

Sentencing Guidelines Across the U.S. Purposes and Principles

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Presentation to the Minnesota Sentencing Guidelines
Commission
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Kevin R. Reitz
James La Vea Professor of Law, University of Minnesota
Law School
Faculty Chair, Robina Institute of Criminal Law and
Criminal Justice

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This presentation is based on research in April and May, 2024 across 50 states, D.C., and the federal system

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Relevant subjects

Purposes of individual sentences,
sentencing guidelines, and the
sentencing system

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Sources

Statutes; sentencing guidelines,
commentary, policy statements,
appellate caselaw

5

Sources*

Statutes; sentencing guidelines,
commentary, policy statements,
appellate caselaw

* Roughly a dozen states lack any clear enunciation of sentencing purposes, etc.

6

Caveat

“In theory, there is no difference between theory and practice. In practice, there is.”

(Yogi Berra)

7

Official statements of sentencing purposes
don't matter much unless they can be
implemented in practice

8

Primary purposes of sentencing

- Public safety
- Proportionality

9

Minnesota Sentencing Guidelines

1. Purpose and Definitions

A. Statement of Purpose and Principles

The purpose of the Sentencing Guidelines is to establish rational and consistent sentencing standards that promote public safety, reduce sentencing disparity, and ensure that the sanctions imposed for felony convictions are proportional to the severity of the conviction offense and the offender's criminal history.

Minnesota Sentencing Guidelines Commission, *Minnesota Sentencing Guidelines and Commentary 2023* (effective August 1, 2023), Section 1, at 1-2

10

Most states recognize some versions of “public safety” and “proportionality” as leading goals

11

Cross-cutting systemic purposes

- Rationality & consistency
- Neutrality re: race, gender, social & economic status
- Management of finite resources

12

Systemic goals are most commonly recognized
in sentencing guidelines jurisdictions

13

Critical issues:

- How are broad, abstract policies defined?

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Critical issues:

- How are broad, abstract policies defined?
- Are these core policies implemented in practice?

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Outline of the Presentation

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Public safety

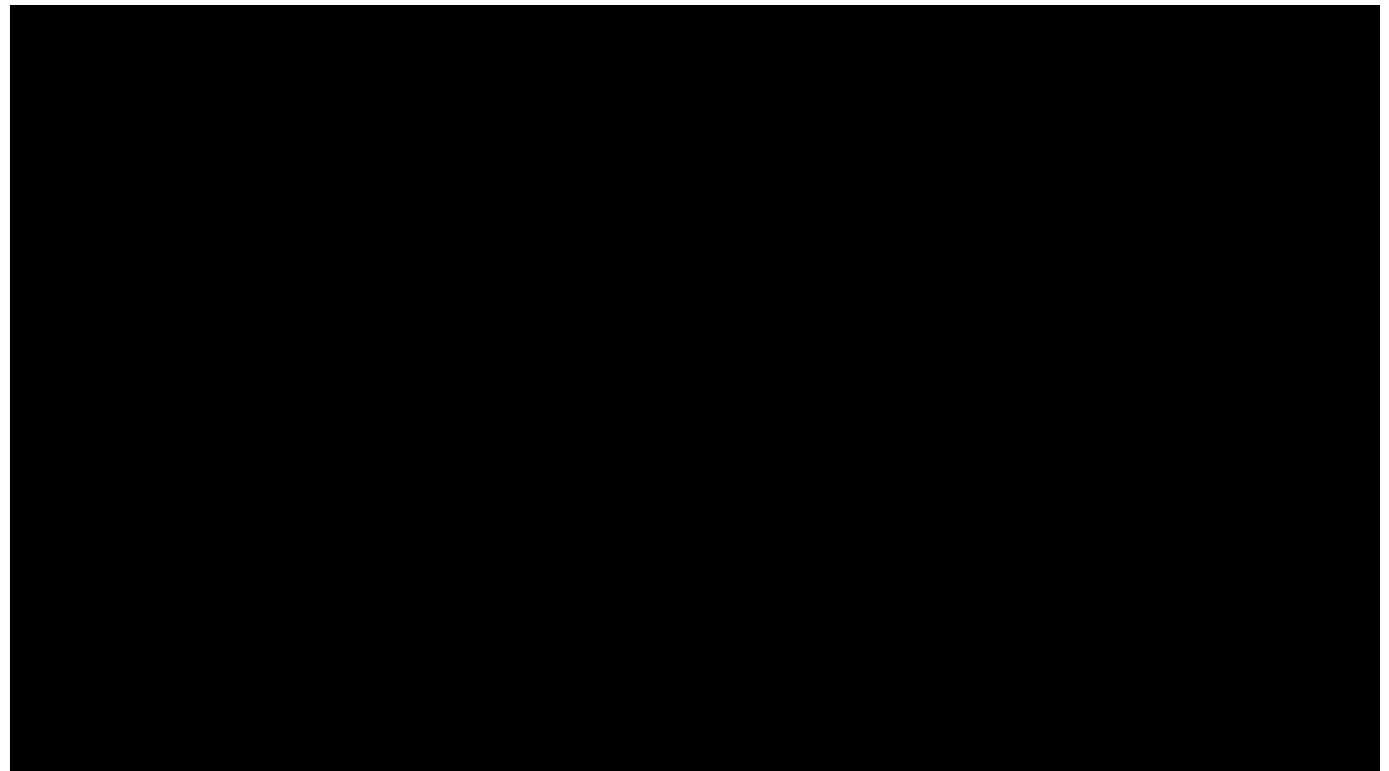
17

Proportionality

18

What is the right penalty to
impose?

19



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Public safety

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Most states define public safety as including the full slate of utilitarian goals aimed at crime reduction

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Model Penal Code: Sentencing

- Public safety** =
- Offender rehabilitation
 - General deterrence
 - Incapacitation of dangerous offenders
 - Reintegration of offenders into the law-abiding community

23

Alabama

Ala. Code § 13A-1-3. Purposes

The general purposes of the provisions of this title are: ...

(5) To insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted and their confinement when required in the interests of public protection ...

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California

Cal. Penal Code § 1170. Determinate sentencing

(a)(1) The Legislature finds and declares that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice. ...

25

Massachusetts Sentencing Guidelines

Mission and Purposes

... A just system of punishment:

... protects the public from further crimes of the defendant, including recidivism prevention through expanded and integrated supervision systems by probation and parole, which are cautious to avoid increased or unjust net-widening leading to excessive incarceration of offenders.

Massachusetts Sentencing Commission, *Advisory Sentencing Guidelines* (November 2017), at 27.

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Texas

Tex. Penal Code § 1.02. Objectives of Code

[T]he provisions of this code are intended, and shall be construed, to achieve the following objectives:

(1) to insure the public safety through:

(A) the deterrent influence of the penalties hereinafter provided;

(B) the rehabilitation of those convicted of violations of this code; and

(C) such punishment as may be necessary to prevent likely recurrence of criminal behavior; ...

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We found only one state that defined “public protection” solely in terms of incarceration

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Oklahoma

Okla. Stat. § 1514. Purposes and policies of the criminal justice and corrections systems

[T]he provisions of this title are intended, and shall be construed, to achieve the following objectives:

1. Protection of the public. Incarceration should be viewed by the court both as punishment and as a means of protecting the public.
2. After the interests of public protection have been addressed, [other goals may be considered].

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Oklahoma

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1. Protection of the public. Incarceration should be viewed by the court both as punishment and as a means of protecting the public.
2. After the interests of public protection have been addressed, [other goals may be considered].

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Public safety and “do no harm”

31

The most neglected dimension
of public safety

32

MODEL PENAL CODE:
SENTENCING

(2) The general purposes of the provisions on sentencing, applicable to all official actors in the sentencing system, are:

(iv) to avoid the use of sanctions that increase the likelihood the offender will engage in future criminal conduct.

MPCS § 1.02(2)(a)(iv) at 51

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Maine

17-a Me. Rev. Stat. § 1501. Purposes (Chapter 61. General Sentencing Provisions)

The general purposes of the provisions of this Part are to: ...

3. Minimize correctional experiences. Minimize correctional experiences that serve to promote further criminality

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Colorado

Colo. Rev. Stat. § 18-1-102.5. Purposes of code with respect to sentencing

(1) The purposes of this code with respect to sentencing are ...

(e) To select a sentence [that] reduces the potential that the offender will engage in criminal conduct after completing his or her sentence ...

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Massachusetts Sentencing Guidelines

Best Practice Principles for Individualized Evidence-Based Sentencing

Principle No. 9

Probationary terms should be no longer than three years, except where the nature of the offense or other circumstances specifically warrant a longer term.

Commentary

... A longer period of supervision will not necessarily result in greater protection of the public. At the same time, it may actually make it more difficult for the probationer to become a functioning member of society.

Massachusetts Sentencing Commission, *Advisory Sentencing Guidelines* (November 2017), at 114

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Massachusetts Sentencing Guidelines

Best Practice Principles for Individualized Evidence-Based Sentencing

Principle No. 8

Special conditions of probation should be narrowly tailored to the criminogenic needs of the defendant/probationer while providing for the protection of the public and any victim. An excessive number of special conditions may increase rather than decrease the likelihood of recidivism.

Massachusetts Sentencing Commission, *Advisory Sentencing Guidelines* (November 2017), at 114.

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Maryland Sentencing Guidelines

Policy Statement Encouraging the Use of Alternatives to Incarceration When Appropriate

The research findings, when combined with the collateral consequences experienced by incarcerated individuals and their family members ... suggest there is a potential public safety and community benefit to limiting exposure to incarceration, especially for offenders who are a low-risk to recidivate.

Maryland State Commission on Criminal Sentencing Policy, *Maryland Sentencing Guidelines Manual*, Version 16.0 (2024), at iii.

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Proportionality

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MODEL PENAL CODE: SENTENCING

(2) The general purposes of the provisions on sentencing, applicable to all official actors in the sentencing system, are:

(i) to render sentences in all cases within a range of severity proportionate to the gravity of offenses, the harms done to crime victims, and the blameworthiness of offenders; . . .

MPCS § 1.02(2)(a)(i) at 51

40

Proportionality as a limit

41

Utilitarian purposes can never justify
disproportionate punishments

42

Proportionality as a requirement of justice

43

In some cases, proportionality demands
punishment without respect to
utilitarian purposes

44

Proportionality in relation to what?

45

Critical issue:

- What are the reference points for “proportionality”?

46

Common reference points of proportionality

- Harm done by the offender
- Culpability of the offender

47

An important question:

- Should “proportionality” determinations be rooted in a defendant’s current offenses?

48

An important question:

- Should “proportionality” determinations be rooted in a defendant’s current offenses?
- Should proportionality determinations also take account of prior convictions?

49

Many sentencing guidelines states say
that judgments of proportionality should
include criminal history

50

Minn. Sent. Guidelines 1.A.3 (2023)

3. The severity of the sanction should increase in direct proportion to an increase in offense severity or the convicted felon's criminal history, or both. This promotes a rational and consistent sentencing policy.

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Arkansas

Ark. Code § 16-90-801. Statement of purposes

(b) PURPOSE OF SENTENCING STANDARDS. (1) Though voluntary, the purpose of establishing rational and consistent sentencing standards is to seek to ensure that sanctions imposed following conviction are proportional to the seriousness of the offense of conviction and the extent of the offender's criminal history. ...

52

Massachusetts Sentencing Guidelines

Best Practice Principles for Individual Evidence-Based Sentencing
Blameworthiness encompasses the level of intentionality related to the criminal conduct (degree of planning, type and degree of force or violence, disregard for foreseeable harm or injury, or taking pleasure in it) and the offender's criminal record.

Massachusetts Sentencing Commission, *Advisory Sentencing Guidelines* (November 2017), at 105-25

53

Michigan

Mich. Comp. L. § 769.33a. Powers and duties of the criminal justice policy commission

... modifications to the sentencing guidelines shall accomplish all of the following:

...

(iii) Be proportionate to the seriousness of the offense and the offender's prior criminal record. ...

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Oregon Sentencing Guidelines

Ore. Admin. R. 213-002-0001. Statement of Purposes and Principles: ...

(3) The basic principles which underlie these guidelines are: ...

(d) Subject to the discretion of the sentencing judge to deviate and impose a different sentence in recognition of aggravating and mitigating circumstances, the appropriate punishment for a felony conviction should depend on the seriousness of the crime of conviction when compared to all other crimes and the offender's criminal history.. ...

55

Washington

Rev. Code Wash. § 9.94A.010. Purpose

The purpose of this chapter is to make the criminal justice system accountable to the public by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences, and to:...

(1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history ...

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The Model Penal Code: Sentencing is skeptical of this approach

57

Judgments of blameworthiness based on criminal history should be balanced with the fact that the person has already been punished for prior convictions.

58

MODEL PENAL CODE:
SENTENCING

Section 9.06. Use of Criminal History.

(a) If criminal history is used for purposes of assessing offenders' blameworthiness for their current offenses, the commission shall consider that offenders have already been punished for their prior convictions.

MPCS § 9.06(1)(a) at 604

59

Some states appear to deemphasize or omit
criminal history as a reference point for
proportionate sentencing

60

California

Calif. Penal Code § 1170. Determinate sentencing

(a)(1) When a sentence includes incarceration, the deprivation of liberty satisfies the punishment purpose of sentencing. The purpose of incarceration is rehabilitation and successful community reintegration achieved through education, treatment, and active participation in rehabilitative and restorative justice programs. This purpose is best served by terms that are proportionate to the seriousness of the offense with provision for uniformity in the sentences of people incarcerated for committing the same offense under similar circumstances. ...

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Delaware Sentencing Guidelines

The guidelines are designed to ensure certainty and consistency of punishment commensurate with the seriousness of the offense and with due regard for resource availability and cost

Sentencing Accountability Commission, *Benchbook 2021-22*, at 20

62

New Hampshire

N.H. Const. Part I, Bill of Rights, Art. 18:

All penalties ought to be proportioned to the nature of the offense. ...

63

Implementation of
proportionality

64

Most states advertise proportionality as a leading goal of the sentencing system, but provide no mechanism for implementation

65

The constitutional law of “gross disproportionality” is nearly toothless

66

Minnesota and other sentencing guidelines
systems have done a better job

67

Guidelines are one “anchor” of proportionality
through their general application

68

The guidelines are a credible “anchor” because of the composition and broad expertise of the sentencing commission

69

MODEL PENAL CODE:
SENTENCING

Section 9.03. Purposes of Sentencing and Sentencing Guidelines.

(2) The commission shall set presumptive sentences for defined classes of cases that are proportionate to the gravity of offenses, the harms done to crime victims, and the blameworthiness of offenders, based upon the commission’s collective judgment of appropriate punishments for ordinary cases of the kind governed by each presumptive sentence.

MPCS § 9.03 at 553

70

Critical issue:

- Institutionally, who has responsibility to ensure the proportionality of sentences *in individual cases?*

71

“Subconstitutional proportionality
review”

72

Rare among U.S. states

73

The pioneers of meaningful appellate sentence review in the U.S. have been Minnesota and Alaska — plus a handful of other guidelines systems built on the “Minnesota model”

74

Model Penal Code: Sentencing

Make appellate courts the “anchor” of proportionality in individual cases

75

MODEL PENAL CODE: SENTENCING

Section 10.10. Appellate Review of Sentences.

(b) The appellate courts may reverse, remand, or modify any sentence, including a sentence imposed under a mandatory-penalty provision, on the ground that it is disproportionately severe. The appellate court shall use its independent judgment when applying this provision.

MPCS § 10.10(5)(b) at 824

76

A responsibility with more “bite” than
constitutional review of sentences for
“gross disproportionality”

77

Subconstitutional proportionality rule, if
created by legislation, can supersede
mandatory penalties

78

MODEL PENAL CODE:
SENTENCING

Section 10.10. Appellate Review of Sentences.

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MPCS § 10.10(5)(b) at 824

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**What is the right penalty to
impose?**

80

Many states address the purposes of
incarceration

81

The purposes of probation are
sometimes addressed

82

Better:
An organized framework of purposes
for each type of sentence

83

The applicable purposes—and
priorities among them—vary with
context

84

MODEL PENAL CODE:
SENTENCING

**Section 9.03. Purposes of Sentencing and Sentencing
Guidelines. . . .**

(5) The guidelines may include presumptive provisions that prioritize the purposes of sentencing in Section 1.02(2)(a) as applied in defined categories of cases, or that articulate principles for selection among those purposes.

MPCS § 9.03 at 553-54

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Model Penal Code: Sentencing

- Incarceration
- Probation
- Unconditional discharge
- Economic sanctions

86

Model Penal Code: Sentencing

- Incarceration
- Probation
- Unconditional discharge
- Economic sanctions*

* Separate purposes for restitution, fines, costs & fees, and forfeiture.

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New York

- Institutional confinement
- Probation
- Unsupervised probation
- Unconditional discharge
- Fines

88

Pennsylvania

- Eight “Sentencing Levels”
- Each Sentencing Level has its own statement of applicable purposes
- Guidelines grid has eight zones

89

Purposes of incarceration

90

MODEL PENAL CODE:
SENTENCING

(2) The court may impose incarceration:

(a) when necessary to incapacitate dangerous offenders, provided a sentence imposed on this ground is not disproportionately severe; or

(b) when other sanctions would depreciate the seriousness of the offense, thereby fostering disrespect for the law.

MPCS § 6.11(2) at 302

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Minnesota Sentencing Guidelines

Purpose and Definitions

A. Statement of Purpose and Principles

The Sentencing Guidelines shall embody the following principles:

5. Because state and local correctional facility capacity is finite, confinement should be imposed only for offenders who are convicted of more serious offenses or who have longer criminal histories ...

Minnesota Sentencing Guidelines Commission, *Minnesota Sentencing Guidelines and Commentary 2023 (effective August 1, 2023)*, Section 1, at 1-2:

92

Delaware

Del. Code § 6580. [Sentencing Accountability Commission] Established; composition; purpose

(c) The Commission shall [consider the following goals] in the priority in which they appear:

- (1) Incapacitation of the violence-prone offender ...

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Kansas

State v. Bird, 312 P.3d 1265, 1269-70 (Kan. 2013):

... Some of the underlying principles we have recognized are: incarceration should be reserved for serious/violent offenders who present a threat to public safety; ... and the system must be rational to allow policymakers to allocate resources.

94

North Carolina Structured Sentencing Manual

Structured Sentencing is based on the following principles: ...

- Sentencing policies should set resource priorities: The use of prisons and jails should be prioritized first for violent and repeat offenders ...

North Carolina Sentencing and Policy Advisory Commission, *Structured Sentencing: Training and Reference Manual* (2014), at 1:

95

Critical issues:

- How is the policy implemented in individual cases?

96

Critical issues:

- How is the policy implemented in individual cases?
- How do we identify defendants who threaten public safety?

97

Critical issues:

- How is the policy implemented in individual cases?
- How do we identify defendants who threaten public safety?
- Can we identify defendants who pose unusually low risk to public safety?

98

Traditional view: The sentencing court should make an individualized judgment of recidivism risk

99

MPCS view: Judgments of recidivism risk should be informed by evidence-based risk assessment tools

100

Identification of low-risk defendants for diversion from prison

101

MODEL PENAL CODE:
SENTENCING

Section 9.08. Evidence-Based Sentencing; Offender Treatment Needs and Risk of Reoffending.

. . . (3) The commission shall develop actuarial instruments or processes to identify offenders who present an unusually low risk to public safety, but who are subject to a presumptive or mandatory sentence of incarceration under the laws or guidelines of the state.

MPCS § 9.08(3) at 632

102

MODEL PENAL CODE:
SENTENCING

Section 9.08. Evidence-Based Sentencing; Offender Treatment Needs and Risk of Reoffending.

. . . for cases in which the offender is projected to be an unusually low-risk offender, the court shall have discretion to impose a community sanction rather than a prison term, or a shorter prison term than indicated in statute or guidelines.

MPCS § 9.08(3) at 632

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Virginia NVRA law

Va. Code § 17.1-803. Powers and Duties [of the Sentencing Advisory Commission]

The Commission shall: ...

5. Develop an offender risk assessment instrument for use in all felony cases, based on a study of Virginia felons, that will be predictive of the relative risk that a felon will become a threat to public safety. ...

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Virginia NVRA law

Va. Code § 17.1-803. Powers and Duties [of the Sentencing Advisory Commission]
 The Commission shall: ...

6. Apply the risk assessment instrument to offenders convicted of [most property and drug crimes] under the discretionary sentencing guidelines, and shall determine, on the basis of such assessment and with due regard for public safety needs, the feasibility of achieving the goal of placing 25 percent of such offenders in one of the alternative sanctions If the Commission so determines that achieving the 25 percent or a higher percentage goal is feasible, it shall incorporate such goal into the discretionary sentencing guidelines. ...

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Nonviolent Risk Assessment ↔ Larceny Section D

Offender Name: _____

◆ Ineligibility Conditions

A. Was the offender recommended for Probation/No Incarceration on Section B? Yes No

B. Are any prior record offenses violent (Category III listed in Appendix A of the Guidelines Manual)? Yes No

C. Are any of the offenses at sentencing violent (Category III listed in Appendix A of the Guidelines Manual)? Yes No

D. Do any of the offenses at sentencing require a mandatory term of incarceration? Yes No

If answered YES to ANY, go to "Nonviolent Risk Assessment Recommendations" on cover sheet and check.
 Not Applicable: If answered NO to ALL, complete remainder of Section D worksheet.

◆ Offender Age at Time of Offense

Younger than 21 years	22	
21 to 29 years	16	
30 to 43 years	7	
Older than 43 years	1	↓

◆ Gender

Offender is Female	13	
Offender is Male	9	↓

◆ Prior Adult Felony Convictions

Number: 0	0	
of Counts: 1 - 2	5	
3 or more	15	↓

◆ Prior Adult Incarcerations

Number: 0	0	
1 - 9	4	
10 or more	32	↓

◆ Legally Restrained at Time of Offense _____ If YES, add 6 → 0

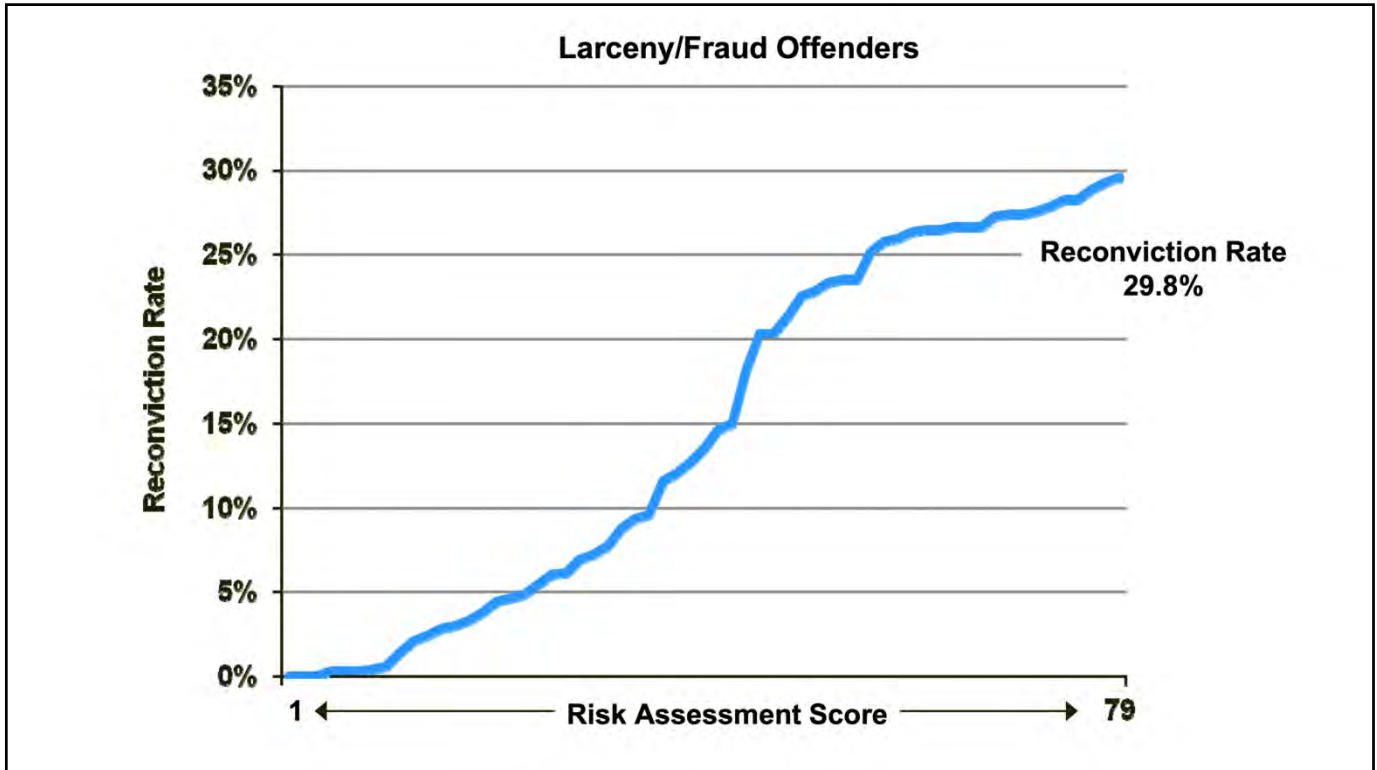
Total Score _____ ↓

31 or less, check Recommended for Alternative Punishment.
 32 or more, check NOT Recommended for Alternative Punishment.

Larceny/ Section D

Go to Cover Sheet and fill out Nonviolent Risk Assessment Recommendations.

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States with “frameworks” of purposes
for each disposition

108

N.Y. Penal Law § 65.00. Sentence of probation

[T]he court may sentence a person to a period of probation [if] ...

- (i) Institutional confinement for the term authorized by law of the defendant is or may not be necessary for the protection of the public;
- (ii) the defendant is in need of guidance, training or other assistance which, in his case, can be effectively administered through probation supervision; and
- (iii) such disposition is not inconsistent with the ends of justice.

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N.Y. Penal Law § 65.05. Sentence of conditional discharge

1. Criteria. (a) Except as otherwise required by section 60.05, the court may impose a sentence of conditional discharge for an offense if the court, having regard to the nature and circumstances of the offense and to the history, character and condition of the defendant, is of the opinion that neither the public interest nor the ends of justice would be served by a sentence of imprisonment and that probation supervision is not appropriate. ...

110

N.Y. Penal Law § 65.20. Sentence of unconditional discharge

1. Criteria. The court may impose a sentence of unconditional discharge in any case where it is authorized to impose a sentence of conditional discharge under section 65.05 if the court is of the opinion that no proper purpose would be served by imposing any condition upon the defendant's release. ...

2. Sentence. When the court imposes a sentence of unconditional discharge, the defendant shall be released with respect to the conviction for which the sentence is imposed without imprisonment, fine or probation supervision. A sentence of unconditional discharge is for all purposes a final judgment of conviction.

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N.Y. Penal Law § 80.00. Fine for felony

When imposing a fine pursuant to the provisions of this paragraph, the court shall consider the profit gained by defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which defendant engaged, its impact on any victims, and defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support. ...

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Pennsylvania Sentencing Guidelines

8th Edition Sentencing Matrix § 303a.14



Sentencing Level Aggravated and Mitigated Ranges	Offense Gravity Score	Prior Record Score				
		0	1	2	3	4
H Murder 1, Murder 2 Agg/Mit: +/- 24	H6	LWOP or Death	LWOP or Death	LWOP or Death	LWOP or Death	LWOP or Death
	H5	LWOP	LWOP	LWOP	LWOP	LWOP
	H4	420	420-480	480-540	540-600	660-5L
	H3	360	360-420	420-480	480-540	600-5L
	H2	300	300-360	360-420	420-480	540-5L
	H1	240	240-300	300-360	360-420	480-5L
G Murder 3 Mit - 12	G2	90-240	114-240	138-240	162-240	186-240
	G1	72-240	84-240	96-240	108-240	120-240
F State Confinement/ Max +20 years Agg/Mit: +/- 12	F30	162-184	186-210	210-234	234-258	258-5L
	F29	138-162	162-186	186-210	210-234	234-5L
	F28	114-138	138-162	162-186	186-210	210-5L
	F27	90-114	114-138	138-162	162-186	186-5L
	F26	84-96	96-108	108-120	120-132	132-5L
E State Confinement Agg/Mit: +/- 9	F25	78-90	90-102	102-114	114-126	126-5L
	F24	72-84	84-96	96-108	108-120	120-5L
	F23	66-78	78-90	90-102	102-114	114-5L
	F22	60-72	72-84	84-96	96-108	108-5L
	F21	54-66	66-78	78-90	90-102	102-5L
	F20	48-60	60-72	72-84	84-96	96-5L
	F19	42-54	54-66	66-78	78-90	90-5L
	F18	36-48	48-60	60-72	72-84	84-5L
	F17	30-42	42-54	54-66	66-78	78-5L
D State/County Confinement Agg/Mit: +/- 6	F16	24-30	30-42	42-54	54-66	66-5L
	F15	20-26	26-30	30-42	36-48	48-5L
	F14	16-22	20-26	24-30	30-42	42-5L
	F13	12-18	16-22	20-26	24-30	30-5L
C County Confinement Agg/Mit: +/- 3	F12	9-12 (RC)	12-18	16-22	20-26	24-30
	F11	7-10 (RC)	8-11 (RC)	12-18	16-22	20-26
	F10	5-8 (RC)	6-9 (RC)	7-10 (RC)	12-18	16-22
	F9	3-6 (RC)	4-7 (RC)	5-8 (RC)	6-9 (RC)	12-18
	F8	1-4 (RC)	2-5 (RC)	3-4 (RC)	4-7 (RC)	5-8 (RC)
B Probation Agg/Mit: +/- 4 P	F7	24 P (75-300)	1-4 (RC)	2-5 (RC)	3-4 (RC)	4-7 (RC)
	F6	18 P (50-175)	1-4 (RC)	2-5 (RC)	3-4 (RC)	4-7 (RC)
	F5	12 P (25-100)	1-4 (RC)	2-5 (RC)	3-4 (RC)	4-7 (RC)
	F4	6 P (10-50)	1-4 (RC)	2-5 (RC)	3-4 (RC)	4-7 (RC)
A Restorative Sanctions Agg + 3 P	F3	RS (15-100)	RS - 4 P (25-100)	12 P / 1 RC (25-100)	18 P / 1-2 RC (25-100)	24 P / 1-3 RC (25-100)
	F2	RS (10-75)	RS (15-100)	RS - 3 P (25-100)	12 P / 1 RC (25-100)	18 P / 1-2 RC (25-100)
	F1	RS (25-100)	RS (50-75)	RS (75-100)	RS - 4 P (25-100)	12 P / 1 RC (25-100)

Pennsylvania Commission on Sentencing, *8th Edition Sentencing Guidelines* (2024), last page, codified at Title 204, Chapter 303a of the Pennsylvania Code..

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Pennsylvania Sentencing Guidelines

§ 303a.5. Offense-specific sentence recommendations

(c) Sentencing levels and offense-specific sentence recommendations.

(i) Level A, generally limited to restorative sanctions recommendations.

(A) The guidelines recommend consideration of the use of restorative sanctions, including restitution, fines, community service, or other authorized sanctions not requiring probation or confinement or limited to administrative probation. The use of restorative sanctions at this level, with a focus on reparations and restorative justice, supports the utilitarian purpose of restoration.

Pennsylvania Commission on Sentencing, *8th Edition Sentencing Guidelines* (2024), at 29, codified at Title 204, Chapter 303a of the Pennsylvania Code.

114

Pennsylvania Sentencing Guidelines

§ 303a.5. Offense-specific sentence recommendations

(c) Sentencing levels and offense-specific sentence recommendations.

(ii) Level B, limited to probation recommendations.

(A) The guidelines recommend consideration of the use of probation to provide community supervision with the minimal control necessary to fulfill court-ordered obligations. The use of probation at this level, with consideration of restorative sanctions, supports the utilitarian purposes of rehabilitation and restoration.

Pennsylvania Commission on Sentencing, *8th Edition Sentencing Guidelines* (2024), at 29, codified at Title 204, Chapter 303a of the Pennsylvania Code.

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Pennsylvania Sentencing Guidelines

§ 303a.5. Offense-specific sentence recommendations

(c) Sentencing levels and offense-specific sentence recommendations.

(iii) Level C, limited to confinement in a county facility, while providing for the use of probation with restrictive conditions as an alternative when eligible and appropriate.

(A) ... The use of county confinement with the court authorized to consider county programs and county parole, or in the alternative, the court having the discretion to use probation with restrictive conditions to provide community supervision and/or treatment, supports multiple utilitarian purposes including deterrence, rehabilitation, and restoration.

Pennsylvania Commission on Sentencing, *8th Edition Sentencing Guidelines* (2024), at 29, codified at Title 204, Chapter 303a of the Pennsylvania Code.

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Pennsylvania Sentencing Guidelines

§ 303a.5. Offense-specific sentence recommendations

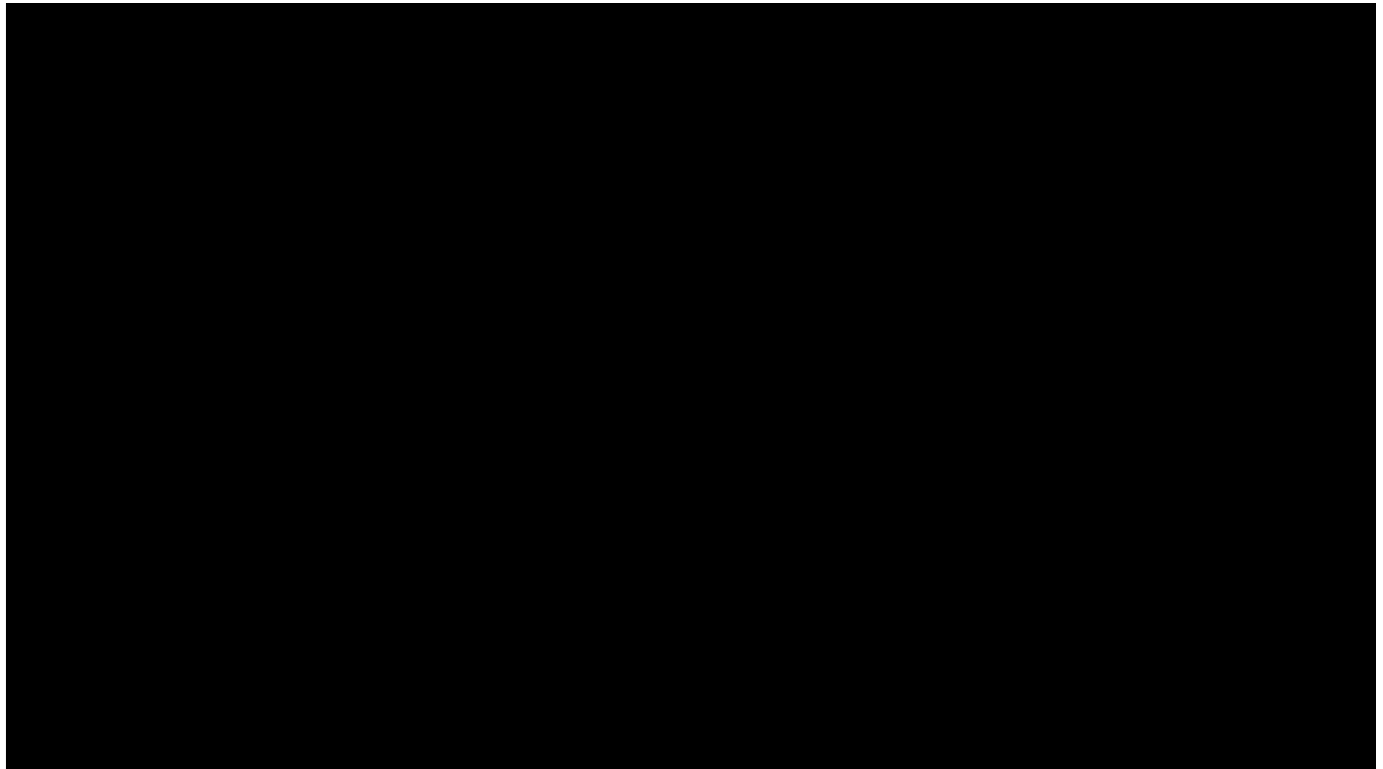
(c) Sentencing levels and offense-specific sentence recommendations.

(v) Level E, limited to confinement in a State facility.

(A) The guidelines recommend consideration of confinement in a State facility with consideration of certain correctional programs. While rehabilitation and restoration are under consideration at all levels, the primary utilitarian purposes of confinement at Level E are incapacitation and deterrence.

Pennsylvania Commission on Sentencing, *8th Edition Sentencing Guidelines* (2024), at 29, codified at Title 204, Chapter 303a of the Pennsylvania Code.

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