



Overview of Sex Offender Grid

Staff Presentation to the Commission
September 12, 2019

Structure and Elements of Criminal Sexual Conduct: Sex Offense Statutes & Sentencing Policy

Criminal sexual conduct (CSC) is categorized into five degrees, with First being most serious. The classification is based on:

- Sexual penetration or contact;
- Age of the victim and offender;
- Relationship to the victim;
- Degree of injury or threat of injury;
- Weapon involvement; and
- Force or coercion.

Structure and Elements of Criminal Sexual Conduct: Relationship-Based Classifications

- **IFSA** (Intra-Familial Sex Abuse): Offender had a significant relationship (e.g., parent, sibling, first cousin, uncle, aunt, grandparent) to the victim.
- **Other Child**: Victim is a minor, but not IFSA. Offender may be position of authority but not related to the victim.
- **Force/Other**: Force or weapon involved, or the offense involved abuse by a psychotherapist, health care professional, clergy member or members of other specified occupations.

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History and Structure of the Sex Offender Grid: Why the Sex Offender Grid was Created

- The Commission felt sex offenders required a different sentencing structure due to:
 - Serious nature of the offense;
 - Components of the underlying criminal behavior; and
 - The threat that repeat sex offenders pose to public safety.
- To provide better congruence with sentencing statutes for sex offenders and actual sentencing practices.
- New life sentences for sex offenders meant placement on a separate grid to create proportionality.

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History and Structure of the Sex Offender Grid: Grid Design Principles

- Presumptive sentence lengths that conform with statutorily set mandatory minimums and mandatory presumptive sentences
- Severity Levels based primarily on statutory maximums
- Increases in presumptive sentence lengths accelerate beyond CHS of 3
- Longer presumptive sentence lengths move repeat offenders more quickly toward the statutory maximum, especially when they are under custody supervision and get a custody status point

CRIMINAL HISTORY SCORE							
	0	1	2	3	4	5	6 or more
A	144 144-172	156 144-187	168 144-201	180 153-216	234 199-280	306 261-360	360 306-360 ²
B	90 90 ¹ -108	110 94-132	130 111-156	150 128-180	195 166-234	255 217-300	300 255-300 ²
C	48 41-57	62 53-74	76 65-91	90 77-108	117 100-140	153 131-180	180 153-180 ²
D	36	48	60 51-72	70 60-84	91 78-109	119 102-142	140 119-168
E	24	36	48	60 51-72	78 67-93	102 87-120	120 102-120 ²
F	18	27	36	45 39-54	59 51-70	77 66-92	84 72-100
G	15	20	25	30	39 34-46	51 44-60	60 51-60 ²
H	12 ¹ 12 ¹ -14	14 12 ¹ -16	16 14-19	18 16-21	24 21-28	30 26-36	36 31-43

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History and Structure of the Sex Offender Grid: Presumptive Sentences

Durations conform to statutorily set mandatory minimums and mandatory presumptive sentences.

Fewer non-prison boxes with longer underlying sentences to demonstrate seriousness of violations resulting in revocations.

Previously unranked offenses included.

FRPO given its own level To reflect mandatory min.

		CRIMINAL HISTORY SCORE						
SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in <i>italics</i>)		0	1	2	3	4	5	6 or more
<i>Criminal Sexual Conduct (CSC) 1st Degree</i>	A	144 144-172	156 144-187	168 144-201	180 153-216	234 199-280	306 261-360	360 306-360 ²
<i>CSC 2nd Degree--1(c)(d)(e)(f)(h) (e.g., contact, force, & injury)</i>	B	90 90 ¹ -108	110 94-132	130 111-156	150 128-180	195 166-234	255 217-300	300 255-300 ²
<i>CSC 3rd Degree--1(c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p) (e.g., penetration & force/occupation)</i>	C	48 41-57	62 53-74	76 65-91	90 77-108	117 100-140	153 131-180	180 153-180 ²
<i>CSC 2nd Degree--1(a)(b)(g) (e.g., contact & victim under 13)</i> <i>CSC 3rd Degree--1(a)(e)(i) or 1(b) with 2(1) (e.g., penetration & child victim)</i>	D	36	48	60 51-72	70 60-84	91 78-109	119 102-142	140 119-168
<i>CSC 4th Degree--1(c)(d)(g)(h)(i)(j)(k)(l)(m)(n)(o)(p) (e.g., contact & force/occupation)</i> <i>Dissemination of Child Pornography²</i>	E	24	36	48	60 51-72	78 67-93	102 87-120	120 102-120 ²
<i>CSC 4th Degree--1(a)(b)(i)(f) (e.g., contact & child victim)</i> <i>CSC 5th Degree Possession of Child Pornography (Subson./Pred. Off./Under 13)</i>	F	18	27	36	45 39-54	59 51-70	77 66-92	84 72-100
<i>CSC 3rd Degree--1(b) with 2(2) (e.g., penetration & child victim 24-48 mo. youngst)</i> <i>Possession of Child Pornography Solicit Child for Sexual Conduct²</i>	G	15	20	25	30	39 34-46	51 44-60	60 51-60 ²
<i>Failure to Register as a Predatory Offender</i>	H	12 ¹ 12 ¹ -14	14 12 ¹ -16	16 14-19	18 16-21	24 21-28	30 26-36	36 31-43

The presumptive duration equals the statutory maximum for most offenders at a criminal history score of 6.

Enhanced sentence lengths across the grid reflects seriousness with which Commission regards repeat offenders.

Ranges allow for long sentences without the need for aggravated departures but do not extend above stat. max. or below mand. minimums.

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History and Structure of the Sex Offender Grid: Additional Custody Status Point



One custody status point is assigned if an offender, being sentenced for a felony offense, was under a qualifying custody status type for a qualifying offense at the time the current offense was committed.



Two custody status points are assigned if an offender, being sentenced for an offense on the Sex Offender Grid*, was under a qualifying custody status type for an offense found on the Sex Offender Grid* at the time the current offense was committed.

**Does not include Failure to Register as a Predatory Offender (Severity Level H).*

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History and Structure of the Sex Offender Grid: Weights of Prior Offenses

Severity Level of Prior Offense	Weight of Prior if Current Offense on Standard/Drug Grid	Weight of Prior if Current Offense on Sex Offender Grid
1 – 2, D1 – D2	0.5	0.5
3 – 5, D3 – D5	1.0	1.0
6 – 8, D6 – D7	1.5	1.5
9 – 11, D8 – D9	2.0	2.0
Murder 1 st Degree	2.0	2.0
A	2.0	3.0
B – C	1.5	2.0
D – E	1.5	1.5
F – G	1.0	1.0
H	(first offense) 0.5	(first offense) 0.5
	(subsequent offenses) 1.0	(subsequent offenses) 1.0

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History and Structure of the Sex Offender Grid: 2006 Severity Levels Assigned to Child Pornography Offenses

2006

PRE-SEX GRID	IMPLEMENTATION OF SEX OFFENDER GRID	
	OFFENSE	SEVERITY
UNRANKED	Dissemination by Predatory Offender/Subsequent	D
	Use/Operate/Disseminate Minors in Sexual Performance	E
	Dissemination	E
	Possession by Predatory Offender/Subsequent	F
	Possession	G

When ranking these offenses, the severity level was chosen to coincide with the stat. max. with exceptions to allow all dissemination to be ranked higher than all possession but at a lower severity level than CSC 3.

Aggravated offenses for possession and dissemination included subsequent offenses and offenders required to register as a predatory offender.

History and Structure of the Sex Offender Grid: 2019 Severity Levels Assigned to Child Pornography Offenses

2019

OFFENSE	SEVERITY LEVEL	STATUTORY MAX. (YEARS/MONT HS)	MAX GRID TIME (MONTHS)
Dissemination (Aggravated)	D	15/180	140
Use Minors (Aggravated)	D	15/180	140
Dissemination	E	7/84	120
Use Minors	E	10/120	120
Possession (Aggravated)	F	10/120	84
Possession	G	5/60	60

"Aggravated" offenses expanded to include victims under 13 and prior violations of Child Pornography or Use Minors in Sexual Performance.

Aggravated offenses (under 13, subsequent or by predatory offender) now applies to Use Minors in Sexual Performance.

Statutory Maximum Comparison: Child Pornography (CP) & Criminal Sexual Conduct (CSC)

CP OFFENSES	STAT. MAX. (YRS.)/SEVERITY							
	30	25	15	10	7	5	4	3
Dissemination (Aggravated)			D					
Use Minors (Aggravated)			D					
Dissemination					E			
Use Minors					E			
Possession (Aggravated)					F			
Possession							G	

CSC SEX OFFENSES	STAT. MAX. (YRS.)/SEVERITY							
	30	25	15	10	7	5	4	3
1st	A							
2nd (contact, force, injury)		B						
3rd (penetration & force/occupation)			C					
2nd (contact & victim < 13)			D					
3rd (penetration & child victim)				D				
4th (contact & force/occupation)					E			
4th (contact & child victim)					F			
5th						F		
3rd (Actor between 24- 48 mos. older)							G	

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Statutory Maximum Comparison: Child Pornography (CP) & Non-CSC Sex Offenses

CP OFFENSES	STAT. MAX. (YRS.)/SEVERITY							
	30	25	15	10	7	5	4	3
Dissemination (Aggravated)			D					
Use Minors (Aggravated)			D					
Dissemination					E			
Use Minors					E			
Possession (Aggravated)					F			
Possession							G	

Non-CSC SEX OFFENSES	STAT. MAX. (YRS.)/SEVERITY							
	30	20	15	10	7	5	4	3
Solicits, Promotes, or Receives Profit from Prostitution; Sex Traffic 1st		B						
Solicits, Promotes, or Receives Profit Derived from Prostitution; Sex Traffic 2nd			C					
Indecent Exposure							G	
Solicitation of Children to Engage in Sexual Conduct								G
Solicitation of Children (Electronic)								G
Surreptitious Observation (Minor & Sexual Intent)							G	
Failure to Register							H	

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Statutory Maximum Comparison: CP & Other (Non-Sex) Offenses with Similar Stat. Max.

CP OFFENSES	STAT. MAX. (YRS.)/SEVERITY							
	30	25	15	10	7	5	4	3
Dissemination (Aggravated)			D					
Use Minors (Aggravated)			D					
Dissemination					E			
Use Minors				E				
Possession (Aggravated)				F				
Possession						G		

OTHER OFFENSES*	STAT. MAX. (YRS.)/SEVERITY							
	30	25	15	10	7	5	4	3
Manslaughter 1st Degree			9					
Criminal Vehicular Homicide				8				
Felony DWI					7			
Certain Persons Not to Have Firearms or Ammunition			6					
Assault 2nd Degree (subd. 1)					6			
Simple Robbery				5				
Burglary 2nd				5				
Criminal Veh. Operation (Great Bodily Harm)						5		
Assault 3rd Degree						4		
Domestic Assault						4		

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* Examples of more common offenses. The list is not exhaustive.
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