

**Pennsylvania Commission on Sentencing
Caselaw Highlights (PA Reporter through May 23, 2008)**

	Walls	926 A.2d 957	7/17/2007	PA	Sentence	Guidelines	Under the Sentencing Code an appellate court is to exercise its judgment in reviewing a sentence outside the sentencing guidelines to assess whether the sentencing court imposed a sentence that is unreasonable. 42 Pa.C.S.A. § 9781(c, d).
	Walls	926 A.2d 957	7/17/2007	PA	Sentence	Guidelines	Sentencing guidelines have no binding effect, create no presumption in sentencing, and do not predominate over other sentencing factors. Sentencing guidelines are advisory guideposts that are valuable, may provide an essential starting point, and that must be respected and considered; they recommend, however, rather than require a particular sentence. There is no requirement that a sentencing court's imposition of sentence must be the minimum possible confinement.
	Walls	926 A.2d 957	7/17/2007	PA	Sentence	Guidelines	Sentencing court, in imposing statutory maximum sentences in excess of sentencing guidelines upon defendant for rape of victim less than 13 years old and involuntary deviate sexual intercourse (IDSI) with victim less than 13 years old, and standard range sentence for incest, made sentencing decision that was individualized with respect to defendant; sentencing court cast doubt upon individualized nature of sentence by making certain general comments about those who sexually victimize young children, but it considered a number of factors which led it to sentence outside of the guidelines and these factors were specific to defendant.
	Walls	926 A.2d 957	7/17/2007	PA	Sentence	Guidelines	Sentencing court's reliance on fact that victim was only seven years old at time defendant sexually abused her, that defendant was in a position of trust and responsibility with respect to victim by virtue of fact that defendant was victim's grandfather, and that defendant analogized his assaults to "accidents" was permissible to justify statutory maximum sentences in excess of sentencing guidelines upon defendant for rape of victim less than 13 years old and involuntary deviate sexual intercourse (IDSI) with victim less than 13 years old, and standard range sentence for incest. 42 Pa.C.S.A. § 9781(d).
	Walls	926 A.2d 957	7/17/2007	PA	Sentence	Guidelines	Sentencing court, in imposing statutory maximum sentences in excess of sentencing guidelines upon defendant for rape of victim less than 13 years old and involuntary deviate sexual intercourse (IDSI) with victim less than 13 years old, and standard range sentence for incest, properly took into account general standards for sentencing, in that it considered protection of public, gravity of offenses as they related to impact on life of victim and community, and the rehabilitative needs or prospects of rehabilitation for defendant. 42 Pa.C.S.A. § 9721(b).

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	Yuhasz	923 A.2d 1111	5/31/2007	PA	Sentence	Guidelines	Sentence of 24 to 60 months in prison imposed upon defendant, following negotiated guilty plea to one count of statutory sexual assault, pursuant to Pennsylvania's indeterminate sentencing scheme, which was within the statutory maximum but exceeded the aggravated range of the sentencing guidelines, did not violate the Sixth Amendment as discussed in Blakely; fact that the trial court considered material not admitted in defendant's plea in departing from the sentencing guidelines was constitutionally irrelevant. U.S.C.A. Const.Amend. 6.
	Yuhasz	923 A.2d 1111	5/31/2007	PA	Sentence	Guidelines	Pennsylvania's statutory sentencing scheme is indeterminate, advisory, and guided; in imposing a sentence, the judge is directed to give two numbers representing the minimum and maximum period of incarceration. 42 Pa.C.S.A. § 9756(a, b). In no circumstance may a sentence imposed go beyond the statutory maximum sentence.
	Yuhasz	923 A.2d 1111	5/31/2007	PA	Sentence	Guidelines	Pennsylvania has a guided sentencing system, requiring a judge to consider the guidelines promulgated by the Pennsylvania Commission of Sentencing in choosing a minimum sentence. Pennsylvania's Sentencing Guidelines are purely advisory in nature, and they do not alter the legal rights or duties of the defendant, the prosecutor, or the sentencing court.
	Yuhasz	923 A.2d 1111	5/31/2007	PA	Sentence	Guidelines	Pennsylvania's Sentencing Guidelines are merely one factor among many that the court must consider in imposing a sentence. As it is evident that Pennsylvania's Sentencing Guidelines are merely advisory, the United States Supreme Court's holding in Booker makes clear that they do not violate the Sixth Amendment. U.S.C.A. Const.Amend. 6.
	Yuhasz	923 A.2d 1111	5/31/2007	PA	Sentence	Guidelines	Because the statutory maximum is the polestar for Sixth Amendment purposes, a judge may impose a sentence outside the Sentencing Guidelines without unconstitutionally increasing the punishment for a crime based on judicially-determined facts as long as the maximum sentence imposed does not exceed the statutory limit. U.S.C.A. Const.Amend. 6.
	Begley	780 A.2d 605	9/26/2001	PA	Sentence	Guidelines	A trial court cannot justly sentence a defendant unless it possesses sufficient and accurate information about the circumstances of the offense and the character of the defendant to formulate its judgement. As long as the trial court's reasons demonstrated that it weighed the Sentencing Guidelines with the facts of the crime and the defendant's character in a meaningful fashion, the court's sentence should not be disturbed.

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	Smith	673 A.2d 893	3/29/1996	PA	Sentence	Guidelines	Refining an earlier decision [Com. v. Bethea], the court held that judge using impermissible factor to deviate from guidelines [no priors] did not require remand, since factor did not implicate any constitutional right, and sentence was not unreasonable.
	Widmer	667 A.2d 215	10/2/1995	PA	Sentence	Guidelines	The applicable sentencing guidelines are the guidelines in effect at the time the offense was committed.
	Cook	941 A.2d 7	12/20/2007	PA Super	Sentence	Guidelines	Driving under the influence of alcohol (DUI) offenses that were more than 10 years old but that were not defendant's first DUI offense were includable in defendant's prior record score (PRS), when sentencing defendant for two counts of DUI. 204 Pa.Code §§ 303.5, 303.7.
	Cook	941 A.2d 7	12/20/2007	PA Super	Sentence	Guidelines	Neither the Sentencing Code nor the sentencing guidelines place any time limits on offenses to be included in the prior record score for driving under the influence of alcohol (DUI) sentencing, as such criminal history is relevant to sentencing. 204 Pa.Code §§ 303.5, 303.7.
	Cook	941 A.2d 7	12/20/2007	PA Super	Sentence	Guidelines	Vehicle Code provisions relating to prior offenses for driving under the influence of alcohol (DUI) do not dictate the defendant's guideline sentence range, only the minimum that he must serve. 75 Pa.C.S.A. § 3806.
	Cook	941 A.2d 7	12/20/2007	PA Super	Sentence	Guidelines	Driving under the influence of alcohol (DUI) offenses within the statutory look back period established in the Vehicle Code serve only to trigger the mandatory minimum sentence provision; it is still necessary to calculate and apply a prior record score (PRS) under the Pennsylvania Code. 75 Pa.C.S.A. §§ 3804, 3806; 204 Pa.Code §§ 303.5, 303.7.
	Cook	941 A.2d 7	12/20/2007	PA Super	Sentence	Guidelines	Amendment to the driving under the influence of alcohol (DUI) statute, providing for a ten year look-back period to determine whether a defendant had prior DUI offenses for purposes of enhancing subsequent offenses, did not retroactively enhance prior DUI convictions occurring before its effective date and, thus, did not constitute an ex post facto violation; the amendment only enhanced punishment for the latest offense, which is considered to be an aggravated offense because it is a repetitive one. 75 Pa.C.S.A. § 3806.

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	Cook	941 A.2d 7	12/20/2007	PA Super	Sentence	Guidelines	Defendant's first driving under the influence of alcohol (DUI) offense was an "other misdemeanor offense," and thus it could be combined with another "other misdemeanor offense," to add a point to defendant's prior record score (PRS), when sentencing defendant for two counts of DUI. 75 Pa.C.S.A. § 3802(c); 204 Pa.Code §§ 303.7(a)(4, 5).
	Hoch	936 A.2d 515	10/23/2007	PA Super	Sentence	Guidelines	Although the sentencing court is required to consider and consult the Sentencing Guidelines when imposing a sentence, it retains the discretion to sentence below the mitigated range as long as it clearly explains its reasons for doing so. When a sentencing court deviates from the sentencing guidelines, it is important that the court reflect a consideration of the sentencing guidelines, the background and character of the defendant, the circumstances of the crime, and impose a sentence that is consistent with the protection of the public and the rehabilitative needs of the defendant. 42 Pa.C.S.A. § 9781(b).
	Hoch	936 A.2d 515	10/23/2007	PA Super	Sentence	Guidelines	Aggregate sentence of nine to 23 months in prison to be followed by probation for aggravated assault on police officer, criminal attempted burglary, resisting arrest, and possession of instruments of crime, which was below mitigated range of sentencing guidelines, was not abuse of discretion; trial court stated reasons for its sentence, and found that defendant exhibited mental health issues, burglary was different from usual burglary in which person enters into home to steal goods out of house, as defendant did not intend to steal or harm anyone, and in his mind, violence he exhibited was attempt to flee, and although his conduct established elements of crimes charged, court fashioned sentence based upon defendant's individual circumstances.
	McCoy	928 A.2d 306	6/26/2007	PA Super	Sentence	Guidelines	Defendant waived claim on appeal that trial court improperly calculated sentencing guideline ranges for crime of possession of a firearm by a convicted felon, where defendant failed to raise claim in his post-sentence motion or during sentencing proceeding. 18 Pa.C.S.A. § 6105.
	Paul	925 A.2d 825	5/15/2007	PA Super	Sentence	Guidelines	Sentencing entrapment or manipulation occurs when a defendant, although predisposed to commit a minor or lesser offense, is entrapped in committing a greater offense subject to greater punishment. Sentencing entrapment or manipulation provides a convicted defendant the opportunity for a reduced sentence, typically in the form of a downward departure from the sentencing guidelines; used to exclude one of several criminal transactions included in sentencing scheme; may provide relief from mandatory sentence.

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	Paul	925 A.2d 825	5/15/2007	PA Super	Sentence	Guidelines	Defendant convicted of delivery of methamphetamine was not entitled to sentence reduction under sentencing entrapment doctrine; although trial court administered downward deviation from sentencing guidelines based on determination that defendant was entrapped into making second sale of 6.8 grams of methamphetamine, actions of sergeant in allegedly encouraging defendant to sell him two "eight balls," and Commonwealth in prolonging arrest beyond first criminal act in which defendant distributed 3.4 grams of methamphetamine, were not enough to establish sentencing entrapment, and there was no "extraordinary misconduct" on part of Commonwealth.
	Matroni	923 A.2d 444	4/19/2007	PA Super	Sentence	Guidelines	Sentence of 23 months' imprisonment for homicide by vehicle and related traffic offenses was not abuse of discretion; sentence was within the suggested guidelines for offense, court considered defendant's age, character, education, work history, and lack of prior criminal history, and court determined that defendant did not show remorse. 75 Pa.C.S.A. § 3732.
	Wilson	923 A.2d 419	4/16/2007	PA Super	Sentence	Guidelines	Trial court abused its discretion when it sentenced defendant convicted of robbery and burglary to concurrent terms of 11 1/2 -23 months' imprisonment, plus seven years' reporting probation on robbery charges, which ultimately allowed defendant to be paroled to drug program after serving only seven months' time; although court focused on fact that defendant's actions were result of his drug addiction and that defendant acknowledged his problem and wanted treatment, sentence was unreasonable in light of brutal nature of robberies, fact that defendant posed threat to public, defendant's past aggressive conduct, injuries suffered by victims, and applicable guideline ranges.
	Lewis	911 A.2d 558	11/8/2006	PA Super	Sentence	Guidelines	Trial court, which sentenced defendant to the statutory maximum for his aggravated assault conviction, gave due consideration to all relevant factors and provided adequate reasons for sentencing defendant outside of the sentencing guidelines; trial court took into account defendant's lack of remorse and recommendations of victim, the police, and pre-sentence investigative report, and court deviated from guidelines due to violent nature of defendant, the fact that defendant was a fugitive from justice, defendant's previous failure while on parole, lack of remorse and failure to take responsibility, and his being a poor candidate for rehabilitation. 18 Pa.C.S.A. §§ 1103(2), 2702(a)(3).

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	McIntosh	911 A.2d 513	11/6/2006	PA Super	Sentence	Guidelines	Court's failure to provide contemporaneous written statement of reasons for deviation from sentencing guidelines required vacation of defendant's sentence for purposes of resentencing; although court was presented with arguments regarding standard, mitigated, and aggravated sentence ranges for defendant's offense, in imposing sentence, sentencing court never indicated it was cognizant that sentence imposed was departure from sentencing guidelines, or, indeed, was significantly below mitigated range, and as result, sentencing court provided no justification for why downward departure from guidelines was appropriate or even why mitigated range sentence would have been justified. 42 Pa.C.S.A. § 9721(b).
	McIntosh	911 A.2d 513	11/6/2006	PA Super	Sentence	Guidelines	Court's reasons were insufficient to justify severe downward departure from sentencing guidelines for sexual assault conviction; court failed to explain how sexual assault in this crime differed from typical sexual assault, court relied on improper factors or mischaracterizations of record in fashioning its sentence, sentencing court erroneously cast defendant's conduct, not as criminal, but as simple "bad judgment," "inappropriate," "mistake of judgment," and as "poor judgment, and dishonorable behavior," and sentencing court was oddly deferential to defendant, for example, explaining that he need not be worried about being seen by public.
	McIntosh	911 A.2d 513	11/6/2006	PA Super	Sentence	Guidelines	A departure from the guidelines should not be based on the sentencing court's conclusion that the guideline range is either too harsh or too lenient, but rather, departure should be based upon the conclusion that the conduct underlying the crime in question differed from the conduct typically associated with that crime so as to render the suggested punishment inappropriate for the particularized facts of the case.
	Shugars	895 A.2d 1270	3/24/2006	PA Super	Sentence	Guidelines	Sentencing court's consideration of defendant's prior record as factor in sentencing him in aggravated range of guidelines was not an abuse of discretion; defendant's prior criminal record was not sole factor that was considered and utilized for sentencing in aggravated range, and prior conviction was merely just one factor among several that led to increased sentence.
	Shugars	895 A.2d 1270	3/24/2006	PA Super	Sentence	Guidelines	It is impermissible for a court to consider factors already included within the sentencing guidelines as the sole reason for increasing or decreasing a sentence to the aggravated or mitigated range; trial courts are permitted to use prior conviction history and other factors already included in the guidelines if they are used to supplement other extraneous sentencing information.

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	Shugars	895 A.2d 1270	3/24/2006	PA Super	Sentence	Guidelines	Sentencing court could consider status of defendant, convicted of aggravated indecent assault, as sexually violent predator as a factor in sentencing defendant in aggravated range of guidelines; behaviors, actions, and personal characteristics of convicted sexual offender were legal factors which court could consider when imposing sentence in aggravated range. 42 Pa.C.S.A. § 9795.4(b).
	Shugars	895 A.2d 1270	3/24/2006	PA Super	Sentence	Guidelines	Sentencing court could consider uncharged criminal conduct as a factor in sentencing defendant convicted of aggravated indecent assault in aggravated range of guidelines.
	Shugars	895 A.2d 1270	3/24/2006	PA Super	Sentence	Guidelines	Trial court gave proper consideration to protection of public, gravity of offense, and rehabilitative needs of defendant when it imposed sentence in aggravated range of guidelines on defendant convicted of aggravated indecent of assault; court thoroughly and thoughtfully explained that, in addition to caretaker relationship, it was concerned with defendant's prior criminal record, lack of response to therapy and concomitant failure to rehabilitate, his admission of molesting over 20 children, and his statement that he committed an act of bestiality. 42 Pa.C.S.A. § 9721(b).
	Kleinicke	895 A.2d 562	3/8/2006	PA Super	Sentence	Guidelines	Under a presumptive or mandatory sentencing guideline scheme, deviation from guidelines is only permitted under very narrow circumstances, but under fully voluntary or advisory guidelines, the sentencing court is accorded broad discretion as to whether to consider the guidelines.
	Kleinicke	895 A.2d 562	3/8/2006	PA Super	Sentence	Guidelines	Deviation from state sentencing guidelines is upheld if supported by reasons indicating that the deviation is not unreasonable in light of the statutory factors a sentencing court considers, which include the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant. 42 Pa.C.S.A. §§ 9721(b), 9781(c)(3).
	Young	895 A.2d 40	3/6/2006	PA Super	Sentence	Guidelines	Sentence of two, 36-month concurrent terms of probation imposed for identity theft and theft by deception, which was below mitigated range of six months, was abuse of discretion given crimes' offense gravity scores, defendant's prior record score of four, defendant's less than successful rehabilitation, defendant's use of her victim-cousin's identity, defendant's repeated disregard for family who raised her by repeatedly using identity of family members, and defendant's use of same cousin's identity after being arrested and pleading guilty to earlier offense involving victim's identity.

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	Young	895 A.2d 40	3/6/2006	PA Super	Sentence	Guidelines	In determining whether the sentence imposed was unreasonably lenient, appellate court must consider: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the opportunity of the court to observe the defendant and consider any pre-sentence investigation report; (3) the findings upon which the sentence was based; and (4) the sentencing guidelines.
	Hartle	894 A.2d 800	3/2/2006	PA Super	Sentence	Guidelines	Defendant who alleged that trial court erred by sentencing him to serve his prison time in a state correctional facility (a state sentence) as opposed to a county prison (a county sentence) raised a substantial question that the sentence was not appropriate under the Sentencing Code so as to allow appeal of discretionary aspects of sentence; defendant's driving under the influence (DUI) conviction was a level 2 offense, and Sentencing Guidelines recommended confinement in a county facility for level 2, repeat, non-violent offenders such as defendant. 204 Pa.Code § 303.1--303.18; 204 Pa.Code § 303.11(b)(2).
	Hartle	894 A.2d 800	3/2/2006	PA Super	Sentence	Guidelines	Trial court's sentencing defendant, who was convicted of driving under the influence (DUI), to serve his prison time in a state correctional facility, as opposed to a county prison, without enumerating its reasons for imposing a state sentence when a county sentence was recommended was contrary to the Sentencing Guidelines, and as such, case would be remanded for resentencing; defendant's DUI conviction was a level 2 offense, and the Sentencing Guidelines recommended confinement in a county facility for level 2, repeat, non-violent offenders such as defendant. 204 Pa.Code § 303.1--303.18; 204 Pa.Code § 303.11(b)(2).
	Hartle	894 A.2d 800	3/2/2006	PA Super	Sentence	Guidelines	Where the trial court has the discretion to impose a state sentence or a county sentence, the court must articulate its reasons for choosing state time when county time is recommended under the guidelines.
	Hartle	894 A.2d 800	3/2/2006	PA Super	Sentence	Guidelines	In cases where the Sentencing Guidelines recommend a county sentence, but the trial court has the option to impose either a county sentence or a state sentence, the court shall place the reasons for imposing a state sentence on the record.
	Ferguson	893 A.2d 735	2/1/2006	PA Super	Sentence	Guidelines	Sentencing Guidelines do not apply to sentences imposed following a revocation of probation.

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	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Guidelines	Trial court gave proper consideration to gravity of offense, need for public protection, and defendant's needs for rehabilitation when it imposed sentence in aggravated range on defendant convicted of endangering the welfare of children and reckless driving; court made reference to defendant's act of driving recklessly and putting himself and others at risk, made reference to its consideration of rehabilitative needs of defendant, made reference to its consideration of both gravity of offense in relation to impact on victim, defendant's son who was paraplegic as a result of the accident, and community, and court considered sentencing guidelines. 18 Pa.C.S.A. § 4304(b); 75 Pa.C.S.A. § 3736(a); 42 Pa.C.S.A. § 9721(b).
	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Guidelines	Aggravated range sentence imposed on defendant, convicted of endangering the welfare of children and reckless driving, was properly based on trial court's finding that not only did defendant commit crime, but he committed it in atypically objectionable way and it had atypically harmful result, rather than based on factor that constituted element of offense of endangering the welfare of children. 18 Pa.C.S.A. § 4304(b); 75 Pa.C.S.A. § 3736(a).
	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Guidelines	Record supported trial court's characterization of circumstances as "extreme," as would support its imposition of aggravated range sentence on defendant convicted of endangering the welfare of children and reckless driving; defendant was traveling approximately 112 miles per hour in a 55 miles-per-hour zone with his 11-year-old son in the car, which caused an accident that left his son with massive spinal damage, three fractures to his skull, a collapsed lung, pelvic injury, and broken bones in his chest and arms, and victim was a paraplegic as a result of the accident. 18 Pa.C.S.A. § 4304(b); 75 Pa.C.S.A. § 3736(a).
	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Guidelines	Trial court gave adequate consideration to mitigating circumstances when sentencing defendant, convicted of endangering the welfare of children and reckless driving, to a sentence in the aggravated range; court indicated that it was considering presentence investigation report, guidelines, driving record attached to guidelines, testimony of mother of victim, who was defendant's son and who was a paraplegic as a result of accident, testimony of victim, and comments of supporters for defendant, as well as comments by defendant and counsel. 18 Pa.C.S.A. § 4304(b); 75 Pa.C.S.A. § 3736(a).

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	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Guidelines	Trial court gave sufficient justification for imposing aggravated range sentence on defendant convicted of endangering the welfare of children and reckless driving; at sentencing, court made statement that sentence was in aggravated range of guidelines because of defendant's extreme indifference for consequences of his actions, and because of extreme nature of harm to victim, who was defendant's son and who was paraplegic as a result of the accident. 18 Pa.C.S.A. § 4304(b); 75 Pa.C.S.A. § 3736(a).
	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Guidelines	Trial court had discretion to commit defendant, convicted of endangering the welfare of children and reckless driving and sentenced in aggravated range to term of one year to three years in prison, to either Bureau of Corrections, which was agency responsible for administering state correctional system and its facilities, or county prison. 18 Pa.C.S.A. § 4304(b); 42 Pa.C.S.A. § 9762; 75 Pa.C.S.A. § 3736(a).
	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Guidelines	Trial court did not abuse its discretion by ordering defendant, convicted of endangering the welfare of children and reckless driving, to serve his sentence in a state correctional institution rather than in a county facility; court properly balanced seriousness of offense committed by defendant, in crashing his vehicle while traveling 112 miles per hour and rendering his son a paraplegic, impact crimes have had on victim, defendant's lack of remorse, and defendant's rehabilitative needs. 18 Pa.C.S.A. § 4304(b); 42 Pa.C.S.A. § 9762; 75 Pa.C.S.A. § 3736(a).
	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Guidelines	While a convicted individual has no constitutional or other inherent right to serve his imprisonment in any particular institution or type of institution, a court should consider the differences between the state and county prison environment in choosing to sentence an individual to a state rather than a county facility.
	Keiper	887 A.2d 317	11/21/2005	PA Super	Sentence	Guidelines	Defendant's prior conviction of burglary was not an element of charge of persons not to possess, use, manufacture, control, sell or transfer firearms, but was merely precondition to charging defendant with violation, and thus, trial court's use of prior conviction in calculating defendant's prior record score did not constitute "double counting" which violated Sentencing Guidelines. 18 Pa.C.S.A. § 6105; 204 Pa.Code § 303.8(g)(2).
	Mitchell	883 A.2d 1096	9/12/2005	PA Super	Sentence	Guidelines	The Pennsylvania sentencing guidelines are not mandatory, and thus do not prohibit any particular sentence within the statutory maximum. Purpose of the sentencing guidelines and the Sentencing Code is to rein in unfettered judicial discretion in sentencing.

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	Hyland	875 A.2d 1175	5/27/2005	PA Super	Sentence	Guidelines	Defendant's sentence would be vacated since sentencing court focused exclusively on defendant's failed attempt to blame vehicular accident on another individual, seriousness of the offense, and defendant's need for rehabilitation and court virtually ignored defendant's lack of any prior criminal record, his age, his personal characteristics, and his life situation, and as such, case would be remanded for re-sentencing so that the court might consider the mitigating circumstances of the case in balance with what it considered to be aggravating factors.
	Twitty	876 A.2d 433	5/25/2005	PA Super	Sentence	Guidelines	Sentencing court adequately indicated its consideration of applicable sentencing guidelines, in prosecution for rape, involuntary deviant sexual intercourse (IDSI), unlawful contact with minor, aggravated indecent assault, endangering the welfare of a child, and corrupting the morals of a minor; sentencing court understood sentencing guidelines, considered them, particularly noted its awareness that it was sentencing outside guidelines, and provided contemporaneous statement of its reasons for sentencing defendant outside guidelines. 18 Pa.C.S.A. §§ 3123, 3125, 3131, 4304, 6301, 6318.
	Twitty	876 A.2d 433	5/25/2005	PA Super	Sentence	Guidelines	Sentencing court provided sufficient statement of reasons for sentence, in prosecution for rape, involuntary deviant sexual intercourse (IDSI), unlawful contact with minor, aggravated indecent assault, endangering the welfare of a child, and corrupting the morals of a minor; prior to announcing sentence, in a lengthy statement, court noted harm done to victim, and effect crimes had on victim's family, particularly because defendant was father of victim's half-siblings, and defendant's complete lack of remorse, and thus, court more than adequately stated its reasons for sentencing defendant to statutory maximum. 18 Pa.C.S.A. §§ 3123, 3125, 3131, 4304, 6301, 6318.
	Kimbrough	872 A.2d 1244	4/19/2005	PA Super	Sentence	Guidelines	Trial court's error in applying earlier version of sentencing guidelines in sentencing for third-degree murder, rather than version of guidelines in effect at time of offense, was harmless; sentence imposed by trial court of 240 months to 480 months was legal sentence within standard range of correct guidelines, given defendant's prior-record score of three. 18 Pa.C.S.A. § 1102(d), 42 Pa.C.S.A. § 9756(b), 204 Pa.Code § 303.1(c).

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	Kimbrough	872 A.2d 1244	4/19/2005	PA Super	Sentence	Guidelines	Aggregate sentence of 260 months to 528 months for third-degree murder, voluntary manslaughter, and two counts of recklessly endangering another person was within trial court's discretion; trial court found defendant's assertions of remorse unconvincing and incredible, determined that defendant was extremely poor candidate for rehabilitation, considered all relevant factors and presentence report, set forth its reasons for imposing sentence beyond minimum aggravated range of sentencing guidelines, and fashioned appropriate and reasonable sentence.
	Johnson	873 A.2d 704	3/22/2005	PA Super	Sentence	Guidelines	Sentences of two consecutive terms of two and one-half to five years for driving under influence (DUI) were not excessive, even though sentences were beyond what was recommended in sentencing guidelines; defendant had been convicted of DUI more than 20 times, completely failed to rehabilitate, failed to take responsibility for his actions, failed to adhere to law requiring him not to drive drunk, and failed to adhere to law requiring him not to drive drunk, and trial court evaluated, among other things, circumstances of defendant's most recent DUI convictions, his character, danger he represented to community, and high levels of alcohol present in his blood. 18 Pa.C.S.A. § 1104(1); 75 Pa.C.S.A. § 3731(a)(1) (Repealed).
	Tirado	870 A.2d 362	3/3/2005	PA Super	Sentence	Guidelines	When there is an indication that the sentencing court understood the suggested sentencing range, the sentencing court may deviate from the sentencing guidelines to fashion a sentence which takes into account the protection of the public, the rehabilitative needs of the defendant, and the gravity of the particular offenses as it relates to the impact on the life of the victim and the community, so long as the court also states of record the factual basis and specific reasons which compelled him to deviate from the guideline range.
	Tirado	870 A.2d 362	3/3/2005	PA Super	Sentence	Guidelines	The sentencing guidelines are merely advisory and the sentencing court may sentence a defendant outside the guidelines as long as the sentencing court places its reasons for doing so on the record.
	Tirado	870 A.2d 362	3/3/2005	PA Super	Sentence	Guidelines	Sentences for burglary and aggravated assault upon a police officer were not unlawful; while the sentences were outside the sentencing guideline range, they were within the statutory limit, defendant had an extensive criminal history, and there was a need to protect the community from defendant. 18 Pa.C.S.A. §§ 1103(1), 2702(a)(3), 3502; 204 Pa.Code §§ 303.15, 303.16.

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	Rossetti	863 A.2d 1185	12/8/2004	PA Super	Sentence	Guidelines	Trial court's imposition of statutory maximum sentence for defendant's involuntary manslaughter conviction did not violate defendant's right to jury trial under <i>Blakely v. Washington</i> , since defendant, having committed offense when sentencing guidelines were not in place, was not subject to any particular sentence, meaning the trial court did not impose a sentence that was greater than what state law authorized on basis of jury verdict alone, and, even if trial court referenced certain facts not found by the jury, the indeterminate sentencing scheme applicable to defendant's case authorized a statutory maximum sentence, even without reference to those mentioned facts. U.S.C.A. Const.Amend. 6; 18 Pa.C.S.A. § 2504.
	Smith	863 A.2d 1172	12/7/2004	PA Super	Sentence	Guidelines	Sentence of 60-120 months, which was in aggravated range, for sexual assault was not excessive; victims were minors, defendant intimidated victims, and defendant abused confidences given to him by one of the victims in a time of crisis. 18 Pa.C.S.A. § 3124.1; 42 Pa.C.S.A. § 9721.
	Smith	863 A.2d 1172	12/7/2004	PA Super	Sentence	Guidelines	United States Supreme Court's <i>Blakely</i> decision, which invalidated a state's determinate sentencing guidelines, did not apply to Pennsylvania's indeterminate sentencing guidelines so long as enhanced minimum sentence was not beyond that authorized by jury verdict. U.S.C.A. Const.Amend. 6.
	Messmer	863 A.2d 567	12/1/2004	PA Super	Sentence	Guidelines	Upward departure sentence for first-degree misdemeanor driving under the influence (DUI) was not manifestly excessive or too severe a punishment; defendant received his first DUI 25 years earlier, the current charge was defendant's sixth DUI conviction, defendant denied that he had a drinking problem, and all of defendant's DUI convictions involved a blood alcohol concentration of more than two and one-half times the legal limit.
	Messmer	863 A.2d 567	12/1/2004	PA Super	Sentence	Guidelines	In imposing sentence, the record must demonstrate with clarity that the court considered the sentencing guidelines in a rational and systematic way and made a dispassionate decision to depart from them; it is not enough for the court to pay token lip service to the sentencing guidelines simply as a prerequisite to impose whatever sentence it may choose.

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	Bromley	862 A.2d 598	10/29/2004	PA Super	Sentence	Guidelines	The sentencing court adequately stated the reasons for imposing a sentence in the aggravated range for possession with intent to deliver; the court noted defendant's history of drug and alcohol abuse, his 16 year record of criminal activity, his previous sanction of fines, costs, and probation, the fact that defendant was arrested and bound over for trial on new possession with intent to deliver charges while the current charges were pending, and the need to protect the community from defendant's criminal activities.
	Bromley	862 A.2d 598	10/29/2004	PA Super	Sentence	Guidelines	Defendant failed to support his claim that the sentencing court based his sentence on an impermissible factor or bias, where defendant failed to point to any specific impermissible factor that was relied on by the sentencing court, and he produced no evidence that the sentencing court was biased.
	Monahan	860 A.2d 180	10/1/2004	PA Super	Sentence	Guidelines	In deciding whether to impose a sentence that exceeds the aggravated range of the guidelines, the focus should not be upon the seriousness, heinousness or egregiousness of the offense generally speaking, but, rather, upon how the present case deviates from what might be regarded as a typical or normal case of the offense under consideration.
	Whitmore	860 A.2d 1032	9/20/2004	PA Super	Sentence	Guidelines	Claim that sentencing court failed to state adequate reasons on record for sentence imposed presents substantial question that falls within scope of appellate review. Assertion that sentencing judge, in imposing sentence, relied on factors already included in defendant's prior record score raises substantial question which falls within scope of appellate review. Sentencing court must consider statutory sentencing guidelines, which were promulgated in order to address problems associated with disparity in sentencing. 204 Pa.Code §§ 303.1-303.18.
	Whitmore	860 A.2d 1032	9/20/2004	PA Super	Sentence	Guidelines	In imposing sentence, record must demonstrate with clarity that court considered sentencing guidelines in rational and systematic way, and made dispassionate decision to depart from them; it is not enough for court to pay "token lip service" to sentencing guidelines simply as prerequisite to impose whatever sentence it may choose. Unless particular facts of case in question are distinguishable from typical case of that same offense, sentence in standard range would be called for. Factors that are already used in statutory sentencing guidelines computations of length of sentence, including, inter alia, prior convictions, may not be used to justify aggravated sentence.

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	Whitmore	860 A.2d 1032	9/20/2004	PA Super	Sentence	Guidelines	Imposing standardized sentence on all drug offenders is manifest abuse of discretion; Commonwealth has long endorsed policy of indeterminate, individualized sentencing. Aggregate sentence of 10 to 20 years' imprisonment for conviction of possession of controlled substance, and possession of controlled substance with intent to deliver, which was statutory maximum sentence, was abuse of discretion, where there was nothing in record to indicate that defendant received individualized sentence tailored to him and attendant facts of his case. 204 Pa.Code §§ 303.1-303.18; 35 P.S. § 780-115(a).
	Fremd	860 A.2d 515	9/15/2004	PA Super	Sentence	Guidelines	Defendant's sentences for insurance fraud convictions fell within standard range indicated in sentencing guidelines, and thus rule that any fact other than prior conviction that increases penalty for crime beyond prescribed statutory maximum must be submitted to a jury was not implicated. U.S.C.A. Const.Amend. 6; 204 Pa.Code § 303.15.
	Fremd	860 A.2d 515	9/15/2004	PA Super	Sentence	Guidelines	Even though trial court stated that defendant convicted of first-time drug offenses was sentenced to same high "standard range" nine-month minimum sentence of incarceration in accordance with local policy, trial court imposed an individualized, and not an improper predetermined, sentence; court had benefit of presentence report and relied on sentencing guidelines, trial court recognized that guidelines did not dictate a single specific sentence, trial court stated desire to impose sentence fair to defendant, Commonwealth, and other defendants sentenced for similar crimes, sentences were less than high end of standard range under guidelines, no drug-related conviction sentences were imposed consecutively, and trial court thoroughly analyzed each of the justifiable purposes of punishment as they related directly to defendant.
	Dodge	859 A.2d 771	8/30/2004	PA Super	Sentence	Guidelines	While defendant's individual sentences were in standard ranges for each of his convictions of numerous property crimes, his sentences were consecutive, and due to consecutive nature of his sentences, defendant's aggregate sentence of 58 1/2 to 124 years was clearly unreasonable, and thus, defendant's sentence would be vacated and case would be remanded for re-sentencing; trial court imposed a minimum sentence of 52 years for 37 counts of receiving personal property, many of which involved property of little monetary value, court did not address rehabilitative needs of defendant, and minimum of total sentence meant that defendant would be in prison until age 100 1/2. 42 Pa.C.S.A. § 9781(c).

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	Hanson	856 A.2d 1254	8/23/2004	PA Super	Sentence	Guidelines	Trial court applied correct aggravated minimum sentence in sentencing defendant to 15 to 36 months' imprisonment for conviction for terroristic threats; offense carried offense gravity score of 3, defendant's prior record score was 3 at time of sentencing, and, although standard range sentence of restorative sanctions was less than 12 months imprisonment, designation of "less than 12 months" represented deliberate attempt to keep offender under control of Court of Common Pleas by giving maximum sentence of less than two years, but control over defendant by Court of Common Pleas was not matter of concern when aggravated sentence was appropriate. 18 Pa.C.S.A. § 2706; 204 Pa.Code §§ 303.11, 303.16.
	Hanson	856 A.2d 1254	8/23/2004	PA Super	Sentence	Guidelines	Trial court adequately apprised defendant of its rationale for imposing sentence in aggravated range for conviction for terroristic threats, and fact that not all such reasons appeared on corresponding sentencing form did not warrant reversal of sentence.
	Vega	850 A.2d 1277	5/27/2004	PA Super	Sentence	Guidelines	Sufficient evidence did not support upward departure sentence of seven to 14 years in prison, with a consecutive probationary term of six years, imposed upon defendant who pled guilty to voluntary manslaughter; trial court did not rely on defendant's character and prior history to support its upward deviation, and the single "fact" relied on by the sentencing court that specifically supported an upward deviation from the guidelines was that defendant supplied the gun used in the crime, but this "fact" was not entirely clear from the record. 42 Pa.C.S.A. § 9781(c, d).
	Vega	850 A.2d 1277	5/27/2004	PA Super	Sentence	Guidelines	The inherent seriousness of the offense is taken into consideration in the sentencing guideline recommendations. Unless the particular facts of a case are distinguishable from the typical case of that same offense, a sentence in the standard range would be called for under sentencing guidelines.
	Caraballo	848 A.2d 1018	4/26/2004	PA Super	Sentence	Guidelines	Trial judges do not have unfettered discretion in sentencing. Sentencing guidelines were promulgated so that the length of the sentence would be more standardized across the state and between judges; this was both to increase sentences that were too low and reduce sentences that were too high. It is not enough for trial court to state any reason for deviating from sentencing guidelines; the reason for a deviation must be reasonable. It is necessary for sentencing judge to consider mitigating as well as aggravating circumstances.

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	Caraballo	848 A.2d 1018	4/26/2004	PA Super	Sentence	Guidelines	In justifying deviation from sentencing guidelines, it is not enough for trial court to say that the crime was horrendous and had a severe effect on the victim; it is necessary for the sentencing judge to start with the guideline range, and say why the particular crime is more severe than the normal crime of that type. In considering defendant's background for purposes of justifying deviation from sentencing guidelines, it is not enough for trial court to say defendant has a bad background; it is necessary to say why defendant's background is different than another defendant with the same prior record score.
	Caraballo	848 A.2d 1018	4/26/2004	PA Super	Sentence	Guidelines	Trial court failed to establish that maximum, consecutive sentences totaling five to ten years' imprisonment were warranted for defendant convicted of two counts of attempting to lure a child into a motor vehicle; trial court focused solely on charges and what "could" have happened in the event, child was a teenager, defendant did not physically intimidate or even make statements to convince girl to enter his car, defendant's criminal history involved only an unrelated offense that occurred over ten years earlier, and defendant was employed, married, and the father of young children.
	Walls	846 A.2d 152	3/23/2004	PA Super	Sentence	Guidelines	A sentencing court cannot simply acknowledge an awareness of or an appreciation of the sentencing guideline ranges, before imposing a sentence in excess of the standard range; the court must faithfully adhere to the guidelines, which dictate that there exists sufficient justification for departing from the guidelines.
	Walls	846 A.2d 152	3/23/2004	PA Super	Sentence	Guidelines	A sentencing court cannot simply acknowledge an awareness of or an appreciation of the sentencing guideline ranges, before imposing a sentence in excess of the standard range; the court must faithfully adhere to the guidelines, which dictate that there exists sufficient justification for departing from the guidelines.
	Walls	846 A.2d 152	3/23/2004	PA Super	Sentence	Guidelines	When a court evidences an established practice of treating all defendants convicted of certain crimes in a certain fashion, most notably, imposing the maximum sentence allowed by law, it violates its obligation to impose an individualized sentence.

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	Walls	846 A.2d 152	3/23/2004	PA Super	Sentence	Guidelines	Imposition of statutory maximum sentences, under sentencing guidelines, for convictions for rape of victim less than 13 years old and involuntary deviate sexual intercourse (IDSI) with victim less than 13 years old, was not justified by sentencing court's findings; sentencing court apparently failed to individualize the sentences to the case and to the defendant and instead seemingly followed an agenda against sex offenders that involved imposing maximum sentences allowed by law for sex offenses against children regardless of individual circumstances, and purportedly individualized factors relied on by sentencing court, such as defendant's position of trust and victim's tender age, were not uncommon circumstances of rape and IDSI offenses, though victim's age of 7 years could be considered as aggravating circumstance at sentencing.
	Wise	848 A.2d 932	3/22/2004	PA Super	Sentence	Guidelines	Sentencing court abused its discretion in utilizing 13-year-old conviction for driving under the influence (DUI) in imposing sentence in aggravated range following subsequent DUI conviction, where sentencing guidelines provided for minimum sentence upon conviction of person with no prior convictions within previous seven years and defendant had no other DUI convictions. 75 Pa.C.S.A. § 3731 (Repealed)
	Reynolds	835 A.2d 720	10/27/2003	PA Super	Sentence	Guidelines	Defendant's use of a gun to threaten two unarmed men who posed no risk of deadly harm vitiated defendant's claim of self-defense, and accordingly, self-defense could not have reasonably been considered as a mitigating factor at sentencing.
	Miller	835 A.2d 377	10/23/2003	PA Super	Sentence	Guidelines	Trial court was entitled to sentence defendant in the aggravated range of the sentencing guidelines on the charge of corruption of minors, where the defendant's victim was only seven years old and defendant occupied a position of trust with respect to the victim.
	Anderson	830 A.2d 1013	8/7/2003	PA Super	Sentence	Guidelines	Although sentencing court must consider Sentencing Guidelines, it is not obligated to impose sentence deemed appropriate under Sentencing Guidelines. Trial court cannot justly sentence defendant unless it possesses sufficient and accurate information about circumstances of the offense and character of defendant to formulate its judgment. Sentencing court must state reasons for sentence on the record; as long as those reasons demonstrate that court weighed Sentencing Guidelines with facts of crime and defendant's character in meaningful fashion, sentence should not be disturbed.
	Simpson	829 A.2d 334	7/11/2003	PA Super	Sentence	Guidelines	It is impermissible for a court to consider factors already included within the sentencing guidelines as the sole reason for increasing or decreasing a sentence to the aggravated or mitigated range

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	Mouzon	828 A.2d 1126	7/1/2003	PA Super	Sentence	Guidelines	Trial court did not abuse its discretion in formulating an upward departure sentence for defendant convicted of eight counts of robbery; sentencing court provided sufficient explanation for deviating from guideline ranges in setting defendant's sentence, since sentencing court set sentence after focusing on public's need for protection, gravity of defendant's offenses as related to impact on victims and community, and defendant's rehabilitation, and thus, factual basis and specific reasons compelling court to deviate from guideline range were made part of record.
	Mouzon	828 A.2d 1126	7/1/2003	PA Super	Sentence	Guidelines	In setting sentence, a court has discretion not only to deviate from guideline ranges, but also to run the sentence concurrently with or consecutively to other sentences being imposed.
	Felmlie	828 A.2d 1105	6/20/2003	PA Super	Sentence	Guidelines	Aggravated range sentence of 12 to 24 months' incarceration was appropriate for defendant who pled guilty to fleeing or attempting to elude a police officer, even though defendant had finished high school, was trying to go to college, and was employed, where defendant led police officer on dangerous car chase at night and in the woods, endangering officer and defendant's passenger, defendant was on parole at time of offense, defendant had two juvenile adjudications for burglary and multiple summary offenses, many dealing with reckless conduct with a motor vehicle, and aggravated sentence offered defendant the beneficial opportunity of going to boot camp.
	Gooding	818 A.2d 546	2/25/2003	PA Super	Sentence	Guidelines	Trial court satisfied its duty to make record of reasons for making upward departure from sentencing guidelines when it imposed maximum sentences for murder 3 and kidnapping, and made sentences consecutive; court stated it could not find any mitigating circumstances, defendant was poor candidate for rehabilitation, defendant played key role in victim's murder, and trial court considered victim's terror as he was driven to what he knew would be his execution. 42/9721(b).
	McNabb	819 A.2d 54	2/12/2003	PA Super	Sentence	Guidelines	It is permissible for sentencing court to consider defendant's probationary status at time of offense, for purpose of determining whether to impose aggravated sentence. Factors already used in sentencing guideline computations, including prior convictions, may not be used to justify aggravated sentence.
	Styles	812 A.2d 1277	12/4/2002	PA Super	Sentence	Guidelines	Trial court failed to adequately explain its reason for deviation from sentencing guidelines, and thus, defendant was entitled to have his sentence vacated and remanded for sentencing; trial court sentenced defendant to successive maximum sentences without reference to sentencing guidelines.

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	Griffin	804 A.2d 1	6/24/2002	PA Super	Sentence	Guidelines	The trial court has rendered a proper contemporaneous statement indicating the reasons for deviating from the guidelines under the sentencing code so long as the record demonstrates with clarity that the court considered the sentencing guidelines in a rational and systematic way and made a dispassionate decision to depart from them.
	Griffin	804 A.2d 1	6/24/2002	PA Super	Sentence	Guidelines	Trial court's failure to recite sentencing ranges verbatim in open court was insufficient to rebut presumption that trial court was aware of, understood, and considered guidelines before imposing sentence.
	L.N.	787 A.2d 1064	12/12/2001	PA Super	Sentence	Guidelines	Before challenge to judgement of sentence will be heard on merits, defendant must demonstrate there is substantial question that sentence imposed is inappropriate under sentencing guidelines; substantial question will be found where defendant advances colorable argument that trial court's actions were inconsistent with specific provision of sentencing code or contrary to fundamental norms underlying sentencing process.
	Kenner	784 A.2d 808	10/12/2001	PA Super	Sentence	Guidelines	Trial court abused its discretion by imposing unreasonably lenient sentence of 11.5-23 months of imprisonment following guilty plea to aggravated assault without adequately explaining reasons for departing from sentencing guidelines; although defendant was 23 years old and had no prior record, defendant stabbed victim repeatedly with knife causing injuries and victim was not charged with any crime. In exercising its discretion, sentencing court may deviate from guidelines, if necessary, so long as court also states of record factual basis and specific reasons which compelled deviation from guidelines.
	Eby	784 A.2d 204	10/4/2001	PA Super	Sentence	Guidelines	Court of Common Pleas abused its discretion when it imposed a term of imprisonment of 6-18 months for defendant's first offense of possession with intent to deliver marijuana; the sentence was in excess of the aggravated range of the sentencing guidelines, and court failed to consider the individual character or circumstances of defendant..
	Eby	784 A.2d 204	10/4/2001	PA Super	Sentence	Guidelines	The use of the sentencing guidelines is not voluntary; courts must apply the guidelines unless the circumstances of the individual case requires deviation, and, in that situation where deviation is required, the court must articulate sufficient reasons to justify this conclusion. 42/9721.

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	Ritchey	779 A.2d 1183	7/2/2001	PA Super	Sentence	Guidelines	Where a sentence deviates from the guidelines, the court is required to provide a contemporaneous written statement of its reasons for doing so; this requirement is satisfied when the court states its reasons for the sentence on the record and in the defendant's presence. Where the court deviates substantially from the guidelines, it is especially important that the court consider all factors relevant to the determination of a proper sentence.
	Reeves	778 A.2d 691	6/5/2001	PA Super	Sentence	Guidelines	Defendant's claim that sentencing court failed to state its reasons on the record for sentencing him in the aggravated range was a challenge to the discretionary aspects of sentencing, and thus, defendant's failure to raise the issue either during sentencing hearing or in his post-sentence motion waived the claim. Rule 1410.
	Coolbaugh	770 A.2d 788	3/9/2001	PA Super	Sentence	Guidelines	Although the sentencing court need not explain deviation from the guidelines where they do not apply, the court is required to state on the record the reasons for the sentence imposed. (Rule 1409c2)
	Coolbaugh	770 A.2d 788	3/9/2001	PA Super	Sentence	Guidelines	Sentencing Guidelines do not apply to sentences imposed as a result of probation revocations; upon sentencing following a revocation of probation, the trial court is limited only by the maximum sentence that it could have imposed originally at the time of the probationary sentence.
	Burns	765 A.2d 1144	12/20/2000	PA Super	Sentence	Guidelines	Sentencing court, which considered mitigating factors in review of pre-sentencing report, was warranted in imposing sentence in aggravated range following defendant's conviction for offense of attempted voluntary manslaughter, where aggravating factors included victim's permanent and visible injury of 105 stitches to neck and face, from attack by repeat criminal nearly twice her size.
	Hill	761 A.2d 1188	10/19/2000	PA Super	Sentence	Guidelines	Trial judge who sentences outside the guidelines must demonstrate on the record his awareness of the sentencing guidelines, and must state on the record his reasons for departure.
	Hill	761 A.2d 1188	10/19/2000	PA Super	Sentence	Guidelines	Trial court's inquiry of pre-sentencing factors, in lieu of a pre-sentence investigation report, was insufficient to impose sentence outside of guidelines, where defendant was convicted of simple and aggravated assaults, and trial court failed to examine defendant's social and family history beyond counsel's statement that defendant had grandson, failed to investigate defendant's employment background, failed to discuss defendant's potential for vocational training, and failed to consider defendant's mental status, interests, activities, residence history, religious affiliations, and prior participation in any social programs.

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	Johnson	758 A.2d 1214	8/23/2000	PA Super	Sentence	Guidelines	Exception to calculation of record score under Sentencing Guidelines for prior conviction imposed concurrent to another sentence or served concurrent to another sentence, did not apply to defendant who pled guilty to failing to register as a sex offender and failing to verify his address, where defendant's prior sentence for rape conviction was not imposed concurrent to subsequent sentences for failing to register.
	Johnson	758 A.2d 1214	8/23/2000	PA Super	Sentence	Guidelines	Defendant's prior rape conviction was not an element of his subsequent offenses of failing to register as a sex offender and failing to verify his address, and thus the prior rape conviction could be used to enhance sentence on subsequent convictions; though the prior rape conviction was a precondition, it was not part of the conduct that resulted in defendant's current convictions.
	Hernandez	755 A.2d 1	5/22/2000	PA Super	Sentence	Guidelines	Fact that defendant repeatedly hit victim on head with handgun and kicked him while shouting profanities and demanding and seizing his valuables, and caused bodily injury to victim and psychological injuries to victim and to his wife who witnessed the event were sufficient reasons for imposing sentences for robbery and aggravated assault that greatly exceeded the aggravated range of the sentencing guidelines.
	Hernandez	755 A.2d 1	5/22/2000	PA Super	Sentence	Guidelines	Use of profanity during commission of crime could be considered aggravating circumstance for sentencing purposes, but sentencing outside of aggravated range of guidelines would not be justified if that were the lone aggravating factor.
	Ray	751 A.2d 233	4/20/2000	PA Super	Sentence	Guidelines	Under 1991 guidelines, trial court improperly attributed prior record score to both murder and VUFA convictions, where convictions were part of the same transaction.
	Pennington	751 A.2d 212	4/19/2000	PA Super	Sentence	Guidelines	Offense gravity score of 11, for the infliction of SBI, was properly assigned to calculate sentence for robbery conviction, though defendant was acquitted of murder; death resulting from the shooting could be considered, regardless of who among defendant and his accomplices fired the shot, where defendant had knowledge of the existence of the weapon, and defendant had ready access to it during the crime.
	Goggins	748 A.2d 721	3/9/2000	PA Super	Sentence	Guidelines	A trial court's exercise of discretionary power in sentencing requires both sufficient information and adherence to applicable rules of court. When fashioning a sentence, a sentencing court may not 'double count' factors already taken into account in the sentencing guidelines.

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Hess	745 A.2d 29	1/12/2000	PA Super	Sentence	Guidelines	In exercising its discretion, court may deviate from sentencing guidelines, if necessary, to fashion a sentence which takes into account the protection of the public, rehabilitative needs of the defendant, and gravity of the particular offense as it relates to impact on the life of the victim and community, so long as he also states of record the factual basis and specific reasons which compelled him to deviate from the guideline range.
Davis	737 A.2d 792	8/25/1999	PA Super	Sentence	Guidelines	Trial court did not abuse discretion by considering impact of defendant's behavior on his children when imposing sentence outside guidelines for stalking conviction arising from defendant's stalking of his ex-wife and her new husband.
Pittman	737 A.2d 272	7/29/1999	PA Super	Sentence	Guidelines	Defendant was not denied due process to extent guidelines included a 20-year sentence at the top end of the minimum term of a standard sentence for 3rd degree murder regardless of the prior record score; the guidelines were not mandatory.
Guth	735 A.2d 709	6/24/1999	PA Super	Sentence	Guidelines	Trial court's imposition of sentence of 4-20 years' imprisonment for attempted burglary, which was above the aggravated range outlined in sentencing code, was not abuse of discretion, where court considered gravity of offense.
Wellor	731 A.2d 152	5/17/1999	PA Super	Sentence	Guidelines	Trial court properly weighed all of the relevant factors and provided adequate reasons on the record for sentencing defendant... in the aggravated range; court considered pre-sentence investigation report which made reference to defendant's numerous prior convictions.
Sims	728 A.2d 357	3/10/1999	PA Super	Sentence	Guidelines	Factors relied upon by trial court, including statement of victim that was the product of intimidation, defendant's boilerplate statements of regret, fact that victims did not require medical attention, and fact that defendant had record that reflected a history of other felonies, do not warrant a sentence for assault below mitigated range of sentencing guidelines.
Rodda	723 A.2d 212	1/7/1999	PA Super	Sentence	Guidelines	<i>En banc.</i> When imposing a sentence, the court need not recite the numeric ranges of sentences within the guidelines so long as the record demonstrates the court's recognition of the applicable range and the deviation of the sentence from that range.
Archer	722 A.2d 203	12/16/1998	PA Super	Sentence	Guidelines	<i>En banc.</i> Clarifying inconsistent panel decisions regarding the erroneous application of the offense gravity score, the Court held that any misapplication of the Sentencing Guidelines constitutes a challenge to the discretionary aspects of sentencing rather

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	Shaffer	722 A.2d 195	12/14/1998	PA Super	Sentence	Guidelines	Sentencing guidelines are merely advisory, and court may, in its discretion, sentence outside guidelines. When trial court deviates from sentencing guidelines, court must state its reasons for deviation on record at time of sentencing or in contemporaneous
	Burkholder	719 A.2d 346	10/7/1998	PA Super	Sentence	Guidelines	Trial court, at the time of sentencing for two third-degree murder convictions, stated the revised maximum penalty under the statute, indicated departure above the applicable [4th Edition] guidelines, and further indicated that it considered the 5th Edition
	Burkholder	719 A.2d 346	10/7/1998	PA Super	Sentence	Guidelines	Judge who exceeds sentencing guidelines satisfies requirement of providing a contemporaneous written statement of the reason or reasons for such deviation when the judge states his reasons for the sentence on the record and in the defendant's presence.
	Burkholder	719 A.2d 346	10/7/1998	PA Super	Sentence	Guidelines	Trial court's imposition of two consecutive sentences of 17-35 years' imprisonment for two counts of third-degree murder related to DUI, which exceeded the standard range in the sentencing guidelines, was not abuse of discretion.
	Andrews	720 A.2d 764	10/5/1998	PA Super	Sentence	Guidelines	When relevant sentencing factors have not been incorporated into the computation of the standard minimum range, such factors may be considered for aggravated, mitigated or departure sentence; court justified in considering prior record where PRS did not e
	Harris	719 A.2d 1049	10/5/1998	PA Super	Sentence	Guidelines	In case where three conviction offenses merge for sentencing purposes, departure from guidelines cannot be premised on 'multiple concurrent sentences' as stated on guideline sheet and record, as only one sentence should have been imposed. Sentence vacate
	Gibson	716 A.2d 1275	8/3/1998	PA Super	Sentence	Guidelines	10-20 year sentence imposed for conviction for PWID and conspiracy, which was outside guidelines, was appropriate where court indicated awareness of correct ranges and gave extensive and compelling reasons for decision to depart.
	Smith	710 A.2d 1179	4/15/1998	PA Super	Sentence	Guidelines	Sentencing court errs if it relied solely on prior juvenile adjudication as justification for imposing a sentence in the aggravated range of the guidelines; however, court may note aspect of prior adjudication, such as involvement of a firearm when the cu
	Philipp	709 A.2d 920	4/14/1998	PA Super	Sentence	Guidelines	Sentencing Guidelines do not apply to sentences imposed as a result of intermediate punishment revocation.
	Mountain	711 A.2d 473	4/3/1998	PA Super	Sentence	Guidelines	Defendant's sentence for his convictions of rape, indecent assault, unlawful restraint, and simple assault was within aggravated range of sentencing guidelines for his offenses, and, therefore, was not excessive or unreasonable.
	Carmichael	707 A.2d 1159	3/3/1998	PA Super	Sentence	Guidelines	Defendant's sentence for aggravated assaults that did not result in bodily injury exceeded guidelines range; court may deviate from the guidelines after placing its reasons for doing so on the record.

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	Carmichael	707 A.2d 1159	3/3/1998	PA Super	Sentence	Guidelines	DWE, under guidelines in effect at the time, should have only been applied once, rather than to each conviction; although four victims, shootings arose from single criminal transaction.
	Wagner	702 A.2d 1084	11/13/1997	PA Super	Sentence	Guidelines	Sentencing court abused its discretion in imposing the statutory maximum sentences on each respective criminal count where the court failed to make a legally sufficient contemporaneous statement on the record and where the court advanced reasons for imposing a sentence in the aggravated range and then imposed sentence outside guidelines.
	Greene	702 A.2d 547	9/30/1997	PA Super	Sentence	Guidelines	DWE only applicable when weapon was on defendant's person or within his immediate physical. Improperly applied when accomplice used weapon.
	Benchoff	700 A.2d 1289	8/19/1997	PA Super	Sentence	Guidelines	Trial court adequately stated on record its reasons for deviating from sentencing guidelines when sentencing defendant on interference with child custody counts; court stressed that defendant had violated his visitation rights and kidnapped his children.
	Ellis	700 A.2d 948	7/30/1997	PA Super	Sentence	Guidelines	Sentencing court properly applied defendant's prior record score of three to his conviction for aggravated assault rather than to his conviction for second-degree murder, as second-degree murder carries statutorily mandated life sentence.
	Ellis	700 A.2d 948	7/30/1997	PA Super	Sentence	Guidelines	Sentencing Guidelines' list of ranges within which court may sentence for particular crimes are not mandatory, and courts will take into account various other factors when sentencing. PRS is aggravating factor which increases particular crime's suggested
	Ellis	700 A.2d 948	7/30/1997	PA Super	Sentence	Guidelines	Circumstantial evidence may prove possession of deadly weapon so as to permit sentence enhancement. Preponderance of evidence standard of proof governs application of deadly weapon enhancement.
	Ellis	700 A.2d 948	7/30/1997	PA Super	Sentence	Guidelines	In applying deadly weapon sentence enhancement, it is irrelevant that defendant did not possess gun throughout duration of criminal activity where there is clear testimony that he possessed gun at initiation of crime.
	Rivera	696 A.2d 223	7/1/1997	PA Super	Sentence	Guidelines	Trial court properly sentenced defendant for false statements regarding welfare in accordance with preamended guidelines; elements of crime were completed before effective date of amendments, when defendant received public assistance without disclosing to
	Coss	695 A.2d 831	6/9/1997	PA Super	Sentence	Guidelines	Statement by trial court that it relied on presentence report in sentencing defendant convicted of aggravated assault and simple assault to highest sentence possible under standard range, and that it considered total confinement necessary.

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	Coss	695 A.2d 831	6/9/1997	PA Super	Sentence	Guidelines	For purpose of determining whether defendant's prior adjudication of delinquency was includable in calculation of his prior offense score for sentencing purposes, defendant's knowing admission to commission of felony before juvenile court required.
	Adams	694 A.2d 353	6/2/1997	PA Super	Sentence	Guidelines	If court sentence is within guidelines' suggested range, there is no need for sentencing court to otherwise manifest on record that it considered guidelines; in such case, consideration of guidelines is presumed to be evidenced by actual sentence imposed.
	Adams	694 A.2d 353	6/2/1997	PA Super	Sentence	Guidelines	Conviction for unauthorized use of an automobile arose out of same transaction as receiving stolen property; defendant's prior record score is not included in calculating defendant's sentence for unauthorized use of an automobile.
	Oliver	693 A.2d 1342	5/7/1997	PA Super	Sentence	Guidelines	Trial court's statement of reasons was adequate to support sentence of two to four years imprisonment for three counts of furnishing alcohol to minors and two counts of corrupting the morals of minors; reasons included that victims did not act to facilitate
	Cappellini	690 A.2d 1220	3/10/1997	PA Super	Sentence	Guidelines	Trial court did not err in refusing to apply sentencing guidelines where sentence is imposed as a result of probation or parole violations. Fact that defendant's probation was without verdict did not change the outcome.
	Bowersox	690 A.2d 279	2/18/1997	PA Super	Sentence	Guidelines	Trial court erred in sentencing in aggravated range when premised exclusively on defendant's false trial testimony; court may consider lying only as one factor among many bearing on sentencing, not exclusive reason [Com v Thurmond, 407 A.2d 1357, Super'79
	Maneval	688 A.2d 1198	1/15/1997	PA Super	Sentence	Guidelines	Defendant was properly sentenced under sentencing guidelines in effect on the date of the offense, even though amended guidelines that became effective 12 days after offense date provided lower standard minimum range.
	Gessa	685 A.2d 1042	8/21/1996	PA Super	Sentence	Guidelines	MEMORANDUM: Where defendant engaged continuing course of conduct, specifically welfare fraud both before and after 1994 guideline revisions, since all elements of the crime were satisfied on or about February 4, 1994, prior guidelines apply.
	Henry	681 A.2d 791	7/23/1996	PA Super	Sentence	Guidelines	Based on Com. v. McMullen [530 A.2d 450, Pa.Super 1987), when sentencing court not cognizant of correct guideline ranges before imposing sentence, sentence must be vacated; in case where wrong guidelines are used or erroneous calculation, sentence vacated.
	Gillam	685 A.2d 208	6/17/1996	PA Super	Sentence	Guidelines	MEMORANDUM: Where trial court reviewed and considered all evidence and factors in the Guidelines, and stated reasons for deviating, no error in sentencing to statutory max. outside guidelines or imposing consecutive sentences; not excessive or abuse of d

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	Johnson	666 A.2d 690	10/16/1995	PA Super	Sentence	Guidelines	Where the sentencing judge stated on the record that he intended to sentence defendant within the standard range, but sentenced outside guidelines, adequate contemporaneous statement required.
	Childs	664 A.2d 994	8/10/1995	PA Super	Sentence	Guidelines	While recognizing 'strident standard of review' by Superior court regarding discretionary aspects of sentencing, non-confinement was unreasonable based on facts presented and was an abuse of discretion where mitigated range called for 25-33 months.
	Williams	660 A.2d 614	6/15/1995	PA Super	Sentence	Guidelines	For a 1983 offense and a 1985 sentencing which included deadly weapon enhancement, the Sessoms decision nullifying guidelines application only applies if issue of appeal properly preserved at all stages of proceedings, including trial court.
	Gause	659 A.2d 1014	5/24/1995	PA Super	Sentence	Guidelines	Superior court refused to uphold a sentence where the sentencing judge, having the opinion that the guidelines did not contemplate the type of conduct involved, had disregarded them altogether.
	Byrd	657 A.2d 961	4/11/1995	PA Super	Sentence	Guidelines	Defendant sentenced outside guidelines was entitled to be informed by the court of permissible ranges, of the fact that he was sentenced outside guidelines, and the reason for deviating from guidelines. Discretionary aspects not appealable.
	Stepp	652 A.2d 922	1/6/1995	PA Super	Sentence	Guidelines	Burglary of structure adapted for overnight accommodation with person present includes burglary where someone enters while perpetrator is still inside.
	Lawson	650 A.2d 876	10/7/1994	PA Super	Sentence	Guidelines	A sentence outside of the guidelines with reasons provided is not an abuse of discretion.
	Gaddis	639 A.2d 462	6/16/1994	PA Super	Sentence	Guidelines	Sentence of 235-470 years for more than 150 counts of abusive/sexual crimes is not manifestly excessive; does not exceed the statutory limits nor violate the guidelines. No substantial question for review. Fine must take into account ability to pay.
	Canfield	639 A.2d 46	6/16/1994	PA Super	Sentence	Guidelines	Trial court's failure to state for the record the applicable guideline ranges was not sufficient grounds for remand where evidence found that they were considered. Caution to trial court to articulate ranges and reasons in future.
	Rivera	637 A.2d 1015	1/24/1994	PA Super	Sentence	Guidelines	Allegation that sentencing court failed to consider or did not adequately consider factors does not raise a substantial question that the sentence imposed was in fact appropriate. Appellate court will not substitute its judgment for that of lower court.
	Fries	523 A.2d 1134	2/9/1987	PA Super	Sentence	Guidelines	Transaction: crime or crimes which were committed by defendant 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; not separated by law abiding behavior.

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	White	491 A.2d 252	4/4/1985	PA Super	Sentence	Guidelines	A sentence will not be disturbed by an appellate court absent manifest abuse; a sentence must either exceed the statutory limits or be manifestly excessive to constitute an abuse of discretion.
Booker	U.S.	[USSC Docket # 04-1040]	1/12/2005	US	Sentence	Guidelines	Because federal sentencing guidelines are binding on all judges, and departures are unavailable in most cases because the Commission will have adequately taken all relevant factors into account, the judge is legally bound to impose a sentence within the guidelines range. Because the guidelines include consideration of factors not considered by the jury, but instead found by the judge by a preponderance of the evidence, as in <i>Blakely</i> , "the jury's verdict alone does not authorize the sentence." The court held that the sentence violated the Sixth Amendment and instructed the district court either to sentence Booker within the sentencing range supported by the jury's findings or to hold a separate sentencing hearing before a jury.
Blakely	Washington	124 S.Ct. 2531	6/24/2004	US	Sentence	Guidelines	The "statutory maximum" for Apprendi purposes is the maximum sentence a judge may impose solely on the basis of the facts reflected in the jury verdict or admitted by the defendant, not the maximum sentence a judge may impose after finding additional facts. A sentencing judge exceeds his proper authority when he inflicts punishment that the jury's verdict alone does not allow, as the jury has not found all the facts which the law makes essential to the punishment. Indeterminate sentencing does not infringe on the province of the jury. A defendant may waive his Apprendi rights.
Apprendi	New Jersey	530 US 466	6/26/2000	US	Sentence	Guidelines	Judge's role in sentencing is constrained at its outer limits by facts alleged in indictment and found by jury. Other than the fact of prior conviction, any fact that increases penalty for crime beyond prescribed statutory maximum must be submitted to jury, and proved beyond reasonable doubt. Relevant inquiry in determining whether finding is essential element of offense which must be decided by jury beyond reasonable doubt is one not of form, but of effect, namely whether required finding exposes defendant to greater punishment than that authorized by jury's guilty verdict.
Dunn	Colleran	247 F.3d 450	4/20/2001	US/3rd	Sentence	Guidelines	The standard range designated in the sentencing guidelines is the standard range for the minimum sentence.

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	Diamond	945 A.2d 252	3/20/2008	PA Super	Sentence	Guidelines	Trial court lacked discretion to ignore prior, 48-year-old burglary conviction in calculating defendant's prior history score or to disregard application of deadly weapon enhancement, in sentencing for aggravated assault and related offenses. 204 Pa.Code §§ 303.4, 303.8(f), 303.10(2)(i).
	Diamond	945 A.2d 252	3/20/2008	PA Super	Sentence	Guidelines	Neither the Sentencing Code nor the sentencing guidelines place any time limits on offenses to be included in the prior record score, as such criminal history is relevant to sentencing.
	Yuhasz	923 A.2d 1111	5/31/2007	PA	Constitutionality	Guidelines	Sentence of 24 to 60 months in prison imposed upon defendant, following negotiated guilty plea to one count of statutory sexual assault, pursuant to Pennsylvania's indeterminate sentencing scheme, which was within the statutory maximum but exceeded the aggravated range of the sentencing guidelines, did not violate the Sixth Amendment as discussed in Blakely; fact that the trial court considered material not admitted in defendant's plea in departing from the sentencing guidelines was constitutionally irrelevant. U.S.C.A. Const.Amend. 6.