

# 18 Pa.C.S. § 5903 Obscene and Other Sexual Materials and Performances

**Offenses defined.**—(a) No person, knowing the obscene character of the materials or performances involved, shall: (1) display or cause or permit the display of any explicit sexual materials as defined in subsection (c) in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen, marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk, transportation facility or other public thoroughfare, or in any business or commercial establishment where minors, as a part of the general public or otherwise, are or will probably be exposed to view all or any part of such materials; (2) sell, lend, distribute, transmit, exhibit, give away or show any obscene materials to any person 18 years of age or older or offer to sell, lend, distribute, transmit, exhibit or give away or show, or have in his possession with the intent to sell, lend, distribute, transmit, exhibit or give away or show any obscene materials to any person 18 years of age or older, or knowingly advertise any obscene materials in any manner; (3) design, copy, draw, photograph, print, utter, publish or in any manner manufacture or prepare any obscene materials; (4) write, print, publish, utter or cause to be written, printed, published or uttered any advertisement or notice of any kind giving information, directly or indirectly, stating or purporting to state where, how, from whom, or by what means any obscene materials can be purchased, obtained or had; (5) produce, present or direct any obscene performance or participate in a portion thereof that is obscene or that contributes to its obscenity; (6) hire, employ, use or permit any minor child to do or assist in doing any act or thing mentioned in this subsection; (7) knowingly take or deliver in any manner any obscene material into a State correctional institution, county prison, regional prison facility or any other type of correctional facility; (8) possess any obscene material while such person is an inmate of any State correctional institution, county prison, regional prison facility or any other type of correctional facility; or (9) knowingly permit any obscene material to enter any State correctional institution, county prison, regional prison facility or any other type of correctional facility if such person is a prison guard or other employee of any correctional facility described in this paragraph. *Other sections further define the offense as follows:* (a.1) Dissemination of explicit sexual material via an electronic communication.— (c) Dissemination to minors.— (d) Admitting minor to show.— (f) Requiring sale as condition of business dealings.— [“Obscene”. Any material or performance, if: (1) the average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest; (2) the subject matter depicts or describes in a patently offensive way, sexual conduct of a type described in this section; and (3) the subject matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.]

Grading and Sentences		Grade	Statutory Minimum	Statutory Maximum	OGS
18 § 5903 (c),(d)	Obscene materials (2nd/subsequent)	F-2	60	120	7
18 § 5903 (c),(d)	Obscene materials	F-3	42	84	5
18 § 5903 (a)	Obscene materials (2nd/subsequent)	F-3	42	84	5
18 § 5903 (a),(a.1),(f)	Obscene materials	M-1	30	60	3

Offense Gravity Score	Prior Record Score								
	0	1	2	3	4	5	RFEL	REVOC	AGG/MIT
7	6-14, BC	9-16, BC	12-18, BC	15-21, BC	18-24, BC	24-30, BC	35-45, BC	NA	+/-6
5	RS-9	1-12, BC	3-14, BC	6-16, BC	9-16, BC	12-18, BC	24-36, BC	NA	+/-3
3	RS-1	RS-6	RS-9	RS-<12	3-14, BC	6-16, BC	12-18, BC	NA	+/-3

AGG=Aggravated BC=Boot Camp MIT=Mitigated NA=Not Applicable REVOC=Repeat Violent Offender Category  
RFEL=Repeat Felony 1 and Felony 2 Offender Category RS=Restorative Sanction

**Mandatory Minimum Statutes: No Mandatory Statutes Apply**

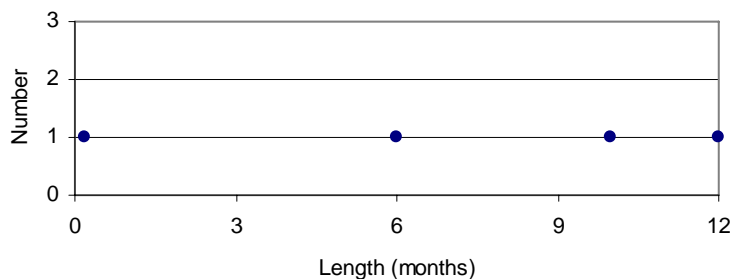
## Sentencing Patterns in Pennsylvania, 2004: Obscene Materials

All Offenses	Most Serious Offense of Judicial Proceeding	No. of Offenders
34	14	24

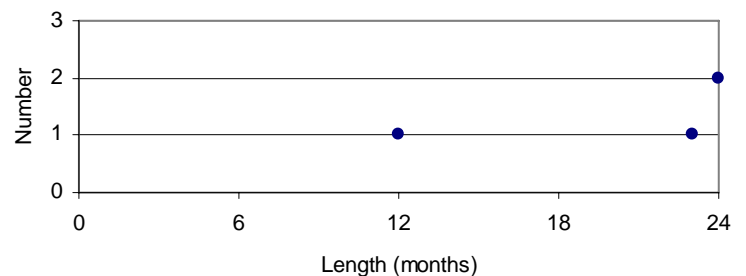
Prior Record Score	Cases by PRS	
	No.	Percent
0	9	64.3%
1	0	0.0%
2	2	14.3%
3	1	7.1%
4	2	14.3%
5	0	0.0%
RFEL	0	0.0%
REVOC	0	0.0%
Total	14	100.0%

	Incarceration Min	Incarceration Max
Mean	7.0	20.7
Median	8.0	23.5
Mode	-	24.0
	(N=4)	

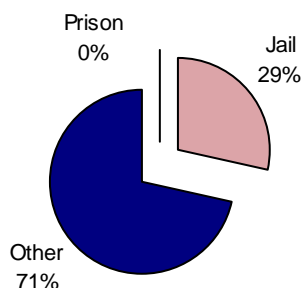
Distribution of Min Incarceration Sentences (N=4)



Distribution of Max Incarceration Sentences (N=4)



Type of Sentence



Incarcerations: Trial vs. Plea & Ave. Min. Sentence

