

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PENNSYLVANIA COMMISSION ON SENTENCING [204 PA. CODE CH. 303]

#### Proposed Changes to Sentencing Guidelines

The Pennsylvania Commission on Sentencing is hereby submitting proposed revisions to the sentencing guidelines for purposes of soliciting comments. The procedure for amending the guidelines is mandated by 42 Pa.C.S. § 2155. This statute requires that all changes to the guidelines be published and that public hearings be held no sooner than 30 days and no later than 60 days from the date of this publication. The Commission will be holding public hearings for persons to testify on the proposed changes at the following locations:

Bellefonte	Thursday, August 29, 1996 at 10 a.m. Centre County Courthouse Courtroom One
Pittsburgh	Wednesday, September 4, 1996 at 1 p.m. 820 City County Building 414 Grant Street
Philadelphia	Friday, September 6, 1996 at 1 p.m. Room 1106 Criminal Justice Center 1301 Filbert Street

Persons who are testifying are requested to bring 30 copies of their testimony to the public hearing. Arrangements to testify can be made by contacting the Commission via phone (814) 863-2797 (extension 1), fax (814) 863-2129 or E-mail (CAK16@PSU.EDU). Written testimony should be addressed to Dr. John Kramer, Executive Director, Commission on Sentencing, P.O. Box 1200, State College, PA 16804.

The Commission will evaluate the proposed changes after consideration of the testimony and comments received. Any amendments adopted by the Commission will then be submitted to the General Assembly for its review, via publication in the *Pennsylvania Bulletin*. At that time, the proposed amendments would become effective within 90 days of their submission unless rejected by concurrent resolution by the legislature.

SENATOR DAVID HECKLER,  
*Chair*

#### Commentary on Annex A

##### *Reasons for Changes to the Guidelines*

After an extensive multi-year review of the guidelines, a revised set of sentencing guidelines became effective on August 12, 1994. The Commission is proposing changes to these sentencing guidelines for the following reasons. First, there were concerns brought to the attention of the Commission that the revised recommendations for violent offenders, particularly for repeat violent offenders, were not harsh enough. The Commission evaluated this issue and agreed that some violent offenders warranted more severe sentences than the current guidelines recommend. The second reason for changing the guidelines is to address the new legislation passed since the revised

guidelines took effect. In January, 1995, Governor Ridge called for a Special Session on Crime that, along with the regular legislative session, resulted in the passage of a number of new laws. One of the most notable was the adoption of the '3 strikes' legislation that revised the mandatory sentences for violent offenders. The Commission is proposing changes that provide some consistency between the '3 strikes' legislation and the guidelines. The third reason for some of the proposed changes is to address areas of inconsistency in the guidelines. The proposed changes provide better consistency in how offenses are viewed with respect to Offense Gravity Score (OGS) ranking and Prior Record Score (PRS) calculations.

##### *Revisions to Sentence Recommendations*

1. *More severe sentences for violent offenders.* The current guidelines focus on providing harsher penalties for violent offenders while recommending community based alternatives for certain non-violent offenders. However, concerns have been raised that the sentences for certain violent offenders, particularly repeat violent offenders, are not harsh enough. The Commission re-evaluated the recommendations for violent offenders and decided that the concerns were justified and thus, is proposing more severe sentences for violent offenders. Some of the violent offenses have been re-ranked in order to address this issue. The Commission is also proposing harsher sentences in response to legislative changes that increased the statutory limit for murder 3 and inchoate murder (attempts, conspiracies, and solicitations) and that re-drafted the sexual assault statute.

2. *'3 strikes' offenses.* Last fall the legislature passed, and the Governor signed, a '3 strikes' statute that provides harsher mandatory penalties for certain violent offenders. To provide some consistency between the '3 strikes' legislation and the guideline recommendations, the Commission decided to include the offenses designated as violent in the '3 strikes' legislation in the upper tier of the guidelines that require state incarceration. The major change involves assigning a higher OGS ranking to the offense of 'burglary of a structure adapted for overnight accommodation/person present' so that it is ranked in the upper tier of the guidelines with the most serious offenses.

3. *More severe sentences for Repeat Felony 1/Felony 2 (RFEL) offenders.* The current guidelines created a new prior record score category for Repeat Felony 1/Felony 2 (RFEL) offenders. This new category was created to isolate the more serious felony offenders. The Commission is proposing that the sentence recommendations for such offenders be increased.

4. *Combining OGS categories of 6 and 7.* The sentence recommendations for offenses in offense gravity score categories of 6 and 7 are very similar with sometimes only a month difference in the recommendation. Thus, the Commission is proposing that these two categories be collapsed into one.

5. *Revision of RS-RIP cells.* The current guideline recommendation for four cells of the matrix is RS-RIP which allows up to 30 days in a restrictive intermediate punishment program but does not allow for incarceration. The Commission proposes that these recommendations be changed to RS-1 to allow for 30 days incarceration. This is consistent with Commission policy that has established a rough equivalency between restrictive intermediate punishment and incarceration in areas of the matrix that

allow for incarceration. That is, the maximum length of time permitted in an RIP program is the same as the maximum length of confinement permitted. However, for the recommendation of RS-RIP while 30 days of RIP is permitted as a standard range sentence, the equivalent period of confinement is an aggravated sentence. Allowing 1 month incarceration also provides more flexibility for counties that currently do not have sentencing authority for the use of intermediate punishment, often due to the lack of availability of such programs.

6. *Limit Level 1 recommendations.* Current guidelines provide a standard sentence recommendation of Restorative Sanction (RS) for offenders with an OGS of 1 or 2 and PRS of 0 or 1. The proposed change would continue to provide RS as a standard recommendation for offenders who have an OGS=1 or 2 and PRS=0 but allow the court the option of imposing incarceration for offenders who have a PRS=1.

7. *Allow RIP exchange for certain state offenders (Level 4a).* Currently, the guidelines allow for an exchange of RIP for certain offenders who would otherwise receive a county jail sentence (i.e. maximum sentence under two years and minimum sentence under one year). The proposed change would allow a RIP exchange for certain state offenders who are eligible to serve their sentence in a county jail (i.e. maximum sentence under five years). This proposed change is indicated by the dark grey areas of the grid and referenced as Level 4a.

#### *Revisions to the Prior Record Score Points*

The Commission is proposing changes in how offenses are counted for the purposes of the Prior Record Score (PRS). These changes provide better consistency between how these offenses are counted in the Prior Record Score and how they are ranked for the Offense Gravity Score. The changes are indicated in bold.

1. *Offenses assigned 4 points.* The current guidelines increased the points assigned to the most violent offenses from 3 to 4 for the purposes of calculating the prior record score.

The Commission is proposing adding some offenses to this category. The following offenses would be 4-point offenses:

- Murder
- Voluntary manslaughter
- Rape
- IDS1
- Kidnapping
- Arson (F1 - structure occupied/bodily injury)
- Robbery (causes serious bodily injury)
- Robbery of a motor vehicle (causes serious bodily injury)
- Attempted murder
- Aggravated assault (causes serious bodily injury)
- Drug delivery resulting in death
- Burglary (structure adapted for overnight accommodation/person present)

It should be noted that there is a change to two offenses that currently count 4 points in the prior record: Arson (F1) and Robbery (F1). The Commission subcategorized both of these offenses beyond statute to allow greater distinctions to be made. The Commission felt it important to distinguish between arsons that pose immediate danger to a victim and those that do not. Thus, Arson (F1) is subcategorized on the basis of whether a person is inside the structure at the time of the arson or whether there is bodily injury as a result of the fire. The Commission proposal is to rank this arson

(F1) at OGS=10 if a person is inside the structure at the time of the arson or if there is bodily injury. This more serious arson would count 4 points in the PRS. If the arson (F1) does not involve a person being inside the structure at the start of the fire or no person sustains bodily injury, then the Commission proposes that it be ranked at OGS=9 and that it count 3 points in the PRS.

The Commission also subcategorized Robbery involving serious bodily injury (F1) on the basis of whether the serious bodily injury (SBI) was completed or threatened. If the Robbery causes SBI, then the Commission proposes that it be ranked at OGS=11 and that it count 4 points in the PRS. If the Robbery threatens SBI, then the Commission proposes that it be ranked at OGS=10 and that it count 3 points in the PRS. This policy provides consistency in how the most violent offenses are counted in the PRS. (i.e. completed violent offenses count 4 points; attempted violent offenses count 3 points).

2. *Offenses Assigned 3 points.* The current guidelines do not have any offenses that are assigned 3 points. The Commission is proposing that the following offenses be assigned 3 points each:

- Attempt, conspiracy, or solicitation to one of the 4 point offenses listed above
- Aggravated Assault (attempts serious bodily injury)
- Robbery (threatens serious bodily injury)
- Robbery of a motor vehicle (no serious bodily injury)
- Robbery (commits/threatens to commit F1 or F2)
- Arson (F1-unoccupied structure/no bodily injury)
- Causing catastrophe (F1)
- Sexual assault
- Aggravated indecent assault
- PWID (Cocaine, etc. involving 50 grams or more)
- Burglary (structure adapted for overnight accommodation/person not present OR of structure not adapted for overnight accommodation/person present)
- All other F1 offenses

3. *Offenses assigned 2 points.* The following offenses will continue to be assigned 2 points each:

- PWID (Cocaine, etc. involving < 50 grams)
- Any other felony drug offense not specified as a 3 point offense
- Burglary (F2)
- All remaining Felony 2 offenses

4. *Offenses assigned 1 point.* Felony 3 offenses and weapons misdemeanors currently add 1 point each to the prior record score. Due to the serious nature of some misdemeanor offenses, the Commission is proposing that the M1 offenses involving death or endangering of children also carry 1 point each. Other misdemeanors will continue to be counted 1, 2, or 3 points depending upon the total number of misdemeanors involved. The offenses that carry one point each are:

- Felony 3 offenses
- Weapons misdemeanors
- Involuntary manslaughter
- Homicide by vehicle
- Luring a child into motor vehicle
- Indecent assault involving minors
- Endangering welfare of children
- Corruption of minor (when of a sexual nature)
- Simple assault against child by adult
- Dealing in infant children
- Indecent exposure involving minors

#### *Prior juvenile offenses*

The Commission is proposing two changes concerning the use of prior juvenile adjudications. First, in accord-

ance with the recent legislative change that allows prior juvenile adjudications to be considered in the sentencing for misdemeanor offenses (Act 13 of 1995), the Commission is proposing a change to the juvenile adjudication criteria that would also allow prior juvenile offenses to count when the currently sentenced offense is either a felony or misdemeanor. Currently, they can only count when the current offense is a felony. Second, the Commission is proposing a change to the juvenile lapsing provision that includes the completed '3-strikes' offenses in the list of juvenile offenses that would never lapse for the purposes of prior record score calculation.

#### *Definition of Transaction*

The current guidelines utilize the concept of transaction to determine how the prior record is applied to multiple offenses and how current multiple offenses are counted in future prior record scores. The definition of transaction is important as it influences current and future sentence recommendations. The current definition of transaction in the guidelines is:

"A transaction is 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 are not part of the same transaction unless they occurred as continuous actions not separated in time by law-abiding behavior"

This definition has resulted in confusion in the field and has been interpreted in different ways among the counties. Thus, the Commission proposes deleting the current definition of transaction and using the following policy on how to calculate the prior record when there are multiple offenses:

For sentencing, apply the prior record score to each conviction offense. For subsequent scoring of prior convictions, assign points for all conviction offenses. Exception: For crimes sentenced concurrently, assign points for only the most serious conviction offense.

#### *New/Amended Offenses*

The legislature passed several pieces of legislation that created new offenses or amended current offenses. Commission policy for new/amended offenses is to assign the omnibus offense ranking which is based upon the statutory grading of the offense. This ranking remains in effect until the Commission has the opportunity to decide what ranking would be appropriate. The Commission proposes the following ranking for the new and amended offenses:

18 § 910	Manufacture, distribution or possession of devices for theft of telecommunication services M1 OGS=3 (1st conviction) F3 OGS=5 (subsequent conviction)
18 § 913	Possession of firearm or other dangerous weapon in court facility M3 OGS=1 M1 OGS=3 (intend for crime)
18 § 1102(c)	Inchoate murder F1 OGS=13 (when SBI) F1 OGS=12 (when no SBI)
18 § 2503	Voluntary Manslaughter F1 OGS=11
18 § 2504	Involuntary Manslaughter F2 OGS=8 (when victim under 12 years)
18 § 2713	Neglect of care-dependent person F1 OGS=10 (when SBI) M1 OGS=4 (when BI)
18 § 3122.1	Statutory sexual assault F2 OGS=7
18 § 3124.1	Sexual Assault F1 OGS=11
18 § 3127	Indecent exposure M1 OGS=3 (when person less than age 16 present)
18 § 4303	Concealing death of child M1 OGS=3
18 § 4304	Endangering welfare of child F3 OGS=6 (course of conduct)
18 § 5123 (a.2)	Possession of controlled substance contraband by inmate prohibited M1 OGS=3
18 § 5511	Cruelty to animals M2 OGS=3
18 § 5902	Prostitution and related offenses (involving HIV/AIDS) F3 OGS=5
18 § 6110.1	Possession of firearm by minor M1 OGS=3 (possession) F3 OGS=7 (delivery to minor by adult)
18 § 6111	Firearm ownership M2 OGS=2 (unlawful delivery) F3 OGS=5 (selling to ineligible; unlawful background check; false statements) F2 OGS=7 (subsequent convictions)

18 § 6117	Altering marks of firearms F2 OGS=7
18 § 7313	Buying or exchanging federal food order coupons, stamps, authorization cards or access devices F3 OGS=5 M1 OGS=3
18 § 7314	Fraudulent traffic in food orders F3 OGS=5 M1 OGS=3
18 § 7328	Operation of certain establishments prohibited without local option M3 OGS=1
75 § 3735.1	Aggravated assault by vehicle while DUI F2 OGS=7
75 § 3743	Accidents involving damage to attended vehicle or property M3 OGS=1

#### *Omnibus Offense Score Policy*

The Commission has a policy that provides for an omnibus offense gravity score to be applied to new offenses or offenses that have a change in the statutory grading. The omnibus score, which is based upon the statutory grade of the offense, remains in place until the commission has the opportunity to rank the offense. Recently, however, the legislature increased the statutory grading of some offenses (e.g. attempted murder was changed from a felony 2 to a felony 1) that ended up resulting in a lower recommendation based upon the omnibus score. The Commission is proposing a change to the omnibus policy to assure that when the statutory grading for an offense is raised, that the omnibus score for the offense does not result in a lower score, and thus lower recommendation, than what currently exists.

#### *Guideline recommendations for Driving Under the Influence (DUI) and Homicide by Vehicle while DUI.*

Currently, the only two offenses that do not have an Offense Gravity Score (OGS) assigned to them are Driving under the influence (75 § 3731) and Homicide by vehicle while DUI (75 § 3735). The guideline recommendation for these two offenses has always been application of the mandatory statute governing them. The proposed change would assign an OGS=2 to Driving under the Influence when it is a M2 (1st or 2nd conviction) and an OGS=3 when it is a M1 (3rd or subsequent conviction). An OGS=8 would be assigned to Homicide by vehicle while DUI. As always, any mandatory statute governing these offenses would supersede the guideline recommendations.

The Commission also is proposing the elimination of the subcategorization of DUI according to whether there is serious bodily injury or not, in light of the new offense of aggravated assault by vehicle while DUI. The proposed OGS scores for Homicide by vehicle and Involuntary manslaughter when there is also a conviction for DUI were raised to be consistent with the recommendation for aggravated assault.

It should be noted that with this change to the DUI offenses, that prior non-DUI offenses would count in the prior record score calculations.

#### *Deadly weapon enhancement (DWE) based on used vs. possessed.*

Statute requires the guidelines to provide for enhanced sentences if the offender possessed a deadly weapon during the commission of the offense. Currently the amount of time is based upon the seriousness of the offense. The Commission is proposing that the DWE also

make a distinction between offenders who use vs possess the weapon during the commission of the offense.

#### *Multiple offenses overlapping different guidelines*

Current guideline policy states that the guidelines apply to offenses that occur on or after the effective date of the guidelines. When there are amendments to the guidelines, offenses that occur before the effective date of the amendments are subject to the prior guidelines, while offenses that occur after the effective date of the amendments are subject to the new guidelines. When there are multiple offenses and *the dates of the offenses are unknown*, there has been no guideline policy. Thus, the Commission is proposing a policy that would indicate that the most recent guidelines apply if the specific dates are undetermined.

#### *Proposed technical changes*

The Commissioners proposes three technical changes to the guidelines: 1) a clarification that the guidelines do apply to persons who plead guilty or nolo contendere, not just to persons found guilty through trial; 2) that the guideline sentence form be submitted to the Commission within 30 days, rather than 20 days, of sentencing; and 3) clarification that the original guidelines were effective July 22, 1982 and were invalidated due to a procedural technicality, but that new guidelines did become effective again April 25, 1988.

### Annex A

## 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.

(b) The sentencing guidelines do not apply to sentences imposed as a result of probation or parole revocations, accelerated rehabilitative disposition, disposition in lieu of trial, direct or indirect contempt of court, nor violations of protection from abuse orders.

(c) **[The sentencing guidelines became effective on April 25, 1988 and shall apply to all misdemeanor and felony offenses committed on or after that date. Amendments to the guidelines went into**

effect August 9, 1991, December 20, 1991, and August 12, 1994. Amendments to the sentencing guidelines shall apply to all offenses committed on or after the date the amendment becomes part of the guidelines. ] 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 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. A revised set of guidelines became effective August 12, 1994.

(d) A Pennsylvania Commission on Sentencing Guideline Sentence Form shall be completed at the court's direction and shall be made a part of the record no later than [ 20 ] 30 days after the date of each sentencing and a copy shall be forwarded to the Pennsylvania Commission on Sentencing.

**§ 303.2. Procedure for determining the guideline sentence.**

(a) 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 ] 303.14.

(2) Determine the prior record score as described in §§ 303.4—303.7.

(3) Determine the standard guideline sentence as described in §§ 303.8, 303.12 and [ 303.16. ] 303.15.

(4) Determine if the deadly weapon enhancement or youth/school enhancement is applicable and, if so, adjust the standard range, as described in §§ 303.9 and 303.11.

(5) Determine if aggravating or mitigating circumstances exist and, if so, adjust the standard range, as described §§ 303.10 and 303.11.

[ (b) For determination of the guideline sentence recommendations for 75 Pa.C.S. § 3731 (relating to mandatory imprisonment for driving under the influence of alcohol or controlled substance), or 75 Pa.C.S. § 3735 (relating to mandatory imprisonment for homicide by vehicle while driving under the influence), refer to § 303.14. ]

**§ 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 ] § 303.14.

(b) Subcategorized offenses. The following 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:

**18 Pa.C.S. 901, 902, 903 (only when relating to attempt, solicitation or conspiracy to commit murder)**

18 Pa.C.S. § 907 (relating to possessing instruments of crime)

18 Pa.C.S. § 2504 (relating to involuntary manslaughter)

18 Pa.C.S. § 2702 (relating to aggravated assault)

18 Pa.C.S. § 3301(a) (relating to arson and related offenses, endangering persons)

18 Pa.C.S. § 3502 (relating to burglary)

18 Pa.C.S. § 3701 (relating to robbery)

18 Pa.C.S. § 3702 (relating to robbery of motor vehicle)

18 Pa.C.S. § 3921 through § 3927 and § 3932 (relating to felony 3 thefts)

18 Pa.C.S. § 5121 (relating to escape)

18 Pa.C.S. § 6105 [ (relating to former convict not to own a firearm, etc.) ] (relating to persons not to possess, etc. firearms)

18 Pa.C.S. § 6106 (relating to firearms not to be carried without a license)

18 Pa.C.S. § 6108 (relating to carrying firearms on public streets or public property in Philadelphia)

18 Pa.C.S. § 6110 (relating to persons to whom delivery shall not be made)

**18 Pa.C.S. § 6301 (relating to corruption of minors)**

35 P.S. § 780-113(a)(12) (relating to acquisition of a controlled substance by fraud)

35 P.S. § 780-113(a)(14) (relating to delivery of a controlled substance by practitioner)

35 P.S. § 780-113(a)(30) (relating to possession with intent to deliver a controlled substance)

**[ 75 Pa.C.S. § 3731 (relating to driving under the influence of alcohol or controlled substance) ]**

75 Pa.C.S. § 3732 (relating to homicide by vehicle)

(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 **[ 10 ] 13 if there is serious bodily injury and 12 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 of the 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, De-vice 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. The exception to subsection (e) above is for violations of 35 P. S. § 780-114 (a)(12) (relating to fraudulent prescriptions) when pre-scription pills are involved. For such violations it is the number of pills rather than the amount of the controlled substance which is considered in determining the offense gravity score. (See § **[ 303.15 ] 303.14.**)

(f) Omnibus offense gravity scores. All other crimes not listed in **[ § 303.15 ] § 303.14** are scored as follows:

Felony 1	<b>[ 9 ] 8</b>
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

**(1) Exception. When the statutory grading for an offense is increased, and the omnibus OGS is lower than the OGS that is currently assigned to the offense, then the offense shall carry the current OGS rather than the omnibus OGS.**

**§ 303.4. Prior record score—general.**

(a) Total prior record score. All prior adult convictions for felonies and misdemeanors and certain prior juvenile adjudications are scored under §§ **[ 303.4 ] 303.5—303.7.** The prior record score is the sum of points accrued; it cannot be greater than 5. The exceptions are for offenders in the repeat violent offender category as defined below in subsection (b) or for offenders in the repeat felony 1 and felony 2 offender category as defined below in subsection (c).

(b) Repeat violent offender category (REVOC). Offend-ers who have two or more previous convictions or adjudi-cations for the following offenses and whose current conviction carries an offense gravity score of **[ 10 ] 9** or higher shall be classified in the repeat violent offender category:

**18 Pa.C.S. §§ 901, 902, 903 (only when relating to attempt, solicitation and conspiracy to commit murder)**

18 Pa.C.S. § 2502 (relating to murder)

18 Pa.C.S. § 2503 (relating to voluntary manslaughter)

**18 Pa.C.S. § 2506 (relating to drug delivery result-ing in death)**

**18 Pa.C.S. § 2702(a)(1)(2) (relating to aggravated assault causing serious bodily injury)**

18 Pa.C.S. § 2901 (relating to kidnapping)

18 Pa.C.S. § 3121 (relating to rape)

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse)

18 Pa.C.S. § 3301(a) (relating to arson and related offenses, endangering persons **and there is serious bodily or a person is inside at the start of the arson**)

**18 Pa.C.S. § 3502 (a)(1)(relating to burglary, when it involves an occupied structure adapted for over-night accommodation and a person is present)**

18 Pa.C.S. § 3701(a)(1)(I) **[ (i, ii, iii) ]** (relating to robbery, **causing serious bodily injury**)

**18 Pa.C.S. 3702 (relating to robbery of motor vehicle, causing serious bodily injury)**

(c) 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.

**§ 303.5. Prior record score—prior juvenile adjudica-tions.**

(a) Juvenile adjudication criteria. Prior juvenile adjudi-cations are counted in the prior record score when the following criteria are met:

**[ (1) the currently sentenced offense is a felony, ]**

**[ (2) ] (1)** the juvenile offense occurred on or after the offender's 14th birthday, and

**[ (3) ] (2)** there was an express finding by the juvenile court that the adjudication was for a felony or one of the **[ weapons misdemeanors ] misdemeanor one of-fenses listed in § 303.6 (2) [ (i) ] and (3).**

No other juvenile adjudication of delinquency shall be counted in the prior record score.

(b) Lapsing of juvenile adjudications. Prior juvenile adjudications for the following offenses shall always be included in the prior record score provided the criteria in subsection (a) above are met:

**18 Pa.C.S. §§ 901, 902, 903 (only when relating to attempt, solicitation and conspiracy to commit mur-der)**

18 Pa.C.S. § 2502 (relating to murder)

18 Pa.C.S. § 2503 (relating to voluntary manslaughter)

**18 Pa.C.S. § 2506 (relating to drug delivery result-ing in death)**

**18 Pa.C.S. § 2702(a)(1)(2) (relating to aggravated assault causing serious bodily injury)**

18 Pa.C.S. § 2901 (relating to kidnaping)

18 Pa.C.S. § 3121 (relating to rape)

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse)

18 Pa.C.S. § 3301(a) (relating to arson and related offenses, endangering persons **and there is serious bodily or a person is inside at the start of the arson**)

**18 Pa.C.S. § 3502 (a)(1)(relating to burglary, when it involves an occupied structure adapted for overnight accommodation and a person is present)**

18 Pa.C.S. § 3701(a)(1)(i) [ ii, iii ] (relating to robbery, **causing serious bodily injury**)

**18 Pa.C.S. 3702 (relating to robbery of motor vehicle, causing serious bodily injury)**

(1) All other juvenile adjudications not listed above in subsection (b) lapse and shall not be counted in the prior record score if the offender was 28 years of age or older at the time the current offense was committed.

(2) Nothing in this section shall prevent the court from considering lapsed prior adjudications at the time of sentencing.

**§ 303.6. Prior record score—guideline points scoring.**

(a) Scoring of prior convictions and adjudications is as follows:

(1) Prior felony convictions and adjudications:

(i) Four points are added for each prior conviction or adjudication for the following offenses:

**18 Pa.C.S. §§ 901, 902, 903 (only when relating to attempt, solicitation and conspiracy to commit murder)**

18 Pa.C.S. § 2502 (relating to murder)

18 Pa.C.S. § 2503 (relating to voluntary manslaughter)

**18 Pa.C.S. § 2506 (relating to drug delivery resulting in death)**

**18 Pa.C.S. § 2702(a)(1)(2) (relating to aggravated assault causing serious bodily injury)**

18 Pa.C.S. § 2901 (relating to kidnaping)

18 Pa.C.S. § 3121 (relating to rape)

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse)

18 Pa.C.S. § 3301(a) (relating to arson and related offenses, endangering persons **and there is serious bodily or a person is inside at the start of the arson**)

**18 Pa.C.S. § 3502 (a)(1)(relating to burglary, when it involves an occupied structure adapted for overnight accommodation and person is present)**

18 Pa.C.S. § 3701(a)(1)(i) [ , (ii), (iii) ] (relating to robbery, **causing serious bodily injury**)

**18 Pa.C.S. § 3702 (relating to robbery of motor vehicle, causing serious bodily injury)**

**(ii) Three points are added for each prior conviction or adjudication for the following offenses:**

**18 Pa.C.S. § 2702(a)(1)(2) (relating to aggravated assault attempting serious bodily injury)**

**18 Pa.C.S. § 3124.1 (relating to sexual assault)**

**18 Pa.C.S. § 3125 (relating to aggravated indecent assault)**

**18 Pa.C.S. § 3301(a) (relating to arson and related offenses, endangering persons and there is no serious bodily injury nor a person is inside at the start of the arson)**

**18 Pa.C.S. § 3302 (a)(relating to intentionally causing catastrophe)**

**18 Pa.C.S. § 3502 (a)(1)(relating to burglary, when it involves a structure adapted for overnight accommodation and a person is not present or is a structure not adapted for overnight accommodation and a person is present)**

**18 Pa.C.S. § 3701(a)(1)(ii) (relating to robbery, threatening serious bodily injury)**

**18 Pa.C.S. § 3701(a)(1)(iii) (relating to robbery, committing or threatening to commit any felony of the first or second degree)**

**18 Pa.C.S. § 3702 (relating to robbery of motor vehicle with no serious bodily injury)**

**35 P. S. § 780-113(a)(12)(acquisition of a controlled substance involving 50 grams or more by fraud)**

**35 P. S. § 780-113(a)(14)(relating to the delivery of a controlled substance involving 50 grams or more by a practitioner)**

**35 P. S. § 780-113(a)(30) (relating to the manufacture, delivery or possession with intent to manufacture or deliver a controlled substance involving 50 grams or more)**

**All other Felony 1 offenses not listed in § 303.6 (a)(1)(i) above.**

**All attempts, conspiracies, and solicitations to the 4-point offenses listed in § 303.6 (a)(1)(i) above.**

**[ (ii) ](iii) Two points are added for each prior conviction or adjudication for the following offenses:**

**[ any felony 1 or felony 2 not listed in subsection (i) above, and for each prior felony conviction or adjudication under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) ]**

**18 Pa.C.S. § 3502 (a)(1)(relating to burglary, when it involves a structure not adapted for overnight accommodation and a person is not present)**

**Any prior felony conviction or adjudication under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) not listed as a 3-point offense in § 303.6 (a)(1)(ii) above.**

**All other Felony 2 offenses not listed in § 303.6 (a)(1)(i) or (ii) above.**

**[ (iii) ] (iv) One point is added for any felony 3 or for any felony not scored above in subsections (i) [ or ], (ii) or (iii).**

(2) Prior weapons misdemeanor convictions and adjudications.

(I) One point is added for each prior conviction or adjudication for the following weapons misdemeanors:

18 Pa.C.S. § 907(b) (relating to possessing instruments of crime)

18 Pa.C.S. § 908 (relating to prohibited offensive weapons)

**18 Pa.C.S. § 912 (relating to possession of weapon on school property)**

**18 Pa.C.S. § 913(2)(relating to possession of firearm or other dangerous weapon in court facility)**

**18 Pa.C.S. § 6105 [(relating to former convict not to own a firearm, etc.)](relating to persons not to possess, use, manufacture, control, sell or transfer firearms)**

**18 Pa.C.S. § 6106 (relating to firearms not to be carried without a license)**

**18 Pa.C.S. § 6108 (relating to carrying firearms on public streets or public property in Philadelphia)**

**[ 18 Pa.C.S. § 6110 (relating to persons to whom delivery shall not be made) ]**

**18 Pa.C.S. § 6110.1(a) (relating to possession of firearm by minor)**

**[ 18 Pa.C.S. § 6111 (relating to sale of firearms) ]**

**(3) Prior misdemeanors involving death or danger to children.**

**(I) One point is added for each prior conviction or adjudication for the following misdemeanor 1 offenses that involve death or danger to children:**

**18 Pa.C.S. § 2504 (relating to involuntary manslaughter)**

**18 Pa.C.S. § 2701(b)(2) (relating to simple assault against child by adult)**

**18 Pa.C.S. § 2910 (relating to luring a child into a vehicle)**

**18 Pa.C.S. § 3126 (a)(6) (relating to indecent assault involving minors)**

**18 Pa.C.S. § 3127 (relating to indecent exposure; person less than age 16 present)**

**18 Pa.C.S. § 4304 (relating to endangering welfare of children)**

**18 Pa.C.S. § 4305 (relating to dealing in infant children)**

**18 Pa.C.S. § 6301 (relating to corruption of minors of a sexual nature)**

**75 Pa.C.S. § 3732 (relating to homicide by vehicle)**

**[ (3) ] (4) Prior non-weapons misdemeanor convictions.**

**(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.**

**§ 303.7. Prior record score—miscellaneous.**

**(a) [ Current multiple ] Multiple convictions. [ When imposing sentences for convictions arising out of the same transaction, the prior record score is computed for the offense with the highest offense gravity score in such transaction. If there are two offenses which carry the same offense gravity score, the prior record score shall apply to only one of the offenses. For the remaining offenses in such transactions, the prior record score shall be zero. When imposing sentences for convictions arising out of separate transactions, the prior record score**

**shall be computed independently for each separate transaction. ] When imposing sentences for multiple convictions, apply the prior record score to each conviction offense. For subsequent scoring of prior convictions, assign points for all conviction offenses. Exception: For crimes sentenced concurrently, assign points for only the most serious conviction offense.**

**[ (b) Prior multiple convictions and adjudications of delinquency for offenses arising out of the same criminal transaction for which concurrent or consecutive sentences were imposed are scored as a single conviction equal to the statutory classification of the most serious conviction offense.**

**(c) Definition of transaction. A transaction is 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 are not part of the same transaction unless they occurred as continuous actions not separated in time by law-abiding behavior.**

**(d) ] (b) Out-of-state, Federal, or former Pennsylvania offenses. A prior out-of-state or Federal conviction or adjudication of delinquency, or a prior conviction or adjudication of delinquency under former Pennsylvania law, is scored as a conviction for the current equivalent Pennsylvania offense. When there is no current equivalent Pennsylvania offense, prior out-of-state or Federal convictions or adjudications of delinquency are scored as non-weapons misdemeanors. When there is no current equivalent Pennsylvania offense to a conviction or adjudication of delinquency under prior Pennsylvania law, apply subsection [ (e) ] (c).**

**[ (e) ] (c) Incomplete prior records for Pennsylvania convictions. 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 a non-weapons misdemeanor. When it cannot be determined if the prior conviction was a felony, weapons misdemeanor, or non-weapons misdemeanor, it shall be treated as a non-weapons misdemeanor. When a prior conviction is for a crime which has a summary grade, the prior conviction shall not be counted in the prior record score.**

**[ (f) ] (d) Excluded offenses. The following types of offenses shall not be scored in the prior record score:**

**(1) Summary offenses, violations of local ordinances, and dispositions under Pa.Rules Crim.P.R. 175—185 (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), shall not be used in computing the prior record score.**

**(2) Except when the current offense is a violation of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), when the maximum sentence applicable to the current offense is dependent upon past convictions, those prior convictions shall not be used in computing the prior record score. For example: retail theft offenses are subject to a longer period of confinement when the offender has been previously convicted of the same offense.**

**[ (g) ] (e)** Definitions for 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). The Superior Court interpretation of 'previously convicted' requires that the commission and conviction on the prior offense occur before the commission of the current offense in order for the prior offense to count in the prior record score. (See *Commonwealth v. Eyster*, 401 Pa. Super. 477, 585 A.2d. 1027.)

### § 303.8 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. The Commission has established Levels within the Standard Range Chart and has classified intermediate punishments into restrictive intermediate punishments and restorative sanctions to allow for greater consideration of sentencing options.

(b) *Sentencing Levels.* Determine which Level of the Standard Range Chart is applicable to the offender based upon the offense gravity score and prior record score. The following are the sentencing options that shall be considered by the court at each sentencing Level.

(1) Level 4—Level 4 provides recommendations for the most serious offenders. Normally at this Level, the offense of conviction is a major violent or major drug offense and often the offender has a serious history of violent offenses. The Commission has established guideline ranges of total confinement for these offenders. The basic purposes for the recommendations at this Level are to provide punishment commensurate with the seriousness of the conviction offense and the prior record of the offender and to protect the public by providing for total control over the offender for a significant period of time in total confinement. For the Repeat Violent Offender Category the Commission has established recommendations that are the maximum punishment/incapacitation possible under law.

(i) At Level 4 the sentencing option is total confinement. **Exception. Offenders at Level 4a may receive a restrictive intermediate punishment sentence in lieu of state incarceration. The procedure for imposing a restrictive intermediate punishment sentence at Level 4a is the same as provided for Level 3 offenders in § 303.8 (2) below.**

(ii) If the offender meets the statutory criteria for participation in the state motivational boot camp, the court should consider authorizing the offender as eligible for this program. (See § 303.13.)

(2) Level 3—Level 3 provides recommendations for serious offenders with potential for violence or moderately serious offenders with a serious prior record. Consequently, the Commission has established a relatively wide range of sentences providing for state and county incarceration with the option to use restrictive intermediate punishments. The major focus in constructing the guideline sentence recommendations at this Level was providing serious punishment for serious offenders. The punish-

ments are intended to exert considerable control over the offender's freedom. While retribution and control are the primary purposes of the recommendations, the guideline ranges also allow the court to consider the restoration of the victim and the treatment of the offender. For example, the court may choose to place the primary focus of the sentence on treatment of the offender by placing the offender in an inpatient treatment facility. Restoration may be fulfilled by placing the offender in county incarceration with work release thereby allowing the offender to pay restitution to the victim.

(i) At Level 3 the sentencing options include one or more of the following:

Total confinement

Partial confinement

Restrictive intermediate punishments, following the procedures outlined below in (ii), (iii), and (iv).

(ii) An offender under consideration for restrictive intermediate punishments at 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 Office of Drug and Alcohol Programs (ODAP) or a designee; the county authority on drugs and alcohol or a designee; or clinical personnel of a facility licensed by the Office of Drug and Alcohol Programs. 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. An offender assessed to be dependent shall be sentenced to restrictive intermediate punishment consistent with the level of care and length of stay prescribed in the treatment recommendation. An offender not assessed to be in need of drug or alcohol treatment may be placed in any approved restrictive intermediate punishment program. The court retains the authority to incarcerate offenders in either of these categories.

(iii) Restrictive intermediate punishments may be imposed only if the court has been granted sentencing authority by the Pennsylvania Commission on Crime and Delinquency (pursuant to 42 Pa.C.S. § 9729). 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 intermediate punishments.

(iv) The total length of confinement or length of time spent in a restrictive intermediate punishment program(s) or combination thereof shall fall within the guideline ranges. Exception: An offender assessed to be in need of treatment shall be sentenced to a level of care and length of stay consistent with the treatment recommendation.

(v) If the offender meets the statutory criteria for participation in the state motivational boot camp, the court should consider authorizing the offender as eligible for this program. (See § 303.13.)

(3) Level 2—Level 2 provides recommendations for basically non-violent offenders. It includes offenders who have a conviction for less serious offenses (e.g. felony 3 and misdemeanor 1 theft offenses) or who have a conviction for one of the least serious offenses, but a prior record score that indicates a long and/or significant criminal career. The Commission has established guideline ranges that allow for sentences that provide signifi-

cant control of the offender to assure that the offender meets his or her responsibilities to the victim and to protect the public from the offender. Many offenders in this Level suffer from drug and/or alcohol problems and the court should consider a treatment component to address the rehabilitative needs of such offenders.

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

(ii) At Level 2, where the range allows for a term of incarceration, the sentencing options include one or more of the following:

- Total confinement
- Partial confinement
- Restrictive intermediate punishments
- Restorative sanctions

(iii) At Level 2, where the range does not allow for confinement (i.e. range=RS-RIP), the sentencing options include one or both of the following:

- Restrictive intermediate punishments
- Restorative sanctions

(iv) While a diagnostic assessment of dependency on drugs and/or alcohol is not required at Level 2, an assessment is encouraged to determine the appropriateness of treatment.

(v) When a restrictive intermediate punishment sentence is imposed, the court is encouraged to consider a treatment component. The total length of confinement or length of time spent in a restrictive intermediate punishment program(s) or combination thereof shall fall within the guideline ranges.

(vi) When the range does not allow for confinement (i.e. range=RS-RIP), the court is encouraged to consider the restorative sanctions first. If the court rejects these sentencing options, the offender may be placed in a restrictive intermediate punishment for up to 30 days. If the restrictive intermediate punishment sentence exceeds 30 days, it shall be considered outside of the standard range.

(4) Level 1—Level 1 provides recommendations for the least serious offenders both in terms of the conviction offense and their relatively minor prior record. The Commission has established a range that focuses on sentencing options that require minimal control of the offender but allow for supervision to assure that the offender fulfills obligations to pay restitution, to complete community service orders, or to complete a treatment program ordered by the court.

(i) At Level 1 the sentencing options are restorative sanctions.

(c) *Definitions.* Following are definitions for restrictive intermediate punishments and restorative sanctions. 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.

(1) *Restrictive intermediate punishments (RIP).* Restrictive intermediate punishments are defined as programs that provide for the strict supervision of the offender. These programs either:

- (i) house the offender full or part time; or
- (ii) significantly restrict the offender's movement and monitor the offender's compliance with the program(s); or

(iii) involve a combination of programs that meet the standards set forth under (i) and (ii).

(A) The following is a list of programs that generally are considered as restrictive intermediate punishments:

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

(2) *Restorative sanctions (RS).* Restorative sanctions are non-confinement sentencing options that:

- (I) are the least restrictive in terms of constraint of offender's liberties;
- (ii) do not involve the housing of the offender (either full or part time); and
- (iii) focus on restoring the victim to pre-offense status.

(A) The following is a list of programs that generally are considered as restorative sanctions:

- Drug testing programs
- Outpatient treatment programs
- Standard probation
- Community service programs
- Fines programs
- Restitution programs
- Fines
- Guilt without further penalty
- Other programs or combination of programs that meet the definition of restorative sanctions.

**§ 303.9 Enhancements.**

(a) Deadly weapon enhancement.

**[ (1) When the court determines that the offender possessed a deadly weapon, as defined in 18 Pa.C.S. § 2301 (relating to definitions), during the commission of the current conviction offense, the following number of months shall be added to the standard range which would otherwise have been applicable:**

<i>Offense gravity score</i>	<i>Deadly weapon enhancement</i>
<b>13</b>	<b>9-18 months</b>
<b>12</b>	<b>9-18 months</b>
<b>11</b>	<b>9-18 months</b>
<b>10</b>	<b>9-18 months</b>
<b>9</b>	<b>9-18 months</b>
<b>8</b>	<b>6-12 months</b>
<b>7</b>	<b>6-12 months</b>
<b>6</b>	<b>6-12 months</b>
<b>5</b>	<b>6-12 months</b>
<b>4</b>	<b>3-6 months</b>
<b>3</b>	<b>3-6 months</b>
<b>2</b>	<b>3-6 months</b>
<b>1</b>	<b>3-6 months ]</b>

**(1) The deadly weapon enhancement is based upon whether the court determines that the offender possessed or used a deadly weapon during the commission of the current conviction offense. The number of months indicated below shall be added to the standard range which would otherwise have been applicable, depending upon whether the court defines that the weapon was**

used or possessed by the offender.

Offense gravity score	Deadly Weapon enhancement	
	Possessed	Used
14	9 months	18 months
13	9 months	18 months
12	9 months	18 months
11	9 months	18 months
10	9 months	18 months
9	9 months	18 months
8	6 months	12 months
7	6 months	12 months
6	6 months	12 months
5	6 months	12 months
4	3 months	6 months
3	3 months	6 months
2	3 months	6 months
1	3 months	6 months

(2) **Definitions.** For the purposes of the deadly weapon enhancement the following definitions apply:

(i) **Possession of a deadly weapon**—any of the following were on the defendant's person or within his immediate physical control:

(A) Any firearm, whether loaded or unloaded, (as defined in 42 § 9712), or

(B) Any dangerous weapon (as defined in 18 § 913), or

(C) Any device, implement, or instrumentality designed as a weapon or capable of producing death or serious bodily injury which defendant intended to use to threaten or injure another individual.

(ii) **Use of a deadly weapon**—any of the following employed by the defendant in a way that threatened or injured another individual or in the furtherance of the crime:

(A) Any firearm, whether loaded or unloaded, (as defined in 42 § 9712), or

(B) Any dangerous weapon (as defined in 18 § 913), or

(C) Any device, implement, or instrumentality capable of producing death or serious bodily injury.

[ (2) ] (3) To determine the aggravated and mitigated sentence recommendations, apply §§ 303.10 and 303.11.

(1) In no case where a deadly weapon enhancement is applied may the mitigated sentence recommendation be lower than 3 months.

[ (3) ] (4) Example. If the offender is convicted of rape (OGS=[ 11 ] 12) and has no prior record (PRS=0), then the standard range is [ 42-60 ] 48-66 months. If the court determines that the offender possessed a deadly weapon during the commission of the offense, then 9 months is added to the bottom and top of the range [ and 18 months is added to the top of the range ] and the standard range becomes [ 51-78 ] 57-75 months (i.e. [ 42 ] 48+9=[ 51 ] 57 and [ 60+18=78 ] 66+9=75). The lower limit of the mitigated recommendation becomes [ 39 ] 45 months and the upper limit of the aggravated recommendation becomes [ 90 ] 87 months (i.e. [ 51 ] 57-12=[ 39 ] 45 and 78+[ 12=90 ] 9=87). If the court determines that the offender used a deadly weapon

during the commission of the offense, then 18 months is added to the ranges and the standard range would become 66-84. The lower limit of the mitigated range would be 54 and the upper limit of the aggravated range would be 96.

[ (4) ] (5) There shall be no deadly weapon enhancement for the following offenses: 18 Pa.C.S. § 2702(a)(4) (relating to aggravated assault); the Pennsylvania Uniform Firearms Act, 18 Pa.C.S. §§ 6101—6120; 18 Pa.C.S. § 907 (relating to possessing instruments of crime); 18 Pa.C.S. § 908 (relating to prohibited offensive weapons); for any other offense for which possession of a deadly weapon is an element of the statutory definition; or for any offense which is lesser included to an offense for which possession of a deadly weapon is an element of the statutory definition.

[ (5) ] Where there are sentences for crimes arising from the same transaction, the deadly weapon enhancement shall be applied only once and to the conviction offense which has the highest offense gravity score. ]

(6) The deadly weapon enhancement shall apply to each conviction offense for which a deadly weapon is possessed or used.

(b) Youth and school enhancement

(1) When the court determines that the offender either distributed a controlled substance to a person or persons under the age of 18 in violation of 35 P. S. § 780-114, or manufactured, delivered or possessed with intent to deliver a controlled substance within 1000 feet of a public or private elementary or secondary school, then 12 to 36 months shall be added to the standard range which would otherwise have been applicable. To determine the aggravated and mitigated sentence recommendations, apply §§ 303.10 and 303.11. Where appropriate, this enhancement shall be added in addition to the deadly weapon enhancement.

(c) If upon application of an enhancement the resulting lengths exceed the longest legal minimum sentence, then the statutory limit is the sentence recommendation. (See § 303.12(c).)

**§ 303.10. Aggravated and mitigated sentence recommendations.**

(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, and 14 the court may impose a sentence that is up to 12 months longer than the top of the standard range.

(2) For the offense gravity scores of 6, 7, and 8, [ and ] 9 the court may impose a sentence that is up to 6 months longer than the top of the standard range.

(3) For the offense gravity scores of 1, 2, 3, 4, and 5, [ and ] 6 the court may impose a sentence that is up to 3 months longer than the top of the standard range.

(4) When the standard range is restorative sanctions (RS), and no enhancement has been added, the lower limit of the aggravated sentence recommendation is restrictive intermediate punishment (RIP). When the standard range is RS-RIP, and no enhancement has been added, the upper limit of the aggravated sentence recommendation is 3.

(5) Example. If the offense gravity score is [ 10 ] 9 and the prior record score is 2, the standard range is [ 36-54 ] 24-36 months. The aggravated sentence should not exceed the top of the standard range ([ 54 ] 36 months) by more than 12 months (i.e. the upper limit of the aggravated sentence recommendation becomes [ 66 ] 48 months).

(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, [ and ]13, and 14, the court may impose a sentence that is up to 12 months shorter than the bottom of the standard range.

(2) For the offense gravity scores of 6, 7, and, 8, [ and 9 ] the court may impose a sentence that is up to 6 months shorter than the bottom of the standard range.

(3) For the offense gravity scores of 1, 2, 3, 4, and 5, [ and 6 ] the court may impose a sentence that is up to 3 months shorter than the bottom of the standard range.

(4) When the bottom of the standard range is less than or equal to 3 months of incarceration, and no enhancement has been added, the lower limit of the mitigated sentence recommendation is restorative sanctions (RS).

(5) Example. If the offense gravity score is [ 10 ] 9 and the prior record score is 2, the standard range is [ 36-54 ] 24-36 months. The mitigated sentence should not go below the bottom of the standard range ([ 36 ] 24 months) by more than 12 months (i.e. the lower limit of the mitigated sentence recommendation becomes [ 24 ] 12 months).

(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 forwarded to the Commission on Sentencing.

### § 303.11. Adjusted sentence recommendations.

(a) The procedures for determining the sentencing options for the adjusted sentences under § 303.9 (relating to enhancements) and § 303.10 (relating to aggravated and mitigated sentence recommendations) are as follows:

(1) When the lower limit of the adjusted sentence recommendation is a term of incarceration greater than or equal to 12 months (a state sentence as defined in 61 P.S. § 331.17), the court shall consider the Level 4 sentencing options. (See § 303.8(b)(1).)

(2) When the lower limit of the adjusted sentence recommendation is a term of incarceration that is less than 12 months (a county sentence as defined in 61 P.S. § 331.17), the court shall consider the Level 3 sentencing options. (See § 303.8(b)(2).)

(3) When the lower limit of the adjusted sentence recommendation is restorative sanctions (RS) or restrictive intermediate punishments (RIP) and the upper limit of the adjusted sentence recommendation is a term of incarceration, the court shall consider the appropriate Level 2 sentencing options. (See § 303.8 (b)(3).)

(4) When the top of the standard range is 11 1/2 months, this number shall be rounded to 12 months before enhancing and/or aggravating the range.

### § 303.12. Guideline sentence recommendations—miscellaneous.

(a) Guideline ranges are shown in the Standard Range Chart in § [ 303.16 ] 303.15.

(b) All numeric guideline ranges are months of minimum confinement as defined in 42 Pa.C.S. § 9755(b) and § 9756 (b) (relating to partial and total confinement).

(c) When the guideline range 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 guideline sentence. For the purposes of the guidelines, the statutory limit is the longest legal minimum sentence, which is one-half the maximum allowed by law.

(d) When the guideline range is lower than that required by a mandatory sentencing statute, the mandatory sentence becomes the guideline sentence. When the guideline range is higher than that required by a mandatory sentencing statute, the guideline range shall be considered as it is in a non-mandatory case.

(e) When the court imposes a sentence that falls on the boundary of the standard range, the sentence shall be considered within the standard range.

(f) Fines and restitution.

(1) Fines and restitution, as provided by law, may be added to any guideline sentence.

(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 2.5 or more grams of 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 one thousand pounds or more 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 and restitution programs may be utilized as restorative sanctions and, if properly approved, as restrictive intermediate punishments. (See § 303.8(b)(2)(i)-(iv).)

(g) In every case in which the court 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 the court imposes a sentence outside the sentencing guidelines the court shall provide a contemporaneous written statement of the reason or reasons for the deviation from the guidelines. These reasons shall be recorded on the guideline sentence form, a copy of which is forwarded to the Commission on Sentencing.

### § 303.13. Boot camp program eligibility.

(a) According to statute (61 P.S. §§ 1121—1129), in order for the court to authorize the offender as eligible for the boot camp program, the offender must meet the following criteria:

(1) be sentenced to term of confinement under the jurisdiction of the Department of Corrections;

(2) receive a minimum and maximum sentence which does not exceed that allowed by the statute governing the boot camp program (61 P. S. § 1123);

(3) be less than 35 years of age; and

(4) have a current conviction which is not for one of the following offenses:

18 Pa.C.S. § 2501 (relating to criminal homicide)

18 Pa.C.S. § 2901 (relating to kidnapping)

18 Pa.C.S. § 3121 (relating to rape)

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse)

18 Pa.C.S. § 3701 (a)(i), (ii), or (iii) (relating to robbery)

(b) 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.

**[ § 303.14. Driving under the influence of alcohol or controlled substance (DUI) and homicide by vehicle while driving under the influence.**

(a) When the court determines that no victim suffered serious bodily injury as a result of DUI, sentences for driving under the influence of alcohol or controlled substances are determined by application of 75 Pa.C.S. § 3731 (relating to mandatory imprisonment for driving under the influence of alcohol or controlled substance) and 42 Pa.C.S. § 9763 (relating to intermediate punishment for driving under the influence of alcohol or controlled substance).

(b) When the court determines that one or more victims, other than the offender, suffered serious bodily injury as a result of DUI, the standard ranges for convictions under 75 Pa.C.S. § 3731 (relating to driving under the influence of alcohol or controlled substance) are as follows:

1st conviction	3-5
2nd conviction	6-8
3rd conviction	9-11

**4th/subsequent conviction**

12

(1) When the court determines that an aggravating circumstance(s) is present, it may impose an aggravated sentence up to 2 months longer than the top of the standard range.

(2) When the court determines that a mitigating circumstance(s) is present, it may impose a mitigated sentence up to 2 months shorter than the bottom of the standard range.

(c) The court may impose a qualified restrictive intermediate punishment in lieu of incarceration for any conviction under 75 Pa.C.S. § 3731 (relating to driving under the influence of alcohol or controlled substance). The number of days of incarceration that may be exchanged for a qualified restrictive intermediate punishment cannot exceed 90 days.

(1) Definition of qualified restrictive intermediate punishments. In accordance with 37 Pa. Code § 451.52 (relating to sentencing restrictions for driving under the influence convictions) qualified restrictive intermediate punishment programs are defined as either:

(i) residential inpatient drug and alcohol programs or residential rehabilitative center programs; or

(ii) house arrest and electronic monitoring combined with drug and alcohol treatment.

(c) Sentences for homicide by vehicle while driving under the influence are determined by application of 75 Pa.C.S. § 3735 (relating to mandatory imprisonment for homicide by vehicle while driving under the influence).

(d) A guideline sentence form must be completed for all offenders convicted of 75 Pa.C.S. § 3731 (relating to driving under the influence of alcohol or controlled substance) and 75 Pa.C.S. § 3735 (relating to for homicide by vehicle while driving under the influence) in accordance with § 303.1(d) (relating to sentencing guidelines standards). ]

**[ § 303.15 ] § 303.14. Offense Gravity Scores.**

Offenses are scored as follows:

**CRIMES CODE OFFENSES**

18 Pa.C.S. §	Offense Title	Statutory Classification	Offense Gravity Score
907(a)	Possessing Instruments of Crime (criminal instruments)	M1	3
907(b)	Possessing Instruments of Crime (weapon)	M1	4
908	Prohibited Offensive Weapons	M1	4
909	Manufacture/Distribute Master Key for Motor Vehicles	M1	3
910	Manufacture/Distribute Devices for Theft of Telecommunications	[ M1 ] F3	[ 3 ] 5
910	Manufacture/Distribute Devices for Theft of Telecommunications	[ M2 ] M1	[ 2 ] 3
911	Corrupt Organizations	F1	[ 9 ] 8
912	Weapon on School Property	M1	4
913 (a)(1)	Possession of Firearm or Other Dangerous Weapon in Court Facility	M3	1

## CRIMES CODE OFFENSES

18 Pa.C.S. §	Offense Title	Statutory Classification	Offense Gravity Score
<b>913 (a)(2)</b>	<b>Possession of Firearm or Other Dangerous Weapon in Court Facility (intend for crime)</b>	<b>M1</b>	<b>3</b>
2102	Desecration of Flag	M3	1
2103	Insults to Flag	M2	2
2502(c)	Murder, Third Degree	F1	[ 13 ] 14
	Murder, Attempt, Solicitation, or Conspiracy (SBI)	[ F2 ] F1	[ 10 ] 13
	<b>Murder, Attempt, Solicitation, or Conspiracy (no SBI)</b>	<b>[ F2 ] F1</b>	<b>[ 10 ] 12</b>
2503	Manslaughter, Voluntary	[ F2 ] F1	[ 10 ] 11
2504*	Manslaughter, Involuntary (when there is also a conviction for DUI arising from the same transaction)	M1	8
2504*	Manslaughter, Involuntary (when there is not a conviction for DUI arising from the same transaction)	M1	[ 7 ] 6
<b>2504</b>	<b>Manslaughter, Involuntary (victim under 12 years)</b>	<b>F2</b>	<b>8</b>
2505(b)	Suicide, Aids or Solicits	F2	6
2505(b)	Suicide, Aids or Solicits	M2	2
2506	Drug Delivery Resulting in Death	F1	[ 12 ] 14
2701(b)	Simple Assault	M2	3
2701(b)(1)	Simple Assault (mutual consent)	M3	1
2701(b)(2)	Simple Assault (against child by adult)	M1	4
2702(a)(1)*	Aggravated Assault (causes serious bodily injury)	F1	11
2702(a)(1)*	Aggravated Assault (attempts to cause serious bodily injury)	F1	[ 9 ] 10
2702(a)(2)*	Aggravated Assault (causes serious bodily injury police, etc.)	F1	11
2702(a)(2)*	Aggravated Assault (attempts to cause serious bodily injury, police, etc.)	F1	[ 9 ] 10
2702(a)(3)	Aggravated Assault (causes or attempts to cause bodily injury, police, etc.)	F2	6
2702(a)(4) [ * ]	Aggravated Assault (causes bodily injury with a deadly weapon)	F2	[ 9 ] 8
2702(a)(4) [ * ]	Aggravated Assault (attempts to cause bodily injury with a deadly weapon)	F2	[ 6 ] 8
2702(a)(5)	Aggravated Assault (teacher)	F2	6
2703	Assault by Prisoner	F2	6
2705	Recklessly Endangering Another Person	M2	3
2706	Terroristic Threats	M1	3
2707(a)	Propulsion of Missiles into an Occupied Vehicle	M1	3
2707(b)	Propulsion of Missiles onto a Roadway	M2	2
2708	Use of Tear Gas in Labor Dispute	M1	3
2709(b)	Stalking, Subsequent Offense	F3	5
2709(b)	Stalking	M1	3
2710	Ethnic Intimidation	See § 303.3(d)	See § 303.3(d)
2712	Assault on Sports Official	M1	3
<b>2713 (a)(1)(2)</b>	<b>Neglect of Care-dependent Person(SBI)</b>	<b>F1</b>	<b>10</b>
<b>2713 (a)(1)(2)</b>	<b>Neglect of Care-dependent Person(BI)</b>	<b>M1</b>	<b>4</b>
2901	Kidnapping	F1	10
2902	Unlawful Restraint	M1	3
2903	False Imprisonment	M2	2
2904(c)	Interference with the Custody of Children	F3	4

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

<b>18 Pa.C.S. §</b>	<b>Offense Title</b>	<b>Statutory Classification</b>	<b>Offense Gravity Score</b>
2904(c)(1)	Interference with the Custody of Children	F2	6
2904(c)(2)	Interference with the Custody of Children	M2	2
2905	Interference w/Custody of Committed Persons	M2	4
2906	Criminal Coercion	M1	3
2906	Criminal Coercion	M2	2
2907	Disposition of Ransom	F3	5
2909	Concealment of Whereabouts of a Child	F3	4
2910	Luring a Child into a Motor Vehicle	M1	5
3121	Rape	F1	<b>[ 11 ] 12</b>
<b>[ 3122 ]</b>	<b>[ Rape, Statutory ]</b>	<b>[ F2 ]</b>	<b>[ 7 ]</b>
<b>3122.1</b>	<b>Statutory Sexual Assault</b>	<b>F2</b>	<b>7</b>
3123	Involuntary Deviate Sexual Intercourse	F1	<b>[ 11 ] 12</b>
<b>[ 3124 ]</b>	<b>[ Voluntary Deviate Sexual Intercourse ]</b>	<b>[ M2 ]</b>	<b>[ 3 ]</b>
<b>3124.1</b>	<b>Sexual Assault</b>	<b>F1</b>	<b>11</b>
3125	Aggravated Indecent Assault	F2	<b>[ 9 ] 10</b>
3126(a)(1)-(5)	Indecent Assault	M2	4
3126(a)(6)	Indecent Assault (involving minors)	M1	5
3127	Indecent Exposure	M2	3
<b>3127</b>	<b>Indecent Exposure (person less than 16 present)</b>	<b>M1</b>	<b>4</b>
<b>[ 3128 ]</b>	<b>[ Spousal Sexual Assault ]</b>	<b>[ F2 ]</b>	<b>[ 9 ]</b>
3301(a)*	Arson Endangering Persons (where a person is inside the structure when the fire is started or when bodily injury results, either directly or indirectly, at the scene of the fire)	F1	10
3301(a)*	Arson Endangering Persons (where no person is inside the structure when the fire is started and no bodily injury results either directly or indirectly, at the scene of the fire)	F1	<b>[ 8 ] 9</b>
3301(c)	Arson, Endangering Property	F2	6
3301(d)	Arson, Reckless Burning	F3	5
3301(e)	Arson, Failure to Report	M1	3
3301(f)	Arson, Possess Explosive Material	F3	5
3301(g)	Arson, Disclosure of True Owner	M3	1
3302(a)	Catastrophe, Causing	F1	10
3302(a)	Catastrophe, Recklessly Causing	F2	6
3302(b)	Catastrophe, Risking	F3	4
3303	Failure to Prevent Catastrophe	M2	2
3304	Criminal Mischief (over \$5,000)	F3	5
3304	Criminal Mischief (over \$1,000)	M2	2
3304	Criminal Mischief (over \$500)	M3	1
3305	Tampering w/Fire Hydrants	M3	1
3307	Institutional Vandalism (over \$5,000)	F3	5
3307	Institutional Vandalism	M2	2
3309	Agricultural Vandalism (over \$5,000)	F3	5
3309	Agricultural Vandalism (over \$1,000)	M1	3
3309	Agricultural Vandalism (over \$500)	M2	2
3309	Agricultural Vandalism (\$500 or less)	M3	1
3502*	Burglary (of a structure adapted for overnight accommodation in which at the time of the offense any person is present)	F1	9

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

<b>18 Pa.C.S. §</b>	<b>Offense Title</b>	<b>Statutory Classification</b>	<b>Offense Gravity Score</b>
3502*	Burglary (of a structure adapted for overnight accommodation in which at the time of the offense no person is present)	F1	<b>[ 8 ] 7</b>
3502*	Burglary (of a structure not adapted for overnight accommodation in which at the time of the offense any person is present)	F1	6
3502	Burglary (of a structure not adapted for overnight accommodation in which at the time of the offense no person is present)	F2	5
3503(a)(1)(ii)	Trespass, Criminal	F2	4
3503(a)(1)(i)	Trespass, Criminal	F3	3
3503(b)	Trespass, Defiant	M3	1
3701(a)(1)(i)	Robbery (inflicts serious bodily injury)	F1	11
3701(a)(1)(ii)	Robbery (threatens another with or intentionally puts him in fear of immediate serious bodily injury)	F1	<b>[ 9 ] 10</b>
3701(a)(1)(iii)	Robbery (commits or threatens immediately to commit any F1 or F2)	F1	9
3701[ * ](a)(1)(iv)	Robbery (inflicts bodily injury)	F2	<b>[ 9 ] 7</b>
3701[ * ](a)(1)(iv)*	Robbery (threatens bodily injury or intentionally puts him in fear of immediate bodily injury)	F2	<b>[ 6 ] 7</b>
3701(a)(1)(v)	Robbery (physically takes or removes property by force, however slight)	F3	5
3702*	Robbery of Motor Vehicle (inflicts serious bodily injury)	F1	11
3702*	Robbery of a Motor Vehicle (does not inflict serious bodily injury)	F1	9
3921	Theft by Unlawful Taking, During Disaster	F2	7
3921*	Theft by Unlawful Taking or Disposition (over \$100,000)	F3	<b>[ 9 ] 8</b>
3921*	Theft By Unlawful Taking or Disposition (over \$50,000 to \$100,000)	F3	<b>[ 8 ] 7</b>
3921*	Theft By Unlawful Taking or Disposition (over \$25,000 to \$50,000)	F3	<b>[ 7 ] 6</b>
3921*	Theft by Unlawful Taking or Disposition (over \$2,000 to \$25,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3921	Theft by Unlawful Taking or Disposition (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3
3921	Theft by Unlawful Taking or Disposition (\$200 to \$2,000)	M1	3
3921	Theft by Unlawful Taking or Disposition (\$50 to less than \$200)	M2	2
3921	Theft by Unlawful Taking or Disposition (less than \$50)	M3	1
3922*	Theft by Deception (over \$100,000)	F3	<b>[ 9 ] 8</b>
3922*	Theft By Deception (over \$50,000 to \$100,000)	F3	<b>[ 8 ] 7</b>
3922*	Theft By Deception (over \$25,000 to \$50,000)	F3	<b>[ 7 ] 6</b>
3922*	Theft by Deception (over \$2,000 to \$25,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3922	Theft by Deception (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3
3922	Theft by Deception (\$200 to \$2,000)	M1	3
3922	Theft by Deception (\$50 to less than \$200)	M2	2

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

<b>18 Pa.C.S. §</b>	<b>Offense Title</b>	<b>Statutory Classification</b>	<b>Offense Gravity Score</b>
3922	Theft by Deception (less than \$50)	M3	1
3923*	Theft by Extortion (over \$100,000)	F3	[ 9 ] 8
3923*	Theft by Extortion (over \$50,000 to \$100,000)	F3	[ 8 ] 7
3923*	Theft by Extortion (over \$25,000 to \$50,000)	F3	[ 7 ] 6
3923*	Theft by Extortion (over \$2,000 to \$25,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3923	Theft by Extortion (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	4
3923	Theft by Extortion (\$200 to \$2,000)	M1	4
3923	Theft by Extortion (\$50 to less than \$200)	M2	2
3923	Theft by Extortion (less than \$50)	M3	1
3924*	Theft of Property Lost, Mislaid, or Delivered by Mistake (over \$100,000)	F3	[ 9 ] 8
3924*	Theft of Property Lost, Mislaid, or Delivered by Mistake (over \$50,000 to \$100,000)	F3	[ 8 ] 7
3924*	Theft of Property Lost, Mislaid, or Delivered by Mistake (over \$25,000 to \$50,000)	F3	[ 7 ] 6
3924*	Theft of Property Lost, Mislaid, or Delivered by Mistake (over \$2,000 to \$25,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (\$200 to \$2,000)	M1	3
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (\$50 to less than \$200)	M2	2
3924	Theft of Property Lost, Mislaid or Delivered by Mistake (less than \$50)	M3	1
3925	Theft by Receiving Stolen Property, During Disaster	F2	7
3925*	Theft by Receiving Stolen Property (over \$100,000)	F3	[ 9 ] 8
3925*	Theft by Receiving Stolen Property (over \$50,000 to \$100,000)	F3	[ 8 ] 7
3925*	Theft by Receiving Stolen Property (over \$25,000 to \$50,000)	F3	[ 7 ] 6
3925*	Theft by Receiving Stolen Property (over \$2,000 to \$25,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle, or if the receiver is in the business of buying or selling stolen property)	F3	5
3925	Theft by Receiving Stolen Property (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3
3925	Theft by Receiving Stolen Property (\$200 to \$2,000)	M1	3
3925	Theft by Receiving Stolen Property (\$50 to less than \$200)	M2	2
3925	Theft by Receiving Stolen Property (less than \$50)	M3	1
3926*	Theft of Services (over \$100,000)	F3	[ 9 ] 8
3926*	Theft of Services (over \$50,000 to \$100,000)	F3	[ 8 ] 7
3926*	Theft of Services (over \$25,000 to \$50,000)	F3	[ 7 ] 6

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

<b>18 Pa.C.S. §</b>	<b>Offense Title</b>	<b>Statutory Classification</b>	<b>Offense Gravity Score</b>
3926*	Theft of Services (over \$2,000 to \$25,000, or if the property is a firearm, automobile, airplane, motorcycle, motor-boat, or other motor-propelled vehicle)	F3	5
3926	Theft of Services (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3
3926	Theft of Services (\$200 to \$2,000)	M1	3
3926	Theft of Services (\$50 to less than \$200)	M2	2
3926	Theft of Services (less than \$50)	M3	1
3926 (e)	Theft of Services (sale ransfer of device for diversion of services)	M3	1
3927*	Theft by Failure to Make Required Disposition of Funds Received (over \$100,000)	F3	<b>[ 9 ] 8</b>
3927*	Theft by Failure to Make Required Disposition of Funds Received (over \$50,000 to \$100,000)	F3	<b>[ 8 ] 7</b>
3927*	Theft by Failure to Make Required Disposition of Funds Received (over \$25,000 to \$50,000)	F3	<b>[ 7 ] 6</b>
3927*	Theft by Failure to Make Required Disposition of Funds Received (over \$2,000 to \$25,000, or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor- propelled vehicle)	F3	5
3927	Theft by Failure to Make Required Disposition of Funds Received (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3
3927	Theft by Failure to Make Required Disposition of Funds Received (\$200 to \$2,000)	M1	3
3927	Theft by Failure to Make Required Disposition of Funds Received (\$50 to less than \$200)	M2	2
3927	Theft by Failure to Make Required Disposition of Funds Received (less than \$50)	M3	1
3928	Unauthorized Use of Auto, during disaster	F2	7
3928	Unauthorized Use of Auto	M2	2
3929	Theft, Retail (during disaster)	F2	7
3929	Theft, Retail (third or subsequent conviction)	F3	3
3929	Theft, Retail (first or second offense, \$150 or more)	M1	2
3929	Theft, Retail (second offense, less than \$150)	M2	2
3929.1	Library Theft (3rd; subsequent offense)	F3	5
3929.1	Library Theft (1st; 2nd over \$150)	M1	3
3929.1	Library Theft (2nd less than \$150)	M2	2
3930	Theft of Trade Secrets by Force, Violence, or Burglary	F3	5
3930	Theft of Trade Secrets	M1	3
3931	Theft of Unpublished Dramas and Musical Compositions (over \$2,000 or if the property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3931	Theft of Unpublished Dramas and Musical Compositions (\$2,000 or less, from person or by threat or in breach of fiduciary obligation)	M1	3
3931	Theft of Unpublished Dramas and Musical Compositions (\$200 to \$2,000)	M1	3
3931	Theft of Unpublished Dramas and Musical Compositions (\$50 to less than \$200)	M2	2
3931	Theft of Unpublished Dramas and Musical Compositions (less than \$50)	M3	1

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

18 Pa.C.S. §	Offense Title	Statutory Classification	Offense Gravity Score
3932*	Theft of Leased Property (over \$100,000)	F3	[ 9 ] 8
3932*	Theft of Leased Property (over \$50,000 to \$100,000)	F3	[ 8 ] 7
3932*	Theft of Leased Property (over \$25,000 to \$50,000)	F3	[ 7 ] 6
3932*	Theft of Leased Property (over \$2,000 to \$25,000, or if property is a firearm, automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle)	F3	5
3932	Theft of Leased Property (\$2,000 or less from person or by threat or in breach of fiduciary obligation)	M1	3
3932	Theft of Leased Property (\$200 to \$2,000)	M1	3
3932	Theft of Leased Property (\$50 to less than \$200)	M2	2
3932	Theft of Leased Property (less than \$50)	M3	1
3933 (a)(1)	Unlawful Use of Computer	F3	5
3933 (a)(2;3)	Unlawful Use of Computer	M1	3
4101	Forgery (money, stocks, etc.)	F2	3
4101	Forgery (will, deed, etc.)	F3	4
4101	Forgery (other)	M1	3
4102	Simulating Antiques	M1	3
4103	Fraudulent Destruction of Recordable Instruments	F3	5
4104 (a)	Tampering with Record or Identification	M1	3
4105	Bad Checks	M2	2
4106	Credit Cards (more than \$500)	F3	3
4106	Credit Cards (\$50 or more but less than \$500)	M2	2
4107	Deceptive Business Practices	M2	2
4107.1	Deception Relating to Kosher Foods	M3	1
4107.2	Deception Relating to Certification of Minority Business Enterprise or Women's Business Enterprise	F3	4
4108	Commercial Bribery and Breach of Duty	M2	2
4109	Rigging Public Contest	M1	3
4110	Defrauding Secured Creditors	M2	2
4111	Fraud in Insolvency	M2	2
4112	Receiving Deposits; Failed Institution	M2	2
4113	Misapplication of Entrusted Property (over \$50)	M2	2
4113	Misapplication of Entrusted Property (\$50 or less)	M3	1
4114	Securing Execution of Documents by Deception	M2	2
4115	Falsely Impersonating Persons Privately Employed	M2	2
4116	Copying; Recording Devices	M1	3
4117 (a)	Insurance Fraud	F3	4
4117 (b)	Insurance Fraud	M1	3
4301	Bigamy	M2	3
4302	Incest	F2	7
4303	Concealing Death of Child	[ M3 ] M1	3
4304	Endangering Welfare of Children	M1	5
<b>4304</b>	<b>Endangering Welfare of Children (course of conduct)</b>	<b>F3</b>	<b>6</b>
4305	Dealing in Infant Children	M1	4
4701	Bribery, Official and Political Matters	F3	5
4702	Threats, Official and Political Matters	F3	5
4702	Threats, Official and Political Matters	M2	2

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

18 Pa.C.S. §	Offense Title	Statutory Classification	Offense Gravity Score
4703	Retaliation for Past Official Action	M2	2
4902	Perjury	F3	5
4903 (a)	False Swearing	M2	2
4903 (b)	False Swearing	M3	1
4904 (a)	Unsworn Falsification to Authorities	M2	2
4904 (b)	Unsworn Falsification to Authorities	M3	1
4905	False Alarms	M1	3
4906 (a)	False Reports to Law Enforcement Officials	M2	2
4906 (b)	False Reports to Law Enforcement Officials	M3	1
4909	Witness Taking Bribe	F3	5
4910	Tampering with Physical Evidence	M2	2
4911	Tampering w/Public Records or Information	F3	4
4911	Tampering w/Public Records or Information	M2	2
4912	Impersonating a Public Servant	M2	2
4952	Intimidation of Witnesses or Victims	F3	[ 8 ] 7
4952	Intimidation of Witnesses or Victims	M2	5
4953	Retaliation Against Witness or Victim	F3	[ 9 ] 8
4953	Retaliation Against Witness or Victim	M2	5
5101	Obstructing Justice	M2	3
5102	Obstruction of Justice by Picketing	M2	2
5103	Unlawfully Listening to Jury Deliberations	M3	1
5104	Resisting Arrest	M2	2
5105	Apprehension, Hindering (if conduct liable to be charged is F1 or F2)	F3	4
5105	Apprehension, Hindering	M2	2
5107	Aiding Consummation of Crime (of F1/F2)	F3	5
5107	Aiding Consummation of Crime	M2	2
5108	Compounding	M2	2
5109	Barratry	M3	1
5110	Contempt of General Assembly	M3	1
5111	Dealing in Proceeds of Unlawful Activities	F1	[ 9 ] 8
5121(d)(1)(i) (ii)(iii)*	Escape (from a halfway house, pre- release center, treatment center, work- release center, work-release, or by failing to return from an authorized leave or furlough)	F3	5
5121(d)(1)(i) (ii)(iii)*	Escape (all other escapes from this subsection)	F3	6
5121(d)(2)	Escape	M2	3
5122(a)(1)	Weapons, Providing to Inmate	M1	[ 9 ] 8
5122(a)(2)	Weapons, Possession by Inmate	M1	4
5122(a)(3)	Weapons or Implements for Escape (tools)	M2	3
5123(a)	Contraband (provide controlled substance to confined person)	F2	7
<b>5123(a)(2)</b>	<b>Contraband (possession of controlled substance by confined person)</b>	<b>M1</b>	<b>3</b>
5123(b)	Contraband (money)	M3	1
5123(c)	Contraband (other)	M1	3
5124	Default in Required Appearance	F3	4
5124	Default in Required Appearance	M2	2

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

<b>18 Pa.C.S. §</b>	<b>Offense Title</b>	<b>Statutory Classification</b>	<b>Offense Gravity Score</b>
5125	Absconding Witness	M3	1
5126	Avoiding Apprehension	F3	5
5126	Avoiding Apprehension	M2	2
5301	Official Oppression	M2	2
5302	Speculating on Official Action	M2	2
5501	Riot	F3	4
5502	Failure to Disperse	M2	2
5503	Disorderly Conduct	M3	1
5504	Harassment by Communication	M3	1
5506	Loitering and Prowling	M3	1
5507	Obstructing Highways	M3	1
5508	Disrupting Meetings	M3	1
5509	Desecration of Venerated Objects	M2	2
5510	Abuse of Corpse	M2	3
5511(a)(2)	Cruelty to Animals	F3	5
<b>5511(a)(2.1)(i)</b>	<b>Cruelty to Animals</b>	<b>M2</b>	<b>3</b>
<b>5511(a)(2.1)(ii)</b>	<b>Cruelty to Animals</b>	<b>F3</b>	<b>5</b>
5511(a)(1)	Cruelty to Animals	M2	3
5511 (h.1)	Cruelty to Animals	F3	5
5512	Lotteries	M1	3
5513	Gambling Devices	M1	3
5514	Pool Selling and Bookmaking	M1	3
5515	Prohibiting Paramilitary Training	M1	3
5703	Interception, Disclosure or Use of Wire or Oral Communications	F3	5
5705	Possession, Sale, Distribution, Manufacture or Advertisement of Interception Devices	F3	5
5719	Unlawful Use of Intercepted Communications	M2	2
5771	Pen Register and Trap and Trace Devices	M3	1
5901	Open Lewdness	M3	1
5902(a)	Prostitution	M3	1
<b>5902 (a)(b)(e) when (a.1);(c)(v) or; (e.1) applies)</b>	<b>Prostitution and Related Offenses (HIV or Aids related)</b>	<b>F3</b>	<b>5</b>
5902(b)when (c)(1)(i)(ii,i v) applies	Prostitution and Related Offenses	F3	5
5902(b) when (c)(1)(iii) applies	Prostitution Involving Minors	F3	<b>[ 9 ] 8</b>
5902 (b)	Prostitution	M2	3
5902(e)	Patronizing Prostitutes [ (under age 16) ]	M3	1
5903	Obscene Materials (subsequent offense)	F3	5
5903	Obscene Materials	M1	3
5904	Public Exhibition of Insane or Deformed Person	M2	2
6105*	<b>[ Firearm, Possession or Ownership by Former Convict (loaded or ammunition in possession or control of defendant) ] Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms (loaded)</b>	M1	5

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

<b>18 Pa.C.S. §</b>	<b>Offense Title</b>	<b>Statutory Classification</b>	<b>Offense Gravity Score</b>
6105*	<b>[ Firearm, Possession or Ownership by Former Convict (loaded or ammunition in possession or control of defendant) ] Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms (unloaded)</b>	M1	4
6106*	Firearms, Not to be Carried Without a License (loaded or ammunition in possession or control of defendant)	<b>[ M1 ] F3</b>	5
6106*	Firearms, Not to be Carried Without a License (unloaded and ammunition not in possession or control of defendant)	<b>[ M1 ] F3</b>	4
<b>6107</b>	<b>Prohibited Conduct during Emergency</b>	<b>M1</b>	<b>3</b>
6108*	Carrying Firearms on Public Streets or Public Property in Philadelphia (loaded or ammunition in possession or control of defendant)	M1	5
6108*	Carrying Firearms on Public Streets or Public Property in Philadelphia (unloaded and ammunition not in possession or control of defendant)	M1	4
<b>[ 6110* ]</b>	<b>[ Persons to Whom Delivery Shall Not be Made (loaded or ammunition in possession or control of defendant) ]</b>	<b>[ M1 ]</b>	<b>[ 5 ]</b>
<b>[ 6110* ]</b>	<b>[ Persons to Whom Delivery Shall Not be Made (unloaded or ammunition not in possession or control of defendant) ]</b>	<b>[ M1 ]</b>	<b>[ 4 ]</b>
<b>6110.1(a)</b>	<b>Possession of Firearm by Minor</b>	<b>M1</b>	<b>3</b>
<b>6110.1(c)</b>	<b>Possession of Firearms by Minor (responsibility of adult)</b>	<b>F3</b>	<b>7</b>
<b>[ 6111 ]</b>	<b>[ Sale of Firearms ]</b>	<b>[ M1 ]</b>	<b>[ 4 ]</b>
<b>6111(g)(1)</b>	<b>Sale or Transfer of Firearms</b>	<b>M2</b>	<b>2</b>
<b>6111(g)(2)(3)(4)</b>	<b>Sale or Transfer of Firearms (to ineligible; unlawful request for criminal history; false statements)</b>	<b>F3</b>	<b>5</b>
<b>6111(h)</b>	<b>Sale or Transfer of Firearms (subsequent)</b>	<b>F2</b>	<b>7</b>
6112	Retail Dealer Required to be Licensed	M1	3
6113	Licensing of Dealers	M1	3
6115	Loans, Lending, Giving Firearms	M1	3
6116	False Evidence of Identity	M1	3
6117	Altering Marks of Identification	<b>[ M1 ] F2</b>	<b>[ 3 ] 7</b>
6121	Certain Bullets Prohibited	F3	5
6161	Carrying Explosives	M2	3
6162	Shipping Explosives	M3	3
6301*	Corruption of Minors ( <b>when of a sexual nature</b> )	M1	5
<b>6301*</b>	<b>Corruption of Minors</b>	<b>M1</b>	<b>4</b>
6302	Sale or Lease of Weapons	M1	4
6303	Sale of Starter Pistols	M1	4
6304	Sale of Air Rifles	M3	1
6306	Furnish Cigarettes to Minors (3rd and subsequent offenses)	M3	1
6307	Misrepresentation of Age to Secure Alcohol (subsequent offense)	M3	1
6309	Representing that Minor is of Age	M3	1
6310	Inducement of Minors to Buy Liquor	M3	1
6310.1	Selling Liquor to Minors	M3	1
6310.2	Sale of False ID	M2	2

\*These offenses have been subcategorized by the Commission. See Section 303.3(b).

## CRIMES CODE OFFENSES

<b>18 Pa.C.S. §</b>	<b>Offense Title</b>	<b>Statutory Classification</b>	<b>Offense Gravity Score</b>
6310.3	Carrying False ID (subsequent offense)	M3	1
6311	Tattooing (a minor)	M3	1
6312(b)	Sexual Abuse of Children (taking photos)	F2	7
6312(c)	Sexual Abuse of Children (selling photos)	F3	6
6312(d)	Possession of Child Pornography	F3	5
6501(a)(3)	Scattering Rubbish (2nd; subsequent offense)	M1	3
6501(a)(2)	Scattering Rubbish (1st. offense)	M2	2
6501 (a)(1)(2)	Scattering Rubbish (2nd; subsequent offense)	M3	1
6504	Public Nuisances	M2	2
6703	Military Decorations	M3	1
6707	False Registration of Domestic Animals	M3	1
6709	Use of Union Labels	M3	1
6901	Extension of Water Line	M3	1
6910	Unauthorized Sale of Tickets	M3	1
7102	Drugs to Race Horses	M1	3
7103	Horse Racing	M3	1
7104	Fortune Telling	M3	1
7107	Unlawful Actions by Athlete Agents	M1	3
7302(a)	Sale of Solidified Alcohol	M2	2
7302(b)	Labeling of Solidified Alcohol	M1	3
7303	Sale or Illegal Use of Solvents	M3	1
7306	Incendiary Devices	M1	3
7307	Out of State Convict Made Goods	M2	2
7308	Unlawful Advertising of Insurance Business	M2	2
7309	Unlawful Coercion in Contracting Insurance	M1	3
7310	Furnishing Free Insurance	M3	1
7311	Unlawful Collection Agency Practices	M3	1
7312	Debt Pooling	M3	1
7313	Buying Food Stamps ( $\geq$ \$1,000)	<b>[ M3 ] F3</b>	<b>[ 1 ] 5</b>
<b>7313</b>	<b>Buying Food Stamps (&lt;\$1,000)</b>	<b>[ M3 ] M1</b>	<b>[ 1 ] 3</b>
<b>7314</b>	<b>Fraudulent traffic in food orders (<math>\geq</math> \$1,000)</b>	<b>F3</b>	<b>5</b>
<b>7314</b>	<b>Fraudulent traffic in food orders (&lt;\$1,000)</b>	<b>M1</b>	<b>3</b>
7316	Keeping Bucket-Shop	M3	1
7317	Accessories, Bucket-Shop	M3	1
7318	Maintaining Bucket-Shop Premises	M3	1
7319	Bucket-Shop Contracts	M3	1
7321	Lie Detector Tests	M2	2
7322	Demanding Property to Secure Employment	M3	1
7323	Discrimination on Account of Uniform	M2	2
7324	Unlawful Sale of Dissertations, Thesis, Term Papers	M3	1
7326	Disclosure of Confidential Tax Information	M3	1
<b>7328</b>	<b>Operation of Certain Establishments</b>	<b>M3</b>	<b>1</b>
7503	Interest of Certain Architects in Public Works Contracts	M3	1
7504	Appointment of Special Police	M3	1
7507	Breach of Privacy	M2	2

DRUG OFFENSES

<b>Crime 35 P. S. § 780-113(a)</b>	<b>Description</b>	<b>Grade</b>	<b>Offense Gravity Score</b>
(1)	Manufacture/Sale/Delivery of Adulterated Drug	M	4
(2)	Adulteration of Controlled Substance	M	4
(3)	False Advertisement	M	4
(4)	Removal of Detained Substance	M	5
(5)	Adulteration of Sellable Controlled Substance	M	4
(6)	Forging ID Under Act	M	5
(7)	Defraud Trademark	M	5
(8)	Selling Defrauded Trademark	M	5
(9)	Having Equipment to Defraud	M	5
(10)	Illegal Sale of Nonproprietary Drug	M	4
(11)	Illegal Pharmacy Operations	M	5
(12)	Acquisition of Controlled Substance by Fraud:		
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (> 1,000g)	F	<b>[ 12 ] 13</b>
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 100g to 1000g)	F	11
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 50g to < 100g)	F	10
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 10g to < 50g)	F	<b>[ 9 ] 8</b>
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (2.5g to < 10g)	F	<b>[ 8 ] 7</b>
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (< 2.5g)	F	6
	Marijuana ([ > ] 50 lbs. or greater or [ > 50 ] 51 or more live plants)	F	<b>[ 9 ] 8</b>
	Marijuana ([ > ] 10 lbs. to < 50 lbs. or [ > ] 21 to [ 50 ] < 51 live plants)	F	<b>[ 8 ] 7</b>
	Marijuana (1 lb. to < 10 lbs. or 10 to < 21 live plants)	F	5
	Marijuana (< 1 lb. or < 10 live plants)	F	3
	Prescription Pills (> 100 pills)	F	10
	Prescription Pills (21-100 pills)	F	<b>[ 9 ] 8</b>
	Prescription Pills (10-20 pills)	F	7
	Prescription Pills (1-9 pills)	F	5
	Schedule I, II, III drugs not listed	F	5
	Schedule IV	F	5
	Schedule V	M	1
(13)	Dispense of Drugs to Drug Dependent Person	M	4
(14)	Delivery by Practitioner:		
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (> 1,000g)	F	<b>[ 12 ] 13</b>
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 100g to 1000g)	F	11
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 50g to < 100g)	F	10
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 10g to < 50g)	F	<b>[ 9 ] 8</b>
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (2.5g to < 10g)	F	<b>[ 8 ] 7</b>

## DRUG OFFENSES

Crime 35 P. S. § 780-113(a)	Description	Grade	Offense Gravity Score
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (< 2.5g)	F	6
	Marijuana ([ > ] 50 lbs. or greater or [ > 50 ] 51 or more live plants)	F	[ 9 ] 8
	Marijuana ([ > ] 10 lbs. to < 50 lbs. or [ < ] 21 to [ 50 ] < 51 live plants)	F	[ 8 ] 7
	Marijuana (1 lb. to < 10 lbs. or 10 to < 21 live plants)	F	5
	Marijuana (< 1 lb. or < 10 live plants)	F	3
	Schedule I, II, III drugs not listed	F	5
	Schedule IV	F	5
	Schedule V	M	1
(15)	Illegal Retail Sale	M	4
(16)	Simple Possession	M	3
(17)	Dispensing of Drugs Without Label	M	4
(18)	Illegal Sale Container	M	4
(19)	Intentional Unauthorized Purchase	M	5
(20)	Divulging Trade Secret	M	4
(21)	Failure to Keep Records	M	2
(22)	Refusal of Inspection	M	2
(23)	Unauthorized Removal of Seals	M	5
(24)	Failure to Obtain License	M	2
(25)	Manufacture by Unauthorized Party	M	5
(26)	Distribution by Registrant of Controlled Substance	M	5
(27)	Use of Fictitious Registration Number	M	5
(28)	False Application Material	M	5
(29)	Production of Counterfeit Trademarks	M	5
(30)	Possession With Intent to Deliver (PWID):		
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (> 1,000g)	F	[ 12 ] 13
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 100g to 1000g)	F	11
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 50g to < 100g)	F	10
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine ([ > ] 10g to < 50g)	F	[ 9 ] 8
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (2.5g to < 10g)	F	[ 8 ] 7
	Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (< 2.5g)	F	6
	Marijuana ([ > ] 50 lbs. or greater or [ > 50 ] 51 or more live plants)	F	[ 9 ] 8
	Marijuana ([ > ] 10 lbs. to < 50 lbs. or [ > ] 21 to [ 50 ] < 51 live plants)	F	[ 8 ] 7
	Marijuana (1 lb. to < 10 lbs. or 10 to < 21 live plants)	F	5
	Marijuana (< 1 lb. or < 10 live plants)	F	3
	Schedule I, II, III drugs not listed	F	5
	Schedule IV	F	5
	Schedule V	M	1
(31)	Small Amount of Marijuana	M	1

## DRUG OFFENSES

<b>Crime 35 P. S. § 780-113(a)</b>	<b>Description</b>	<b>Grade</b>	<b>Offense Gravity Score</b>
(32)	Possession of Paraphernalia	M	1
(33)	PWID Paraphernalia (no minor)	M	3
(33)	PWID Paraphernalia (minor w/Conditions)	M2	4
(34)	Ad for Drug Paraphernalia	M	1
(35)	Illegal Sale of Non controlled Substance	F	6
(36)	Designer Drugs	F	5
(37)	Possession of Steroids	M	4

## VEHICLE OFFENSES

<b>75 Pa. C.S. §</b>	<b>Offense Title</b>	<b>Statutory Classification</b>	<b>Offense Gravity Score</b>
3712	Abandonment/Stripping of Vehicles	M3	1
<b>3731</b>	<b>Driving Under the Influence (3rd; subs)</b>	<b>M1</b>	<b>[ See § 303.14 ] 3</b>
3731 [ * ]	Driving Under the Influence (1st, 2nd)	M2	[ See § 303.14 ] 2
3732*	Homicide by Vehicle (when there is also a conviction for DUI arising from the same transaction)	M1	8
3732*	Homicide by Vehicle (when there is not a conviction for DUI arising from the same transaction)	M1	[ 7 ] 6
3735	Homicide by Vehicle while DUI	[ F3 ] F2	[ See § 303.14 ] 8
<b>3735.1</b>	<b>Aggravated Assault by Vehicle while DUI</b>	<b>F2</b>	<b>7</b>
3742	Accident Involving Death or Injury (contributes to death)	F3	5
3742	Accident Involving Death or Injury (involves SBI/ or death; contributes to SBI)	M1	3
3742	Accident Involving Death or Injury (failure to stop)	M3	1
7102	Falsify Vehicle Identification	M1	3
7102	Falsify Vehicle Identification	M3	1
7103	Deal in Vehicles with Removed Identification	F3	5
7103	Deal in Vehicles with Removed Identification	M3	1
7111	Deal in Stolen Plates	M1	3
7112	False Report of Theft or Vehicle Conversion	M3	1
7121	False Application for Title/Registration	M1	3
7122	Altered or Forged Title or Plates	M1	3
7132	Prohibited Activities Related to Odometers (subsequent)	M1	3
7132	Prohibited Activities Related to Odometers (1st. offense)	M3	1
7133	Permissible Activities Related to Odometers (subsequent of-fense)	M1	3
7133	Permissible Activities Related to Odometers (1st. offense)	M3	1
7134	Odometer Disclosure Requirement (subsequent offense)	M1	3
7134	Odometer Disclosure Requirements (1st. offense)	M3	1
7752(b)	Unauthorized Disposition of Forms	M3	1
8306(b)	Willful Violations	M3	1
8306(c)	Subsequent Willful Violations	M2	2

\*These offers have been subcategorized by the Commission. See Section 303.3(b).

## ENVIRONMENTAL OFFENSES

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

## § 303.16. Standard range chart.

The standard sentence recommendations are as follows:

*(Editor's Note: The Standard Range table that appears at 204 Pa. Code page 303-38 (serial page (190436)) is being replaced in its entirety by the following chart:*

THE COURTS

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Level	OGS	Example Offenses	0	1	2	3	4	5	RFEL	REVOC	AGG/ MIT
LEVEL 4  State Incar	14	<i>Murder 3 Drug Del. Resulting in Death</i>	72-120	84-132	96-144	108-156	120-168	144-204	168-240	240	+/- 12
	13	<i>Inchoate Murder/ SBI PWID Cocaine, etc. (&gt;1,000 gms)</i>	60-78	66-84	72-90	78-96	84-102	96-114	108-126	240	+/- 12
	12	<i>Rape IDSI Inchoate Murder/no SBI</i>	48-66	54-72	60-78	66-84	72-90	84-102	96-114	120	+/- 12
	11	<i>Agg Asslt (SBI) Robbery (SBI) Robbery/car (SBI) Voluntary Man- slaughter Sexual Assault PWID Cocaine, etc. (100-1,000 gms)</i>	36-54	42-60	48-66	54-72	60-78	72-90	84-102	120	+/- 12
LEVEL 4a State Incar/ RIP trade	10	<i>Kidnapping Arson (person inside) Agg Asslt (att. SBI) Robbery (threat. SBI) Agg. Indecent. Asslt Causing Catastrophe (F1) PWID Cocaine, etc. (50-&lt;100 gms)</i>	24-36	30-42	36-48	42-54	48-60	60-72	72-84	120	+/- 12
	9	<i>Robbery/car (no SBI) Robbery (F1/F2) Burglary (home/ person) Arson (no person)</i>	12-24 *	18-30 *	24-36	30-42	36-48	48-60	60-72	120	+/- 12
Level	OGS	Example Offenses	0	1	2	3	4	5	RFEL	REVOC	AGG/ MIT

Level	OGS	Example Offenses	0	1	2	3	4	5	RFEL	REVOC	AGG/ MIT
LEVEL 3 State/ Cnty Incar RIP trade	8 F1	Agg Asslt (BI w/DW) Agg Asslt (att. BI w/DW) Invol. Mansl. (when DUI) Hom. by Vehicle (when DUI) Theft (>\$100,000) PWID Cocaine, etc. (10-<50 gms)	9-16 *	12-18 *	15-21 *	18-24 *	21-27 *	27-33	33-39	NA	+/-6
	7 F2	Robbery (inflicts/threatens BI) Burglary (home/no person) Statutory Sexual Assault Theft (>\$50,000-\$100,000) Arson (no person) PWID Cocaine, etc. (2.5-<10 gms)	6-14 *	9-16 *	12-18 *	15-21 *	18-24	24-30	30-36	NA	+/-6
	6	Invol. Mansl. (when no DUI) Hom. by Vehicle (when no DUI) Burglary (not home/person) Theft (>\$25,000-\$50,000) Arson (property) PWID Cocaine etc. (<2.5 gms)	3-12 *	6-14 *	9-16 *	12-18 *	15-21 *	21-27 *	27-33	NA	+/-6
LEVEL 2 Cnty Incar RIP RS	5 F3	Burglary (not home/no person) Corruption of Minors Robbery (prop by force) Firearms (loaded) Theft (>\$2000-\$25,000) PWID (1-<10 lb of marij)	RS-9	1-12 *	3-14 *	6-16 *	9-16 *	12-18 *	24-36	NA	+/-3
	4	Indecent Assault Forgery (will, deed) Firearms (unloaded) Crim Trespass (breaks in)	RS-3	RS-9	RS-12 *	3-14 *	6-16 *	9-16 *	21-30 *	NA	+/-3
	3 M1	Simple Assault Terr. Threats Theft (\$200-\$2000) Retail Theft (3rd) Drug Poss.	RS-1	RS-6	RS-9	RS-12 *	3-14 *	6-16 *	12-18 *	NA	+/-3
LEVEL 1 RS	2 M2	Theft (\$50-<\$200) Retail Theft (1st, 2nd) Bad Checks	RS	RS-2	RS-3	RS-4	RS-6	1-9	6-<12	NA	+/-3
	1 M3	Most Misd. 3's; Theft (<\$50) Drug Paraph. Poss. Small Amount Marij.	RS	RS-1	RS-2	RS-3	RS-4	RS-6	3-6	NA	+/-3

1. Shaded 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 program shall not exceed the guideline ranges.
3. When the range is RS through a number of months (e.g. RS-6), RIP may be appropriate.
4. Offenses in italics are the '3-strikes' offenses.

**Key:**

CNTY = county

INCAR = incarceration

PWID = possession with intent to deliver

REVOC = repeat violent offender category

RFEL = repeat felony 1 and felony 11 offender category

RIP = restrictive intermediate punishments

RS = restorative sanctions

&lt; = less than

&gt; = greater than

\* = potential boot camp candidate

[Pa.B. Doc. No. 96-1159. Filed for public inspection July 19, 1996, 9:00 a.m.]

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## Title 255—LOCAL COURT RULES

### CUMBERLAND COUNTY

#### Rules of the Court of Common Pleas; No. 96-1335 Civil Term

##### Order of Court

*And Now*, this 24th day of June, 1996, the following Rules of the Court of Common Pleas of Cumberland County, Pennsylvania, are hereby promulgated and adopted for use, effective August 1, 1996, or thirty (30) days after publication in the *Pennsylvania Bulletin*.

Pursuant to Pa.R.C.P. 239, the Prothonotary is directed to forward seven (7) certified copies of this order to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette, formatted in MS DOS reflecting the text in the hard copy version, one (1) copy to the Supreme Court Civil Procedural Rules Committee and/or the Supreme Court Domestic Relations Committee, and one (1) copy to the *Cumberland Law Journal*.

*By the Court*

HAROLD E. SHEELY,  
*President Judge*

##### Petitions and Answers

**Rule 205-1.** Hybrid Representation. Where a litigant is represented by any attorney before the court and the litigant submits for filing a motion, petition, brief or any other type of pleading in the matter, it shall not be acted upon by the Judge, but forwarded to the counsel of record for such purposes as counsel may deem appropriate on behalf of his or her client.

Adopted May 28, 1996; effective August 1, 1996

##### Non-Jury Trials

**Rule 215-1.** At any time a civil non-jury case is at issue and is above the arbitration limit, any party may file a praecipe with the Prothonotary to assign the case to a trial judge. The Prothonotary shall immediately forward the praecipe to the Court Administrator who shall assign the case. A trial and or pretrial conference shall then be scheduled by the Judge.

Adopted May 28, 1996; effective August 1, 1996

[Pa.B. Doc. No. 96-1160. Filed for public inspection July 19, 1996, 9:00 a.m.]

### WESTMORELAND COUNTY

#### Duties and Powers of the Pretrial Services Unit of the Adult Probation and Parole Department

##### Order of Court

*And Now*, to wit, this 1st day of July, 1996, *It Is Hereby Ordered, Adjudged, and Decreed* that Rule WC4010 is adopted. The effective date of this Order is 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

BERNARD F. SCHERER,  
*President Judge*

**WC 4010. Duties and Powers of the Pretrial Services Unit of the Westmoreland County Adult Probation and Parole Department.**

(a) The Pretrial Services Unit of the Westmoreland County Adult Probation and Parole Department shall monitor and assist defendants released on bail. The duties and powers of the Unit shall include the following:

(1) gathering information about defendants relevant to bail decisions;

(2) making recommendations to the bail authorities concerning the types of release and the conditions of release on bail for individual defendants;

(3) supervising defendants when so designated by the bail authority;

(4) making reasonable rules and regulations to implement the bail agency's functions.

(b) The representative of the Unit who obtains information from the defendant shall, both orally and in writing, advise the defendant that anything said to the Unit representative may be used against the defendant.

(c) The Pretrial Services Unit shall disclose information obtained from or concerning the defendant only to the defendant, counsel for the defendant, the issuing authority or judge setting bail, the attorney for the Commonwealth, and the Westmoreland County Department of Adult Probation and Parole. This information may be used in preparing an intermediate punishment screening, in a presentence report, in a prosecution based on the falsity of the information, or for impeachment purposes to the extent permitted by law.

(d) The Unit is authorized to assess reasonable fees for the use of any electronic monitoring equipment utilized in the course of supervision. The fee shall be assessed based upon the financial ability to pay.

(e) The Unit is authorized to initiate bond revocation proceedings when warranted.

[Pa.B. Doc. No. 96-1161. Filed for public inspection July 19, 1996, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that on July 1, 1996, pursuant to Rule 214(d) of the Pa.R.D.E., Kent Edward Conshafter has been placed on Temporary Suspension by the Supreme Court of Pennsylvania, pending final disposition of proceedings before the Disciplinary Board and further Order of the Court.

ELAINE M. BIXLER,

*Secretary*

*The Disciplinary Board of the Supreme Court of  
Pennsylvania*

[Pa.B. Doc. No. 96-1162. Filed for public inspection July 19, 1996, 9:00 a.m.]