303.8(g) EXCLUDED OFFENSES, CHARGES, AND CONVICTIONS

GUIDELINE TEXT:

§303.8(g). Excluded offenses, charges and convictions. The following types of offenses, charges and convictions shall not be scored in the Prior Record Score:

- (1) Summary offenses, violations of local ordinances, direct or indirect contempt of court, violation of protection from abuse orders, and dispositions under Pa.R.Crim.P. Rules 300-320 (relating to accelerated rehabilitative disposition), 35 P.S. §780-117 (relating to probation without verdict) or 35 P.S. §780-118 (relating to disposition in lieu of trial or criminal punishment).**
- (2) A charge which is nolle prossed, dismissed, or on which a demurrer is sustained.**
- (3) Any prior conviction which contributed to an increase in the grade of a subsequent conviction, except for prior Driving Under the Influence of Alcohol or Controlled Substance convictions.**

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.7(f)). In the 6th Edition, guidelines, the text of this section was amended to incorporate reference to matters previously contained in the **Description** section of the *Implementation Manual*, including: direct and indirect contempt of court and violation of protection from abuse orders; and a charge which is nolle prossed, dismissed, or on which a demurrer is sustained. In addition, an exception to the non-scoring of subsequent convictions that contribute to an increase in the grade was added for prior DUI convictions. The citation relating to ARD was changed to reflect the re-numbering of the Rules of Criminal Procedures.

DESCRIPTION:

- Only prior convictions and adjudications for misdemeanors and felonies can count in the PRS. (See §303.8(a)).
- Summary offenses and violations of local ordinances are not counted in the PRS.
- Probation without verdict, accelerated rehabilitative disposition, and disposition in lieu of trial or criminal punishment are not counted in the PRS.
- Direct and indirect contempt of court and violations of protection from abuse orders are not counted in the PRS, as they are not misdemeanor or felony convictions.
- A charge which is nolle prossed, dismissed, or on which a demurrer is sustained, is not counted in the PRS.
- With the exception of DUI adjudications and convictions, any prior conviction which is used to elevate the grade of a subsequent offense, whether the current offense or a previous offense, is not counted in the PRS. Under the 6th, 6th Revised, and 7th Edition guidelines, only a first lifetime conviction for DUI or equivalent offense in another jurisdiction is assigned points as an Other Misdemeanor based on the formula above. All other previous convictions for DUI or equivalent offenses in another jurisdiction are assigned one point in the PRS. Under Pennsylvania statute, these subsequent DUI convictions may be classified as M1, M2, or ungraded misdemeanors.
- Any prior convictions in excess of that necessary to elevate the grade of a subsequent offense are counted in the PRS.

- For retail theft, when graded an F3, only two prior retail theft convictions are excluded from the PRS.
- When the current offense is a violation of The Controlled Substance, Drug, Device and Cosmetic Act (CSDDCA), prior violations for the CSDDCA count in the PRS.
- This subsection does not apply when the grade of the current offense is dependent on another factor associated with the crime and that factor is unrelated to the existence of any prior convictions.
- Generally, the offender must be given notice if prior convictions are to be used as the basis for the grade of the current offense or for increasing the maximum penalty of the current offense such as in cases of repeat retail thefts (*Com. v. Campbell*, 273 Pa. Super. 405, 417 A.2d 712 (1980); but see *Com. v. Harvin*, 346 Pa. Super. 575, 500 A.2d 98 (1985)).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.4(a).

COMMENTARY:

Prior summary offenses and violations of local ordinances were excluded from the PRS calculations for several reasons. First, there was no specific directive to include them in the PRS. Second, many of these dispositions have little or no relevance to criminal conduct. Finally, it would have placed an unreasonable burden on the court to obtain for every case accurate and complete records of the offender's summary and ordinance violations.

Prior dispositions such as those for diversion programs or contempt, which are not convictions or adjudications of delinquency, were excluded because there was no statutory authorization to include them. Further, some of these dispositions are expressly designed, by statute or by rule of criminal procedure, as non-punitive dispositions. The nature of these dispositions also caused the Commission to doubt its authority to include them in the PRS.

Exclusion of prior convictions that are used to elevate the statutory grading of an offense reflects the Commission's general policy against the "double counting" of factors against the offender. For a few offenses, such as retail theft, certain prior convictions may increase the grade of a subsequent offense. Because both the OGS and the PRS reflect to some degree the grade of offenses, and an increase in the grade of a current or previous offense will generally increase the sentence recommendation, the offenses which contribute to an increase in the grade of a subsequent offense should not be counted again. Under earlier versions of the guidelines, previous offenses were only excluded when the current offense was affected; the policy was changed under the 5th Edition and retained under the 6th, 6th Revised, and 7th Edition to extend this policy so that any previous conviction that increases the grade of an offense, either a current or previous offense, would be excluded from calculation of the PRS. This change removed the "double counting" of a conviction, which was the premise of the original policy. This policy focuses on increases in the grade rather than the maximum sentence.

The exception to this policy is a second or subsequent conviction for DUI, since the grading of the offense is linked to the number of prior convictions within the ten-year look-back period as well as the BAC or nature of the current offense. All prior lifetime DUI convictions are considered in the calculation of the PRS.

Under the 5th Edition guidelines, the **Description** in this section contained a statement that uncounseled convictions were not to be counted in the PRS. The Commission reviewed and removed the statement

from the 6th Edition guidelines, recognizing that the many pro se cases resulting in convictions should be counted in the PRS, and that the court has an obligation under the Rules of Criminal Procedure (Rule 121) to ascertain from the offender on the record that the waiver of counsel was made knowingly, voluntarily, and intelligently.



§303.9 GUIDELINE SENTENCE RECOMMENDATION: GENERAL

§303.9(a) BASIC SENTENCING RECOMMENDATIONS

GUIDELINE TEXT:

§303.9(a). Basic sentence recommendations. Guideline sentence recommendations are based on the Offense Gravity Score and Prior Record Score. In most cases, the sentence recommendations are found in the Basic Sentencing Matrix (§303.16). The Basic Sentencing Matrix specifies a range of sentences (i.e., standard range) that shall be considered by the court for each combination of Offense Gravity Score (OGS) and Prior Record Score (PRS).

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.9(a)). In the 6th Edition guidelines, the Basic Sentencing Matrix found at §303.16 was modified, replacing the 240 month upper limit of the recommended range for OGS 14 with SL (statutory limit), and eliminating an aggravated range recommendation for OGS 14.

DESCRIPTION:

- The sentence recommendation is offense-based under this edition of the guidelines. Therefore, both the OGS and PRS are considered when determining the sentence recommendation for each conviction offense.
- Under a number of previous editions of the guidelines, the PRS was only considered for the most serious offense of a transaction.
- The Basic Sentencing Matrix at §303.16 provides a standard range recommendation for each combination of an OGS and PRS. This recommendation should be considered the most appropriate minimum sentence for most convictions.
- Sentencing levels have been established in the guidelines based on the standard range recommendation (see §303.11).
- When the court determines that there are aggravating or mitigating circumstances, it may impose an aggravated or mitigated sentence in accordance with §303.13. Imposition of an aggravated or mitigated sentence does not alter the sentencing level, since the level is based on the OGS and PRS.
- When a deadly weapon is possessed or used during the commission of a crime, §303.9(b) applies.
- When controlled substances are distributed to persons younger than 18 years of age and/or in a school zone, §303.9(c) applies.

GUIDELINE FORM/SGS WEB APPLICATION:

- Sentence Module. Both the sentence date and the start date of the sentence must be entered to begin the Sentence Module of SGS Web. The start date is either the same date as the date of sentence, or some date in the future; it cannot be a date prior to the date of sentencing.
- Complete any remaining information relating to the judicial proceeding. Designate in the required field whether a pre-sentence investigation (PSI) report was completed. Enter the amounts of costs

or fees imposed by the Court on the offender for the judicial proceeding. Enter the type of disposition and whether the same type of disposition applies to all offenses in the judicial proceeding.

- All offenses entered as part of the Offense Module must be disposed of in some manner. Check boxes are provided for offenses that: were merged for sentencing purposes; were dismissed; were referred to diversion programs (e.g., ARD, Probation Without Verdict/Section 17, or Disposition in Lieu of Trial/Section 18); or received the sentencing alternative of Guilt Without Further Penalty.
- Click the 'Save' button to continue and proceed to assign sentences to offenses. For each sentence imposed, click the 'Manage' link next to the offense. If credit for time served is known, it can be calculated on this screen. Enter any applicable fines and restitution and modify the type of disposition as needed.
- For a SIP sentence, click the large button which adds SIP for all offenses in the judicial proceeding. Choosing this option removes all other sanctions and assigns a 24 month sentence to each offense. If also imposed by the court, a consecutive period of probation may then be added to specific offenses.
- For sentences involving the remaining sentencing alternatives (confinement, CIP, and probation), enter details as required. For confinement sentences, a minimum and maximum sentence must be reported. For CIP and boot camp program authorization, only eligible offenses may be entered. SGS Web conducts several validation checks against sentencing statutes; any errors will appear in red text on the screen.
- Concurrent/Consecutive information is required when imposing any second or subsequent sentencing alternative, including whether a period of probation is concurrent or consecutive to an incarceration sentence imposed for the same offense or for a different offense in the same judicial proceeding. SGS Web does not currently require information regarding whether current sentences are to be served concurrent with or consecutive to sentences in other judicial proceedings.
- After all sentence information for the current offense has been entered, click the 'Save Credit and Sanctions' button. SGS Web will calculate the conformity of the sentence to the guidelines based on information provided.
- When a sentence departs from the guidelines such that the sentence is longer than that recommended as an aggravated sentence or shorter than that recommended as a mitigated sentence, the reason(s) for a departure sentence as well as any other comments regarding the sentence must be entered in SGS Web and will be printed on the Guideline Sentence Form.
- SGS Web provides three options for providing reason(s) for a departure sentence as well as other comments for sentences imposed under the 5th, 6th, 6th Revised, and 7th Edition guidelines: (1) a pull-down list of common reasons submitted to the Commission; (2) a text box labeled 'Other Reasons' for brief reasons or comments; and (3) a text box labeled 'Narrative' for longer, more detailed reasons or comments.

COMMENTARY:

The Commission provides recommendations regarding the appropriate sentencing options based upon any combination of OGS and PRS.

Under the 4th Edition (1994) guidelines, the Commission adopted the Basic Sentencing Matrix, and with it established the concepts of sentencing purposes and sentencing levels to better target the use of the sentencing options and to incorporate CIP into the guidelines. The Matrix was based on 13 OGS

categories and 8 PRS categories (0-5, RFEL, REVOC). The four sentencing levels, determined by the sentencing options permitted within the standard guideline range, focused on: non-incarceration for the least serious offenders; short terms of county confinement and/or community-based CIP for non-violent offenders; a wide range of options including state and county confinement as well as CIP for serious and repeat offenders; and state incarceration for the most serious offenders.

The 4th Edition guidelines included four cells with a recommendation of RS-RIP (i.e., sentence recommendations limited to Restorative Sanctions and RIP programs), which permitted up to 30 days in a RIP program but did not recommend incarceration. The Commission also included sentence recommendations for aggravated and mitigated sentences. Based upon the OGS of the current conviction, a number of months was added or subtracted from the standard range to determine the aggravated or mitigated sentence recommendations.

The 5th Edition guidelines (1997) increased penalties for serious offenders while expanding opportunities for the use of CIPs, and in particular, the use of clinically prescribed drug and alcohol treatment as a CIP in lieu of incarceration. These guidelines also reflected a new Commission policy of offense-based sentence recommendations rather than the previous transaction-based sentence recommendations. The offense-based sentence recommendations take into account both the OGS and the PRS for every sentence recommendation. The previous transaction-based sentence recommendation took into account both the OGS and PRS only when the offense being sentenced was the most serious offense of the transaction; otherwise, the PRS was not considered in the sentence recommendation. The move to an offense-based sentence recommendation was linked to the Commission's decision to eliminate 'transaction' which was used in previous guidelines as a means of grouping offenses.

During the 1995 Special Session on Crime, the General Assembly increased the statutory maximum for certain F1 offenses beyond the traditional 20 years up to 40 years. The 5th Edition sentencing guidelines responded by creating an OGS 14 with an upper limit of 240 months, reflecting a statutory limit of 20 years. These guidelines also replaced RS-RIP cells with a recommendation of RS-1, thus expanding the cells to include 30 days of incarceration. This was consistent with Commission policy that established a rough equivalency between RIP programs and incarceration in areas of the matrix that allow for incarceration. That is, the maximum length of time in an RIP program is the same as the longest recommended length of confinement. Allowing 30 days of incarceration also provided more flexibility for counties that did not have CIP sentencing authority or resources to support RIP programs. At the same time, the Commission added a fifth sentencing level, and by doing so expanded the target for CIP to include eligible offenders who could otherwise be incarcerated in a county facility up to a maximum sentence of five years.

The 6th Edition guidelines (2005) built upon these earlier guidelines. During the seven years after the enactment of the 5th Edition guidelines, the General Assembly enacted, amended or repealed more than 120 statutes that impacted on the sentencing guidelines. In addition, the Commission received requests from practitioners to change the sentence recommendations for a number of offenses. As a result, the Commission undertook a comprehensive review of all OGS and PRS point assignments for offenses covered under the sentencing guidelines. In response to a mandate from the General Assembly to provide a sentencing enhancement for Homicide by Vehicle that occurs in an active work zone, the Commission developed a further sub-categorization of Homicide by Vehicle. The General Assembly also increased the statutory maximum for certain F1 offenses to life imprisonment. In response, the Commission assigned an OGS 14 to each of these offenses. Further, the Commission increased the upper limit for all sentence recommendations involving OGS 14, from 240 months to the statutory limit (SL), in recognition of the differing classifications of offenses assigned an OGS 14. As a result, the Commission has removed the aggravated range for OGS 14, as the standard range includes the statutory limit.



The 7th Edition modified the Youth and School Enhancement to correlate with established mandatory minimum sentences. It was subdivided into three parts: youth, school, and youth and school. An enhancement applies upon conviction. Six months are added to the lower limit and 12 months to the upper limit of the standard range for the youth enhancement. Twelve months are added to the lower limit and 24 months are added to the upper limit of the standard range for the school enhancement. Eighteen months are added to the lower limit and 36 months to the upper limit of the standard range for the youth and school enhancement. The court shall consider the applicable matrix in 303.19, related to youth, school, or youth and school.

§303.9(b) DEADLY WEAPON ENHANCEMENT SENTENCE RECOMMENDATIONS

GUIDELINE TEXT:

§303.9(b). Deadly Weapon Enhancement sentence recommendations. If the court determines that an offender possessed a deadly weapon pursuant to §303.10(a)(1), the court shall instead consider the DWE/Possessed Matrix (§303.17). If the court determines that an offender used a deadly weapon pursuant to §303.10(a)(2), the court shall instead consider the DWE/Used Matrix (§303.18). Both enhanced matrices specify a range of sentences (i.e., standard range) that shall be considered by the court for each combination of Offense Gravity Score (OGS) and Prior Record Score (PRS).

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.9(b)). In the 6th Edition guidelines, the Deadly Weapon Enhancement Possessed Matrix found at §303.17 and the Deadly Weapon Enhancement Used Matrix found at §303.18 were modified, replacing the 240 month upper limit of the recommended range for OGS 14 with SL (statutory limit), and eliminating an aggravated range recommendation for OGS 14.

DESCRIPTION:

- As with the Basic Sentence Recommendation, the Deadly Weapon Enhancement Sentence Recommendation is offense-based. Therefore, both the OGS and PRS are considered when determining the sentence recommendation for each conviction.
- Under several previous editions of the guidelines, the PRS was only considered for the most serious offense of a transaction.
- The DWE/Possessed Matrix at §303.17 provides a standard range recommendation for each combination of an OGS and PRS when a deadly weapon was possessed during the commission of the crime currently being sentenced. This recommendation should be considered the most appropriate minimum sentence for most convictions.
- The DWE/Used Matrix at §303.18 provides a standard range recommendation for each combination of an OGS and PRS when a deadly weapon was used during the commission of the crime currently being sentenced. This recommendation should be considered the most appropriate minimum sentence for most convictions.
- Sentencing levels have been established in the guidelines based on these standard range recommendations (see §303.11).
- When the court determines that there are aggravating or mitigating circumstances, it may impose an aggravated or mitigated sentence in accordance with §303.13. Imposition of an aggravated or mitigated sentence does not alter the sentencing level, since the level is based on the OGS and PRS.
- If, in addition to possession or use of a deadly weapon, a controlled substance is distributed to persons younger than 18 years of age, and/or in a school zone, §303.9(c) also applies.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

The Commission makes recommendations regarding the appropriate sentencing options based upon any combination of OGS and PRS. The Commission is required by statute to provide sentence recommendations of increased severity for an offender who possessed a deadly weapon during the commission of the current conviction offense. As part of the 5th Edition guidelines, the Commission created separate enhancement ranges for possession of a deadly weapon versus use of a deadly weapon. These two sets of recommendations were retained in the 6th, 6th Revised, and 7th Edition guidelines.

§303.9(c) YOUTH/SCHOOL ENHANCEMENT SENTENCE RECOMMENDATIONS

GUIDELINE TEXT:

§303.9(c). Youth/School Enhancement sentence recommendations. If the court determines that an offender violated the drug act pursuant to §303.10(b), the court shall consider the applicable matrix in 303.19, related to Youth, School, or Youth and School Enhancements. When applying the Youth Enhancement, 6 months are added to the lower limit of the standard range and 12 months are added to the upper limit of the standard range. When applying the School Enhancement, 12 months are added to the lower limit of the standard range and 24 months are added to the upper limit of the standard range. When both the Youth and School Enhancement is applied, 18 months are added to the bottom of the standard range and 36 months are added to the upper limit of the standard range. The range of sentences (i.e., standard range) shall be considered by the court for each combination of Offense Gravity Score (OGS) and Prior Record Score (PRS).

PRIOR GUIDELINES:

There was a similar provision in previous guidelines (§303.9(c) in which the Youth/School Enhancement was a single enhancement where 12 months were added to the lower limit of the standard range and 36 months were added to the upper limit of the standard range.

DESCRIPTION:

- The sentence recommendation is offense-based under this edition of the guidelines. Therefore, both the OGS and PRS are considered when determining the sentence recommendation for each conviction.
- Under several previous editions of the guidelines, the PRS was only considered for the most serious offense of a transaction.
- The Youth Enhancement applies when controlled substances are distributed to persons younger than 18 years of age. Six months are added to the lower limit of the standard range and 12 months are added to the upper limit of the standard range. The revised recommendation should be considered the most appropriate minimum sentence for most convictions.
- The School Enhancement applies when controlled substances are distributed within 250 feet of a school. Twelve months are added to the lower limit of the standard range and 24 months are added to the upper limit of the standard range. The revised recommendation should be considered the most appropriate minimum sentence for most convictions.
- The Youth and School Enhancement applies when controlled substances are distributed to persons younger than 18 years of age and within 250 feet of a school. Eighteen months are added to the lower limit of the standard range and 36 months are added to the upper limit of the standard range. The revised recommendation should be considered the most appropriate minimum sentence for most convictions.
- Sentencing levels have been established in the guidelines based on the standard range recommendation (see §303.11).
- When the court determines that there are aggravating or mitigating circumstances, it may impose an aggravated or mitigated sentence in accordance with §303.13. Imposition of an aggravated or mitigated sentence does not alter the sentencing level, since the level is based on the OGS and PRS.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

The Commission makes recommendations regarding the appropriate sentencing options based upon any combination of OGS and PRS. The Commission developed an enhancement linked to 18 Pa.C.S. §6314 (Sentencing and penalties for trafficking drugs to minors) and 18 Pa.C.S. §6317 (Drug-free school zones) as an alternative to the mandatory sentencing provisions. Further discussion of this policy is found in §303.10(b).

The 7th Edition modified the Youth/School Enhancement to correlate with established mandatory minimum sentences. It was subdivided into three parts: youth, school, and youth and school. The enhancement applies upon conviction.

The Commission linked the Youth Enhancement to 18 Pa.C.S. §6314(a) (Sentencing and penalties for trafficking drugs to minors) when a person 18 years of age or older who is convicted of 35 P.S. §780-113(a)(14) or (30) if the delivery or possession with intent to deliver of the controlled substance was to a minor, be sentenced to a mandatory minimum sentence of at least one year of confinement. Six months are added to the lower limit and 12 months to the upper limit of the standard range for the Youth Enhancement.

The Commission linked the School Enhancement to 18 Pa.C.S. §6317 (Drug-free school zones) when a person 18 years of age or older who is convicted of 35 P.S. §780-113(a)(14) or (30) if the delivery or possession with intent to deliver of the controlled substance was within 1000 feet of the real property on which the school is located be sentenced to a mandatory minimum sentence of at least two years of confinement. Twelve months are added to the lower limit and 24 months are added to the upper limit of the standard range for the School Enhancement when a controlled substance is distributed within 250 feet of a school.

The Commission linked the Youth and School Enhancement to 18 Pa.C.S. §6314 (Sentencing and penalties for trafficking drugs to minors) when a person 18 years of age or older who is convicted of 35 P.S. §780-113(a)(14) or (30) if the delivery or possession with intent to deliver of the controlled substance was to a minor, and the person committed the offense within 1000 feet of the school be sentenced to a mandatory minimum sentence of three years of confinement. Eighteen months are added to the lower limit and 36 months to the upper limit of the standard range for the Youth and School Enhancement when a controlled substance is distributed to persons under 18 years of age and within 250 feet of a school.

The court shall consider the applicable matrix in 303.19, related to Youth, School, or Youth and School Enhancement.

§303.9(d) AGGRAVATED/MITIGATED SENTENCING RECOMMENDATIONS

GUIDELINE TEXT:

§303.9(d). Aggravated and mitigated sentence recommendations. To determine the aggravated and mitigated sentence recommendations, apply §303.13.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.9(d)).

DESCRIPTION:

- When the court determines that there are aggravating or mitigating circumstances, it may impose an aggravated or mitigated sentence in accordance with §303.13.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

The Commission makes recommendations regarding the appropriate sentencing options based upon any combination of OGS and PRS.

The Commission includes sentence recommendations for aggravated and mitigated sentences. Based upon the OGS of the current conviction, a number of months is added or subtracted from the standard range to determine the aggravated or mitigated sentence recommendations.



§303.9(e) NUMERIC SENTENCE RECOMMENDATIONS

GUIDELINE TEXT:

§303.9(e). Numeric sentence recommendations. All numbers in sentence recommendations suggest months of minimum confinement pursuant to 42 Pa.C.S. §9755(b) (partial confinement) and §9756(b) (total confinement).

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.9(e)).

DESCRIPTION:

- All numeric guideline sentence ranges relate to the minimum term of partial or total confinement. Partial and total confinement require institutional confinement.
- In certain cases, the numeric sentence ranges relate to the maximum term of one or more RIP program(s). See §303.12(a) CIP. CIP does not include institutional confinement.
- Numeric guideline sentence ranges do not make recommendations for the maximum term of partial or total confinement. There is no limit in the guidelines on the maximum sentence that may be imposed in any case. The longest possible maximum sentence for a crime is set by statute.
- For the appropriate sentencing options for each range, see Sentencing Levels at §303.11.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

Earlier Commissions adopted this policy because the minimum sentence more closely approximated the actual length of time an offender was confined. Thus, minimum sentence guidelines would have a greater impact than maximum sentence guidelines would have had.

Confinement may be either partial or total in order to give the court the widest possible latitude in sentencing, consistent with the Commission's charge to promote uniform and equitable sentences. In addition, the differences in the availability of work-release facilities among the counties made it impractical to specify the cases for which work-release should or should not be ordered.

Prior to November 24, 2011, persons whose maximum sentence was five years or more were confined under the jurisdiction of the Department of Corrections. Persons whose maximum term of confinement was less than two years were confined in the county jail. In addition, paroling authority from a maximum sentence of confinement of two years or greater, was vested in the Pennsylvania Board of Probation and Parole. Paroling authority from a maximum sentence of confinement of less than two years, a county sentence, was vested in the court. The one exception to this has been for DUI-related sentences, which permits the court to retain paroling authority for sentences served in a county correctional facility where the maximum sentence is two years or greater but less than five years (see 75 Pa.C.S. §3815).

As of November 24, 2011 changes in the place of confinement were effective in accordance with Act 81 of 2008. A sentence of confinement when the maximum sentence is 24 months or more is presumptively considered a state sentence and will be served in state prison. A sentence of confinement when the maximum sentence is less than 24 months will be confined in a county facility.

One exception permits offenders sentenced to a maximum of 24 months or more, but less than five years, to be committed to a county jail when the county jail is certified less than 110% of the rated capacity. The attorney for the Commonwealth must consent to the confinement of the offender in the county jail, and the judge must approve the confinement of the offender in the county jail. Offenders sentenced to incarceration for the offense of DUI, and subject to the extended supervision of the court provision in Chapter 38 of the DUI Statute, may serve their sentences in county jails. The chief administrator (or designee) of the county prison is the individual who is responsible for rating the jail's capacity and notifying the president judge of the county, the district attorney and the chief public defender.

While the Sentencing Levels (see §303.11(b)) take into account place of confinement and paroling authority in developing general recommendations and determining thresholds between the various Levels, the sentencing guidelines do not contain any limitation on the place of confinement.

When the use of a sentence of SIP is permitted by statute and approved as a sentencing option under §303.12(c), the offender must be committed to the Department of Corrections prior to sentencing for an assessment and evaluation. If recommended by the Department for participation in the program, and subsequently sentenced to SIP by the court, a flat two-year SIP sentence shall be imposed; a consecutive period of probation supervision may also be imposed.

When the use of a sentence of CIP is permitted by statute and approved as a sentencing option under §303.12(a), and the offender is not drug dependent, the numeric range reflects the longest period of time an offender may be ordered to participate in one or more RIP programs as part of CIP sentence. If the offender is drug dependent, the longest period of time an offender may be ordered to participate in one or more RIP programs is determined by the clinical evaluation.

The use of an indefinitely suspended sentence is not provided for in the Sentencing Code (*Com. v. Hamilton*, 488 A.2d 277, Pa.Super. 1985). Any other suspension of a sentence of incarceration in which conditions are placed on the offender has been held to be the equivalent of probation (*Com. v. Duffy*, 681 A.2d 219, Pa.Super. 1996).

§303.9(f) ALPHABETIC SENTENCE RECOMMENDATIONS

GUIDELINE TEXT:

§303.9(f). Alphabetic sentence recommendations. RS in the sentence recommendation, an abbreviation for Restorative Sanctions, suggests use of the least restrictive, non-confinement sentencing alternatives described in 42 Pa.C.S. §9753 (determination of guilt without further penalty), §9754 (order of probation) and §9758 (fine). 42 Pa.C.S. §9721(c) (mandatory restitution) is also included in RS. No specific recommendations are provided for periods of supervision for these non-confinement sentencing alternatives. Recommendations related to fines and community service are found at §303.14(a). RIP in the sentence recommendation, an abbreviation for Restrictive Intermediate Punishments, suggests use of Restrictive Intermediate Punishments pursuant to §303.12(a)(4).

PRIOR GUIDELINES:

A similar provision was contained in previous guidelines. The 6th Edition, Revised guidelines were updated to include recommendations for fines and community service.

DESCRIPTION:

- RS is the primary alphabetic sentence recommendation. It refers to Restorative Sanctions, which are all non-confinement sentencing alternatives provided in statute.
- RS includes the following sentencing alternatives: determination of guilt without further penalty, order of probation, fine, and mandatory restitution.
- RS does not include a sentence of CIP, as such sentences include restrictive programs.
- RIP, or Restrictive Intermediate Punishment programs, are generally considered the equivalent of partial or total confinement under the guidelines and are not Restorative Sanctions. See §303.12(a).
- For the appropriate sentencing options for each range, see Sentencing Levels §303.11.
- The guidelines do not suggest specific lengths or amounts for Restorative Sanctions.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

The guidelines do not suggest sentence lengths for Restorative Sanctions because there have been few complaints about disparity in such lengths and because the duration of non-confinement periods should be individualized to address the rehabilitative focus of these sentencing alternatives. The use of fines and restitution is encouraged, and in some cases mandated. See §303.14. However, the use of these alternatives, and the optimal dollar amounts ordered, differ substantially from case to case. As a result, any amount permitted by statute may be ordered as a Restorative Sanction.

The use of an indefinitely suspended sentence is not provided for in the Sentencing Code (*Com. v. Hamilton*, 488 A.2d 277, Pa.Super. 1985). Any other suspension of a sentence of incarceration in which

conditions are placed on the offender has been held to be the equivalent of probation (*Com. v. Duffy*, 681 A.2d 219, Pa.Super. 1996).

The 6th Edition guidelines provide general recommendations for sentencing. In the 6th Edition, Revised guidelines, the Commission added a reference to new recommendations for fines and community service.

§303.9(g) STATUTORY MAXIMUM

GUIDELINE TEXT:

§303.9(g). When the guideline sentence recommendation exceeds that permitted by 18 Pa.C.S. §1103 and §1104 (relating to sentence of imprisonment for felony and misdemeanor) and 42 Pa.C.S. §9755(b) and §9756(b) (relating to sentence of partial and total confinement) or other applicable statute setting the maximum term of confinement, then the statutory limit is the longest guideline sentence recommendation. For the purposes of the guidelines, the statutory limit is the longest legal minimum sentence, which is one-half the maximum allowed by law.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.9(g)).

DESCRIPTION:

- In some cases one or more of the guideline recommendations may partially or totally exceed the longest minimum sentence permitted by law, and in such cases the guidelines are capped at the statutory limit (i.e., longest minimum sentence permitted under statute).
- This is most likely to occur when the PRS is high, when the Deadly Weapon Enhancement is added, when the Youth/School Enhancement is added, or when all of these conditions are present.
- Statute always limits the longest legal minimum sentence which may be imposed, and all guideline recommendations are limited by the statutory restriction.
- When part of a recommendation is higher than the longest legal minimum sentence, the part of the recommendation which equals or is below the legal limit is the guideline range.
- When the entire recommendation is higher than the longest legal minimum sentence, the guideline recommendation is the longest legal minimum sentence.
- The statutory limit is based on the maximum penalty applicable to the conviction offense. While the maximum penalty is generally based on the grade of the offense, some offenses are assigned a different maximum sentence than otherwise assigned to the grade.
- The guidelines do not supersede sentencing statutes. Therefore, the guideline recommendation may not exceed the maximum allowable penalties as defined in statute.
- The statutory limit, for guideline purposes, is defined as the longest minimum sentence provided by law. This is one-half of the statutory maximum for sentences of partial or total confinement.
- If the guideline recommendation exceeds the statutory limit, the guideline recommendation is "cut off" at the statutory limit.
- Except where the statute relating to an offense specifically provides otherwise, the following maximum lengths of confinement are specified by 18 Pa.C. S. §§1102-1105:
 - 1) for Murder of the First Degree, Murder of a Law Enforcement Officer of the First Degree, and Murder of an Unborn Child of the First Degree: life imprisonment or death;

- 2) for Murder of the Second Degree, Murder of a Law Enforcement Officer of the Second Degree, Murder of an Unborn Child of the Second Degree, and Rape or Involuntary Deviate Sexual Intercourse (when victim less than 13) involving serious bodily injury: life imprisonment;
 - 3) for Murder, Murder of an Unborn Child of the Third Degree, inchoate to Murder or Murder of an Unborn Child involving serious bodily injury, Rape or Involuntary Deviate Sexual Intercourse (when victim less than 13) not involving serious bodily injury, Assault of a Law Enforcement Officer, Terrorism (F1), and Ecoterrorism (F1): not more than 40 years;
 - 4) for a felony of the first degree: not more than 20 years;
 - 5) for a felony of the second degree: not more than 10 years;
 - 6) for a felony of the third degree: not more than 7 years;
 - 7) for a misdemeanor of the first degree: not more than 5 years;
 - 8) for a misdemeanor of the second degree: not more than 2 years;
 - 9) for a misdemeanor of the third degree: not more than 1 year; and
 - 10) for a summary offense: not more than 90 days. The longest minimum length of confinement for a summary offense is also 90 days.
- For most drug offenses, the maximum term of confinement is set by 35 P.S. §§113(b)-(p), and §§114-115.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

The sentence recommendations exceed the statutory limit in some cases. This section is intended to make clear that the guidelines are limited by lengths of confinement established by statute. Act 1995-5(SS1) increased the maximum sentence permitted for Murder of the Third Degree, and inchoates to Murder involving serious bodily injury, to 40 years. As a result, the statutory limit, or longest minimum sentence, increased to 20 years.

Additional legislation increased the maximum sentences permitted for other offenses based on specific elements of the offense. As an example, Act 2002-162 increased the statutory maximum for Rape of a Child less than 13 years of age, to 40 years, and for Rape of a Child less than 13 years of age resulting in serious bodily injury, to life imprisonment. The applicable statutory maximum and statutory limit for each offense is incorporated into the SGS Web application.

Since the adoption of the 6th and 6th Edition, Revised guidelines, additional legislation was passed which impacted maximum sentences for certain offenses. As an example, Act 2008-131 modified the definition of certain crimes under 18 Pa.C.S. §1102 (Sentences for Murder and Murder of an Unborn Child) to include Murder of a Law Enforcement Officer. These crimes include punishment of death or life imprisonment (depending on First Degree or Second Degree Murder). Also included under Act 2008-131 are attempt, solicitation or conspiracy to commit Murder of a Law Enforcement Officer, when resulting in serious bodily injury, faces a statutory maximum of 40 years.

This section establishes a clear and simple rule for computing guideline lengths when the sentence recommendations are longer than statute allows. The Commission rejected the only two ways to

prevent some suggested sentence lengths from exceeding the longest legal minimum sentence. The Commission could have assigned Offense Gravity Scores that were so low that the sentence ranges never would exceed the statutory limit, even for people who possessed a deadly weapon and who had the maximum PRS. This alternative would have resulted in undue leniency. The Commission also decided against constructing different sentence range matrices for every crime, or for every major category of crime. This would have made the guidelines much more complex.



§303.9(h) MANDATORY MINIMUM

GUIDELINE TEXT:

§303.9(h). Mandatory sentences. The court has no authority to impose a sentence less than that required by a mandatory minimum provision established in statute. When the guideline range is lower than that required by a mandatory sentencing statute, the mandatory minimum requirement supersedes the sentence recommendation. When the sentence recommendation is higher than that required by a mandatory sentencing statute, the court shall consider the guideline sentence recommendation.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.9(h)).

DESCRIPTION:

- Mandatory sentencing provisions are established by the General Assembly, not the Commission on Sentencing.
- The guidelines never supersede a longer mandatory sentencing provision.
- If the guidelines are shorter than the mandatory minimum sentence, then the length of time recommended by the mandatory minimum is the length of time recommended by the guidelines.
- If the guidelines are longer than the mandatory minimum sentence, then the guidelines should be considered as they are in any other case.
- Guideline-required sentencing information is required for any felony or misdemeanor conviction regardless of whether or not there is an applicable mandatory minimum sentencing provision.
- When a mandatory minimum sentence is required by statute, one or more of the recommendations that would normally be correct may include sentence suggestions that are shorter than the mandatory minimum sentence. In such cases, the suggested guidelines are those parts of the standard, mitigated, or aggravated recommendations which are equal to or greater than the shortest length of confinement allowed by law. If no part of the aggravated recommendation is longer than the mandatory minimum sentence, then the mandatory minimum is the guideline sentence recommendation.
- See §303.9(i) for more information on mandatory minimum sentences relating to DUI.

GUIDELINE FORM/SGS WEB APPLICATION:

- Offense Module. Select any applicable mandatory minimum from the drop-down box.
- When a mandatory requires prosecutorial notice, the mandatory should only be selected if notice has been given and should be removed if notice has been withdrawn.
- When a mandatory does not require prosecutorial notice (automatic mandatory), SGS Web requires the user to select the applicable mandatory. If no mandatory is selected, SGS Web will display an error message that a mandatory minimum is required for the particular offense.
- See §303.3(a) and §303.9(a).

COMMENTARY:

Mandatory minimum sentences are sentencing provisions which establish the minimum sentence that an offender may receive upon conviction for a certain offense. The court has no authority to impose a sentence lower than one called for by a mandatory provision. The sentencing guidelines are sentencing recommendations that the courts are required by law to consider. The courts may depart from the recommendations by stating their reason(s) for departure for the record.

Mandatory minimum sentences are statutory provisions which may not be superseded by the guidelines. Most often mandatory sentencing provisions are linked to only one or two characteristics of an offense (e.g., there are mandatory minimum sentences for drug trafficking offenses that are based upon the type and quantity of drug involved in the offense). The guidelines, however, take into consideration a number of factors including the extent and severity of an offender's prior record. For this reason, the guidelines often call for sentences that are longer than those required by the mandatory sentencing provisions. When this occurs, the guidelines should be considered.

The General Assembly has enacted mandatory sentences for First and Second Degree Murder, and for particular offenses committed in specified ways or by repeat offenders. The mandatory confinement sentences applicable to violations of the Crimes Code, The Controlled Substance, Drug, Device and Cosmetic Act, and the Motor Vehicle Code are found in this section. There are other mandatory penalties (mostly fines) in various statutory titles.

With the exception of the penalties for First and Second Degree Murder, the mandatory sentence specified by statute is a mandatory minimum sentence. The actual sentence imposed may be longer than the mandatory minimum sentence, as long as the minimum does not exceed the longest minimum sentence authorized by statute. When a mandatory minimum sentence is imposed, a maximum sentence must also be imposed.

For most mandatory sentencing provisions, the prosecutor is required to give reasonable notice to the offender of the intention to proceed under a mandatory minimum sentencing statute. When notice is required, it is generally required after conviction and before sentencing.

Most of the mandatory sentencing statutes explicitly state that the guidelines do not supersede the mandatory sentencing provisions, while other mandatory sentencing statutes do not include such language. The law seems to be the same whether the mandatory statute includes this provision or not: in all cases subject to a mandatory sentencing law, the court has no power to sentence below the mandatory minimum, notwithstanding any guideline provision. However, the court must consider the guidelines whenever the guidelines recommend a longer sentence than the mandatory minimum law required.

Guideline-required sentencing information is required for all cases that are subject to a mandatory minimum sentence law, regardless of whether the guidelines suggest a sentence above or below the minimum sentence required by the mandatory law. Where the guidelines suggest a longer sentence than the mandatory minimum law, and the court chooses to impose the mandatory minimum sentence, reasons for departure must be given. The authority for collecting guideline-required sentencing information derives from 42 Pa.C.S. §2153(14). The guideline-required sentencing information is a useful summary of information that is necessary to the sentencing court, and it has been helpful to the Commission, the General Assembly, the governor's office, and others when monitoring the impact of mandatory sentencing legislation.

MANDATORY MINIMUM SENTENCES

Relevant Title/Section	Description	Mandatory Minimum Sentence	Prosecutorial Notice Requirement
18 Pa. C.S. §1102(a); 18 Pa. C.S. §2502(a); 42 Pa. C.S. §9711	Murder of the first degree	Death or life imprisonment	No notice required
18 Pa. C.S. §1102(a); 18 Pa. C.S. §2507(a)	Murder of a law enforcement officer of the first degree	Death or life imprisonment	No notice required
18 Pa. C.S. §1102(a); 18 Pa. C.S. §2604(a)	First degree murder of an unborn child	Life imprisonment	No notice required
18 Pa. C.S. §1102(b); 18 Pa. C.S. §2502(a)	Murder of the second degree	Life imprisonment	No notice required
18 Pa. C.S. §1102(b); 18 Pa. C.S. §2507(b)	Murder of a law enforcement officer of the second degree	Life imprisonment	No notice required
18 Pa. C.S. §1102(b); 18 Pa. C.S. §2604(b)	Second degree murder of an unborn child	Life imprisonment	No notice required
18 Pa. C.S. §1102.1	Sentence for persons under age 18 for murder, murder of unborn child, murder of law enforcement officer		Notice required prior to sentencing / Proof required at sentencing
(a)(1)	First degree murder, person age 15 to <18 years	35 years to life imprisonment	
(a)(2)	First degree murder, person age <15 years	25 years to life imprisonment	
(c)(1)	Second degree murder, person age 15 to <18 years	30 years to life imprisonment	
(c)(2)	Second degree murder, person age <15 years	20 years to life imprisonment	
18 Pa. C.S. §2506; 35 P.S. §780-113(a)(14) or (30)	Drug delivery resulting in death (Repealed September 6, 2011)	5 years total confinement	No notice required
18 Pa. C.S. §2704	Assault by life prisoner	Life imprisonment	No notice required
18 Pa. C.S. §2716(b)(1)	Weapons of mass destruction and use resulted in death of an individual	Life imprisonment	No notice required
18 Pa. C.S. §3301(a)(2)	Arson endangering persons as murder of the first degree	Death or life imprisonment	No notice required
18 Pa. C.S. §3301(a)(2)	Arson endangering persons as murder of the second degree	Life imprisonment	No notice required
18 Pa. C.S. 5123(a.1)	Controlled substance contraband to confined person	2 years total confinement	No notice required
18 Pa. C.S. 6111(h)	Sale or transfer of firearms; subsequent violation	5 years imprisonment	Notice required prior to sentencing / Proof required at sentencing
18 Pa. C.S. §6121	Certain bullets prohibited	5 years imprisonment	No notice required
18 Pa. C.S. §6314(a); 35 P.S. §780-113(a)(14) or (30)	Sentencing and penalties for trafficking drugs to minors	1 year total confinement	Notice required prior to sentencing / Proof required at sentencing

Relevant Title/Section	Description	Mandatory Minimum Sentence	Prosecutorial Notice Requirement
18 Pa. C.S. §6314(b); 35 P.S. §780-113(a)(14) or (30)	Sentencing and penalties for trafficking drugs to minors (promoting habitual use or engage in trafficking, 1,000 feet of real property of school, school bus, 500 feet school bus stop)	3 years total confinement	Notice required prior to sentencing / Proof required at sentencing
18 Pa. C.S. §6317; 35 P.S. §780-113(a)(14) or (30)	Drug free school zones	2 years total confinement / 4 year maximum	Notice required prior to sentencing / Proof required at sentencing
18 Pa.C.S. §7508 35 P.S. §780-113(a)(14), (30) & (37)	Drug trafficking sentencing and penalties		Notice required prior to sentencing / Proof required at sentencing
	Marijuana		
	2 lbs. to < 10 lbs. or 10 to < 21 live plants	1st conviction: 1 year subsequent: 2 years	
	10 lbs. to < 50 lbs. or 21 to < 51 live plants	1st conviction: 3 years Subsequent: 4 years	
	50 lbs. or more or 51 live plants or more	1st conviction: 5 years subsequent: 5 years	
	Heroin		
	1 gram to < 5 grams	1st conviction: 2 years subsequent: 3 years	
	5 grams to < 50 grams	1st conviction: 3 years subsequent: 5 years	
	50 grams or more	1st conviction: 5 years subsequent: 7 years	
	Narcotics of Schedule I or II		
	2 grams to < 10 grams	1st conviction: 2 years subsequent: 3 years	
	10 grams to < 100	1st conviction: 3 years subsequent: 5 years	
	100 grams or more	1st conviction: 5 years subsequent: 7 years	
	Cocaine		
	2 grams to < 10 grams	1st conviction: 1 year subsequent: 3 years	
	10 grams < 100 grams	1st conviction: 3 years subsequent: 5 years	
	100 grams or more	1st conviction: 4 years subsequent: 7 years	
	Methamphetamine / Phencyclidine		
	5 grams to < 10 grams	1st conviction: 3 years subsequent: 5 years	
	10 grams to < 100 grams	1st conviction: 4 years subsequent: 7 years	

Relevant Title/Section	Description	Mandatory Minimum Sentence	Prosecutorial Notice Requirement
	100 grams or more	1st conviction: 5 years subsequent: 8 years	
	Amphetamine		
	5 grams or more	1st conviction: 2.5 years subsequent: 5 years	
	Methaqualone		
	50 tablets to < 200 tablets or 25 grams to < 100 grams	1st conviction: 1 year subsequent: 3 years	
	200 tablets or more or > 100 grams	1st conviction: 2.5 years subsequent: 5 years	
30 Pa. C.S. §5502	Operating watercraft under influence of alcohol or controlled substance		No notice required
	(a)(1) incapable safe operation	1st conviction: 6 months probation 2nd conviction: 5 days 3rd+ conviction: 10 days	
	(a)(1) refuse testing	1st conviction: 72 hours 2nd conviction: 90 days 3rd+ conviction: 1 year	
	(a)(1) accident	1st conviction: 48 hours 2nd conviction: 30 days 3rd conviction: 90 days 4th+ conviction: 1 year	
	(a)(2) BAC .08 - < .10	1st conviction: 6 months probation 2nd conviction: 5 days 3rd+ conviction: 10 days	
	(a.1) BAC .10 - < .16	1st conviction: 48 hours 2nd conviction: 30 days 3rd conviction: 90 days 4th+ conviction: 1 year	
	(a.2) BAC .16+	1st conviction: 72 hours 2nd conviction: 90 days 3rd+ conviction: 1 year	
	(a.3) controlled substance	1st conviction: 72 hours 2nd conviction: 90 days 3rd+ conviction: 1 year	
	(a.4) under 21 years of age	1st conviction: 48 hours 2nd conviction: 30 days 3rd conviction: 90 days 4th+ conviction: 1 year	
30 Pa. C.S. §5502.1	Homicide by watercraft while operating under the influence	3 years imprisonment	No notice required
35 P.S. §780-113(k)	Manufacture of amphetamines, methamphetamine, or phenylacetone, & phenyl-2-propanone	2 years total confinement	No notice required

Relevant Title/Section	Description	Mandatory Minimum Sentence	Prosecutorial Notice Requirement
42 Pa. C.S. §9712	Sentences for offenses committed with firearms	5 years total confinement	Notice required prior to sentencing / Proof required at sentencing
42 Pa. C.S. §9712.1; 35 P.S. §780-113(a)(30)	Certain drug offenses committed with firearms	5 years total confinement	Notice required prior to sentencing / Proof required at sentencing
42 Pa. C.S. §9713	Sentences for offenses committed on public transportation	5 years total confinement	Notice required prior to sentencing / Proof required at sentencing
42 Pa. C.S. §9714	Sentences for second or subsequent offenses		Notice required prior to sentencing / Proof required at sentencing
	2nd conviction for crime of violence	10 years	
	3rd or subsequent conviction for crime of violence	25 years total confinement or life imprisonment	
42 Pa. C.S. §9715	Life imprisonment for homicide (previously convicted of murder or voluntary manslaughter)	Life imprisonment	Notice required prior to sentencing / Proof required at sentencing
42 Pa. C.S. §9716	Two or more mandatory minimum sentences applicable.	Longest mandatory minimum applies	
42 Pa. C.S. §9717	Sentences for offenses against elderly persons		No notice required / Notice required prior to guilty plea
18 Pa. C.S. §2702(a)(1) & (a)(4)	Aggravated assault	2 years imprisonment	
18 Pa. C.S. §3121	Rape	5 years imprisonment	
18 Pa. C.S. §3123	IDS	5 years imprisonment	
18 Pa. C.S. §3922	Theft by deception	1 year imprisonment (unless court finds justifiable cause)	
42 Pa. C.S. §9718	Sentences for offenses against victims younger than age 16 years		Notice required prior to sentencing / Proof required at sentencing
18 Pa. C.S. §2702(a)(1) & (a)(4)	Aggravated assault	2 years imprisonment	
18 Pa. C.S. §3121(a)(1)-(5)	Rape	10 years imprisonment	
18 Pa. C.S. §3123	IDS	10 years imprisonment	
18 Pa. C.S. §3125(a)(1)-(6)	Aggravated indecent assault	5 years imprisonment	
42 Pa. C.S. §9718	Sentences for offenses against victims younger than age 13 years		Notice required prior to sentencing / Proof required at sentencing
18 Pa. C.S. §2702(a)(1)	Aggravated assault	5 years imprisonment	
18 Pa. C.S. §3121(c) & (d)	Rape	10 years imprisonment	
18 Pa. C.S. §3125(a)(7)	Aggravated indecent assault	5 years imprisonment	
18 Pa. C.S. §3125(a)(1)-(6) & (b)	Aggravated indecent assault	10 years imprisonment	

Relevant Title/Section	Description	Mandatory Minimum Sentence	Prosecutorial Notice Requirement
42 Pa. C.S. §9718.2	Sentences for sex offenses		Notice required prior to sentencing / Proof required at sentencing
	Current conviction of a Megan's Law offense and previously convicted of Megan's Law offense or equivalent	25 years confinement / maximum double minimum	
	Current conviction of a Megan's Law offense and previously convicted of 2 or more Megan's Law offenses or equivalent.	Life imprisonment	
42 Pa. C.S. §9718.4	Sentence for failure to comply with registration of sexual offenders		Notice required prior to sentencing / Proof required at sentencing
	1 st offense / subject to 42 §9799.13, 15 years registration and violated 18 §4915.1(a)(1) or (2)	2 years	
	1 st offense / subject to 42 §9799.13, 15 years registration and violated 18 §4915.1(a)(3)	3 years	
	1 st offense / subject to 42 §9799.13, 25 years or lifetime registration and violated 18 §4915.1(a)(1) or (2)	3 years	
	1st offense / subject to 42 §9799.13, 25 years or lifetime registration and violated 18 §4915.1(a)(3)	5 years	
	2 nd /subsequent offense / subject to 42 §9799.13, 15 or 25 years or lifetime registration and violated 18 §4915.1(a)(1) or (2)	5 years	
	2 nd /subsequent offense / subject to 42 §9799.13, 15 or 25 years or lifetime registration and violated 18 §4915.1(a)(3)	7 years	
42 Pa. C.S. §9718.4(a.1)	Sentence for failure to comply with registration of sexual offenders, transients		Notice required prior to sentencing / Proof required at sentencing
	1st offense / subject to 42 §9799.13, 15 years registration and violated 18 §4915.1(a.1)(1) or (2)	2 years	
	1st offense / subject to 42 §9799.13, 15 years registration and violated 18 §4915.1(a.1)(3)	3 years	
	1st offense / subject to 42 §9799.13, 25 years or lifetime registration and violated 18 §4915.1(a.1)(1) or (2)	3 years	
	1st offense / subject to 42 §9799.13, 25 years or lifetime registration and violated 18 §4915.1(a.1)(3)	5 years	
	2 nd / subsequent offense / subject to 42 §9799.13, 15 or 25 years or lifetime registration and violated 18 §4915.1(a.1)(1) or (2)	5 years	

Relevant Title/Section	Description	Mandatory Minimum Sentence	Prosecutorial Notice Requirement
	2nd / subsequent offense / subject to 42 §9799.13, 15 or 25 years or lifetime registration and violated 18 §4915.1(a.1)(3)	7 years	
	2nd / subsequent offense / subject to 42 §9799.13, 15 or 25 years or lifetime registration and violated 18 §4915.1(a.1)(3)	7 years	
42 Pa. C.S. §9719	Sentences for offenses committed while impersonating a law enforcement officer	3 years total confinement	Notice required prior to sentencing / Proof required at sentencing
42 Pa. C.S. §9719.1; 18 Pa. C.S. §2702.1	Assault of law enforcement officer in the first degree (discharging firearm)	20 years imprisonment	No notice required
75 Pa. C.S. §1543(b)	Driving while operating privilege is suspended or revoked, DUI-related	60 days, unless imbibing 1st offense: 90 days 2nd offense: 6 months 3rd+ offense: 2 years	No notice required
75 Pa. C.S. §3735	Homicide by vehicle while DUI	3 years Consecutive 3 years for each victim	No notice required
75 Pa. C.S. §3742	Accidents involving death or personal injury; leaving scene of accident		No notice required
	Victim suffers SBI	90 days	
	Victim dies	1 year imprisonment	
75 Pa. C.S. §3802	Driving under influence of alcohol or controlled substance		No notice required
	(a)(1) incapable of driving safely <u>or</u> (a)(2) BAC .08 - < .10	1st conviction: 6 months probation 2nd conviction: 5 days 3rd+ conviction: 10 days	
	(a)(1) incapable of driving safely involving accident, <u>or</u> (b) BAC .10 - < .16, <u>or</u> (e) minor, <u>or</u> (f) commercial/school vehicle	1st conviction: 48 hours 2nd conviction: 30 days 3rd conviction: 90 days 4th+ conviction: 1 year	
	(a)(1) incapable of driving safely involving refused testing, <u>or</u> (c) BAC .16 or greater, (d) controlled substances	1st conviction: 72 hours 2nd conviction: 90 days 3rd+ conviction: 1 year	
75 Pa. C.S. §3804(c.1)	Violation involving minor occupant		No notice required
	Violates §3803(b)(5), 1 st offense	Fine not less than \$1,000; 100 hours community service	
	Violates §3803(b)(5), 2 nd offense	Fine not less than \$2,500; Imprisonment not less than 1 month	



Relevant Title/Section	Description	Mandatory Minimum Sentence	Prosecutorial Notice Requirement
	Violates §3803(b)(5), 3 rd offense	Imprisonment not less than 6 month nor more than 2 years	
75 Pa. C.S. §3808	Illegally operating motor vehicle not equipped with ignition lock.	90 days	No notice required



§303.9(i) MANDATORY SENTENCES FOR WHICH COUNTY INTERMEDIATE PUNISHMENT IS AUTHORIZED

GUIDELINE TEXT:

§303.9(i). Mandatory sentences for which county intermediate punishment is authorized. The court shall consider the sentence recommendations pursuant to this section (§303.9) for an offender convicted under 30 Pa.C.S. §5502 (Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance), 75 Pa.C.S. §1543(b) (Driving While Operating Privilege is Suspended or Revoked, Certain Offenses), 75 Pa.C.S. §3802 (Driving Under the Influence of Alcohol or Controlled Substance) or 75 Pa.C.S. §3808(a)(2) (Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock). The court may use a Qualified Restrictive Intermediate Punishment pursuant to §303.12(a)(6) to satisfy the mandatory minimum requirement as provided by law.

PRIOR GUIDELINES:

A similar provision was included in previous guidelines (§303.9(i)). The 6th Edition, Revised guidelines were amended to include other offenses for which the use of county intermediate punishment is authorized to satisfy a mandatory minimum sentence, specifically:

30 Pa.C.S. §5502 (Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance),

75 Pa.C.S. §1543(b) (Driving While Operating Privilege is Suspended or Revoked, Certain Offenses), and

75 Pa.C.S. §3808(a)(2) (Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock).

DESCRIPTION:

- In addition to considering the guideline sentence recommendation, mandatory minimum sentencing provisions apply to violations of Driving Under the Influence of alcohol or controlled substance (75 Pa.C.S. §3802), Operating a Watercraft Under the Influence of alcohol or a controlled substance (30 Pa.C.S. §5502), Driving While Operating Privilege is Suspended or Revoked (75 Pa.C.S. §1543(b)), and Illegally Operating a Motor Vehicle not Equipped with Ignition Interlock (75 Pa.C.S. §3808(2)).
- For DUI, the mandatory minimum term and the grade of the offense is determined based on the subsection of the statute violated and the number of prior DUI convictions during a 10-year look-back period.
- For mandatory minimum and grading purposes for a DUI, a prior admission to Accelerated Rehabilitative Disposition (ARD) for DUI is counted as a prior conviction if the offender was admitted to the ARD program after January 15, 1983.
- For guideline purposes, a prior admission to Accelerated Rehabilitative Disposition (ARD) is not counted in the PRS.
- The first lifetime DUI, if resulting in ARD, is not counted in the PRS. The first lifetime DUI, if resulting in a conviction, is considered an 'Other Misdemeanor' for purposes of the PRS. All subsequent lifetime DUI offenses which result in conviction or a M1 adjudication are assigned one point in the PRS.

- Defendants subject to mandatory minimum sentences for first, second or third DUI offenses may be eligible for participation in certain CIP programs. These programs, identified as Qualified RIP programs, are described in §303.12(a) CIP program.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.3(a) and §303.9(a)

COMMENTARY:

Pennsylvania's first sentencing guidelines (1982) had specific penalties for DUI. These were eliminated on January 2, 1986 because they were inconsistent with the mandatory minimum sentences for this crime, and, as an M2 with a statutory limit of one year, any recommendation in addition to the mandatory would have had little impact. Subsequent editions of the guidelines simply included the mandatory provisions provided then in 75 Pa.C.S. §3731 (relating to imprisonment for DUI if no injuries occurred) and 75 Pa.C.S. §3735 (relating to Homicide by Vehicle While DUI). Since 1986, the Commission adopted two sentence recommendations relating to DUI offenses. In the first instance, the Commission provided sentence recommendations for a DUI which resulted in serious bodily injury; in the second instance, the Commission provided for the use of certain CIPs in lieu of mandatory imprisonment for DUI as permitted in statute.

The Commission responded to enactment of CIP legislation (Acts 1990-193 and 1990-201) by recommending the diversion of offenders with mandatory DUI county sentences to designated programs for a maximum of 90 days. By initially limiting diversion to 90 days, those offenders convicted of DUI with serious bodily injury, Homicide by Vehicle with DUI, and Involuntary Manslaughter with DUI would be required to serve some period of incarceration (with enactment of amendments to 42 Pa.C.S. §9755 and §9756 providing for incarceration with consecutive CIP, this limitation no longer applies). The designated programs were identified as Qualified RIP programs, and were those programs permitted in 37 Pa. Code §451.52 for DUI. This definition was chosen over that found in 42 Pa.C.S. §9763.(c) due to its more restrictive requirements. The provision permitting the use of Qualified RIP programs to satisfy a mandatory minimum sentence is discussed under §303.12(a).

In 1997, the Commission decided to incorporate DUI-related offenses into the 5th Edition guidelines after an 11 year absence. This decision was adopted for several reasons. First, as a misdemeanor offense, the Commission was required by statute to specify a range of sentences applicable to DUI-related offenses, and to provide increased severity for defendants with any previous adjudications or convictions. It was argued that reliance on the mandatory minimum and the statutory limit did not satisfy this requirement. Second, DUI-related offenses were the only offenses with mandatory provisions which the Commission excluded from the sentencing guidelines. And third, the increase in the grade of third and subsequent DUI offenses to an M1 increased the possibility of unwarranted disparity in the absence of guideline sentence recommendations. At the same time, the Commission removed the sentence recommendation for DUI resulting in serious bodily injury, due to the enactment of Aggravated Assault by Vehicle While DUI (75 Pa.C.S. §3735.1) and the assignment of an OGS to the new offense.

The DUI statute was rewritten in 2004, and the 6th Edition guidelines include substantial changes as a result. First, the OGS assignment is based on the grade of the offense: an ungraded misdemeanor is an OGS 1; an M2 DUI is an OGS 3; and an M1 DUI is an OGS 5. Second, the prior record point assignment is based on the number of lifetime DUI convictions: a first lifetime conviction for DUI is considered an 'Other Misdemeanor', while any subsequent lifetime conviction is assigned one point. An admission into ARD is not considered a conviction under the guidelines and is not included in the PRS.

The policy which excludes from the PRS any previous conviction that contributes to an increase in grading of a subsequent offense no longer applies to DUI, since the increase in grading under the new statute takes into account both prior convictions and the current elements of the conviction, and includes a 10-year look-back period for consideration of prior DUI convictions.

Since the adoption of the 6th Edition Sentencing Guidelines, certain mandatory offenses were amended in statute to allow for a CIP sentence in lieu of confinement sentences. Because of these statutory amendments, in the 6th Edition, Revised guidelines the Commission expanded the discussion of mandatory sentences for which CIP is authorized, including 30 Pa.C.S. §5502 (Operating a Watercraft Under the Influence of Alcohol or Controlled Substance); 75 Pa.C.S. §1543(b) (Driving While Operating Privilege is Suspended or Revoked, Certain Offenses); 75 Pa.C.S. §3802 (Driving Under the Influence of Alcohol or Controlled Substance); and 75 Pa.C.S. §3808(a)(2)(Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock).

All guideline-required sentencing information is required for all convictions for DUI-related offenses. No guideline-required sentencing information is required if the offender is accepted into an ARD program. The authority for collecting the guideline-required sentencing information derives from 42 Pa.C.S. §2153(14), and provides information necessary to comply with 75 Pa.C.S. §3817 (DUI Reporting requirements).



§303.10 GUIDELINE SENTENCE RECOMMENDATIONS: ENHANCEMENTS

§303.10(a) DEADLY WEAPON ENHANCEMENT

GUIDELINE TEXT:

§303.10(a). Deadly Weapon Enhancement.

- (1) When the court determines that the offender possessed a deadly weapon during the commission of the current conviction offense, the court shall consider the DWE/Possessed Matrix (§303.17). An offender has possessed a deadly weapon if any of the following were on the offender's person or within his immediate physical control:**
 - (i) Any firearm, (as defined in 42 Pa.C.S. §9712) whether loaded or unloaded, or**
 - (ii) Any dangerous weapon (as defined in 18 Pa.C.S. §913), or**
 - (iii) Any device, implement, or instrumentality designed as a weapon or capable of producing death or serious bodily injury where the court determines that the defendant intended to use the weapon to threaten or injure another individual.**
- (2) When the court determines that the offender used a deadly weapon during the commission of the current conviction offense, the court shall consider the DWE/Used Matrix (§303.18). An offender has used a deadly weapon if any of the following were employed by the offender in a way that threatened or injured another individual:**
 - (i) Any firearm, (as defined in 42 Pa.C.S. §9712) whether loaded or unloaded, or**
 - (ii) Any dangerous weapon (as defined in 18 Pa.C.S. §913), or**
 - (iii) Any device, implement, or instrumentality capable of producing death or serious bodily injury.**
- (3) There shall be no Deadly Weapon Enhancement for the following offenses:**
 - (i) Possessing Instruments of Crime**
 - (ii) Prohibited Offensive Weapons**
 - (iii) Possession of Weapon on School Property**
 - (iv) Possession of Firearm or Other Dangerous Weapon in Court Facility**
 - (v) Simple Assault (18 Pa.C.S. §2701(a)(2))**
 - (vi) Aggravated Assault (18 Pa.C.S. §2702(a)(4))**
 - (vii) Theft when property stolen is a firearm (18 Pa.C.S. Chapter 39)**
 - (viii) Violations of the Pennsylvania Uniform Firearms Act**
 - (ix) Any other offense for which possession of a deadly weapon is an element of the statutory definition.**
- (4) The Deadly Weapon Enhancement shall apply to each conviction offense for which a deadly weapon is possessed or used.**

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.10(a)). In the 6th Edition guidelines, the text of this section was amended to remove the phrase “or in the furtherance of the crime” from the deadly weapon used provision, and to add “theft when the property stolen is a firearm” as an offense to which the Deadly Weapon Enhancement (DWE) does not apply.

DESCRIPTION:

- Unless possession of a deadly weapon is an element of the statutory definition of a crime, the DWE is added every time an offender possessed or used the weapon during the commission of a crime. Thus, the enhancement is added when it is legally possible to commit the crime without possessing a deadly weapon.
- The most common offenses which require a deadly weapon as part of the statutory definition are listed. These offenses are mentioned in the guidelines as examples. There are other crimes for which the statute requires possession of a deadly weapon, and the enhancement cannot be added to these offenses.
- No DWE is applied to 18 Pa.C.S. §2701(a)(2), Simple Assault involving a deadly weapon, regardless of the grade of the offense pursuant to 18 Pa.C.S. §2701(b). The DWE shall apply to all other convictions under the simple assault statute when a deadly weapon is possessed or used.
- No DWE is applied to 18 Pa.C.S. §2702(a)(4), Aggravated Assault involving a deadly weapon. The DWE shall apply to all other convictions under the Aggravated Assault statute when a deadly weapon is possessed or used.
- The DWE can be added to crimes which are usually committed with a deadly weapon, but for which weapon possession is not a part of the statutory definition of the offense.
- The enhancement is added to each offense which meets the requirements of this section. The enhancement is applied to the lesser offenses in a criminal act or episode, even if a deadly weapon is an element of a greater offense.
- The length of the enhancement varies based upon the OGS of the offense to which the enhancement is added and whether the weapon was possessed or used.
- Both a DWE and the Youth, School, or Youth and School enhancement can be added to the same offense.
- The DWE is a means of modifying the guideline sentence ranges for a case. It is not an "add on" to the sentence itself, nor is it a separate sentence which needs to be imposed.
- The guidelines provide two different Deadly Weapon Enhancements, one based on possession of a deadly weapon, and the other based on the use of a deadly weapon.
- The intent of the offender and the effect on the victim should be considered by the court in determining whether an act was threatening. The DWE/Used Enhancement is intended to apply this provision to circumstances in which a person is threatened or injured. In cases where a weapon is used but no person is threatened or injured, such as in a case involving cruelty to animals, the DWE/Possessed Enhancement applies. The Commission specifically selected the definition of firearm found in 42 Pa.C.S. §9712 over other definitions provided in statute.

- Definition of firearm - Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or the expansion of gas therein. (42 Pa.C.S. §9712).
- Definition of dangerous weapon - A bomb, grenade, blackjack, sandbag, metal knuckles, dagger, knife (the blade of which is exposed in an automatic way by switch, push-button, spring mechanism or otherwise) or other implement for the infliction of serious bodily injury, which serves no common lawful purpose. (18 Pa.C.S. §913).
- The enhancement has been added to the lower and upper limit of the standard range of the Basic Sentencing Matrix (§303.16). These enhanced standard ranges are found in the DWE/Possessed Matrix (§303.17) and DWE/Used Matrix (§303.18).
- For the DWE/Possessed Matrix (§303.17): An enhancement of 3 months has been added when the OGS for the current offense is 1, 2, 3 or 4. An enhancement of 6 months has been added when the OGS for the current offense is 5, 6, 7 or 8. An enhancement of 9 months has been added when the OGS for the current offense is 9, 10, 11, 12, 13 or 14. For the purposes of calculating DWE/Possessed, RS recommendations are treated as zeros.
- For the DWE/Used Matrix (§303.18): An enhancement of 6 months has been added when the OGS for the current offense is 1, 2, 3 or 4. An enhancement of 12 months has been added when the OGS for the current offense is 5, 6, 7 or 8. An enhancement of 18 months has been added when the OGS for the current offense is 9, 10, 11, 12, 13 or 14. For the purposes of calculating the DWE/Used, RS recommendations are treated as zeros.
- Once the appropriate enhancement and corresponding matrix is selected, the court may take into account the relative weight of the deadly weapon in the crime. Factors which may be considered include, but are not limited to, the type of weapon, the level of threat, or degree of injury.
- The court must compute the guidelines correctly before a sentence is imposed. When the factual circumstances described in this section apply, the court is required to consider the applicable enhanced sentence recommendation. The court may impose a sentence which departs from the guidelines, but only after it considers the correct enhanced ranges. When the court departs from the guidelines, it must specify its reasons for doing so. See §303.1(d).

GUIDELINE FORM/SGS WEB APPLICATION:

- **Offense Module.** Choose any applicable enhancement. The enhancement must be selected if the court has determined that the specific sentencing factor related to the enhancement (e.g., deadly weapon possessed, deadly weapon used, drugs to minor, drugs in school zone, or drugs to minor in school zone) was present during the commission of the crime.
- When a deadly weapon enhancement applies (possessed or used), select the type of weapon from the drop-down box (e.g., handgun/ pistol/ revolver/ long gun/rifle/ shotgun, knife/sharp instrument, hammer/blunt instrument, other weapon, or unknown weapon).
- Select the correct enhancement (used, possessed, or none) radio button.
- See §303.3(a) and §303.9(a)

COMMENTARY:

The General Assembly has required by statute that the guidelines "(S)pecify a range of sentences of increased severity for defendants who possessed a deadly weapon during the commission of the current conviction offense" (42 Pa.C.S. §2154(a)(3)).

Possessing a weapon during a crime increases the fear of the victim and increases the risk of injury to victims and to law enforcement officers. Defendants who commit such crimes are more culpable than if they had not possessed a weapon. This fact is recognized by the Legislature and the Commission and is the reason why possession of a deadly weapon is given such great weight in computing the suggested guideline sentence ranges.

The enhancement provides increases in the guideline recommendations proportional to the severity of the conviction offense. Under the 5th Edition revisions, the Commission decided to differentiate between deadly weapons that were possessed and those that were used during the commission of an offense. Revised definitions of firearm and dangerous weapon were incorporated from statute. The Commission utilized the lower limits of the previous enhancements for the new DWE/Possessed increment, and the upper limits of the previous enhancements for the DWE/Used increment.

A former provision relating to lesser included offenses was added in the April 25, 1988 edition of the guidelines in response to concerns that an offender might be unconstitutionally constrained from requesting a charge to a jury on a lesser included offense. This could occur when the lesser offense had the longer guideline penalty, as it would if the enhancement could be added to the lesser included offense, but not to the greater crime. This policy was eliminated when the Commission moved to an offense-based system in which the PRS and all applicable enhancements would be applied to each conviction offense.

When the Commission assigned Offense Gravity Scores, all of the elements of an offense were taken into account, including possession of a deadly weapon when that is an element. The most important aspect of a crime that was considered was the degree of harm or the potential for harm that is typically involved in the offense. Therefore, adding the weapon enhancement when weapon possession is already considered in the Offense Gravity Score would count the weapon twice. The Commission has eschewed such "double counting" throughout the guidelines. Counting the same element in different parts of the guidelines would be unfair and would penalize the offender more than once for the same behavior. It is for this reason that the Commission added Theft of a Firearm to the list of offenses for which no deadly weapon enhancement is applied, during the 6th Edition revisions.

As part of the 6th Edition guidelines, the Commission also removed the phrase "or in the furtherance of the crime" from the DWE/Used enhancement. This was done following a review of a case involving the application of the DWE/Used in an offense of Cruelty to Animals at which time no person was present (See *Com. v. Hackenberger*, 836 A.2d 2). A majority of the Commission members supported limiting the application of DWE/Used to circumstances in which a person was threatened or injured, as most consistent with the original purpose of the separate enhancements. The Commission further recognized that the DWE/Possessed would continue to apply in all other cases (including Cruelty to Animals) where a deadly weapon was possessed by the offender.

§303.10(b) YOUTH/SCHOOL ENHANCEMENT

GUIDELINE TEXT:

§303.10(b) Youth/School Enhancement.

- (1) When the court determines that the offender distributed a controlled substance to a person or persons under the age of 18, the court shall consider the range of sentences described in §303.9(c).**
- (2) When the court determines that the offender manufactured, delivered or possessed with intent to deliver a controlled substance within 250 feet of the real property on which is located a public or private elementary or secondary school, the court shall consider the range of sentences described in §303.9(c).**
- (3) When the court determines both (b)(1) and (b)(2) apply, the court shall consider the range of sentences described in §303.9(c).**
- (4) The Youth/School Enhancement only applies to violations of 35 P.S. §780-113(a)(14) and (a)(30).**
- (5) The Youth/School Enhancement shall apply to each violation which meets the criteria above.**

PRIOR GUIDELINES:

A similar provision was included in previous guidelines (§303.10(b)). In the 6th Edition guidelines, the text of this section was amended to insert the phrase “the real property on which is located” to more clearly describe the school zone.

DESCRIPTION:

- The Youth/School Enhancement is only applicable to violations of subsections (a)(14) and (a)(30) of the Controlled Substance Drug, Device and Cosmetic Act. It does not apply to inchoates to these offenses.
- The Youth/School Enhancement is not applicable to non-drug offenses.
- The Youth/School Enhancement does not require a nexus between proximity to a school and the drug manufacture, possession or delivery.
- The Youth/School Enhancement is added for every drug offense for which one of the above conditions are met, even if the offenses arose from the same incident.
- The Youth Enhancement applies when controlled substances are distributed to persons under 18 years of age. Six months are added to the lower limit of the standard range and 12 months are added to the upper limit of the standard range. The revised recommendation should be considered the most appropriate minimum sentence for most convictions.
- The School Enhancement applies when controlled substances are distributed within 250 feet of a school. Twelve months are added to the lower limit of the standard range and 24 months are added to the upper limit of the standard range. The revised recommendation should be considered the most appropriate minimum sentence for most convictions.
- The Youth and School Enhancement applies when controlled substances are distributed to persons younger than 18 years of age and within 250 feet of a school. Eighteen months are added to the

lower limit of the standard range and 36 months are added to the upper limit of the standard range. The revised recommendation should be considered the most appropriate minimum sentence for most convictions.

- The Youth/School Enhancement is a means of modifying the guideline sentence ranges for a case. It is not an "add on" to the sentence itself, nor is it a separate sentence which needs to be imposed.
- Both the Youth/School Enhancement and a DWE Enhancement can be added to the same offense.
- The court must compute the guidelines correctly before a sentence is imposed. When the factual circumstances described in this section apply, the court is required to consider the applicable enhanced sentence recommendation. The court may impose a sentence which departs from the guidelines, but only after it considers the correct enhanced ranges. When the court departs from the guidelines, it must specify its reasons for doing so. See §303.1(d).

GUIDELINE FORM/SGS WEB APPLICATION:

- Offense Module. Choose any applicable enhancement. The enhancement must be selected if the court has determined that the specific sentencing factor related to the enhancement (e.g., deadly weapon possessed, deadly weapon used, drugs to minor, drugs in a school zone, drugs to minor in a school zone) was present during the commission of the crime.
- When the Youth/School Enhancement applies (youth, school, or youth and school), select the correct enhancement from the check-box option.
- If a deadly weapon enhancement also applies (possessed or used), select the type of weapon from the drop-down box (e.g., handgun/ pistol/ revolver/ long gun/rifle/ shotgun, knife/sharp instrument, hammer/blunt instrument, other weapon, or unknown weapon).
- Select the correct enhancement (used, possessed, or none) radio button.
- See §303.3(a) and §303.9(a).

COMMENTARY:

The Youth/School Enhancement was initially developed as an alternative to mandatory sentencing provisions. Although, historically, this provision has not been frequently applied, the Commission chose to maintain the Youth/School Enhancement within the guidelines. The Commission was concerned with the message that would be sent to society and to the drug dealers if the provision was removed from the guidelines.

In response to concerns raised by the Superior Court in a case involving the application of the School Enhancement (see *Com. v. Davis*, 734 A.2d 879), the Commission added language in the 6th Edition guidelines to clarify that the School Enhancement applied to offenses committed within 1,000 feet of "the real property on which is located" a public or private elementary or secondary school. As part of this review, the Commission reviewed the definitions found in 18 Pa.C.S. §6314 (sentencing and penalties for trafficking drugs to minors) and §6317 (drug-free school zones). While the Commission adopted the statutory language to describe the distance, it decided that application of the enhancement would continue to apply only to elementary and secondary schools, and not extend the enhancement to other locations covered in the mandatory provisions, such as colleges, universities, playgrounds and school buses.

House Resolution 12 (HR 12), adopted October 16, 2007, directed the Commission to study the use and impact of mandatory minimum sentences on the criminal justice system in Pennsylvania. In an effort to

gather a broad spectrum of input, the Commission established an advisory committee, comprised of legislators, judges, district attorneys, and public defenders. This advisory committee met several times and offered important guidance to the Commission. In addition, Commission staff conducted interviews, surveys, extensive data analyses and several studies, working in collaboration with faculty and students of The Pennsylvania State University. After considerable study and consultation, the Commission made numerous findings and issued multiple recommendations to the General Assembly.

One finding out of the HR 12 study was clear that the school zone mandatory was rarely used when drug delivery offenses occurred within school zones. It was not clear why and under what circumstances the district attorney chooses to invoke this penalty. The Commission found general support for enhanced penalties to discourage delivery of drugs in an area where minors may often be present and to discourage delivery of drugs to minors (18 Pa.C.S. §6314, Trafficking drugs to minors). There was general agreement that the statute as written is overbroad and does not provide a nexus with risk to minors.

The term ‘school zone’ is used for purposes of two mandatory sentencing provisions (18 Pa.C.S. §6314, §6317), a non-mandatory provision (18 Pa.C.S. §6319) and the sentencing guidelines Youth/ School Enhancement, but the definitions differ across these applications. The lack of consistency undermines the purposes of certainty and deterrence.

The HR 12 report contained concerns raised about the uneven application of the school zone mandatory from county to county, the lack of nexus with a child being present in the school zone (evenings and summer, school administration and service buildings, residences within school zone), the size of the school zone (1,000 feet from the real property of the school), and the definition of school (including college or university). There were also concerns regarding the inconsistency in the size of the zone between school athletic field (1000 feet) and playground (250 feet) and the application of the mandatory to *unmarked* bus stops, particularly outside of school hours.

The Commission provided several recommendations to the General Assembly including: amending 18 Pa.C.S. §6314 (relating to sentencing and penalties for trafficking drugs to minors) and 18 Pa.C.S. §6319 (relating to solicitation of minors to traffic drugs) to reduce a school zone to 250 feet of the real property of public, private or parochial school, a recreation center, a playground or a school bus stop, as well as on a school bus; and to remove colleges and universities from the definition of a school. An additional recommendation was to repeal 18 Pa.C.S. §6317 (relating to drug-free school zones) in favor of Commission’s sentencing guideline Youth/School Enhancement.

Absent a repeal of 18 Pa.C.S. §6317 (relating to drug-free school zones), the Commission decided to make several amendments to the Youth/School Enhancement. Under the 7th Edition guidelines, the school zone in the Youth/School Enhancement was reduced from 1,000 feet to 250 feet. In addition, the Youth/School Enhancement was subdivided into three parts to reflect certain mandatory minimum sentences involving drug distribution to minors and/or within a school zone (see §303.9).



§303.11 GUIDELINE SENTENCE RECOMMENDATION: SENTENCING LEVELS

§303.11(a) PURPOSE OF SENTENCE

GUIDELINE TEXT:

§303.11(a). Purpose of sentence. In writing the sentencing guidelines, the Pennsylvania Commission on Sentencing strives to provide a benchmark for the judges of Pennsylvania. The sentencing guidelines provide sanctions proportionate to the severity of the crime and the severity of the offender's prior conviction record. This establishes a sentencing system with a primary focus on retribution, but one in which the recommendations allow for the fulfillment of other sentencing purposes including rehabilitation, deterrence, and incapacitation. To facilitate consideration of sentencing options consistent with the intent of the sentencing guidelines, the Commission has established five sentencing levels. Each level targets certain types of offenders, and describes ranges of sentencing options available to the court.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.11(a)).

DESCRIPTION:

- This section explains the Commission's overall purpose in writing the sentencing guidelines.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

In this section, the Commission states its purposes behind the guideline sentence recommendations. The purposes were specified so that the court could compare the purpose of the guideline recommendation with its own purpose in imposing a sentence in a particular case.

As noted in the text above, the sentencing guidelines establish a system with a primary focus on retribution, but which allow for other sentencing purposes, including rehabilitation, deterrence, and incapacitation. Retribution, or 'just desserts', is punishment imposed to hold the offender accountable for the crime committed. By using the seriousness of the current offense (OGS) and the offender's criminal history (PRS) to scale the type and length of punishment, the Commission provides a benchmark for sentencing which is proportional and consistent. But recognizing both the need and the statutory requirement for individualized sentencing, courts are encouraged to consider the other purposes identified. "Rehabilitation aims to prevent criminal behavior by sentencing offenders to programs designed to eliminate or substantially reduce their criminal propensities. Underlying this rationale is the belief that the best way to discourage criminal activity is to offer skills, motivation, and employment opportunities that will reorient offenders toward socially productive behavior" (Campbell, A.W. *Law of sentencing* (2nd Edition)). Deterrence seeks to use the sentence imposed to discourage the offender (specific) and the broader public (general) from engaging in future criminal activity. Incapacitation is the removal of the offender from society through imprisonment or similar separation.

The following sentencing alternatives are provided in the Judicial Code: 1) an order of probation; 2) a determination of guilt without further penalty; 3) partial confinement; 4) total confinement; 5) a fine; 6) CIP; and 7) SIP. In addition to these alternatives, the court is required to order the offender to pay restitution to the victim for damage or injury sustained.

The general standards for sentencing require the following:

- 1) "courts should follow the general principle that the sentence imposed should call for confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the offender" (42 Pa.C.S. §9721(b)).
- 2) "The court shall also consider any guidelines for sentencing adopted by the Pennsylvania Commission on Sentencing . . ." (42 Pa.C.S. §9721(b)).
- 3) All sentences of imprisonment shall be to a definite term (42 Pa.C.S. §9721(e)).

Pursuant to Pa.R.Crim.P. Rule 705 (Imposition of Sentence), when more than one sentence is imposed, or when a sentence is imposed on an offender who is sentenced for another offense, the court must state whether the sentences shall run concurrently or consecutively; if concurrent, the sentence shall commence from the date of imposition unless otherwise ordered by the court. When imposing a sentence to imprisonment, the court shall state the date the sentence is to commence. "There is simply no statutory provision which would permit a sentencing judge to either commence a second sentence retroactively, i.e., to have it commence at the same time as a prior sentence, or to provide credit for the time served on a prior unrelated charge" *Wassell v. Com.*, 658 A.2d 466 (Pa.Cmwlth, 1995). Relevant case law requires that consecutive sentences be automatically aggregated, even if imposed by different judges, even if imposed by different courts, and even if imposed at different times, and that, where the total aggregate sentence carries a maximum of two years or more, exclusive parole authority lies with the Pennsylvania Board of Probation and Parole (*Com. v. Miller*, 770 A.2d 362 (PA Super., 2001)).

As part of the 6th Edition guidelines, the Commission expanded the description of sentencing levels to target the use of CIPs for those eligible offenders with a minimum sentence recommendation of less than 30 months, and SIPs for those eligible offenders with a minimum sentence recommendation of 30 months or greater. The Commission has also modified the definitions of sentencing levels 3 and 4 to include offenses for which a mandatory minimum sentence to a county facility applies and for which an intermediate punishment sentence is authorized. While some offenses, such as DUI, may be assigned to lower sentencing levels due to the grade of the offense and the OGS assignment, the mandatory sentencing provision and the intermediate punishment eligibility are consistent with the general description of levels 3 and 4: standard range requires incarceration or RIP, but in all cases permits incarceration in a county facility. The Commission has further modified the definitions of sentencing levels 3, 4 and 5 to incorporate SIP as an available sentencing option.

In the 6th Edition, Revised guidelines, the Commission removed the numeric threshold of 30 months for CIP or SIP sentences. This placed greater emphasis on the recommended place of confinement for targeting the use of CIP or SIPs to promote greater consideration of these options at both the state and county level. The Commission recommended consideration of CIP when the individual or aggregate minimum sentence recommendation includes confinement in a county facility, and consideration of SIP when the individual or aggregate minimum sentence recommendation includes confinement in a state facility.

§303.11(b) SENTENCING LEVELS

GUIDELINE TEXT:

§303.11(b). Sentencing levels. The sentencing level is based on the standard range of the sentencing recommendation. Refer to §303.9 to determine which sentence recommendation (i.e., Basic, Deadly Weapon Enhancement or Youth/School Enhancement) applies. When the individual or aggregate minimum sentence recommendation includes confinement in a county facility, county intermediate punishment should be considered in lieu of confinement for an eligible offender. When the individual or aggregate minimum sentence recommendation includes confinement in a state facility, county or state intermediate punishment should be considered in lieu of confinement for an eligible offender. The descriptions of the five sentencing levels are as follows:

- (1) Level 1 - Level 1 provides sentence recommendations for the least serious offenders with no more than one prior misdemeanor conviction, such that the standard range is limited to Restorative Sanctions (RS). The primary purpose of this level is to provide the minimal control necessary to fulfill court-ordered obligations. The following sentencing option is available:

Restorative Sanctions (§303.9(f)) (also see §303.14(a)(4) for Fines/Community Service Guidelines)

- (2) Level 2 - Level 2 provides sentence recommendations for generally non-violent offenders and those with numerous less serious prior convictions, such that the standard range requires a county sentence but permits both incarceration and non-confinement. The standard range is defined as having an upper limit of less than 12 months and a lower limit of Restorative Sanctions (RS). The primary purposes of this level are control over the offender and restitution to victims. Treatment is recommended for drug-dependent offenders. The following sentencing options are available:

Total confinement in a county facility

Partial confinement in a county facility

County Intermediate Punishment (see §303.12(a) for eligibility criteria)

Restorative Sanctions (§303.9(f)) (also see §303.14(a)(4) for Fines/Community Service Guidelines)

- (3) Level 3 - Level 3 provides sentence recommendations for serious offenders and those with numerous prior convictions, such that the standard range requires incarceration or County Intermediate Punishment, but in all cases permits a county sentence. The standard range is defined as having a lower limit of incarceration of less than 12 months. Included in Level 3 are those offenses for which a mandatory minimum sentence of 12 months or less applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of this level are retribution and control over the offender. If eligible, treatment is recommended for drug dependent offenders in lieu of incarceration. The following sentencing options are available:

Total confinement in a state facility

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see §303.12(b) for eligibility criteria)

State Intermediate Punishment (see §303.12(c) for eligibility criteria)

Total confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

Partial confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

County Intermediate Punishment (see §303.12(a) for eligibility criteria)

- (4) Level 4 - Level 4 provides sentence recommendations for very serious offenders and those with numerous prior convictions, such that the standard range requires state incarceration but permits it to be served in a county facility pursuant to 42 Pa.C.S. §9762(b). The standard range is defined as having a lower limit of incarceration of 12 months or greater but less than 30 months, but limited to offenses with an Offense Gravity Score of less than 9. Included in Level 4 are those offenses for which a mandatory minimum sentence of less than 30 months applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of the sentencing options at this level are punishment and incapacitation. However, it is recognized that certain offenders at this level are permitted to serve a sentence of total confinement in a county facility, pursuant to 42 Pa.C.S. §9762(b), and some non-violent offenders may benefit from drug and alcohol treatment. If eligible, state or county intermediate punishment is recommended for drug-dependent offenders. The following sentencing options are available:**

Total confinement in a state facility

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see §303.12(b) for eligibility criteria)

State Intermediate Punishment (see §303.12(c) for eligibility criteria)

Total confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

Partial confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

County Intermediate Punishment (see §303.12.(a) for eligibility criteria)

- (5) Level 5 - Level 5 provides sentence recommendations for the most violent offenders and those with major drug convictions, such that the conviction has an Offense Gravity Score of 9 or greater or the standard range requires state incarceration in a state facility. The standard range in such a case is defined as having a lower limit of 12 months or greater. Included in Level 5 are those offenses for which a mandatory minimum sentence of 30 months or greater applies and for which a state or county intermediate punishment sentence is authorized by statute. The primary purposes of the sentencing options at this level are punishment commensurate with the seriousness of the criminal behavior and incapacitation to protect the public. If eligible, state or county intermediate punishment is recommended for drug dependent offenders. The following sentencing options are available:**

Total confinement in a state facility

Total confinement in a state facility, with participation in the State Motivational Boot Camp (see §303.12(b) for eligibility criteria)

State Intermediate Punishment (see §303.12(c) for eligibility criteria)

Total confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

Partial confinement in a county facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d)

County Intermediate Punishment (see §303.12.(a) for eligibility criteria)

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.11(b)). The text of this section was amended in the 6th Edition and 6th Edition, Revised guidelines to incorporate and provide targeting for the use of SIP, to distinguish between CIP and SIP in terms of targeting, and to clarify the sentencing level assignments for mandatory minimum sentences.

DESCRIPTION:

- This section discusses the specific purposes of the sentencing recommendations, which shift with each level of the guidelines.
- The levels approximate a continuum of sentencing recommendations from restorative sanctions (RS) at Level 1 to total confinement in a state facility at Level 5.
- The sentencing levels are based on the standard range of the applicable matrix (see §303.9(a)). The level and corresponding sentencing options recommended under this section do not change as a result of an aggravated, mitigated or departure sentence.
- Information on Alphabetic Sentence Recommendations, such as RS, is found at §303.9(f). Information on Numeric Sentence Recommendations, which include total confinement, is found at §303.9(e).
- Information on CIP Programs is found at §303.12(a). Information on SIP is found at §303.12(c). Information on the State Motivational Boot Camp is found at §303.12(b).
- Level 1 generally includes offenders who are the least serious in terms of their current conviction and their prior record. The sentence recommendations at Level 1 reflect the Commission's position that the offender should be required to restore either the victim or the community to pre-offense status. Constraint of the offender's freedom is utilized at this level to insure compliance with court orders.
- At Level 1, the court may utilize any sentencing option classified as a Restorative Sanction (RS). At Level 1, a sentence that is more than RS (e.g., CIP, SIP, partial confinement, or total confinement) is outside the standard range.
- Level 2 generally includes offenders with convictions for more serious offenses than at Level 1, or those offenders with convictions for less serious offenses but with a prior record. The sentence recommendations at this level reflect the Commission's position that the offender may need to have considerable restrictions placed on his or her freedom. The recommendations also allow for sentences that require the offender to meet his or her responsibilities to the victim and/or the community. At Level 2 the guidelines recommend that the court focus on alternatives to incarceration.
- At Level 2, there are three sentencing options that are recommended within the standard range. The first is the imposition of a Restorative Sanction such as probation. The second is a sentence of CIP, which includes participation in one or more RIP programs. The third is partial or total confinement in a county correctional facility.

- At Level 2, a sentence that includes participation in an RIP program or confinement that is longer than the number of months indicated is outside the standard range.
- At Level 2, the court is not required under the guidelines to have the offender evaluated for dependency on alcohol or other drugs before sentencing an offender to CIP. However, the guidelines encourage the courts to consider the appropriateness of treatment.
- Level 3 generally includes serious offenders who may have a potential for violence, or less serious offenders who have numerous prior convictions. Level 3 also includes offenders for which a mandatory minimum sentence of less than 12 months applies and for which CIP or SIP is permitted. The sentence recommendations at this level reflect the Commission's position that the offender generally requires a period of incarceration in a county facility. However, individual circumstances may warrant either confinement in a state facility or a sentence of CIP or SIP.
- At Level 3, there are four sentencing options that are permitted within the guidelines. The first is commitment to a state correctional facility, including authorizing the offender's participation in the state motivational boot camp, provided the statutory criteria are met. The second is a commitment to a county correctional facility, including authorizing the offender's participation in work release. The third is a sentence of CIP, which includes participation in one or more RIP programs. The fourth is SIP, which requires an evaluation and positive recommendation by the Department of Corrections prior to sentencing.
- The court may utilize one or more of the Level 3 sentencing options to satisfy the sentence recommendation provided in the standard range.
- At Level 3, the following sentences are outside the standard range: Restorative Sanction (RS); a sentence of CIP for a drug-dependent offender that does not conform to the clinical recommendation; a sentence for a non-dependent offender that includes participation in an RIP program that is shorter or longer than the number of months indicated; a sentence of partial or total confinement that is shorter or longer than the number of months indicated.
- Level 4 generally includes very serious offenders and those with numerous prior convictions. As with Level 3, such offenders may have a potential for violence. Level 4 also includes offenders for which a mandatory minimum sentence of less than 30 months applies and for which CIP or SIP is permitted. The sentence recommendations at this level reflect the Commission's position that the offender generally requires a period of incarceration in a state or county facility. However, individual circumstances may warrant a sentence of CIP or SIP.
- At Level 4, there are four sentencing options that are permitted within the guidelines. The first is commitment to a state correctional facility, including authorizing the offender's participation in the State Motivational Boot Camp, provided the statutory criteria are met. The second is a commitment to a county correctional facility, including authorizing the offender's participation in work release. The third is a sentence of CIP, which includes participation in one or more RIP programs. The fourth is SIP, which requires an evaluation and positive recommendation by the Department of Corrections prior to sentencing.
- At Level 4, the following sentences are outside the standard range: Restorative Sanctions (RS); a sentence of CIP for a drug-dependent offender, that does not conform to the clinical recommendation; a sentence for a non-dependent offender that includes participation in an RIP program that is shorter or longer than the number of months indicated; a sentence of partial or total confinement that is shorter or longer than the number of months indicated.
- Level 5 includes offenders who have been convicted of a violent or major drug offense, including those offenders who have a very lengthy and/or serious prior record. Level 5 also includes

offenders for which a mandatory minimum sentence of 30 months or greater applies and for which a SIP sentence is permitted. The sentence recommendations at this level reflect the Commission's position that the offender generally requires incarceration in a state facility. However, individual circumstances may warrant confinement in a county facility or SIP.

- At Level 5, there are three sentencing options that are permitted within the guidelines. The first is commitment to a state correctional facility, including authorizing the offender's participation in the State Motivational Boot Camp, provided the statutory criteria are met. The second is a commitment to a county correctional facility pursuant to 42 Pa.C.S. §9762(b) or for DUI if the offender is subject to the extended supervision of the court pursuant to 75 Pa.C.S. §3804(d). The third is SIP, which requires an evaluation and positive recommendation by the Department of Corrections prior to sentencing.
- At Level 5, the following sentences are outside the standard range: Restorative Sanctions (RS); a sentence of CIP; a sentence of partial or total confinement that is shorter or longer than the number of months indicated.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

The following sentencing alternatives are provided in the Judicial Code: 1) an order of probation; 2) a determination of guilt without further penalty; 3) partial confinement; 4) total confinement; 5) a fine; 6) CIP; and 7) SIP. In addition to these alternatives, the court is required to order the offender to pay restitution to the victim for damage or injury sustained.

The general standards for sentencing require the following:

- 1) "courts should follow the general principle that the sentence imposed should call for confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the offender" (42 Pa.C.S. §9721(b)).
- 2) "The court shall also consider any guidelines for sentencing adopted by the Pennsylvania Commission on Sentencing . . ." (42 Pa.C.S. §9721(b)).
- 3) All sentences of imprisonment shall be to a definite term (42 Pa.C.S. §9721(e)).

Pursuant to Pa.R.Crim.P. Rule 705 (Imposition of Sentence), when more than one sentence is imposed or when a sentence is imposed on an offender who is sentenced for another offense, the court must state whether the sentences shall run concurrently or consecutively; if concurrent, the sentence shall commence from the date of imposition unless otherwise ordered by the court. When imposing a sentence to imprisonment, the court shall state the date the sentence is to commence. "There is simply no statutory provision which would permit a sentencing judge to either commence a second sentence retroactively, i.e., to have it commence at the same time as a prior sentence, or to provide credit for the time served on a prior unrelated charge" (Wassell v. Com., 658 A.2d 466 (Pa.Cmwlt, 1995)). Relevant case law require that consecutive sentences be automatically aggregated, even if imposed by different judges, even if imposed by different courts, and even if imposed at different times, and that, where the total aggregate sentence carries a maximum of two years or more, exclusive parole authority lies with the Pennsylvania Board of Probation and Parole (Com. v. Miller, 770 A.2d 362 (PA Super., 2001)).

Under the 4th Edition guidelines, the Commission divided the sentencing recommendations into four levels and developed two categories of CIP programs (i.e., RIPs and restorative sanctions programs), incorporating the statutory sentencing alternatives into the guidelines. Offenders were targeted for different sentencing options based upon the recommendation of the standard range of the applicable matrix. The guidelines targeted offenders to help promote the most efficient use of correctional resources and reduce the possibility of net-widening. The Commission recommended a sentence of CIP for only those offenders who would otherwise have been sentenced to partial or total confinement in a county correctional facility.

As part of the 5th Edition guidelines, the two cells which included a PRS = 1 were removed from Level 1. The resulting Level 1 included only those with the least serious offenses (OGS=1, 2) and no significant prior convictions (PRS=0). The standard range recommendation for Level 1 under the 5th Edition guidelines was RS. The most significant change in sentencing levels involved the modification of the previous Level 4 and the addition of a new Level 5. This change generally incorporated into the guidelines other provisions of statute which provide for place of confinement and paroling authority based on the maximum sentence (see §303.9(e) Numeric Sentence Recommendations). The modified Level 4 targeted those offenders who could serve a state sentence in a county facility. Some of these offenders could be eligible for a sentence of CIP in lieu of incarceration. The new Level 5 generally targeted those offenders who were required to serve a state sentence in a state facility. Also included in Level 5 were state offenders with current convictions for crimes of violence. The Commission generally recommended that these sentences be served in a state facility.

As part of the 6th Edition guidelines, the Commission expanded the description of sentencing levels to target the use of CIP for those eligible offenders with a minimum sentence recommendation of less than 30 months, and SIPs for those eligible offenders with a minimum sentence recommendation of 30 months or greater. The Commission modified the definitions of sentencing Levels 3 and 4 to include offenses for which a mandatory minimum sentence to a county facility applies and for which a CIP sentence is authorized. Based on the grade of the offense and the OGS assignment, some offenses, such as DUI, appear on the basic matrix in a lower sentencing level. However, Level 3 includes mandatory minimums of 12 months or less that also meet CIP eligibility: standard range requires incarceration or RIP, but in all cases permits incarceration in a county facility. The Commission has further modified the definitions of sentencing Levels 3, 4 and 5 to incorporate SIP as an available sentencing option.

Under the 6th Edition, Revised guidelines, the Commission placed greater emphasis on the recommended place of confinement for targeting the use of intermediate punishments, to promote greater consideration of these options at both the state and county level. The Commission recommended consideration of CIP when the individual or aggregate minimum sentence recommendation includes confinement in a county facility, and consideration of SIP when the individual or aggregate minimum sentence recommendation includes confinement in a state facility.

Three sentencing programs, discussed in §303.12, are available as alternatives to a traditional sentence of total confinement: CIP and SIP, and the State Motivational Boot Camp when authorized as part of a total confinement sentence. While there is some overlapping in eligibility, each targets a substantially different population.

CIP remains the primary alternative to county incarceration. CIP targets offenders who otherwise would be serving a minimum sentence of confinement in a county facility. For Level 3 and 4 offenders, a drug and alcohol assessment must be administered by the county prior to sentencing. For drug-dependent offenders, only a clinically-prescribed treatment program may be ordered as part of a CIP sentence; for non drug dependent offenders, the court may use any approved CIP programs as part of a CIP sentence, with the use of RIP programs as a 1:1 trade-off with the recommended period of incarceration, and restorative sanctions programs, such as probation supervision, replacing traditional county parole.

SIP is a direct alternative to state incarceration and the state motivational boot camp, when authorized as part of a total confinement sentence, and would be used as an option to traditional state incarceration.

SIP targets drug-dependent offenders who otherwise would be serving a minimum sentence of confinement in a state facility. The court must commit the offender to the Department of Corrections for a comprehensive evaluation prior to sentencing. SIP is a two-year program of individualized treatment and supervision for offenders with substantial drug dependency, beginning with total confinement and treatment in a state correctional institution and transitioning to the community, all supervised by the Department of Corrections.

State Motivational Boot Camp targets younger offenders (male or female) who would otherwise be serving a minimum sentence of one to three years in a state facility and whose primary needs are structure, education, discipline and life skills, with drug and alcohol dependency a secondary issue. The boot camp is a six-month program with mandatory aftercare and intensive supervision.

Act 81 of 2008 provided changes to the place of confinement, and became effective November 24, 2011. A sentence of confinement when the maximum sentence is 24 months or more is presumptively considered a state sentence and will be served in state prison. However, Level 4 of the Sentencing Guidelines may include sentences in which an offender will be housed in a county jail if the county jail is certified less than 110% of the rated capacity. Offenders sentenced to confinement for the offense of DUI and subject to the extended supervision of the court provision in Chapter 38 of the DUI Statute may serve their sentences in county jails.



§303.12 GUIDELINE SENTENCE RECOMMENDATIONS: SENTENCING PROGRAMS

§303.12(a) COUNTY INTERMEDIATE PUNISHMENT

GUIDELINE TEXT:

§303.12(a). County Intermediate Punishment (CIP).

(1) Eligibility.

- (i) The following regulations and statutes govern operation of and eligibility for County Intermediate Punishment programs:**

37 Pa.Code §451.1 et seq.

42 Pa.C.S. §9763, §9773 and Chapter 98

204 Pa.Code §303.8 and §303.9

- (ii) Sentence recommendations which include an option of County Intermediate Punishment for certain offenders are designated in the guideline matrices.**

- (2) The County Intermediate Punishment plan provides a mechanism to advise the court of the extent and availability of services and programs authorized in the county. This plan includes information on the appropriate classification and use of county programs based on program-specific requirements.**

- (3) County Intermediate Punishments classifications. In order to incorporate county intermediate punishment programs into the sentencing levels, the Commission has classified county intermediate punishment programs as Restrictive Intermediate Punishments (RIP) and restorative sanction programs. Additionally, specific county intermediate punishment programs have been identified in legislation (42 Pa.C.S. §§9763(c) and 9804(b)) and regulation (37 Pa. Code §451.52) as authorized sentences for convictions relating to Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, Driving While Operating Privilege is Suspended or Revoked, Driving Under the Influence of Alcohol or Controlled Substance and Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock; the Commission has classified these programs as Qualified Restrictive Intermediate Punishments.**

- (4) Restrictive Intermediate Punishments (RIP). Restrictive Intermediate Punishments are defined as programs that provide for strict supervision of the offender. The County Intermediate Punishment Board is required to develop assessment and evaluation procedures to assure the appropriate targeting of offenders. All programs must meet the minimum standards provided in the Pennsylvania Commission on Crime and Delinquency regulations (37 Pa.Code Chapter 451) for County Intermediate Punishments.**

- (i) Restrictive Intermediate Punishments (RIP) either:**

(A) house the offender full or part time; or

(B) significantly restrict the offender's movement and monitor the offender's compliance with the program(s); or

(C) involve a combination of programs that meet the standards set forth above.

- (ii) An offender under consideration for Restrictive Intermediate Punishments at Level 4 or Level 3 shall have a diagnostic assessment of dependency on alcohol or other drugs conducted by one of the following: the Pennsylvania Department of Health's Bureau of Drug and Alcohol**

Programs (BDAP) or a designee; the county authority on drugs and alcohol or a designee; or clinical personnel of a facility licensed by the Bureau of Drug and Alcohol Programs.

- (iii) An offender assessed to be dependent shall be evaluated for purposes of a treatment recommendation by one of the above listed assessors. The evaluation shall take into account the level of motivation of the offender. If sentenced to a Restrictive Intermediate Punishment, the sentence shall be consistent with the level of care and length of stay prescribed in the treatment recommendation, regardless of the standard range sentencing recommendation.
 - (iv) An offender assessed as not in need of drug or alcohol treatment may be placed in any approved Restrictive Intermediate Punishment program. Each day of participation in a Restrictive Intermediate Punishment program or combination of programs shall be considered the equivalent of one day of total confinement for guideline sentence recommendations.
 - (v) The court may impose a Qualified Restrictive Intermediate Punishment in lieu of incarceration for certain convictions under 75 Pa.C.S. §3802 (relating to Driving Under the Influence of Alcohol or Controlled Substance).
- (5) Restorative sanction programs. Restorative sanction programs are the least restrictive, non-confinement intermediate punishments. Restorative sanction programs are generally used in conjunction with Restrictive Intermediate Punishments as the level of supervision is reduced, but may also be used as separate sanctions under any of the non-confinement sentencing alternatives provided in the statute (see §303.9(f)).
- (i) Restorative sanction programs:
 - (A) are the least restrictive in terms of constraint of offender's liberties;
 - (B) do not involve the housing of the offender (either full or part time); and
 - (C) focus on restoring the victim to pre-offense status.
- (6) Qualified Restrictive Intermediate Punishments. In accordance with 42 Pa.C.S. §§9763(c), 9804(b) and 37 Pa. Code §451, Qualified Restrictive Intermediate Punishment programs may be used to satisfy the mandatory minimum sentencing requirements of certain convictions under 30 Pa.C.S. §5502(c.1) for a first, second or third offense under 30 Pa.C.S. §5502, 75 Pa.C.S. § 1543(b), former 75 Pa.C.S. §3731, 75 Pa.C.S. §3804 for a first, second or third offense under 75 Pa.C.S. Chapter 38, or 75 Pa.C.S. §3808(a)(2) Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock.
- (i) Unless otherwise provided in statute, Qualified Restrictive Intermediate Punishment programs include:
 - (A) if the defendant is determined to be in need of drug and alcohol treatment, and receives a penalty imposed under 75 Pa.C.S. §1543(b), former 75 Pa.C.S. §3731, 75 Pa.C.S. §3804, or 75 Pa.C.S. §3808(a)(2) a sentence to county intermediate punishment shall include participation in drug and alcohol treatment under 75 Pa.C.S. §3815(c), and may be combined with:
 - 1. a residential inpatient program or residential rehabilitative center;
 - 2. house arrest with electronic surveillance;
 - 3. a partial confinement program such as work release, a work camp or a halfway facility; or
 - 4. any combination of Qualified Restrictive Intermediate Punishment programs.

(B) if the defendant is determined not to be in need of drug and alcohol treatment, or if the defendant receives a penalty imposed under 30 Pa.C.S. §5502(c.1), a sentence to county intermediate punishment may only include:

- 1. house arrest with electronic surveillance; or**
- 2. partial confinement programs such as work release, a work camp or a halfway facility; or**
- 3. any combination of Qualified Restrictive Intermediate Punishment programs.**

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.12(a)). The text of this section was amended in the 6th Edition guidelines to reflect changes in statute.

The text of this section was amended in the 6th Edition, Revised guidelines to include other offenses, specifically 30 Pa.C.S. §5502 (Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance), 75 Pa.C.S. §1543(b) (Driving While Operating Privilege is Suspended or Revoked, Certain Offenses), and 75 Pa.C.S. §3808(a)(2) (Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock). In addition, intermediate punishment was designated as County Intermediate Punishment.

DESCRIPTION:

- CIP targets offenders who otherwise would be serving a confinement sentence in a county facility. For Level 3 and 4 offenders, a drug and alcohol assessment must be administered by the county prior to sentencing. For drug-dependent offenders, only a clinically-prescribed treatment program may be ordered as part of a CIP sentence; for non drug dependent offenders, the court may use any approved CIP programs as part of a CIP sentence, with the use of RIP programs as a 1:1 trade-off with the recommended period of incarceration, and restorative sanctions programs, such as probation supervision, replacing traditional county parole.
- Three types of CIP programs are described in this section: RIP programs, restorative sanction programs, and Qualified RIP programs. All programs must be included in the county's Intermediate Punishment Plan and the plan must be approved by the Pennsylvania Commission on Crime and Delinquency (PCCD) annually. Please direct any questions regarding CIP plans and related funding to the PCCD. Participation in one or more of the CIP programs may only be ordered through a CIP sentence, not as a condition of probation and not through parole from a sentence of partial or total confinement. A CIP sentence may take many forms depending on the specific programs identified by the court and the CIP plan: non-custodial programs such as house arrest and electronic monitoring; residential programs such as inpatient treatment; and partial confinement programs such as work release.
- A sentence of CIP, while similar to an order of probation in many ways, targets a more serious offender. Like an order of probation, a CIP sentence is a flat sentence. And like probation, participation in one or more programs or assignment of conditions may be included in the sentence.
- Since CIP is used in lieu of a sentence of partial or total confinement, every sentence of CIP should include one or more RIP program or Qualified RIP program. Restorative sanction programs may only be used in conjunction with an RIP or Qualified RIP program under a sentence of CIP.
- Based on applicable statutes on the date these guidelines took effect (12/28/2012), an offender with a current conviction or a prior conviction within the past ten years for of any of the following offenses is ineligible for CIP:

Murder (18 Pa.C.S. §2502);
Voluntary Manslaughter (18 Pa.C.S. §2503);
Aggravated Assault (18 Pa.C.S. §2702);
Assault by Prisoner (18 Pa.C.S. §2703);
Assault by Life Prisoner (18 Pa.C.S. §2704);
Kidnapping (18 Pa.C.S. §2901(a));
Statutory Sexual Assault (18 Pa.C.S. §3122.1(a)(1));
Arson and related offenses (18 Pa.C.S. §3301);
Burglary (F1) (18 Pa.C.S. §3502(c));
Robbery (18 Pa.C.S. §3701);
Theft by Extortion (18 Pa.C.S. §3923);
Incest (18 Pa.C.S. §4302(a));
Escape (18 Pa.C.S. §5121);

- Any person who has been convicted or adjudicated delinquent of a crime requiring registration under 42 Pa.C.S. Chapter 97, subchapter H (relating to registration of sexual offenders) is ineligible for a CIP sentence.
- The prosecuting attorney may advise the court that the Commonwealth has elected to waive the eligibility requirements if the victim has been given notice of the prosecutor's intent to waive eligibility and an opportunity to be heard on the issue. The court, after considering victim input, may refuse to accept the prosecutor's waiver of the eligibility requirements.
- Additionally, "eligible offender" is defined in 42 Pa.C.S. §9802 (relating to definitions) as follows: "...a person convicted of an offense who would otherwise be sentenced to a county correctional facility, who does not demonstrate present or past violent behavior and who would otherwise be sentenced to partial confinement pursuant to section 9724 (relating to partial confinement) or total confinement pursuant to section 9725 (relating to total confinement)."
- For eligible offenders, a CIP sentence which includes one or more RIP program(s) may satisfy a standard range recommendation at Sentencing Levels 2, 3 and 4. Generally, the duration of the RIP programs may not exceed the recommended period of incarceration (see exception for drug dependent offenders below). However, the duration of additional restorative sanction programs within such a sentence is only limited by the statutory maximum of the conviction offense.
- Eligible offenders at Levels 3 and 4 under consideration for a sentence of CIP are required to have a diagnostic assessment of dependency on alcohol or other drugs conducted by a Pennsylvania Department of Drug and Alcohol Programs' licensed agency. If the offender is assessed to be dependent on alcohol or drugs and the court elects to impose a sentence of CIP, the standard range recommendation requires a sentence consistent with the treatment recommendation. Only programs and licensed facilities included in an approved CIP plan may be considered in the treatment recommendation.
- At Levels 3 and 4, if the court fails to have an assessment and/or evaluation conducted in accordance with this section prior to imposing a sentence of CIP, or imposes a sentence of CIP on a drug-dependent offender that is not consistent with the clinical recommendation, the sentence is a procedural departure from the guidelines.
- Effective July 1, 1997, the use of the Pennsylvania Client Placement Criteria (PCPC) for assessment and evaluation of adults is required to determine the appropriate level of case and length of treatment service.

- Restorative sanction programs should only be used within a sentence of CIP in conjunction with RIP or Qualified RIP programs. The use of one of these least restrictive programs as a sole sanction is more appropriately ordered as conditions of an order of probation, or other Restorative Sanction (RS) sentencing alternatives, found in 42 Pa.C.S. §9721. These sentencing alternatives are discussed at §303.9(f).
- Restorative sanction programs are the least restrictive CIP programs. They are viewed by the Commission as programs which supplement restrictive programs and provide reintegration following restrictive programs. Such programs are used within a CIP sentence in conjunction with an RIP or Qualified RIP program.
- Qualified RIP programs are specifically provided for in statute and the code. They are the only programs which may be used in a sentence of CIP to satisfy the mandatory minimum sentence requirement for DUI, Operating a Watercraft Under the Influence of Alcohol or a Controlled Substance, Driving While Operating Privilege is Suspended or Revoked, Certain Offenses, and Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock. (See §303.9(i) Mandatory Sentences for Which CIP is Authorized.)
- A person convicted of DUI is eligible for CIP for a first, second or third offense. Statute requires participation in treatment for those DUI offenders determined to be in need of treatment, and limits the type of CIP programs to the following: residential inpatient programs; residential rehabilitative center; house arrest with electronic surveillance; partial confinement program such as work release, work camp, or a halfway facility; or a combination of these programs. A DUI offender determined to not be in need of treatment may only be sentenced to CIP with the following: house arrest with electronic surveillance; partial confinement program such as work release, work camp, or a halfway facility; or a combination of these programs (see 42 Pa.C.S. §9802, §9804).
- As provided in 42 Pa.C.S. §9755 and §9756, the court may impose a flat sentence of partial confinement or total confinement of up to 90 days when followed immediately by a sentence of CIP. Because of this statutory provision, and the benefits of long-term treatment and supervision, the Commission removed its previous recommendation that limited the use of Qualified RIP program(s) to 90 days.

GUIDELINE FORM/SGS WEB APPLICATION:

- Sentence-Sanction Manager. When a sentence of CIP is imposed, select “Apply Intermediate Punishment Sanction” from the sentence options.
- SGS Web requires the total amount of CIP to be reported in two fields (RIP and RS).
- The amount of time (months and/or days) on RIP requires the total amount of RIP, regardless if the court ordered participation in several RIP programs. The initial RIP program ordered by the court as part of the CIP sentence should be selected from the drop-down box (e.g., drug and alcohol inpatient, day reporting, electronic monitoring, house arrest, individualized services, intensive supervision, residential rehab/halfway house, work camp, or work release).
- The amount of time (months and/or days) on RS requires the total amount of non-RIP programs (the balance of the CIP sentence minus the RIP component). The RS program ordered by the court as part of the CIP sentence should be selected from the drop-down box (e.g., community service, drug and alcohol outpatient, drug testing, fines program, individualized services, probation supervision, restitution program, TASC).
- See §303.3(a) and §303.9(a).

COMMENTARY:

The Commission is required by 42 Pa.C.S. §2154.1 to identify offenders who are appropriate for a sentence of CIP. The Commission is directed to use the description of "eligible offender" provided in 42 Pa.C.S. §9802 (relating to CIP) to identify such offenders.

Acts 1990-193 and 1990-201 identified offenders convicted of DUI as eligible for a sentence of CIP. The legislation also limited the specific programs which could be used to satisfy the mandatory minimum requirement. The Pennsylvania Commission on Crime and Delinquency further narrowed the programs through the regulatory authority it was granted in the legislation.

On August 9, 1991, the first set of guidelines that incorporated recommendations for CIP went into effect. The initial CIP guidelines were limited in the number of areas of the matrix that called or allowed for the use of a sentence of CIP. The Commission moved forward slowly with CIP recommendations, acknowledging the fact that many counties had not yet developed programs for use with this new sentencing alternative.

During the 1994 revisions to the guidelines, the Commission expanded recommendations for the use of CIP sentences within the guidelines. Since the legislation encompassed a wide variety of appropriate programs, the Commission decided to categorize the programs. The programs identified in statute and code as appropriate to satisfy the DUI mandatory were labeled "Qualified Restrictive Intermediate Punishment programs"; all other programs which confined or significantly restricted the movement of an offender were labeled "Restrictive Intermediate Punishment programs"; and all other less restrictive programs were labeled "restorative sanction programs." Recognizing that CIP programs vary somewhat by county regarding the level of supervision and the number of controls placed upon an offender, the Commission chose to allow the CIP Board, in conjunction with the courts, to classify local programs as either RIP programs or restorative sanction programs.

During the 1997 revisions to the guidelines, the Commission reinterpreted the definition of "eligible offender" to be more consistent with statute. Under previous guidelines, eligible offender under 42 Pa.C.S. §9729 (relating to CIP) was interpreted as including only those offenders who would otherwise receive a "county sentence" (i.e., less than 24 month maximum sentence). This was based on the section of the statute which permitted a CIP sentence for an offender "... who would otherwise be sentenced to a county correctional facility..." On reconsideration, the Commission decided to adopt a broader interpretation which would make eligible a "state offender" who could serve a sentence in a county facility (i.e., less than 60 month maximum sentence). Linked to this expanded definition of eligible offender were changes in the Sentencing Levels (see §303.11), particularly the modification of the previous Level 4. The Commission encouraged the targeting of eligible drug-dependent offenders at Levels 3 and 4 for a sentence of CIP. The Commonwealth provided \$15.3 million during FY97/98 for CIP programs, with \$10 million of the allocation linked to the development and expansion of treatment-based RIP programs for use at Levels 3 and 4.

As part of the 6th Edition guidelines, the Commission expanded the description of sentencing levels to target the use of CIPs for those eligible offenders with a minimum sentence recommendation of less than 30 months, and SIPs for those eligible offenders with a minimum sentence recommendation of 30 months or greater. The Commission modified the definitions of sentencing levels 3 and 4 to include offenses for which a mandatory minimum sentence to a county facility applies, and for which a CIP sentence is authorized. While some offenses, such as DUI, may be assigned to lower sentencing levels due to the grade of the offense and the OGS assignment, the mandatory sentencing provision and the CIP eligibility are consistent with the general description of levels 3 and 4: standard range requires incarceration or RIP, but in all cases permits incarceration in a county facility. The Commission has further modified the definitions of sentencing levels 3, 4 and 5 to incorporate SIP as an available sentencing option.

As part of a comprehensive re-drafting of the CIP statutes during the 2000 Session, and of the DUI statute and related legislation during the 2004 Session, the General Assembly amended several provisions related to CIP eligibility, and specific programs that could be used to satisfy the mandatory minimum sentencing requirement for DUI convictions. These changes were incorporated into the 6th Edition guidelines. CIP remains the primary alternative to county incarceration, including for those offenders who would otherwise serve a state sentence in a county facility.

The Commission added language in the 6th Edition, Revised guidelines to better distinguish between CIP and SIP Programs, and to incorporate amendments to the CIP statutes relating to Qualified RIPs (Act 2007-27).

Act 2012-122 made changes to the eligibility criteria for CIP. Any person who has a current conviction or prior conviction or juvenile adjudication for an offense requiring registration (under 42 Pa.C.S. Chapter 97) within that person's lifetime is ineligible for a CIP sentence. Additionally, Act 2012-122 permits the prosecuting attorney to waive the eligibility requirements (victim must be given notice) and the judge can accept or refuse the waiver.

The Commission emphasizes the programs authorized in statute as Qualified RIPs. If a court is sentencing one of the eligible offenses that are subject to a mandatory minimum, the court must satisfy the mandatory minimum with a Qualified RIP. One option for a Qualified RIP is "house arrest with electronic surveillance."

Several products are available that can continuously monitor alcohol use. These devices may be a useful tool for DUI offenders, but a "continuous alcohol monitoring" device by itself does not meet the same standard of "electronic surveillance" provided in statute. The Commission recommends that if a court is sentencing to CIP for one of the above-listed mandatory offenses, and the court intends the offender to participate in some type of continuous alcohol monitoring, the court should also require the offender to be placed on some type of electronic surveillance (electronic monitoring, GPS, etc.).



§303.12(b) STATE MOTIVATIONAL BOOT CAMP

GUIDELINE TEXT:

§303.12(b). State Motivational Boot Camp (BC).

(1) Eligibility.

- (i) The following statute governs operation of and eligibility for the State Motivational Boot Camp: 61 Pa.C.S. Chapter 39**
- (ii) Sentence recommendations which include boot camp eligible offenders are designated by the letters BC in the cells of the Basic Sentencing Matrix (§303.16).**

- (2) The court shall indicate on the offender's commitment order and the Guideline Sentence Form if the offender is authorized as eligible for the boot camp program. The Department of Corrections makes the final determination as to whether the offender will be accepted into the boot camp program.**

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.12(b)). The 6th Edition, Revised guidelines amended this section to include the abbreviation “BC” for boot camp.

DESCRIPTION:

- State Motivational Boot Camp targets younger offenders (male or female) who would otherwise be serving a minimum sentence of one to three years in a state facility and whose primary needs are structure, education, discipline and life skills, with drug and alcohol dependency a secondary issue. The boot camp is a six-month program with mandatory aftercare and intensive supervision.
- This section provides guidelines which parallel the legislative criteria for boot camp eligibility.
- The boot camp accepts both male and female offenders.
- The guidelines include a “BC” in the Basic Sentencing Matrix (§303.16) to indicate potential eligibility for boot camp. However, the specific eligibility criteria provided in this section must be satisfied in order for an offender to be authorized by the court for boot camp participation.
- Offenders with sentences which include a Youth/School Enhancement may be eligible for boot camp participation if the specific eligibility criteria provided in this section are satisfied.
- An offender sentenced under certain mandatory sentencing provisions may be authorized for boot camp participation provided all of the other criteria are met. See the listing of ineligible offenses below.
- In order to be eligible for participation in the boot camp, Act 1996-86 requires that the offender receive:
 - 1) a minimum sentence that is two years or less and a maximum sentence that is five years or less; or
 - 2) a minimum sentence that is not more than three years and the inmate is within two years of completing the minimum term.

- The offender must be less than 40 years of age and committed to a state correctional facility in order to be considered for boot camp participation.
- The Commission recommends that courts not alter sentencing practices by giving state sentences to offenders who ordinarily would receive a county sentence in anticipation of admission into the boot camp.
- The court must provide authorization for the offender to participate in the boot camp program. Without the court's authorization, an offender is not allowed to participate in the boot camp program.
- In order to insure that all offenders who have been authorized for participation in the boot camp are considered, it is necessary for the court to indicate its authorization on both the commitment order and as part of the guideline-required sentencing information in SGS Web.
- The offender is required to apply for admission to the boot camp program. If the offender chooses not to apply to the program, the sentence imposed by the court is served in a traditional incarceration setting.
- The Department of Corrections (DOC) makes the final determination regarding inmates admitted into the boot camp program. The DOC will automatically exclude inmates who: 1) have a history of escapes; 2) are not psychologically well-balanced (to be determined through tests given by DOC); 3) are not in reasonable physical shape; and 4) have medical problems. The DOC will also review closely the applications of inmates who have prior violent offenses or detainers.
- If an offender voluntarily leaves the boot camp or is expelled, he or she is returned to general prison population to serve the remainder of his or her sentence.
- Upon completion of the six month boot camp program, the statute provides that the inmate is automatically released on intensive parole supervision. By authorizing participation in boot camp, the court agrees to allow the inmate to be released prior to the expiration of the minimum sentence.
- Graduates of the boot camp program are required to participate in a structured re-entry program for a minimum of 30 days. The structured re-entry program includes a detailed prescriptive program for each inmate; a minimum one month of residency in a structured, supervised residential facility; orientation to the community; involvement of families and the parole agent; cognitive behavior therapy; job readiness skills; job acquisition; and drug and alcohol follow-up services.
- Based on applicable statutes on the date these guidelines took effect (12/28/2012), an offender with a current conviction or prior conviction within the past ten years for any of the following offenses is ineligible for boot camp:
 - Murder (18 Pa.C.S. §2502);
 - Voluntary Manslaughter (18 Pa.C.S. §2503);
 - Drug Delivery Resulting in Death (18 Pa.C.S. §2506);
 - Kidnapping (18 Pa.C.S. §2901);
 - Arson Endangering Persons (danger/person) (18 Pa.C.S. §3301(a)(1)(i));
 - Burglary (OGS 9, house/person present) (18 Pa.C.S. §3502);
 - Robbery (F1) (18 Pa.C.S. §3701(a)(1)(i),(ii),(iii));
 - Robbery of a Motor Vehicle (18 Pa.C.S. §3702);
 - Drug Trafficking (>3 year mandatory min.) (18 Pa.C.S. §7508(a)(1)(iii), (a)(2)(iii), (a)(3)(iii) or (a)(4)(iii)).

- Any offender who has been convicted or adjudicated delinquent of a crime requiring registration under 42 Pa.C.S. Chapter 97, subchapter H (relating to registration of sexual offenders) is ineligible for participation in boot camp.
- The prosecuting attorney may advise the court that the Commonwealth has elected to waive the eligibility requirements if the victim has been given notice of the prosecutor's intent to waive eligibility and an opportunity to be heard on the issue. The court, after considering victim input, may refuse to accept the prosecutor's waiver of the eligibility requirements.
- Additionally, an offender sentenced for any offense which included a DWE (§303.10(a)) is ineligible.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

The State Motivational Boot Camp opened in Quehanna, Clearfield County on June 15, 1992. The boot camp program is an alternative to a traditional state incarceration sentence and offers eligible inmates a reduction in sentence for successful completion of the program. The boot camp is designed to admit platoons of 20 inmates per month. In 2000, the capacity of the boot camp increased to 600 inmates.

Act 1990-215, which provided for the establishment of motivational boot camps, also set forth criteria concerning who would be eligible for the boot camp program. Revised eligibility criteria were enacted as a result of Act 86 of 1996. These criteria were used by the Commission in directing the court to consider eligible candidates for boot camp.

Act 2012-122 made several changes to the eligibility criteria for boot camp. First, the age limit was increased from 35 to 40. Second, a ten-year look back period was added which requires not only the inmate's current conviction to be eligible, but they may not have an ineligible prior conviction within the past ten years. Third, any inmate who has a current conviction or prior conviction or juvenile adjudication for an offense requiring registration (under 42 Pa.C.S. Chapter 97) within their lifetime is ineligible for participation in the boot camp. Additionally, Act 2012-122 permits the prosecuting attorney to waive the eligibility requirements (victim must be given notice) and the judge can accept or refuse the waiver.

The Commission strongly recommends against the court identifying persons with less than a 12-month minimum as being eligible for boot camp. Defendants often spend several months in the county jail awaiting sentencing and several more months in the diagnostic and classification center. Therefore, defendants with minimum sentences less than 12 months are not good candidates for the six-month boot camp.

The legislation providing for motivational boot camps mandates that the boot camp program be for a period of six months. Thus, by identifying an offender as eligible for boot camp, the court is agreeing to allow an offender to be released prior to the expiration of the minimum sentence.

It should be noted that even though the court identifies an offender as being eligible for boot camp, the offender must apply to the Department of Corrections for participation. Then, the Department of Corrections makes the final determination concerning who is admitted. In light of this, it is important that the court not sentence an offender to state incarceration with the assumption that the offender will automatically be admitted into the boot camp program.

The Commission, in cooperation with the Department of Corrections, was required to monitor and evaluate the State Motivational Boot Camp program and to report their findings annually to the General Assembly (61 P.S. §1125(e)). This was an annual requirement (Act 215 of 1990) until the passage of Act 112 of 2004 modified this to an every-other-year reporting requirement. Act 95 of 2010 removed the reporting requirement. Copies of these reports are available from the Commission's website at <http://pasentencing.us>.

The Boot Camp Selection Committee at the Central Diagnostic and Classification Center (CDCC) at SCI-Camp Hill makes the final determination as to who is admitted into the boot camp. Any questions regarding this process may be directed to the CDCC Unit Director. Tours of the Quehanna Motivational Boot Camp, located near Karthaus (Clearfield County), can be arranged by contacting the Boot Camp Commander. It is recommended that individuals who need to contact the Boot Camp or other offices in the Department of Corrections refer to the Department of Correction's website (<http://www.cor.state.pa.us>) for the current phone numbers or contact information. Additionally, the Commonwealth Phone Directory may be found on-line under 'publications' on the Department of General Service's website (<http://www.dgs.state.pa.us>).

§303.12(c) STATE INTERMEDIATE PUNISHMENT

GUIDELINE TEXT:

§303.12(c). State Intermediate Punishment (SIP).

(1) Eligibility.

(i) The following statute governs operation of and eligibility for State Intermediate Punishment: 61 Pa.C.S. Chapter 41.

(ii) Any person convicted of a drug-related offense for which the sentence recommendation includes total confinement in a state facility may be considered for State Intermediate Punishment.

(2) The court may, upon motion of the Commonwealth and agreement of the defendant, commit a defendant to the custody of the Department of Corrections for the purpose of evaluating whether the defendant would benefit from a drug offender treatment program and whether treatment in a drug offender treatment program is appropriate.

(3) Upon receipt of a recommendation for placement in a drug offender treatment program and an individualized treatment plan from the Department of Corrections, and agreement of the attorney for the Commonwealth and the defendant, the court may sentence an eligible offender to a period of 24 months of State Intermediate Punishment.

(4) The court may impose a consecutive period of probation. The total duration of a sentence of State Intermediate Punishment and consecutive probation may not exceed the maximum term for which the eligible offender could otherwise be sentenced.

PRIOR GUIDELINES:

This was a new provision in the 6th Edition guidelines which described State Intermediate Punishment and incorporated it into the guidelines. The 6th Edition, Revised guidelines (§303.12(c)) amended the text of this section to include the abbreviation “SIP” for State Intermediate Punishment.

DESCRIPTION:

- SIP targets drug-dependent offenders who otherwise would be serving a minimum sentence of confinement in a state facility.
- To be eligible, the offender must be designated by the court as a person convicted of a drug-related offense, an offense motivated by the offender’s consumption of or addiction to alcohol or a controlled substance, counterfeit, designer drug, drug, immediate precursor or marijuana, as those terms are defined in the Controlled Substance Act.
- The duration of an SIP sentence is 24 months and is comprised of the following:
 - A minimum of seven months in a state correctional institution, of which not less than four months must be spent in an institutional therapeutic community (the time during which the offender is being evaluated by the Department is included in this period);
 - A minimum of two months in a community-based therapeutic community;

- A minimum of six months in treatment through an outpatient treatment facility (an offender may spend part of the six-month aftercare phase in a community correction center, a group home or an approved transitional residence such as his/her home; the Department continues to supervise the offender);
- A period of supervised reintegration into the community for the balance of the sentence.
- Prior to sentencing, and upon motion by the District Attorney and agreement of the offender, the court commits the offender to the Department of Corrections for an evaluation to determine if the offender is in need of drug and alcohol addiction treatment and appropriate for participation in the program.
- By committing the offender to the Department of Corrections for an evaluation, the court is not sentencing the offender, and thus retains jurisdiction. The court will decide on the appropriate sentence after receiving the evaluation from the Department.
- Suggested language for commitment order for evaluation:

AND NOW, this ____ day of _____, 20__, the offender having been convicted of [insert crime] on [date], [Name of defendant] is committed to the Department of Corrections for an evaluation to be used by the Court to determine whether defendant shall be sentenced to SIP.

The Sheriff of _____ County shall transport the offender as soon as possible to the State Correctional Institution designated to receive defendants from _____ County.
- An offender being committed for the purpose of an SIP evaluation should be transported to the state correctional facility designated for SIP evaluations (SCI Camp Hill for men and SCI Muncy for women).
- Although a commitment for the purpose of an SIP evaluation occurs prior to the sentencing of the offender, the incomplete Guideline Sentence Form(s) generated via SGS Web should be attached to the commitment order. This will provide Department of Correction's staff with important information regarding the current conviction offense(s), the PRS details, DWE or Youth/School Enhancements, and other important sentencing-related information.
- The evaluation by the Department will be administered by a person skilled in the treatment of drug and alcohol addictions and trained to conduct assessments.
- The Department will provide an evaluation report to the Court, the District Attorney and the offender within 60 days of commitment; the Court may not modify or alter the terms of the Department's proposed individualized treatment plan without agreement of the Department and the District Attorney.
- If the Department recommends the offender for participation and the District Attorney does not object, the court may sentence the offender to the 24 month SIP sentence. The court may impose a consecutive period of probation. The total sentence may not exceed the maximum term for which the offender could otherwise be sentenced.
- The Department has the discretion to transfer an offender between the different stages of the program as necessary, and the Department and the program administrators have the right to refuse a participant if the offender is deemed to be inappropriate for a particular program.
- Individuals who fail during the program or do not complete it within the 24 month sentence are subject to revocation. Upon revocation, the sentencing alternatives available to the court are the

same as those available at the time of the initial sentencing, including any applicable mandatory minimum sentencing provision.

- An offender is not eligible if they demonstrate a history of present or past violent behavior.
- An offender is not eligible if they are subject to a DWE under the sentencing guidelines.
- An individual is not eligible if they have been convicted of a personal injury crime as defined in the Crime Victims Act (18 P.S. §11.103), including an attempt, conspiracy or threat to commit any of the following:
 - (18 Pa.C.S. Chapter 25) Criminal Homicide
 - (18 Pa.C.S. Chapter 27) Assault, including Simple Assault, Aggravated Assault, Assault of a Law Enforcement Officer, Assault by Prisoner, Aggravated Harassment by Prisoner, Assault by Life Prisoner, Recklessly Endangering Another Person, Terroristic Threats, Propulsion of Missiles into an Occupied Vehicle or Roadway, Discharge of a Firearm into an Occupied Structure, Paintball Guns and Paintball Markers, Use of Tear or Noxious Gas in Labor Disputes, Harassment, Stalking, Ethnic Intimidation
 - (18 Pa.C.S. Chapter 29) Kidnapping, including Unlawful Restraint, False Imprisonment
 - (18 Pa.C.S. Chapter 31) Sexual offenses, including Indecent assault, Indecent Exposure
 - (18 Pa.C.S. §3301) Arson
 - (18 Pa.C.S. Chapter 37) Robbery
 - (18 Pa.C.S. Chapter 49, Sub-Chapter B) Victim and Witness Intimidation
 - (30 P.S. §5502.1) Homicide by Watercraft While Operating Under Influence
 - (75 Pa.C.S. §3731 (repealed) Driving Under the Influence in cases involving bodily injury
 - (75 Pa.C.S. §3732) Homicide by Vehicle
 - (75 Pa.C.S. §3735) Homicide by Vehicle while DUI
 - (75 Pa.C.S. §3735.1) Aggravated Assault by Vehicle While DUI
 - (75 Pa.C.S. §3742) Accidents Involving Death or Personal Injury
 - (75 Pa.C.S. Chapter 38) Driving Under the Influence in cases involving bodily injury
 - Violations of any protective order issued as a result of an act related to domestic violence.
- Additionally, an individual is not eligible if they has been convicted of any of the following:
 - Incest (18 Pa.C.S. §4302)
 - Open lewdness (18 Pa.C.S. §5901)
 - Abuse of children (18 Pa.C.S. §6312)
 - Unlawful contact with minor (18 Pa.C.S. § 6318)
 - Sexual exploitation of children (18 Pa.C.S. §6320)
 - Internet child pornography (18 Pa.C.S. Chapter 76, Subchapter C)
- The prosecuting attorney may advise the court that the Commonwealth has elected to waive the eligibility requirements, if the victim has been given notice of the prosecutor's intent to waive eligibility and has an opportunity to be heard on the issue. The court, after considering victim input, may refuse to accept the prosecutor's waiver of the eligibility requirements.
- Victims of personal injury crimes shall be given the opportunity to receive notice of and to provide prior comment on any recommendation by the DOC that the offender participates in SIP.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

SIP was established as a sentencing alternative pursuant to Act 2004-112, effective May 18, 2005. The purpose of SIP is: “to create a program that punishes person(s) who commit crimes, but also provides treatment that offers the opportunity for those persons to address their drug and alcohol addiction or abuse and thereby reduce the incidents of recidivism and enhance public safety” (42 Pa.C.S. §9902(6)). A full description of SIP may be found at 42 Pa.C.S. Chapter 99.

As part of the 6th Edition guidelines, the Commission expanded the description of sentencing levels to target the use of CIP for those eligible offenders with a minimum sentence recommendation of less than 30 months, and SIP for those eligible offenders with a minimum sentence recommendation of 30 months or greater. The Commission further modified the definitions of sentencing levels 3, 4 and 5 to incorporate SIP as an available sentencing option.

Under the 6th Edition, Revised guidelines, the Commission placed greater emphasis on the recommended place of confinement for targeting the use of intermediate punishments, to promote greater consideration of these options at both the state and county level. The Commission recommends consideration of CIP when the individual or aggregate minimum sentence recommendation includes confinement in a county facility, and consideration of SIP when the individual or aggregate minimum sentence recommendation includes confinement in a state facility.

Act 2012-122 made changes to the eligibility criteria for SIP. First, a ten-year look back period was added which requires not only the person’s current conviction to be eligible, but the person may not have had an ineligible prior conviction within the past ten years. Second, any person who has a current conviction or prior conviction or juvenile adjudication for an offense requiring registration (under 42 Pa.C.S. Chapter 97) within that person’s lifetime is ineligible for a SIP sentence. Additionally, Act 2012-12 permits the prosecuting attorney to waive the eligibility requirements (victim must be given notice) and the judge can accept or refuse the waiver.

Any questions regarding this process may be directed to the Department of Correction’s SIP Program Manager, within the Department’s Bureau of Treatment Services. It is recommended that individuals who need to contact the Department of Corrections refer to the Department of Correction’s website (<http://www.cor.state.pa.us>) for the current phone numbers or contact information. Additionally, the Commonwealth Phone Directory may be found on-line under ‘publications’ on the Department of General Service’s website (<http://www.dgs.state.pa.us>).

§303.13 GUIDELINE SENTENCE RECOMMENDATIONS: AGGRAVATED AND MITIGATED CIRCUMSTANCES

§303.13(a) AGGRAVATING CIRCUMSTANCES

GUIDELINE TEXT:

§303.13(a). When the court determines that an aggravating circumstance(s) is present, it may impose an aggravated sentence as follows:

- (1)** For the Offense Gravity Scores of 9, 10, 11, 12 and 13 the court may impose a sentence that is up to 12 months longer than the upper limit of the standard range.
- (2)** For the Offense Gravity Score of 8, the court may impose a sentence that is up to 9 months longer than the upper limit of the standard range.
- (3)** For the Offense Gravity Scores of 6 and 7, the court may impose a sentence that is up to 6 months longer than the upper limit of the standard range.
- (4)** For the Offense Gravity Scores of 1, 2, 3, 4, and 5, the court may impose a sentence that is up to 3 months longer than the upper limit of the standard range. When imposing a fine or community service pursuant to §303.14(a)(4), the court may impose a sentence that is up to 25 hours longer than the upper limit of the standard range.
- (5)** When the standard range is Restorative Sanctions (RS), the aggravated sentence recommendation is RIP-3.

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.13(a)). The 6th Edition guidelines text of this section was amended to remove reference to an aggravated range for OGS 14, as the standard range includes the statutory limit. The 6th Edition, Revised guidelines text of this section was amended to provide for an increased fine or community service when aggravating circumstances are present.

DESCRIPTION:

- When the court chooses to impose an aggravated sentence, its reasons should be stated in open court and made part of the guideline-required sentencing information in SGS Web.
- Within the guidelines the court may impose an aggravated sentence that exceeds the top of the standard range by the specified number of months, which vary based upon the OGS. Any sentence longer than that recommended as an aggravated sentence is a departure above the guidelines.
- Although the standard range applies in most instances, an aggravated sentence should be imposed when the court determines that there are aggravating factors which are sufficiently important to warrant a sentence above the standard range recommendation.
- Any factor which is legally cognizable may be considered as an aggravating circumstance, except a factor which is included in determining the OGS, PRS, or an enhancement.
- The guidelines do not impose a burden on the court or its staff, in addition to any burden required by other law, to search for aggravating or mitigating circumstances.

- Where there is a dispute about the presence or importance of aggravating factors, the court must determine whether such factors exist, and the weight that they will be given.
- When the court determines that there are aggravating factors, it may impose an aggravated sentence in accordance with this section.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

Statute requires that the guidelines: "(p)rescribe variations from the (standard) range of sentences applicable on account of aggravating or mitigating circumstances" (42 Pa.C.S. §2154(a)(4)).

In order to simplify the matrices in §303.16-§303.19, the Commission decided to provide the standard range recommendation for each combination of OGS and PRS, and to indicate the maximum number of months that may be added to the top of the standard range for an aggravated sentence.

House Resolution 24 of 1981 (with Senate concurring) advised and directed the Commission to develop guidelines which would not limit the factors which might be considered as aggravating and mitigating circumstances, although the guidelines could contain a "non-exclusive" list of aggravating and mitigating circumstances. In 1994 after great debate, the Commission decided not to include a list of suggested aggravating or mitigating factors for most offenses in the text of the guidelines. The Commission chose to remove all references to appropriate aggravating and mitigating circumstances and removed some cautionary statements that were previously included in the guidelines, as well as a list of aggravating and mitigating factors for the court to consider when sentencing Controlled Substance Act violations. Any legally cognizable criteria not specifically considered in the guidelines may continue to be used as reasons for imposing an aggravated or mitigated sentence.

Factors which may not be used to justify an aggravated sentence include items which are already counted in the guidelines, such as offense of conviction, Deadly Weapon and Youth/School Enhancements, and prior convictions and adjudications which are counted in the PRS.

The Commission cautions judges and others that the guidelines are written for the typical case and a standard sentence may not provide fair results for the atypical case. In previous versions of the guidelines, the Commission acknowledged that for some offenses such as major drug trafficking, economic crimes, white-collar crimes, organized crime, and offenses where the offender abused his or her position of trust, public office, or fiduciary obligation to facilitate the commission of an offense, it is very difficult to set sentences. Additionally, the Commission recognized that the guidelines do not specifically consider whether the offender cooperated in the apprehension or prosecution of other offenders. Any of these criteria could justify a sentence more or less severe than the penalties suggested in the standard range of the guidelines.

The 6th Edition guidelines defined the minimum confinement ranges for aggravated and mitigated sentences. The Commission added provisions in the 6th Edition, Revised guidelines to define the fines and community service ranges for aggravated and mitigated sentences at Level 1 and Level 2 of the sentencing guidelines.

§303.13(b) MITIGATING CIRCUMSTANCES

GUIDELINE TEXT:

§303.13(b). When the court determines that a mitigating circumstance(s) is present, it may impose a mitigated sentence as follows:

- (1)** For the Offense Gravity Scores of 9, 10, 11, 12, 13, and 14 the court may impose a sentence that is up to 12 months shorter than the lower limit of the standard range.
- (2)** For the Offense Gravity Score of 8, the court may impose a sentence that is up to 9 months shorter than the lower limit of the standard range.
- (3)** For the Offense Gravity Scores of 6 and 7, the court may impose a sentence that is up to 6 months shorter than the lower limit of the standard range.
- (4)** For the Offense Gravity Scores of 1, 2, 3, 4, and 5, the court may impose a sentence that is up to 3 months shorter than the lower limit of the standard range. When imposing a fine or community service pursuant to §303.14(a)(4), the court may impose a sentence that is up to 25 hours shorter than the lower limit of the standard range.
- (5)** When the bottom of the standard range is less than or equal to 3 months of incarceration, the lower limit of the mitigated sentence recommendation is Restorative Sanctions (RS).
- (6)** In no case where a Deadly Weapon Enhancement is applied may the mitigated sentence recommendation be lower than 3 months.
- (7)** In no case where the Youth/School Enhancement is applied may the mitigated sentence recommendation be lower than 6 months for the Youth Enhancement, 12 months for the School Enhancement, and 18 months for the Youth and School Enhancement.

PRIOR GUIDELINES:

An identical provision was included in the previous guidelines (§303.13(b)). The text of this section was amended in the 6th Edition, Revised guidelines to provide for a reduced fine or community service when mitigating circumstances are present.

DESCRIPTION:

- When the court chooses to impose a mitigated sentence, its reasons should be stated in open court and made part of the guideline-required sentencing information in SGS Web.
- Within the guidelines the court may impose a mitigated sentence that is less than the bottom of the standard range by the specified number of months, which vary based upon the OGS. Any sentence shorter than that recommended as a mitigated sentence is a departure below the guidelines.
- Although the standard range applies in most instances, a mitigated sentence should be imposed when the court determines that there are mitigating factors which are sufficiently important to warrant a sentence below the standard range recommendation.
- Any factor which is legally cognizable may be considered as a mitigating factor, except a factor which is included in determining the OGS, PRS, or enhancement.

- The guidelines do not impose a burden on the court or its staff, in addition to any burden required by other law, to search for mitigating circumstances.
- Where there is a dispute about the presence or importance of mitigating factors, the court must determine whether such factors exist, and the weight that they will be given.
- Enhancements: When the DWE/Possessed is applied, the mitigated sentence recommendation is never lower than three months. When the DWE/Used is applied, the mitigated sentence recommendation is never lower than six months. When the Youth/School Enhancement is applied, the mitigated sentence recommendation is never lower than 6 months for the Youth Enhancement, 12 months for the School Enhancement, and 18 months for the Youth and School Enhancement.
- When the court determines that there are mitigating factors, it may impose a mitigated sentence in accordance with this section.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

Statute requires that the guidelines: "(p)rescribe variations from the (standard) range of sentences applicable on account of aggravating or mitigating circumstances" (42 Pa.C.S. §2154(a)(4)).

In order to simplify the matrices in §303.16-§303.18, the Commission decided to provide the standard range recommendation for each combination of OGS and PRS, and to indicate the maximum number of months that may be subtracted from the bottom of the standard range for a mitigated sentence.

House Resolution 24 of 1981 (with Senate concurring) advised and directed the Commission to develop guidelines which would not limit the factors which might be considered as aggravating and mitigating circumstances, although the guidelines could contain a "non-exclusive" list of aggravating and mitigating circumstances. In 1994 after great debate, the Commission decided not to include a list of suggested aggravating or mitigating factors for most offenses in the text of the guidelines. The Commission chose to remove all references to appropriate aggravating and mitigating circumstances and removed some cautionary statements that were previously included in the guidelines, as well as a list of aggravating and mitigating factors for the court to consider when sentencing Controlled Substance Act violations. Any legally cognizable criteria not specifically considered in the guidelines may continue to be used as reasons for imposing an aggravated or mitigated sentence.

Factors which may not be used to justify an mitigated sentence include items which are already counted in the guidelines, such as offense of conviction, Deadly Weapon and Youth/School Enhancements, and prior convictions and adjudications which are counted in the PRS.

The Commission cautions judges and others that the guidelines are written for the typical case, and a standard sentence may not provide fair results for the atypical case. In previous versions of the guidelines, the Commission acknowledged that for some offenses, such as major drug trafficking, economic crimes, white-collar crimes, organized crime, and offenses where the offender abused his or her position of trust, public office, or fiduciary obligation to facilitate the commission of an offense, it is very difficult to set sentences. Additionally, the Commission recognized that the guidelines do not specifically consider whether the offender cooperated in the apprehension or prosecution of other offenders. Any of these criteria could justify a sentence more or less severe than the penalties suggested in the standard range of the guidelines.

The 6th Edition guidelines defined the minimum confinement ranges for aggravated and mitigated sentences. The Commission added provisions in the 6th Edition, Revised guidelines to define the fines and community service ranges for aggravated and mitigated sentences at Level 1 and Level 2 of the sentencing guidelines.



§303.13(c) REASONS ON THE RECORD

GUIDELINE TEXT:

§303.13(c). When the court imposes an aggravated or mitigated sentence, it shall state the reasons on the record and on the Guideline Sentence Form, a copy of which is electronically transmitted to the Commission on Sentencing in the manner described in §303.1(e).

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.13(c)). The text of this section was amended to reference electronic reporting requirements.

DESCRIPTION:

- Aggravating or mitigating reasons should be stated on the record, and the court is encouraged to include those reasons on the guideline-required sentencing information.
- The court is required to provide reasons as part of the guideline-required sentencing information in SGS Web for each sentence that is a departure above the aggravated range or a departure below the mitigated range.

GUIDELINE FORM/SGS WEB APPLICATION:

- A brief listing of reasons as part of the guideline-required sentencing information in SGS Web is requested so that the Commission can meet its statutory obligation "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" (42 Pa.C.S. §2153(14)). This requirement is intended to "further the policy of accountability inherent in the Sentencing Code "*Com. v. Hoover*, 342 Pa. Super. 163, 166, 492 A.2d 443, 444 (1985).
- See §303.9(a).

COMMENTARY:

The court is encouraged to provide specific reasons for imposing an aggravated or mitigated sentence, and is required to provide such reasons for sentences that depart from the guidelines. Title 42 Pa.C.S. §9721(b) requires that "the court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed."



§303.14 GUIDELINE SENTENCE RECOMMENDATIONS – ECONOMIC SANCTIONS

§303.14(a) FINES

GUIDELINE TEXT:

§303.14(a). Fines.

- (1) Fines may be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:**
 - (i) 18 Pa.C.S. §1101 (relating to fines)**
 - (ii) 35 P.S. §780-113(b)-(o) (relating to controlled substances)**
 - (iii) 42 Pa.C.S. §9726 (relating to fine as a sentence)**
 - (iv) 42 Pa.C.S. §9758 (relating to imposition of a fine)**
 - (v) 75 Pa.C.S. §3804 (relating to fines for DUI)**
- (2) A fine, within the limits established by law, shall be considered by the court when the offender is convicted of 35 P.S. §780-113(a)(12), (14) or (30), and the drug involved is any of the following: a controlled substance or counterfeit substance classified in Schedule I or II and which is a narcotic; phencyclidine, methamphetamine, or cocaine, including the isomers, salts, compounds, salts of isomers, or derivatives of phencyclidine, methamphetamine, or cocaine; or is in excess of one thousand pounds of marijuana. Such fine shall be of an amount that is at least sufficient to exhaust the assets utilized in, and the proceeds obtained by the offender from, the illegal possession, manufacture, or distribution of controlled substances. Such fine shall not include assets concerning which the attorney for the Commonwealth has filed a forfeiture petition or concerning which he has given notice to the court of his intent to file a forfeiture petition.**
- (3) Fines may be utilized as part of a county intermediate punishment sentence or as a non-confinement sentencing alternative (see restorative sanction §303.9(f)).**
- (4) Fines/Community Service Guidelines. The following guidelines shall be considered by the court when ordering fines or community service as a Restorative Sanction without confinement. Community service, when ordered, is imposed as a condition of probation. A fine, when ordered, is imposed as a non-confinement sentencing alternative or as a condition of probation. The fines guidelines are determined by multiplying the number of hours recommended by the offender's hourly wage or the current minimum wage, whichever is higher, but may not exceed the statutory maximum fine authorized by law**
 - (A) OGS 1**
 - i. PRS 0 25 hours-50 hours**
 - ii. PRS 1 50 hours-75 hours**
 - iii. PRS 2 75 hours-100 hours**
 - iv. PRS 3 100 hours-125 hours**
 - v. PRS 4 125 hours-150 hours**
 - vi. PRS 5 150 hours-175 hours**
 - (B) OGS 2**
 - i. PRS 0 25 hours-50 hours**
 - ii. PRS 1 75 hours-100 hours**



- iii. PRS 2 100 hours-125 hours
- iv. PRS 3 125 hours-150 hours
- v. PRS 4 150 hours-175 hours

(C) OGS 3

- i. PRS 0 50 hours-75 hours
- ii. PRS 1 150 hours-175 hours
- iii. PRS 2 225 hours-250 hours
- iv. PRS 3 300 hours-325 hours

(D) OGS 4

- i. PRS 0 100 hours-125 hours
- ii. PRS 1 225 hours-250 hours
- iii. PRS 2 300 hours-325 hours

(E) OGS 5

- i. PRS 0 225 hours-250 hours

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.14(a)). The text of this section was amended in the 6th Edition guidelines to remove restitution (see §303.14(c)), to provide examples of statutes requiring imposition of fines, and to modify the information related to the imposition of fines for offenders convicted of 35 P.S. §780-113(a)(12), (14) or (30) consistent with statute.

The text of this section was amended in the 6th Edition, Revised guidelines to include fines/community service guidelines to be considered by the court when ordering fines or community service as a Restorative Sanction without confinement.

DESCRIPTION:

- The guidelines do not restrict the court's discretion to sentence an offender to pay a fine in addition to any other sentence that may be imposed.
- Where the guidelines permit a Restorative Sanction (RS), a sentence to pay a fine may be the sole sanction. Such a sentence is within the guidelines.
- Where the guidelines recommend confinement, a sentence to pay a fine may be added to the guideline sentence. Such a sentence is within the guidelines.
- Where the guidelines recommend confinement, and only a sentence to pay a fine is imposed, it is a departure from the guidelines.
- A fine may be imposed up to the maximum provided in statute, but must take into account the offender's ability to pay (18 Pa.C.S. §9726(d)).
- Subsection (a)(2) recommends that where the current offense is a violation of subsections (12), (14) or (30) of the drug act involving narcotics of Schedules I or II, phencyclidine, cocaine, methamphetamine or in excess of 1,000 pounds of marijuana, the court consider imposing a fine sufficient to exhaust the assets utilized in, or profits obtained by, the offender from drug trafficking. However, a forfeiture of assets should be given priority over a fine.

- Subsection (a)(2) provides that assets subject to forfeiture not be included in the assets which are fined.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

Economic sanctions rest on a continuum, ranging from sanctions that most directly benefit the victim to those that most directly punish the offender. At the extremes of this continuum, the purposes of economic sanctions are fairly clear: restitution focuses almost exclusively on reparation to a specific victim (with little or no consideration of punishing the offender), while fines and forfeiture focus almost exclusively on punishing the offender (with little or no consideration of reparation to a victim). However, most economic sanctions are less pure in purpose and occupy the ‘middle ground,’ because they seek reparations for ‘society’ as a victim (and in particular the court system), and require offenders to pay substantial (and increasing) amounts in an effort to hold them accountable for their actions. These ‘middle ground’ economic sanctions include costs and fees.

Economic sanctions have five advantages. First, compared with incarceration, they are about as effective in deterring future crime (Gordon & Glaser, 1991) but are substantially cheaper, because the state does not have to pay for housing (Morris & Tonry, 1990). Moreover, economic sanctions can avoid the stigma and secondary effects of incarceration, such as loss of employment and dependents who would otherwise have to rely on public assistance (Gordon & Glaser, 1991). Second, economic sanctions can be delivered more consistently than other types of sanctions, an important advantage because continuous punishment, in which punishment is delivered after every response, deters behavior better than intermittent punishment, in which punishment is delivered after some, but not every, response (Brennan & Mednick, 1994). In general, it is easier to impose financial penalties after every crime than to impose incarceration after every crime. Third, compared with simple probation, economic sanctions are more punitive. Fourth, economic sanctions are flexible, in that they can be adjusted to the facts of the case and the circumstances of the offender. Moreover, they can be used alone, with incarceration, with probation, or with both incarceration and probation. Fifth, evaluating the basic fulfillment of economic sanctions is relatively easy and straightforward, and is usually determined by an offender’s level of payment” (Ruback, R. Barry & Bergstrom, Mark H. (2006). *Economic Sanctions in Criminal Justice: Purposes, Effects, and Implications. Criminal Justice and Behavior*, 33(2), 242-273).

Historically, the guidelines have neither encouraged nor discouraged the use of fines and other economic sanctions, because of the differences in the financial circumstances of defendants and their families, and the differences in the actual loss of money or property of victims. In recent years, the General Assembly has given increased attention in statute to a broad range of economic sanctions, including fines, costs, fees and restitution. The Commission has also conducted extensive research in this area, and has found substantial increases in the imposition and collection of economic sanctions. County and state agencies have greatly increased efforts in these areas as well, due in part to additional statutory provisions relating to collection procedures and payment plans (see 42 Pa.C.S. §§9726, 9728, 9730, 9730.1, and 9758).

While fines are often imposed in addition to other sanctions, opportunities may exist for the use of fines and other economic sanctions as sole penalties, particularly as stand-alone Restorative Sanctions targeting less serious offenders. The use of fines as a sole sanction, or as a substantial additional sanction to increase the overall severity of the penalty, may be under-utilized based on a presumption that most defendants do not have an ability to pay. However, as has been proven in the past decade by

the enactment of mandatory restitution legislation, the introduction of supervision fees, and the imposition of numerous other fees and costs, a broad range of economic sanctions can be imposed on offenders, and substantial revenues can be generated from these offenders, to compensate victims and recover some of the costs associated with the criminal justice system.

If the quantity of drugs involved in the offense meets the criteria in subsection (a)(2), the guidelines require a fine to be considered. In such circumstances, failure to consider a fine is a departure from the guidelines. However, the guidelines do not require that a fine be imposed. This subsection should not be interpreted as an attempt to discourage the use of fines if the crime involved a drug not listed in this subsection. Nonetheless, fines are specifically encouraged in cases meeting the criteria of subsection (a)(2), because the listed drugs are among those generally thought to be the most serious. The Commission does not intend that its encouragement of fines reduce the use of forfeiture. Assets seized by forfeiture are used directly by prosecutors for future drug prosecutions, whereas assets which are fined are not so earmarked. Therefore, this guideline subsection is carefully written to give preference to forfeitures.

In addition to fines and forfeitures, the court is encouraged to consider and impose fees, costs and other economic sanctions required by rule or statute, but only after considering the offender's ability to pay. The Commission added subsections (b) and (c) to draw attention to the variety of economic sanctions available to the court, to encourage greater consideration of the use of economic sanctions as sole sanctions and in conjunction with other penalties, and to recognize the various purposes of these sanctions.

The 6th Edition guidelines provided recommendation for three categories of economic sanctions: fines, costs and fees, and restitution. Pursuant to Act 2007-37, the Commission was required to adopt guidelines for fines and other lawful economic sanctions, and to prescribe community service alternatives which may be imposed in lieu of fines. The Commission undertook a comprehensive study of the use of fines and other economic sanctions as part of this effort, with particular focus on the imposition and collection of fines in recent years.

However, as an initial response to the mandate of Act 2007-37, the Commission advanced recommendations in the 6th Edition, Revised guidelines, limited to Level 1 and Level 2 of the sentencing guidelines, which provides structured sentencing recommendations for the use of fines and/or community service as restorative sanctions without confinement.

In order to avoid concerns regarding an offender's ability to pay, the Commission used community service hours as the starting point for its recommendations, since community service could be ordered without consideration of ability to pay. The recommendation links the number of hours of community service recommended to the existing guideline recommendations, so that those offenders with more serious offenses or more extensive criminal history are recommended for more hours of community service. At Level 1, which targets the least serious offenders, the current sentence recommendation is exclusively RS; for these cells, the community service recommendation is 25-50 hours. At Level 2, where the sentence recommendation contains a range that includes RS and a minimum period of confinement, the number of hours of community service is increased by increments of 25 hours (e.g., RS-1 = 50-75 hours; RS-2 = 75-100 hours).

If the court determines the offender does have the ability to pay, and the court chooses to impose a fine, the recommendation uses the community service recommendation to determine the fines recommendation. The recommendation contains a sliding scale, in which the fine is determined by multiplying the number of hours that would otherwise have been ordered as community service by the offender's hourly wage, with the state minimum wage serving as the default. This approach maintains the proportionality of the sanction (i.e., increased hours for more serious offenders) while scaling the



fine to the offender's income. It also provides the court with a credible sole-sanction for lower-level offenders. Based on experiences in other jurisdictions, the scaling of fines to ability to pay leads to higher compliance rates and increased overall collections.

If the court chooses to impose a fine, the Commission recommends the court consider the offender's current employment and hourly wage at the time of sentencing. Therefore, if an offender's employment status has changed from the time he committed the current offense until he is before the court for sentencing, it may require an update for the fine recommendation in SGS Web.



§303.14(b) COSTS AND FEES

GUIDELINE TEXT:

§303.14(b). Costs and fees.

- (1) Costs and fees may be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:
- (i) 18 Pa.C.S. §1109 (relating to costs of any reward)
 - (ii) 18 P.S. §11.1101 (relating to Crime Victim's Compensation Fund costs)
 - (iii) 18 P.S. §11.1102 (relating to costs of offender supervision programs)
 - (iv) 42 Pa.C.S. §1725 (relating to fees and charges)
 - (v) 42 Pa.C.S. §1725.1 (relating to costs)
 - (vi) 42 Pa.C.S. §1725.2 (relating to costs of summary convictions)
 - (vii) 42 Pa.C.S. §1725.3 (relating to criminal laboratory user fees)
 - (viii) 42 Pa.C.S. §1726.1 (relating to forensic exam)
 - (ix) 42 Pa.C.S. §1726.2 (relating to criminal prosecution involving domestic violence)
 - (x) 42 Pa.C.S. §9728(c) (relating to costs, etc.)

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.14(a)). The text of this section was added to specifically address costs and fees separately from fines and restitution.

DESCRIPTION:

- The guidelines do not restrict the court's discretion to order an offender to pay costs or fees in addition to any other sentence that may be imposed.
- Where the guidelines permit a Restorative Sanction (RS), a sentence of probation, guilt without further penalty, fine, or restitution, along with a requirement to pay costs or fees would be within the guidelines.
- Where the guidelines recommend confinement, a requirement to pay costs or fees may be imposed as part of the sentence. Such a combination would be within the guidelines.

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

Economic sanctions rest on a continuum, ranging from sanctions that most directly benefit the victim to those that most directly punish the offender. At the extremes of this continuum, the purposes of economic sanctions are fairly clear: restitution focuses almost exclusively on reparation to a specific

victim (with little or no consideration of punishing the offender), while fines and forfeiture focus almost exclusively on punishing the offender (with little or no consideration of reparation to a victim). However, most economic sanctions are less pure in purpose and occupy the ‘middle ground,’ because they seek reparations for ‘society’ as a victim (and in particular the court system), and require offenders to pay substantial (and increasing) amounts in an effort to hold them accountable for their actions. These ‘middle ground’ economic sanctions include costs and fees.

Economic sanctions have five advantages. First, compared with incarceration, they are about as effective in deterring future crime (Gordon & Glaser, 1991) but are substantially cheaper, because the state does not have to pay for housing (Morris & Tonry, 1990). Moreover, economic sanctions can avoid the stigma and secondary effects of incarceration, such as loss of employment and dependents who would otherwise have to rely on public assistance (Gordon & Glaser, 1991). Second, economic sanctions can be delivered more consistently than other types of sanctions, an important advantage because continuous punishment, in which punishment is delivered after every response, deters behavior better than intermittent punishment, in which punishment is delivered after some, but not every, response (Brennan & Mednick, 1994). In general, it is easier to impose financial penalties after every crime than to impose incarceration after every crime. Third, compared with simple probation, economic sanctions are more punitive. Fourth, economic sanctions are flexible, in that they can be adjusted to the facts of the case and the circumstances of the offender. Moreover, they can be used alone, with incarceration, with probation, or with both incarceration and probation. Fifth, evaluating the basic fulfillment of economic sanctions is relatively easy and straightforward, and is usually determined by an offender’s level of payment.

Fees are used to reimburse the state for the administrative expenses of operating the criminal justice system. Current distinctions in the labeling of fees (e.g., court costs, supervision fees, etc.) help to differentiate the purpose or use of the funding, but do not otherwise change the nature of these society-focused sanctions” (Ruback, R. B & Bergstrom, M. H. (2006). Economic Sanctions in Criminal Justice: Purposes, Effects, and Implications. *Criminal Justice and Behavior*, 33(2), 242-273).

Historically, the guidelines have neither encouraged nor discouraged the use of costs, fees and other economic sanctions, because of the differences in the financial circumstances of defendants and their families, and the differences in the actual loss of money or property of victims. In recent years, the General Assembly has given increased attention in statute to a broad range of economic sanctions, including fines, costs, fees and restitution. The Commission has also conducted extensive research in this area, and has found substantial increases in the imposition and collection of economic sanctions. County and state agencies have greatly increased efforts in these areas as well, due in part to additional statutory provisions relating to collection procedures and payment plans. (See 42 Pa.C.S. §§9726, 9728, 9730, 9730.1, and 9758).

The court is encouraged to consider and impose costs and fees required by rule or statute, but only after considering the offender’s ability to pay. The Commission added subsections (b) and (c) to draw attention to the variety of economic sanctions available to the court, to encourage greater consideration of the use of economic sanctions as sole sanctions and in conjunction with other penalties, and to recognize the various purposes of these sanctions.

§303.14(c) RESTITUTION

GUIDELINE TEXT:

§303.14(c). Restitution

- (1) Restitution shall be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:**
 - (i) 18 Pa.C.S. §1106 (relating to injuries to person or property)**
 - (ii) 18 Pa.C.S. §1107 (relating to theft of timber)**
 - (iii) 18 P.S. §11.1302 (relating to restitution to the Office of Victim Services)**
 - (iv) 42 Pa.C.S. §9720.1 (relating to identity theft)**
 - (v) 42 Pa.C.S. §9721(c) (relating to mandatory restitution)**
- (2) Restitution may be imposed as a direct sentence or as a condition of probation or intermediate punishment, and is considered a non-confinement sentencing alternative (see restorative sanction §303.9(f)).**

PRIOR GUIDELINES:

A similar provision was included in the previous guidelines (§303.14(a)). The text of this section was added to address restitution separately from fines and other economic sanctions.

DESCRIPTION:

- The guidelines do not restrict the court's discretion to sentence an offender to pay restitution in addition to any other sentence that may be imposed.
- Where the guidelines permit a Restorative Sanction (RS), a sentence to pay restitution may be the only sentence. Such a sentence would be within the guidelines.
- Where the guidelines recommend confinement, a sentence including restitution may be included with the sentence of confinement. Such a sentence combination would be within the guidelines.
- Where the guidelines recommend confinement, and only a sentence of restitution is imposed, it is a departure from the guidelines.
- Restitution must be ordered regardless of the current resources of the offender so as to provide the victim with the fullest compensation for the loss (18 Pa.C.S. §9721(c)).

GUIDELINE FORM/SGS WEB APPLICATION:

See §303.9(a).

COMMENTARY:

Economic sanctions rest on a continuum, ranging from sanctions that most directly benefit the victim to those that most directly punish the offender. At the extremes of this continuum, the purposes of economic sanctions are fairly clear: restitution focuses almost exclusively on reparation to a specific

victim (with little or no consideration of punishing the offender), while fines and forfeiture focus almost exclusively on punishing the offender (with little or no consideration of reparation to a victim).

However, most economic sanctions are less pure in purpose and occupy the ‘middle ground,’ because they seek reparations for ‘society’ as a victim (and in particular the court system), and require offenders to pay substantial (and increasing) amounts in an effort to hold them accountable for their actions.

These ‘middle ground’ economic sanctions include costs and fees.

Economic sanctions have five advantages. First, compared with incarceration, they are about as effective in deterring future crime (Gordon & Glaser, 1991) but are substantially cheaper, because the state does not have to pay for housing (Morris & Tonry, 1990). Moreover, economic sanctions can avoid the stigma and secondary effects of incarceration, such as loss of employment and dependents who would otherwise have to rely on public assistance (Gordon & Glaser, 1991). Second, economic sanctions can be delivered more consistently than other types of sanctions, an important advantage because continuous punishment, in which punishment is delivered after every response, deters behavior better than intermittent punishment, in which punishment is delivered after some, but not every, response (Brennan & Mednick, 1994). In general, it is easier to impose financial penalties after every crime than to impose incarceration after every crime. Third, compared with simple probation, economic sanctions are more punitive. Fourth, economic sanctions are flexible, in that they can be adjusted to the facts of the case and the circumstances of the offender. Moreover, they can be used alone, with incarceration, with probation, or with both incarceration and probation. Fifth, evaluating the basic fulfillment of economic sanctions is relatively easy and straightforward, and is usually determined by an offender’s level of payment” (Ruback, R. B & Bergstrom, M. H.)(forthcoming). *Economic Sanctions in Criminal Justice: Purposes, Effects, and Implications. Criminal Justice and Behavior*).

Historically, the guidelines have neither encouraged nor discouraged the use of restitution and other economic sanctions, because of the differences in the financial circumstances of defendants and their families, and the differences in the actual loss of money or property of victims. In recent years, the General Assembly has given increased attention in statute to a broad range of economic sanctions, including fines, costs, fees and restitution. The Commission also conducted extensive research in this area, and has found substantial increases in the imposition and collection of economic sanctions. County and state agencies have greatly increased efforts in these areas as well, due in part to additional statutory provisions relating to collection procedures and payment plans (see 42 Pa.C.S. §§9726, 9728, 9730, 9730.1, and 9758).

Restitution may presently be ordered as a direct sentence, pursuant to Section 1106, or as an indirect sentence, pursuant to Section 9754, as a condition of probation. Different rules apply depending on which option is exercised by the sentencing court. As a direct sentence, the court is required to impose an order for the full amount of the loss, regardless of the offender’s ability to pay; the manner and amount of restitution must be determined at the time of sentencing; and the restitution order is limited to the loss that flows from the conduct for which the offender is convicted. As an indirect sentence (i.e., condition of probation), the court must consider the offender’s ability to pay when determining the amount of restitution; the court is not required to specify the amount of restitution at the time of sentencing; and restitution may include indirect damages caused by the offender. It would appear that an indirect sentence of restitution is presently available to the court to compensate victims for collateral injuries (see *Com. v. Deshong*, 850 A.2d 712, 2004 Pa. Super. 164).

In addition to restitution, the court is encouraged to consider and impose fees, costs and other economic sanctions required by rule or statute. The Commission added subsections (b) and (c) to draw attention to the variety of economic sanctions available to the court, to encourage greater consideration of the use of economic sanctions as sole sanctions and in conjunction with other penalties, and to recognize the various purposes of these sanctions.

In October 2011, the Office of the Victim Advocate convened the Restitution in Pennsylvania Task Force. The Task Force served as a forum for enhancing interagency coordination, increasing communication, and identifying solutions to increase the quality of restitution services at the state and county levels. The Task Force brought together relevant county and state level stakeholders and experts including individuals, agencies, and organizations engaged in victim restitution work, as well as representatives of the judicial, legislative, and executive branches of government. As a result, the Task Force submitted a total of 47 recommendations to the Governor, Legislature, and Judiciary as well as all agencies involved in the work. For additional information regarding the Task Force or its final report, contact the Office of the Victim Advocate at 717.787.0867 or visit the web site at URL: <http://www.ova.state.pa.us>.





APPENDICES

- A. Pennsylvania Commission on Sentencing Enabling Legislation
- B. Frequently Used Abbreviations





Appendix A: Enabling Legislation

Purdon's Pennsylvania Consolidated Statutes Annotated

Title 42. Judiciary and Judicial Procedure

Chapter 21. Subchapter F.

42 Pa.C.S.A. §2151.1. Definitions

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Board." The Pennsylvania Board of Probation and Parole.

"Commission." The Pennsylvania Commission on Sentencing established in section 2151.2 (relating to commission).

"Department." The Department of Corrections of the Commonwealth.

42 Pa.C.S.A. §2151.2. Commission

- (a) General rule.**--The commission 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 commission shall have a seal engraved with its name and such other inscription as may be specified by regulation of the commission.

42 Pa.C.S.A. §2152. Composition of 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.

- (a.1) Ex officio members.**--The Secretary of Corrections, the victim advocate appointed under section 301 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, and the chairman of the board, during their tenure in their respective positions, shall serve as ex officio nonvoting members of the commission.

- (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.



Appendix A: Enabling Legislation

- (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, 1974 (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.

42 Pa.C.S.A. §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.



Appendix A: Enabling Legislation

- (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, resentencing and parole practices.
 - (ii) Assisting and serving in a consulting capacity to the board, State courts, departments and agencies in the development, maintenance and coordination of sound sentencing, resentencing and parole 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 and parole processes.
- (10) Collect systematically and disseminate information concerning parole dispositions and sentences actually imposed, including initial sentences and any subsequent modification of sentences or resentences following revocation or remand, and parole and reparole decisions by the board and any other paroling authority.
- (11) Collect systematically and disseminate information regarding effectiveness of parole dispositions and sentences imposed.
- (12) Make recommendations to the General Assembly concerning modification or enactment of sentencing, parole and correctional statutes which the commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing, resentencing and parole policy.
- (13) Establish a plan and timetable to collect and disseminate information relating to incapacitation, recidivism, deterrence and overall effectiveness of sentences and parole dispositions imposed.
- (14) Establish a program to systematically monitor compliance with the guidelines, with the risk assessment instrument, recommitment ranges and with mandatory sentencing laws to document eligibility for and releases pursuant to a county reentry plan, to document eligibility for and imposition of recidivism risk reduction incentive minimum sentences and to document all parole and reparole decisions by the board and any other paroling authority by:
 - (i) Promulgating forms which document the application of sentencing, resentencing and parole guidelines, mandatory sentencing laws, risk assessment instrument, releases pursuant to a county reentry plan, recommitment ranges and recidivism risk reduction incentive minimum sentences, and collecting information on all parole and reparole decisions by the board and any other paroling authority.
 - (ii) Requiring the timely completion and electronic submission of such forms to the commission.
- (15) Prior to adoption of changes to guidelines for sentencing, resentencing and parole, risk assessment instrument and recommitment ranges following revocation, use a correctional population simulation model to determine:
 - (i) Resources that are required under current guidelines, risk assessment instrument and ranges.
 - (ii) Resources that would be required to carry out any proposed changes to the guidelines, risk assessment instrument and ranges.



Appendix A: Enabling Legislation

- (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).

42 Pa.C.S.A. §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. In adopting guidelines, the Commission shall recommend confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and the community and the rehabilitative needs of the offender. The guidelines shall address the following:
- (1) Seriousness of the offense, by specifying the range of sentences applicable to crimes of a given degree of gravity, including incapacitation of serious violent offenders.
 - (2) Criminal history, by specifying 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.
 - (3) Criminal behavior, by specifying a range of sentences of increased severity for offenders who pose a substantial risk to public safety, including those who possessed or used a deadly weapon during the commission of the current conviction offense.
 - (4) Aggravated or mitigated ranges, by specifying variations from the range of sentences applicable on account of aggravating or mitigating circumstances.
 - (5) The impact of any amendments to section 9756 (relating to sentence of total confinement).
- (b) **Definition.**--As used in this section the following words and phrases shall have the meanings given to them in this subsection unless the context indicates otherwise:
- “Possessed” means on the defendant's person or within his immediate physical control.
- “Previously convicted of or adjudicated delinquent.” Any finding of guilt or adjudication of delinquency whether or not sentence has been imposed or disposition ordered prior to the commission of the current offense

42 Pa.C.S.A. §2154.1. Adoption of guidelines for county intermediate punishment

The commission shall adopt guidelines to identify offenders who would be eligible and appropriate for participation in county intermediate punishment programs. These guidelines shall be considered by the sentencing court in determining whether to sentence an offender pursuant to section 9763 (relating to sentence of county intermediate punishment). The guidelines shall:

- (1) Use the description of “eligible offender” provided in Chapter 98 (relating to county intermediate punishment).
- (2) Give primary consideration to protection of the public safety.



Appendix A: Enabling Legislation

42 Pa.C.S.A. §2154.2. Adoption of guidelines for State intermediate punishment

The commission shall adopt guidelines to identify offenders who would be appropriate for participation in State intermediate punishment programs. These guidelines shall be considered by the attorney for the Commonwealth and the sentencing court in determining whether to commit a defendant for evaluation and whether to sentence an eligible offender pursuant to 61 Pa.C.S. Ch. 41 (relating to State intermediate punishment). The guidelines shall:

- (1) Use the description of “eligible offender” provided in 61 Pa.C.S. Ch. 41.
- (2) Give primary consideration to protection of the public safety.

42 Pa.C.S.A. §2154.3. Adoption of guidelines for fines

The commission shall adopt guidelines for fines or other lawful economic sanctions, 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 are found guilty of felonies and misdemeanors. The guidelines shall do all of the following:

- (1) Specify the range of fines or other lawful economic sanctions, applicable to crimes of a given degree of gravity.
- (2) Specify a range of fines or other lawful economic sanctions of increased amount for defendants previously convicted or adjudicated delinquent for one or more misdemeanor or felony offenses committed prior to the current offense. For purposes of this paragraph, the term “previously convicted or adjudicated delinquent” shall include any finding of guilt or adjudication of delinquency whether or not sentence has been imposed or disposition ordered prior to the commission of the current offense.
- (3) Prescribe variations from the range of fines applicable on account of aggravating or mitigating circumstances.
- (4) Prescribe community service alternatives which may be imposed in lieu of all or part of the fines where the sentencing court finds the defendant lacks the ability to pay all or part of the fine.

42 Pa.C.S.A. §2154.4. Adoption of guidelines for resentencing

The commission shall adopt guidelines that shall be considered by the court when resentencing an offender following revocation of probation, county intermediate punishment or State intermediate punishment. The guidelines shall take into account:

- (1) Factors considered in adopting the sentencing guidelines,
- (2) The seriousness of the violation and
- (2) The rehabilitative needs of the defendant.

42 Pa.C.S.A. §2154.5. Adoption of guidelines for parole

(a) **Adoption.**--The commission shall adopt guidelines that shall be considered by the board and any other paroling entity when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any correctional institution. The guidelines shall do all of the following:

- (1) Give primary consideration to the protection of the public and to victim safety.



Appendix A: Enabling Legislation

- (2) Provide for due consideration of victim input.
 - (3) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board.
 - (4) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs.
 - (5) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety.
 - (6) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.
- (b) Discretionary authority.**--Notwithstanding any other provision of law, this section shall not remove the discretionary parole authority of the board and any other paroling entity when exercising its power to parole and reparole.

42 Pa.C.S.A. §2154.6. Adoption of recommitment ranges following revocation of parole by board.

- (a) Recommitment ranges.**--The commission shall adopt recommitment ranges that shall be considered by the board when exercising its power to reparole, commit and recommit for violations of parole any person sentenced by a court in this Commonwealth to imprisonment in any correctional institution. The recommitment ranges shall take into account the seriousness of the initial conviction offense, the level of seriousness of the violation and the rehabilitative needs of the defendant. At the end of the recommitment period, the parole violator shall be reviewed for parole or, without further review, shall be repared.
- (b) Deviation.**--In every case in which the board deviates from the recommitment ranges, the board shall provide a contemporaneous written statement of the reasons for the deviation from the recommitment ranges to the commission as established under section 2153(a)(14) (relating to powers and duties).
- (c) Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
- "Recommitment range." A range of time within which a parole violator may be recommitted to serve an additional part of the term the parole violator would have been compelled to serve had the parole violator not been paroled.

42 Pa.C.S.A. §2154.7. Adoption of risk assessment instrument.

- (a) General rule.**--The commission shall adopt a sentence risk assessment instrument for the sentencing court to use to help determine the appropriate sentence within the limits established by law for defendants who plead guilty or nolo contendere to, or who were found guilty of, felonies and misdemeanors. The risk assessment instrument may be used as an aide in evaluating the relative risk that an offender will reoffend and be a threat to public safety.
- (b) Sentencing guidelines.**-- The risk assessment instrument may be incorporated into the sentencing guidelines under section 2154 (relating to adoption of guidelines for sentencing).



Appendix A: Enabling Legislation

- (c) **Presentencing investigation report.**-- Subject to the provisions of the Pennsylvania Rules of Criminal Procedure, the sentencing court may use the risk assessment instrument to determine whether a more thorough assessment is necessary and to order a presentence investigation report.
- (d) **Alternative sentencing.**-- Subject to the eligibility requirements of each program, the risk assessment instrument may be an aide to help determine appropriate candidates for alternative sentencing, including the recidivism risk reduction incentive, State and county intermediate punishment programs and State motivational boot camps.
- (e) **Definition.**--As used in this section, the term “risk assessment instrument” means an empirically based worksheet which uses factors that are relevant in predicting recidivism.

42 Pa.C.S.A. §2155. Publication of guidelines for sentencing, resentencing and parole, risk assessment instrument and recommitment ranges following revocation

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

- (1) Prior to adoption, publish in the Pennsylvania Bulletin all proposed sentencing guidelines, resentencing guidelines following revocation of probation, county intermediate punishment and State intermediate punishment, parole guidelines, risk assessment instrument and recommitment ranges following revocation by the board of paroles granted, 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) Department 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 sentencing guidelines, resentencing guidelines following revocation of probation, county intermediate punishment, State intermediate punishment, risk assessment instrument, and recommitment guidelines following revocation by the board of parolees granted as adopted by the commission.
- (b) Rejection by General Assembly.**--Subject to gubernatorial review pursuant to section 9 of Article III of the Constitution of Pennsylvania, the General Assembly may by concurrent resolution reject in their entirety any guidelines, risk assessment instrument or recommitment ranges adopted by the commission within 90 days of their publication in the Pennsylvania Bulletin pursuant to subsection (a)(2). 6



Appendix A: Enabling Legislation

(c) Effective date.

- (1) Sentencing guidelines, resentencing guidelines following revocation of probation, county intermediate punishment and State intermediate punishment, parole guidelines, risk assessment instrument and recommitment ranges following revocation by the board of paroles granted, 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) and shall apply to sentences and resentences and parole decisions made after the effective date of the guidelines.
- (2) If not disapproved, the commissioners shall conduct training and orientation for trial court judges and board members prior to the effective date of the guidelines, risk assessment instrument and recommitment ranges.

42 Pa.C.S.A. §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.



Appendix A: Enabling Legislation

Sentencing Guidelines Enhancements

18 Pa.C.S.A. §3702. Robbery of motor vehicle.

- (a) **Offense defined.**-- A person commits a felony of the first degree if he steals or takes a motor vehicle from another person in the presence of that person or any other person in lawful possession of the motor vehicle.
- (b) **Sentencing.**--The Pennsylvania Commission on Sentencing, pursuant to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for an offense under this section.

42 Pa.C.S. §9711.1 Sentencing for Certain Murders of Infant Persons

- (a) **Sentence enhancement.**--The Pennsylvania Commission on Sentencing, pursuant to section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for an offense under 18 Pa.C.S. § 2502(c) (relating to murder) when the victim was less than 13 years of age at the time of the commission of the offense.
- (b) **Applicability.**--The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall determine, by preponderance of the evidence, if this section is applicable.
- (c) **Consecutive sentence.**--A sentence imposed upon a person to whom this section applies shall be served consecutively to any other sentence the person is serving and to any other sentence being then imposed by the court.

(effective December 24, 2012.)

42 Pa.C.S.A. §9720.4. Sentencing for Offenses Committed in Association with a Criminal Gang.

- (a) **Sentencing Enhancement.**--in addition to any minimum term of imprisonment authorized or established by law for the offense, the Pennsylvania Commission on Sentencing, in accordance with Section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for a crime of violence, as defined in Section 9714(g) (relating to sentences for second and subsequent offenses) or a violation of section 13(a)(30) of the act of April 14, 1972 (P.L. 233, No. 64), known as the controlled substance, drug, device and cosmetic act, if the offense was knowingly committed at the direction of or for the purpose of benefiting, promoting or furthering the interests of a criminal gang.
- (b) **Definition.**--as used in this section, the term "criminal gang" has the meaning given in 18 Pa.C.S. § 5131(e) (relating to recruiting criminal gang members).

(effective December 24, 2012.)

75 Pa.C.S.A. §3732. Homicide by Vehicle.

- (a) **Offense.**-- Any person who recklessly or with gross negligence causes the death of another person while engaged in the violation of any law of this Commonwealth or municipal ordinance applying to the operation or use of a vehicle or to the regulation of traffic except section 3802 (relating to driving under influence of alcohol or controlled substance) is guilty of homicide by vehicle, a felony of the third degree, when the violation is the cause of death.



Appendix A: Enabling Legislation

- (b) Sentencing.**--The Pennsylvania Commission on Sentencing, pursuant to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for an offense under this section.
- (1) In addition to any other penalty provided by law, a person convicted of a violation of subsection (a) may be sentenced to an additional term not to exceed five years' confinement if at trial the prosecution proves beyond a reasonable doubt that the offense occurred in an active work zone.
 - (1.1) In addition to any other penalty provided by law, a person convicted of a violation of subsection (a) as the result of a violation of section 3325 (relating to duty of driver on approach of emergency vehicle) or 3327 (relating to duty of driver in emergency response areas) and who is convicted of violating section 3325 or 3327 may be sentenced to an additional term not to exceed five years' confinement when the violation resulted in death.
 - (2) The prosecution must indicate intent to proceed under this section in the indictment or information which commences the prosecution.
 - (3) The Pennsylvania Commission on Sentencing, pursuant to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for an offense under this section when the violation occurred in an active work zone or was the result of a violation of section 3325 or 3327.

75 Pa.C.S.A. §3732.1. Aggravated assault by vehicle.

- (a) Offense.**-- Any person who recklessly or with gross negligence causes serious bodily injury to another person while engaged in the violation of any law of this Commonwealth or municipal ordinance applying to the operation or use of a vehicle or to the regulation of traffic, except section 3802 (relating to driving under influence of alcohol or controlled substance), is guilty of aggravated assault by vehicle, a felony of the third degree when the violation is the cause of the injury.
- (b) Sentencing.**—
- (1) In addition to any other penalty provided by law, a person convicted of a violation of subsection (a) may be sentenced to an additional term not to exceed two years' confinement if at trial the prosecution proves beyond a reasonable doubt that the offense occurred in an active work zone.
 - (2) In addition to any other penalty provided by law, a person convicted of a violation of subsection (a) as the result of a violation of section 3325 (relating to duty of driver on approach of emergency vehicle) or 3327 (relating to duty of driver in emergency response areas) and who is convicted of violating section 3325 or 3327 may be sentenced to an additional term not to exceed two years' confinement when the violation resulted in serious bodily injury.
 - (3) The prosecution must indicate intent to proceed under this section in the indictment or information which commences the prosecution.
 - (4) The Pennsylvania Commission on Sentencing, under 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for an offense under this section when the violation occurred in an active work zone or was the result of a violation of section 3325 or 3327.



Appendix A: Enabling Legislation

75 Pa.C.S.A. §3742. Accidents involving death or personal injury.

- (a) **General rule.**--The driver of any vehicle involved in an accident resulting in injury or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of section 3744 (relating to duty to give information and render aid). Every stop shall be made without obstructing traffic more than is necessary.
- (b) **Penalties.**--
- (1) Except as otherwise provided in this section, any person violating this section commits a misdemeanor of the first degree.
 - (2) If the victim suffers serious bodily injury, any person violating subsection (a) commits a felony of the third degree, and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than 90 days and a mandatory minimum fine of \$1,000, notwithstanding any other provision of law.
 - (3)(i) If the victim dies, any person violating subsection (a) commits a felony of the second degree, and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than one year and a mandatory minimum fine of \$2,500, notwithstanding any other provision of law.
 - (ii) In addition to the minimum term of imprisonment provided for in subparagraph (i), the Pennsylvania Commission on Sentencing shall provide within its guidelines a sentencing enhancement if the victim dies as the result of a violation of subsection (a). The provisions of this subparagraph shall not be an element of the crime, and notice of the provisions of this subparagraph shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this subparagraph shall be provided after conviction and before sentencing.
- (c) **Authority of sentencing court.**--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (b)(2) or (3) or to place such offender on probation or to suspend sentence. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.
- (d) **Definitions.**--(Deleted by amendment).



Appendix A: Enabling Legislation

Program Evaluation and Reporting Requirements

State Motivational Boot Camp (61 Pa.C.S.A. §3909. Evaluation)

The department and the commission shall monitor and evaluate the motivational boot camp program to ensure that the programmatic objectives are met. (Reporting requirement removed October 18, 2010, Act 2010-95)

State Intermediate Punishment (61 Pa.C.S.A. §4107. Reports)

- (a) **Final report.**--The department shall provide a final report to the court, the defendant, the attorney for the Commonwealth and the commission on a participant's progress in the drug offender treatment program.
- (b) **Evaluation and report to General Assembly.**--The department and the commission shall monitor and evaluate the drug offender treatment program to ensure that the programmatic objectives are met. In odd-numbered years, the department shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. In even-numbered years, the commission shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. The report shall include:
- (1) The number of offenders evaluated for the drug offender treatment program.
 - (2) The number of offenders sentenced to the drug offender treatment program.
 - (3) The number of offenders sentenced to a State correctional institution who may have been eligible for the drug offender treatment program.
 - (4) The number of offenders successfully completing the drug offender treatment program.
 - (5) The six-month, one-year, three-year and five-year recidivism rates for offenders who have completed the drug offender treatment program and for a comparison group of offenders who were not placed in the drug offender treatment program.
 - (6) Any changes the department or the commission believes will make the drug offender treatment program more effective.

Recidivism Risk Reduction Incentive (61 Pa.C.S.A. §4509. Evaluation)

- (a) **Annual Report.**--The department, the board and the commission shall monitor and evaluate the recidivism risk reduction incentive programs. Evaluations under this section should be scientifically rigorous and seek to determine the effectiveness of the programs, including whether specific recidivism risk reduction incentive programs have reduced the recidivism rates of the program participants as compared to previously incarcerated and similarly situated prisoners.
- (b) **Publication.**--The department, the board and the commission shall make evaluations conducted under this section and underlying data available to the public. The publicly available data and evaluations shall comply with generally accepted practices of the research community, including expectations relating to subject privacy and identifying information.



Appendix A: Enabling Legislation

Recidivism Risk Reduction Incentive (61 Pa.C.S.A. §4510. Reports)

(a) Recidivism risk reduction.--The department, the board and the commission shall monitor and evaluate the recidivism risk reduction incentive programs to ensure that the goals and objectives of this chapter are met and shall report to the General Assembly as follows:

- (1) In even-numbered years, the department shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. The report shall include all of the following:
 - (i) The number of offenders determined by the department to be eligible offenders under this chapter and the offenses for which the offenders were committed to the custody of the department.
 - (ii) The number of prisoners committed to the custody of the department who were subject to a recidivism risk reduction incentive minimum sentence.
 - (iii) The number of prisoners paroled at the recidivism risk reduction incentive minimum date.
 - (iv) Any potential changes that would make the program more effective.
 - (v) The six-month, one-year, three-year and five-year recidivism rates for prisoners released at the recidivism risk reduction incentive minimum sentence.
 - (vi) Any other information the department deems relevant.
- (2) In odd-numbered years, the commission shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. The report shall include all of the following:
 - (i) Whether the goals of this chapter could be achieved through amendments to parole or sentencing guidelines.
 - (ii) The various options for parole or sentencing guidelines under subparagraph (i).
 - (iii) The status of any proposed or implemented guidelines designed to implement the provisions of this chapter.
 - (iv) Any potential changes to the program that would be likely to reduce the risk of recidivism of prisoners and improve public safety.
 - (v) Any other information the commission deems relevant.

(b) Educational plan.

- (1) The Pennsylvania Commission on Crime and Delinquency shall publish a report of a proposed educational program plan within one year of the effective date of this section. The proposed educational program plan shall be developed in consultation with the department, commission, board, the Pennsylvania District Attorneys Association, the victim advocate and representatives of the judiciary and the criminal defense bar and other criminal justice stakeholders.
- (2) The plan shall seek to provide cost-effective training or information through electronic means, publications or continuing educational programs that address the following topics:
 - (i) The treatment programs available through the board and the department.
 - (ii) The availability of programs and eligibility requirements that can reduce recidivism risk including State intermediate punishment, the motivational boot camp and recidivism risk reduction incentives programs.



Appendix A: Enabling Legislation

- (iii) The calculation of sentencing credit and practices that could inadvertently prevent an inmate from receiving sentence credit.
- (iv) Recent statutory changes relating to sentencing, place of confinement, medical releases, transfer of inmates and parole.



Appendix A: Enabling Legislation

Other Statutory Provisions -- Sentencing

42 Pa.C.S.A. §9721. Sentencing generally

(a) General rule.--In determining the sentence to be imposed the court shall, except as provided in subsection (a.1), consider and select one or more of the following alternatives, and may impose them consecutively or concurrently:

- (1) An order of probation.
- (2) A determination of guilt without further penalty.
- (3) Partial confinement.
- (4) Total confinement.
- (5) A fine.
- (6) County intermediate punishment.
- (7) State intermediate punishment.

(a.1)Exception.--

- (1) Unless specifically authorized under section 9763 (relating to a sentence of county intermediate punishment) or 61 Pa.C.S. Ch. 41 (relating to State intermediate punishment), subsection (a) shall not apply where a mandatory minimum sentence is otherwise provided by law.
- (2) An eligible offender may be sentenced to State intermediate punishment pursuant to subsection (a)(7) and as described in 61 Pa.C.S. Ch. 39 (relating to motivational boot camp), even if a mandatory minimum sentence would otherwise be provided by law.
- (3) An eligible offender may be sentenced to total confinement pursuant to subsection (a)(4) and a recidivism risk reduction incentive minimum sentence pursuant to section 9756(b.1) (relating to sentence of total confinement), even if a mandatory minimum sentence would otherwise be provided by law.

(b) General standards.--In selecting from the alternatives set forth in subsection (a) the court shall follow the general principle that the sentence imposed should call for confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant. The court shall also consider any guidelines for sentencing and resentencing adopted by the Pennsylvania Commission on Sentencing and taking effect under section 2155 (relating to publication of guidelines for sentencing, resentencing and parole and recommitment ranges following revocation). In every case in which the court imposes a sentence for a felony or misdemeanor, modifies a sentence, resents an offender following revocation of probation, county intermediate punishment or State intermediate punishment or resents following remand, the court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed. In every case where the court imposes a sentence or resentence outside the guidelines adopted by the Pennsylvania Commission on Sentencing under sections 2154 (relating to adoption of guidelines for sentencing), 2154.1 (relating to adoption of guidelines for county intermediate punishment), 2154.2 (relating to adoption of guidelines for State intermediate punishment), 2154.3 (relating to adoption of guidelines for fines), 2154.4 (relating to adoption of guidelines for resentencing) and 2154.5 (relating to adoption of guidelines for parole) and made effective under section 2155, the court shall provide a contemporaneous written statement of the reason or reasons for the deviation



Appendix A: Enabling Legislation

from the guidelines to the commission, as established under section 2153(a)(14) (relating to powers and duties). Failure to comply shall be grounds for vacating the sentence or resentence and resentencing the defendant.

- (c) Mandatory restitution.**--In addition to the alternatives set forth in subsection (a) of this section the court shall order the defendant to compensate the victim of his criminal conduct for the damage or injury that he sustained. For purposes of this subsection, the term "victim" shall be as defined in section 479.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929.
- (c.1) Mandatory payment of costs.**--Notwithstanding the provisions of section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties) or any provision of law to the contrary, in addition to the alternatives set forth in subsection (a), the court shall order the defendant to pay costs. In the event the court fails to issue an order for costs pursuant to section 9728, costs shall be imposed upon the defendant under this section. No court order shall be necessary for the defendant to incur liability for costs under this section. The provisions of this subsection do not alter the court's discretion under Pa.R.Crim.P. No. 706(C) (relating to fines or costs).
- (d) Detailed criteria.**--With respect to each alternative the criteria to be considered by the court are set forth in this subchapter.
- (e) Term of imprisonment.**--All sentences of imprisonment imposed under this chapter shall be for a definite term.

42 §9720.3. Sentencing for certain paroled offenders.

A person unlawfully present in the United States who is convicted in a court of this Commonwealth of an offense committed subsequent to being paroled under 61 Pa.C.S. §6143 (relating to early parole of inmates subject to Federal removal order) may be imprisoned for a term up to twice the term of sentence otherwise authorized, fined an amount equal to twice the fine otherwise authorized or both.

42 Pa.C.S.A. §9756. Sentence of total confinement

- (a) General rule.**--In imposing a sentence of total confinement the court shall at the time of sentencing specify any maximum period up to the limit authorized by law and whether the sentence shall commence in a correctional or other appropriate institution.
- (b) Minimum sentence.**--
 - (1) The court shall impose a minimum sentence of confinement which shall not exceed one-half of the maximum sentence imposed.
 - (2) The minimum sentence imposed under this section may not be reduced through parole prior to the expiration of the minimum sentence unless otherwise authorized by this section or other law.
 - (3) Except where the maximum sentence imposed is two years or more, and except where a mandatory minimum sentence of imprisonment or total confinement is required by law, the court shall, at the time of sentencing, state whether or not the defendant is eligible to participate in a reentry plan at any time prior to the expiration of the minimum sentence or at the expiration of a specified portion of the minimum sentence. For maximum sentences of less than two years as defined under section 9762(f) (relating to sentencing proceeding; place of confinement), a court may parole a defendant prior to the expiration of the minimum



Appendix A: Enabling Legislation

sentence only if the defendant was made eligible to participate in a reentry plan at the time of sentencing. The court shall provide at least ten days' written notice and an opportunity to be heard, pursuant to the act of June 19, 1911 (P.L.1059, No.813), referred to as the County Jail and Workhouse Parole Law, to the prosecuting attorney before granting parole pursuant to this subsection. The reentry plan eligibility shall be considered a part of the sentence and subject to the requirements relating to the entry, recording and reporting of sentences.

- (b.1) Recidivism risk reduction incentive minimum sentence.**--The court shall determine if the defendant is eligible for a recidivism risk reduction incentive minimum sentence under 44 Pa.C.S. Ch. 53 (relating to recidivism risk reduction incentive). If the defendant is eligible, the court shall impose a recidivism risk reduction incentive minimum sentence in addition to a minimum sentence and maximum sentence except, if the defendant was previously sentenced to two or more recidivism risk reduction incentive minimum sentences, the court shall have the discretion to impose a sentence with no recidivism risk reduction incentive minimum.
- (c) Prohibition of parole for summary offenses.**--The court may impose a sentence to imprisonment without the right to parole under this subsection only when:
- (1) a summary offense is charged;
 - (2) sentence is imposed for nonpayment of fines or costs, or both, in which case the sentence shall specify the number of days to be served; and
 - (3) the maximum term or terms of imprisonment imposed on one or more indictments to run consecutively or concurrently total less than 30 days.
- (c.1) Sentence of total confinement combined with sentence of county intermediate punishment.**--The court may impose a sentence of imprisonment without parole under this subsection only when:
- (1) the period of total confinement is followed immediately by a sentence imposed pursuant to section 9763 (relating to sentence of county intermediate punishment) in which case the sentence of total confinement shall specify the number of days of total confinement also to be served; and
 - (2) the maximum sentence of total confinement imposed on one or more indictments to run consecutively or concurrently total 90 days or less.
- (d) Prisoner release plans.**--This section shall not be interpreted as limiting the authority of the court as set forth in Section 9755.1 (relating to temporary release from county correctional institutions).
- (e) Definitions.**--As used in this section, the term "reentry plan" is a release plan that may include drug and alcohol treatment, behavioral health treatment, job training, skills training, education, life skills or any other conditions deemed relevant by the court.

42 Pa.C.S.A. §9762. Sentencing proceeding; place of confinement.

- (a) Sentences or terms of incarceration imposed before a certain date.**--For the three-year period beginning on the effective date of this subsection, all persons sentenced to total or partial confinement for the following terms shall be committed as follows:
- (1) Maximum terms of five or more years shall be committed to the Department of Corrections for confinement.
 - (2) Maximum terms of two years or more but less than five years may be committed to the Department of Corrections for confinement or may be committed to a county prison within the jurisdiction of the court.



Appendix A: Enabling Legislation

- (3) Maximum terms of less than two years shall be committed to a county prison within the jurisdiction of the court.
- (b) Sentences or terms of incarceration imposed after a certain date.**--All persons sentenced three or more years after the effective date of this subsection to total or partial confinement shall be committed as follows:
- (1) Maximum terms of five or more years shall be committed to the Department of Corrections for confinement.
 - (2) Maximum terms of two years or more but less than five years shall be committed to the Department of Corrections for confinement, except upon a finding of all of the following:
 - (i) The chief administrator of the county prison, or the administrator's designee, has certified that the county prison is available for the commitment of persons sentenced to maximum terms of two or more years but less than five years.
 - (ii) The attorney for the Commonwealth has consented to the confinement of the person in the county prison.
 - (iii) The sentencing court has approved the confinement of the person in the county prison within the jurisdiction of the court.
 - (3) Maximum terms of less than two years shall be committed to a county prison within the jurisdiction of the court.
- (c) Certification.**--The chief administrator of the county prison, or the administrator's designee, may issue a certification under subsection (b)(2)(i) if the county prison population is less than 110% of the rated capacity of the county prison. The chief administrator shall revoke any previously issued certification if the prison population exceed 110% of the rated capacity. The president judge of the court, the district attorney and the chief public defender of the county shall be served with a written copy of any certification or revocation.
- (d) County intermediate punishment.**--Nothing in this section shall prevent a judge from sentencing an offender to county intermediate punishment which does not require confinement within county prison if otherwise authorized by law.
- (e) Reimbursement.**--Beginning three years after the effective date of this subsection:
- (1) The Department of Corrections shall reimburse to the counties the reasonable cost of confinement of every Level 4 or 5 offender as identified in the Basic Sentencing Matrix promulgated by the Pennsylvania Commission on Sentencing who is participating in an approved work release program. The reimbursement per prisoner shall not exceed the average per-prisoner cost of confinement paid by the Commonwealth for the confinement of prisoners in the Department of Corrections. No more than \$2,500,000 shall be expended annually for this purpose. Reimbursement shall be made on a pro rata basis if the total dollar amount of eligible confinement costs exceeds \$2,500,000. Nothing in this paragraph shall prevent more than \$2,500,000 being appropriated for this purpose. Reimbursement shall be made on a pro rata basis if the total dollar amount of eligible confinement costs exceeds any additional appropriation. A county shall not be reimbursed under this section for any offender participating in an approved work release program for whom the county is being or has been reimbursed from any other State funds regardless of their source.
 - (2) County prisons may require reimbursements from other county prisons or the Department of Corrections for inmates voluntarily accepted for incarceration at mutually agreeable rates. The



Appendix A: Enabling Legislation

Department of Corrections shall maintain a list of those counties willing to accept voluntary placement of out-of-county inmates.

- (f) **Aggregation.**--For purposes of this section, the sentences or terms of incarceration shall mean the entire continuous term of incarceration to which a person is subject, notwithstanding whether the sentence is the result of any of the following:
 - (1) One or more sentences.
 - (2) Sentences imposed for violations of probation or intermediate punishment.
 - (3) Sentences to be served upon recommitment for violations of parole.
 - (4) Any other manner of sentence.
- (g) **Date of imposition.**--For purposes of this section, if a person is subject to multiple sentences or terms of incarceration or any combination of sentences or terms, the date of the last sentence imposed or the date of recommitment, whichever is later, shall determine the place of incarceration and whether reimbursement is required.
- (h) **Transfer of prisoners.**--Nothing in this section shall prohibit the transfer of prisoners otherwise authorized by law or prevent a judge from changing the place of confinement between State and county facilities to the extent that the judge would have such discretion at the time of imposition of sentence or recommitment.
- (i) **Prohibition.**--Notwithstanding any other provision of law, no person sentenced to total or partial confinement after the effective date of this subsection shall be committed to the Department of Corrections unless:
 - (1) The aggregate sentence consists of a conviction for an offense graded as a misdemeanor of the second degree or higher; or
 - (2) the Secretary of Corrections or the secretary's designee has consented to the commitment.
- (j) **Applicability.**--18 Pa.C.S. § 106(b)(8) and (9) (relating to classes of offenses) applies to subsection (i).

42 Pa.C.S.A. §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



Appendix A: Enabling Legislation

- (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 upon 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.

(g) Repealed. Act 1980, Oct. 5, P.L. 693, No. 142, § 330, effective in 60 days.



Appendix A: Enabling Legislation

Other Statutory Provisions -- Parole

61 Pa.C.S.A. §6102. Operation of parole system generally.

The parole system shall operate consistently with the following provisions:

- (1) The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.
- (2) In providing these benefits to the criminal justice system, the board and any other paroling entity shall first and foremost seek to protect the safety of the public.
- (3) In addition to this goal, the board and any other paroling entity shall address input by crime victims, assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders, shall consider any applicable guidelines established by the commission and shall ensure that parole proceedings, release and recommitment are administered in an efficient and timely manner.

61 Pa.C.S.A. §6131. General powers of board.

(a) The board shall have the power and its duty shall be:

- (1) To supervise and make pre-sentence investigations and reports as provided by law.
- (2) To collect and maintain copies of all pre-sentence investigations and reports.
- (3) To collect and maintain a record of all persons who are placed on probation and parole after the effective date of this amendment.
- (4) To collect, compile and publish statistical and other information relating to probation and parole work in all courts and such other information the board may deem of value in probation service.
- (5) To establish, by regulation, uniform Statewide standards for:
 - (i) Pre-sentence investigations.
 - (ii) The supervision of probationers.
 - (iii) The qualifications for probation personnel.
 - (iv) Minimum salaries.
 - (v) Quality of probation service.

The standards for the qualifications of probation personnel shall only apply to probation personnel appointed after the date the standards are established. Should any probation personnel appointed prior to the date the standards were established fail to meet the standards, the court having jurisdiction of such personnel may request the board to establish in-service training for such personnel in accordance with the standards.
- (6) To adopt regulations establishing specific composition, functions and responsibilities for the Citizens Advisory Committees, and to receive reports, recommendations or other input concerning parole policies and parole-related concerns from these committees on a regular basis.



Appendix A: Enabling Legislation

- (7) To adopt regulations establishing criteria for board acceptance of cases for supervision and pre-sentence investigations from counties that on December 31, 1985, maintained adult probation offices and parole systems.
- (8) To enter into contracts for purchasing community services to assist parolees and to supplement existing programs.
- (9) To pay the cost of pre-parole drug screening tests for inmates within the parole release jurisdiction of the board, who are confined in a State or local correctional facility, as required under section 6137 (relating to parole power).
- (10) To enter into contracts which provide for the continuous electronic monitoring of parolees.
- (11) To establish and provide for intensive supervision units and day reporting centers for the supervision of parolees.
- (12) To provide information as required under 42 Pa.C.S. §2153(a)(14) (relating to powers and duties) as requested by the Pennsylvania Commission on Sentencing.
- (13) To incorporate evidence-based practices into parole decision making, supervision and the supervision of technical violators.
- (14) To coordinate the reentry of offenders into the community using evidence-based practices that are effective in reducing recidivism.
- (15) To conduct research to identify, to be informed of and to apply recognized evidence-based parole practices that promote public safety and reduce recidivism.
- (16) To conduct outcome and performance analyses on implemented board programs and practices to enhance public safety through reduced recidivism.

61 Pa.C.S.A. §6134.1. General criteria for parole by court.

- (a) **Guidelines.**--The court may parole or reparole subject to consideration of guidelines established under 42 Pa.C.S. §2154.5 (relating to adoption of guidelines for parole).
- (b) **Report of decision to commission.**--If a court paroles or reparoles a person, the court shall report the parole or reparole decision and shall provide a contemporaneous written statement for any deviation from the guidelines established under 42 Pa.C.S. § 2154.5, to the commission under 42 Pa.C.S. §2153(a)(14) (relating to powers and duties).

61 Pa.C.S.A. §6137. Parole power.

(a) General criteria for parole.--

- (1) The board may parole subject to consideration of guidelines established under 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole) and may release on parole any inmate to whom the power to parole is granted to the board by this chapter, except an inmate condemned to death or serving life imprisonment, whenever in its opinion:
 - (i) The best interests of the inmate justify or require that the inmate be paroled.
 - (ii) It does not appear that the interests of the Commonwealth will be injured by the inmate's parole.

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Appendix A: Enabling Legislation

- (b) Cases involving deviations from guidelines.**--In each case in which the board deviates from the guidelines established under 42 Pa.C.S. § 2154.5, the board shall provide a contemporaneous written statement of the reason for the deviation from the guidelines to the commission as established under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties). The board may develop and use internal decisional instruments. This subsection shall not be construed to prevent the board from also developing forms or other documents, policies and procedures consistent with this chapter, including internal decisional instruments.

* * *

(h) Power to recommit.--

- (1) The board may, during the period for which an inmate shall have been sentenced, recommit the inmate, if paroled, for violation of the terms and conditions of his parole and from time to time to reparole and recommit in the same manner and with the same procedure as in the case of an original parole or recommitment if, in the judgment of the board:
 - (i) There is a reasonable probability that the inmate will be benefited by paroling the inmate again.
 - (ii) It does not appear that the interests of the Commonwealth will be injured by paroling the inmate again.
- (2) In exercising these powers, the board shall consider any applicable recommitment ranges established by the commission under 42 Pa.C.S. § 2154.6 (relating to adoption of recommitment ranges following revocation of parole by board).
 - (i) Cases involving deviations from guidelines.--In each case in which the board deviates from the recommitment ranges established under 42 Pa.C.S. § 2154.6, the board shall provide a contemporaneous written statement of the reason for the deviation from the recommitment ranges to the commission, as established under 42 Pa.C.S. § 2153(a)(14).



Appendix A: Enabling Legislation



Appendix B: Frequently Used Abbreviations

AOPC	Administrative Office of Pennsylvania Courts
ARD	Accelerated Rehabilitative Disposition
BC	State Motivational Boot Camp
CDCC	Central Diagnostic and Classification Center
CIP	County Intermediate Punishment
CSDDCA	Controlled Substance, Drug, Device and Cosmetic Act
DOC	Department of Corrections
DUI	Driving Under the Influence
DWE	Deadly Weapon Enhancement
F1	Felony 1
F2	Felony 2
F3	Felony 3
GPS	Global Positioning System (or Satellite)
JCJC	Juvenile Court Judges' Commission
JNET	Pennsylvania Justice Network
M1	Misdemeanor 1
M2	Misdemeanor 2
M3	Misdemeanor 3
MDMA	3,4-Methylenedioxymethamphetamine
OGS	Offense Gravity Score
OTN	Offense Tracking Number
PCCD	Pennsylvania Commission on Crime and Delinquency
PCP	Phencyclidine
PCPC	Pennsylvania Client Placement Criteria
PRS	Prior Record Score
PSI	Pre-Sentence Investigation Report
REVOC	Repeat Violent Offender Category
RFEL	Repeat Felony 1 and Felony 2 Offender Category
RIP	Restrictive Intermediate Punishment
RS	Restorative Sanctions
SBI	Serious Bodily Injury
SCI	State Correctional Institute
SID	State Identification Number
SIP	State Intermediate Punishment
SL	Statutory Limit
SGS Web	Sentencing Guideline Software/Web Application
#	Number

