PENNSYLVANIA COMMISSION ON SENTENCING — 814.863.2797 — HTTP://PCS.LA.PSU.EDU

Sexual Offenses in Pennsylvania (2004 Sentences)

Offense Label	All Offenses	Most Serious Sexual Offense in the Judicial Proceeding								
			State Incarceration				County Incarceration		Other Sanction	
	No.	No.	No.	%	Ave. Min Sent. (Mo.)	Ave. Time Served (Mo.)	No.	%	No.	%
Rape - ALL	**222**	**83**	76	91.6%	74.2	**127.2**	7	8.4%	0	0.0%
Victim < 13 years	6	4	4	100.0%	69.0		0	0.0%	0	0.0%
Other victims	216	79	72	91.1%	74.5		7	8.9%	0	0.0%
IDSI - ALL	**310**	**181**	163	90.1%	62.9	**106.8**	14	7.7%	4	2.2%
Victim < 13 years	17	8	7	87.5%	62.6		0	0.0%	1	12.5%
Other victims	293	173	156	90.2%	62.9		14	8.1%	3	1.7%
Agg Indecent Assault - ALL	**278**	**129**	95	73.6%	29.8	**72.0**	30	23.3%	4	3.1%
Of a child	4	2	2	100.0%	33.0		0	0.0%	0	0.0%
Other victims	274	127	93	73.2%	29.8		30	23.6%	4	3.1%
Indecent Assault - ALL	**1015**	**622**	86	13.8%	14.0	**57.6**	267	42.9%	269	43.2%
Victim < 13 years	339	173	42	24.3%	15.7		81	46.8%	50	28.9%
Other victims	676	449	44	9.8%	12.4		186	41.4%	219	48.8%
Sexual Assault	**86**	**64**	40	62.5%	45.4	**54.0**	17	26.6%	7	10.9%
Statutory Sexual Assault	**480**	**329**	86	26.1%	19.1	**43.2**	188	57.1%	55	16.7%
Incest	**36**	**8**	3	37.5%	28.0	**84.0**	5	62.5%	0	0.0%
Total	**2427**	**1416**	549	38.8%	42.8	**--NA--**	528	37.3%	339	23.9%

Mandatory Minimum Statutes: Minimum Sentence Requirement if Applicable (in Months)

	2nd-Crime of Violence	3rd-Crime of Violence	3rd-Crime of Violence	Public Transportation	Impersonate Law Officer	Victim over 60 years old	Victim under 13 years old	Victim under 13 years old	Victim under 16 years old	Visibly Possessed Firearm	Prohibited Bullets
Rape[1,2]	*120 mo*	*300 mo*	*LIFE*	*60 mo*	*36 mo*	***60 mo***	***60 mo***		***60 mo***	*60 mo*	***60 mo***
IDSI[1,2]	*120 mo*	*300 mo*	*LIFE*	*60 mo*	*36 mo*	***60 mo***			***60 mo***	*60 mo*	***60 mo***
Agg Indecent Assault[1,2]	*120 mo*	*300 mo*	*LIFE*	*60 mo*			***60 mo***	***30 mo***		*60 mo*	***60 mo***
Indecent Assault[2]											
Sexual Assault[1,2]	*120 mo*	*300 mo*	*LIFE*	*60 mo*						*60 mo*	***60 mo***
Statutory Sexual Assault											
Incest[1,2]	*120 mo*	*300 mo*	*LIFE*	*60 mo*						*60 mo*	***60 mo***

[1]Crime of violence [2]Megan's Law offense *Notice Required* ***No Notice Required***

Sentencing Law in Pennsylvania

Pennsylvania's indeterminate sentencing system

- Pennsylvania has an indeterminate sentencing system: most incarceration sentences are comprised of a judicially imposed minimum and maximum sentence.
- For maximum incarceration sentences of two years or greater (a state sentence), the PA Board of Probation and Parole determines if and when the offender is released before the expiration of the maximum sentence, and under what conditions.
- Offenders MUST serve the entire minimum sentence of a state sentence; generally, the minimum sentence cannot exceed half the maximum sentence.
- Other states with indeterminate sentencing systems include Michigan and Utah.

Comparison to determinate sentencing systems

- Many states have a determinate sentencing system where the court imposes a sentence of a specific amount of time (a flat sentence) and the offender is incarcerated for NO LONGER THAN the given sentence.
- In determinate sentencing systems, provisions are often available to release the offender earlier than the judicially pronounced sentence based on good behavior.
- Examples of determinate sentencing systems include the states of Florida and Washington, and the federal government.

PA: Grade of the offense — defining the longest sentence

- Statutory grades and/or statutory maximums define the longest maximum sentence (incarceration and/or supervision) that may be imposed in the *worst-case scenario* of a conviction offense. Elements must be proven beyond a reasonable doubt at trial.

PA: Mandatory minimums — defining the shortest sentence

- Mandatory minimum sentences are legislative sentencing provisions which *establish the shortest sentence* possible for certain offenses. Generally, factors may be determined by the court at sentencing under a preponderance of the evidence standard.
- PA statutes contain two types of mandatory sentencing provisions: (1) Notice required — the mandatory only applies if the prosecutor gives reasonable notice to the defendant, prior to sentencing, of his/her intent to require the mandatory minimum sentence and (2) No notice required — mandatory provision applies automatically upon conviction.

PA: Sentencing guidelines — defining the typical sentence

- Guidelines provide sentencing ranges for the minimum sentence of the *most typical case.* Generally, factors may be determined by the court at sentencing under a preponderance of the evidence standard. The guidelines do not make recommendations concerning either the maximum sentence or whether the sentences for each offense should run concurrently or consecutively.
- Both the Commonwealth and the defendant may seek appellate review of a sentence, which by statute must pass a more stringent review if the judge sentenced outside of the guidelines.