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Progress Continues:

Presumptive Sentencing Standards

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Report  
2014



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# ALABAMA SENTENCING COMMISSION

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## 2014 Report

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## Acknowledgements

The Alabama Sentencing Commission takes this opportunity to extend its sincere appreciation to the various criminal justice agencies, departments and state and local officials for the invaluable assistance and support they have provided to the Commission. The successes achieved by the Sentencing Commission have been accomplished only because of their consistent dedication, service, and encouragement, which is indicative of the extraordinary collaboration between Alabama's Executive, Legislative and Judicial branches for the improvement of Alabama's Criminal Justice System.

Collaborating with all branches of government, the Sentencing Commission has been able to obtain input from all stakeholders in the Criminal Justice system. By employing a deliberative and evidence-based process, the Commission has made, and will continue to make, recommendations for reform that reflect its number one priority – public safety.

The Commission and staff are grateful for the assistance that has been provided by these individuals in their commitment to improve public safety in Alabama. Special recognition is extended to the following individuals and organizations for lending their knowledge, expertise and support to this critical undertaking.

*Governor Dr. Robert Bentley*

*Chief Justice Roy S. Moore*

*Lieutenant Governor Kay Ivey*

*Del Marsh, President Pro Tempore, Alabama Senate*

*Senator Cam Ward, Co-Chair, Senate Judiciary Committee*

*The Alabama Senate*

*Mike Hubbard, Speaker of the House, Alabama House of Representatives*

*Representative Paul DeMarco, Chair, House Judiciary Committee*

*The Alabama House of Representatives*

*Joseph A. Colquitt, Chairman of the Sentencing Commission*

*Rich Hobson, Administrative Director of Courts*

*Administrative Office of Courts and staff*

*Court of Criminal Appeals*

*Alabama Circuit and District Judges' Associations*

*Attorney General Luther Strange*

*The Alabama Department of Corrections and staff*

*The Alabama Board of Pardons and Paroles and staff*

*The Alabama District Attorneys Association/Office of Prosecution Services*

*Victim Advocates; VOCAL, MADD, Angel House, Coalition Against Domestic Violence*

*The National Association of Sentencing Commissions*

*Alabama Association of Community Corrections*

*Alabama Lawyer's Association*

*The Criminal Defense Lawyers Association*

*The Association of County Commissioners*

*The Alabama Sheriff's Association*

*The Alabama Association of Chiefs of Police*

*Faulkner University*

*Dr. Tammy Meredith and Dr. John Speir, Applied Research Service, Inc.*

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**Alabama Sentencing  
Commission Members**

**Appointed by the Chief Justice of the Supreme Court**  
Retired Circuit Judge Joseph A. Colquitt, Chair  
Beasley Professor of Law, University of Alabama School of Law

**Governor's Appointments**

Rebecca Boykins  
Governor's Office

Miriam Shehane, Executive Director  
Victims of Crime and Leniency (VOCAL)  
Victims' Advocate

Janette Grantham  
Victims of Crime and Leniency (VOCAL)  
Victims' Advocate

Joe Faulk, Commissioner  
Elmore County Commission

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Rosa Davis, Esquire  
Assistant Attorney General

**President of the Alabama District Attorneys' Association  
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Eleanor I. Brooks, District Attorney, 15<sup>th</sup> Judicial Circuit  
Steven T. Marshall, District Attorney, 27<sup>th</sup> Judicial Circuit  
J. Christopher McCool, District Attorney, 24<sup>th</sup> Judicial Circuit

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Senator Cam Ward, 14<sup>th</sup> District

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Kim Thomas, Commissioner

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**Appointment by the Chief Justice of the Supreme Court**

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Stephanie Daniels, Esquire, Montgomery, AL

**President of the Alabama Criminal Defense Lawyers'  
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Joel Sogol, Esquire, Tuscaloosa, AL

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**Association of Chiefs of Police Appointment**

Ted Cook, Police Chief Mountain Brook, AL

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Victims of Crime and Leniency (VOCAL)

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Alabama Department of Public Safety

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Dale County Sheriff's Office

Chief Terry Davis  
Alabama Association of Police Chiefs

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Shelby County Community Corrections

Steve Green, President  
Alabama Community Corrections Association  
Director, Mobile County Community Corrections

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Association of County Commissions

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Alabama Department of Youth Services

Jeff Williams, Deputy Commissioner  
Alabama Department of Corrections

Deborah Daniels  
Alabama Department of Corrections Appointee

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LaKendra Ellis, Sentencing Worksheets Specialist

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Assistant Attorney General

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Alabama Board of Pardons and Paroles

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Victims of Crime and Leniency (VOCAL)

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Circuit Judge David A. Rains  
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Tuscaloosa, AL

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Circuit Judge Virginia Vinson  
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Rebecca Boykins  
Governor's Office

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### **Mission Statement**

The Alabama Sentencing Commission shall work to establish and maintain an effective, fair, and efficient sentencing system for Alabama that enhances public safety, provides truth-in-sentencing, avoids unwarranted disparity, retains meaningful judicial discretion, recognizes the most efficient and effective use of correctional resources, and provides a meaningful array of sentencing options.

# ALABAMA SENTENCING COMMISSION



**Joseph A. Colquitt, Chairman**  
Beasley Professor of Law

**Mike Blakely**  
Sheriff Limestone County

**Rebecca Boykins**  
Governor's Office

**Terri Bozeman-Lovell**  
Circuit Judge, 2<sup>nd</sup> Judicial Circuit

**Ellen Brooks**  
District Attorney, 15<sup>th</sup> Judicial Circuit

**Ted Cook**  
Police Chief Mountain Brook, AL

**Stephanie Daniels**  
Alabama Lawyers' Association

**Rosa Davis**  
Assistant Attorney General

**Paul DeMarco**  
House Judiciary Committee

**Cynthia Dillard**  
Director, Bd. of Pardons and Paroles

**Joe Faulk**  
Elmore County Commissioner

**Janette Grantham**  
Victim's Advocate

**Lou Harris**  
Faulkner University

**Claude Hundley**  
District Judge, Madison County

**Chris McCool**  
District Attorney, 24<sup>th</sup> Judicial Circuit

**Steve Marshall**  
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**P. B. McLaughlin**  
Circuit Judge, 33<sup>rd</sup> Judicial Circuit

**Miriam Shehane**  
Director, VOCAL

**Joel Sogol**  
Criminal Defense Lawyers' Association

**Kim Thomas**  
Commissioner, Dept. of Corrections

**Cam Ward**  
Senate Judiciary Committee

I am pleased to present you the Alabama Sentencing Commission's 2014 Annual Report. The Commission has been active in the past year providing training and implementing the new Presumptive Sentencing Standards across the State. The 2014 Report details the work of the Commission in the previous year including the training and implementation efforts with the Presumptive Sentencing Standards, Sentencing Standards compliance figures, and criminal justice information from the Courts, Department of Corrections, and Board of Pardons and Paroles.

The Legislature mandated the Commission make the necessary modifications to the Initial Voluntary Sentencing Standards for the transition to Presumptive Sentencing Standards for non-violent sentencing events. Complying with this legislative directive, the Alabama Sentencing Commission submitted modifications to the Initial Voluntary Sentencing Standards for consideration in the 2013 Regular Session of the Alabama Legislature. These modifications included making non-violent sentencing events covered by the Standards subject to presumptive sentencing effective October 1, 2013. Additional modifications included the addition of new drug offenses to the drug worksheets, amending the drug sentence length table to include ranges for the Class A felony of Unlawful Manufacture of a Controlled Substance 1<sup>st</sup> Degree, and new instructions establishing procedures that govern departures from the presumptive worksheets.

This large change in sentencing policy and practice required extensive training over the course of the last year. The Commission has provided training to judges, prosecutors, defense lawyers, and other interested parties across the state on the Standards and will continue to be available to conduct training and help with the continued implementation. One of the strengths of the Commission is its ability to monitor, analyze, and modify the structured sentencing system in Alabama using data to inform and guide decisions. The Commission will continue to research and discuss improvements that can be made to sentencing policy in the State that will result in better protection of the public. The Commission continues to make recommendations to make sentencing policy more effective, fair, and efficient by soliciting input and involvement from all stakeholders in Alabama's criminal justice system. I hope as you read this report that you find the information useful and informative.

Sincerely,

Joseph A. Colquitt, Chair  
Alabama Sentencing Commission



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## **EXECUTIVE SUMMARY**

### **Statewide Training – Presumptive Sentencing Standards**

After the Legislature passed and the Governor signed Act 2012-473, the Commission responded to legislative directive and made the required modifications to the Initial Voluntary Sentencing Standards to transition non-violent sentencing events to presumptive sentencing and presented these modifications for consideration in the 2013 Regular Session. These modifications became effective October 1, 2013.

After the Legislature adjourned the 2013 Regular Session, the Commission began providing training on the modifications and the Presumptive Sentencing Standards. Commission staff traveled the state in the last year and delivered training sessions focused on the recent modifications and assisted with best practices to implement Presumptive Sentencing Standards for non-violent sentencing events.

During the course of training, it became apparent familiarity with the Initial Voluntary Sentencing Standards, and therefore the Presumptive Sentencing Standards, varied across the State. Some jurisdictions indicated they did not anticipate much of a change with the transition to presumptive sentencing for non-violent sentencing events while other jurisdictions expected a sea change in procedure and practice. Jurisdictions that have considered and utilized the Initial Voluntary Sentencing Standards to a large extent are finding the transition to the Presumptive Sentencing Standards easier than other jurisdictions with less experience.

### **Voluntary Sentencing Standards and Criminal Justice Information**

After talking to practitioners around the State, the Commission recognized the number of received *valid* worksheets is not the most accurate measure of Standards consideration and utilization. For the first time, the Commission is reporting the number of total worksheets received, whether the worksheets are valid or not, to provide a better indication of Standards usage in the State. In fiscal year 2012, the Commission received nearly 6,000 valid worksheets but received in excess of 9,300 total worksheets.

Continuing a recent trend, the total number of defendants convicted of felonies decreased in 2012 and is down eight percent from just two years ago. Drug convictions, particularly Possession of a Controlled Substance, Manufacturing of a Controlled Substance, and Trafficking offenses all saw significant drops in 2012.

While drug and property offenders continue to be the largest categories of offenders admitted to prison, personal and violent offender categories continue to comprise the majority of the active in-house population in Alabama prisons. One out of every five offenders in Alabama prisons is serving a sentence for Capital Murder, Murder, or Attempted Murder.

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The Alabama Board of Pardons and Paroles' approximately 250 supervising officers supervised more than 60,000 offenders on parole and probation in 2012 while the agency also considered over 7,600 offenders for parole and nearly 1,000 for pardons, completed investigations and processed more than 2,600 restoration of voters' rights applications.

Appendix A contains the manual for the use of the Voluntary and Presumptive Sentencing Standards as approved by the Commission.

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## **Chapter 1: Training & Implementation of Presumptive Sentencing Standards**

In the 2012 Regular Session of the Alabama Legislature, the Legislature passed and the Governor signed Act 2012-473 directing the Sentencing Commission to make changes to the Initial Voluntary Sentencing Standards that became effective October 1, 2006. This Act contained numerous provisions including requiring the Commission to make the necessary modifications to the Initial Voluntary Sentencing Standards to transition from voluntary sentencing to presumptive sentencing for non-violent sentencing events effective October 1, 2013 and submit these changes to the Legislature for consideration during the 2013 Regular Session.

### **Act 2012-473 Directed the Commission to Take Action**

Following the Legislature's instruction, the Sentencing Commission, while retaining the basics of the existing structure and recommendations of the Initial Voluntary Sentencing Standards that had been in effect since 2006, submitted modifications of the Standards to the Legislature prior to the 2013 Regular Session. These modifications included adding (at the request of practitioners) new drug offenses to the drug standards, amending the drug sentence length table to incorporate Unlawful Manufacture of a Controlled Substance 1<sup>st</sup> Degree, and establishing procedures for departure sentences in presumptive sentencing events. After the Legislature adjourned for the 2013 Regular Session, the Commission began to provide statewide training on the modifications and the Presumptive Sentencing Standards. The Commission approved a new Manual<sup>1</sup> for use of the Voluntary and Presumptive Sentencing Standards. The Manual is located in Appendix A.

### **Commission Provided Statewide Training**

Over the course of the summer and fall, the Commission provided in excess of 30 training sessions across the State to judges, prosecutors, defense lawyers, and criminal justice practitioners. Many of the sessions were scheduled in direct response to requests from these individuals or groups. The Commission staff traveled the State delivering training presentations and responding to questions on best practices for implementing the modifications in the Standards. The training sessions included information on the numerous provisions of Act 2012-473 but focused primarily on the transition to the new presumptive nature of the Sentencing Standards for non-violent sentencing events.

### **Initial Voluntary Sentencing Standards Usage Varied Statewide**

Over the previous seven years since the Initial Voluntary Sentencing Standards became effective October 1, 2006, circuits across the State have implemented and utilized the Standards in varying degrees (from full consideration and utilization to little consideration and utilization). Various jurisdictions utilized a variety of procedures affecting the timing of Standards preparation, the individuals charged with Standards preparation, incorporating Standards into plea negotiations, and the extent to which the recommendations were followed after consideration. While providing training, the Commission individualized trainings by ascertaining how and to what degree each jurisdiction understood

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<sup>1</sup> The Manual in Appendix A contains no modifications to the Standards.

and utilized the Initial Voluntary Sentencing Standards and then focused the training on responses to the modifications that were needed or beneficial for the transition to Presumptive Sentencing Standards.

The responses in the training sessions to the Presumptive Sentencing Standards have been mixed. The reactions range from believing the transition to Presumptive Sentencing Standards will have very little effect to anticipating a sea change in sentencing procedure and practice. In large part, these responses depend on the degree of familiarity with, and use of, the Initial Voluntary Sentencing Standards that have been in effect for seven years. Those who considered and used the Initial Voluntary Sentencing Standards to a great extent are finding the transition to the Presumptive Sentencing Standards easier than those who are not as familiar with Initial Voluntary Sentencing Standards.

**Commission Continues to Evaluate Criminal Justice System**

The Legislature created the Commission to continuously evaluate the State's criminal justice system and its effectiveness and to provide recommendations for improvement. The feedback and input collected from training participants in the last year is invaluable to the Commission for the continued development and modification of the Standards by the Commission. It is a responsibility of the Commission to evaluate the entire criminal justice system, consider feedback from practitioners, and make policy recommendations that increase the fairness, effectiveness, and efficiency of the system after deliberate consideration of balancing requests and available resources. The feedback and input gathered from the training sessions will be used by the Commission and the Standards Committee (a sub-committee of the Commission tasked with development of Standards that provides reports for the Commission's consideration) to review and research possible modifications to the new Presumptive Sentencing Standards.

**Presumptive Sentencing Standards Training will Continue**

The Commission will continue to provide training on the Presumptive and Voluntary Sentencing Standards. Many current issues concerning the Presumptive Sentencing Standards arise from the lack of familiarity of the Standards for many practitioners. Additional training should alleviate many of those issues for many practitioners. Training sessions also provide additional insight into sentencing procedures and practices in each jurisdiction and enable the Commission to better make effective policy decisions when modifying the Standards.

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## Chapter 2: Voluntary Sentencing Standards Compliance and Criminal Justice Data

The Commission's 2009 Report identified the 4-Stage model used to gauge judicial compliance with the Initial Voluntary Sentencing Standards. The first stage in the process (Use Compliance) consisted of contacting local practitioners and determining how implementation of the Standards was proceeding. The second stage (Submission Compliance) entailed comparing the number of submitted *valid* worksheets to the number of applicable worksheet sentencing events. The third and fourth stages, In/Out and Sentence Length Compliance, measured compliance with the dispositional and sentence length recommendations found on the Standards worksheets.

Use Compliance was completed by contacting judges, prosecutors, court clerks, the defense bar, and probation and parole officers to ascertain how implementation and use of the Standards was proceeding in local jurisdictions. Submission Compliance was measured by comparing the number of *valid* received Sentencing Standards worksheets to the total number of applicable Standards worksheet sentencing events. The Commission realized the submission compliance measure was not necessarily an accurate indication of worksheet usage in local jurisdictions. A large number of worksheets received by the Commission are not categorized as *valid* worksheets because the conviction offense indicated on the completed worksheet was not consistent with the conviction offense found in SJIS (State Judicial Information System) or from sentencing orders. The most common reason the conviction offense on a received worksheet did not match the conviction offense in SJIS or the sentencing order is a worksheet was completed for an offense and the defendant ultimately was convicted or pled guilty to a different worksheet offense and the worksheet was not amended to reflect the different conviction offense.

After talking to practitioners (judges, district attorneys, defense lawyers, and clerks) about reported submission compliance in previous years in individual jurisdictions, it became apparent the number of valid worksheets received was not always an accurate measure for overall Standards consideration and usage. Commission staff has also spoken with jurisdictions that reported using the Standards and worksheets, but had not been forwarding the information to the Commission. Commission staff will continue to work with jurisdictions to improve worksheet submission and further utilize technology to make the process more efficient. In recognition of the valid worksheet submission measure not necessarily reflecting the actual use and consideration of the Standards, for the first time, the number of total received worksheets (valid and not valid) is reported to provide a more accurate depiction of worksheet usage across the State. In some circuits, the number of received worksheets actually exceeds the number of worksheet sentencing events. This can happen when worksheets are completed for a worksheet offense and the defendant is then either convicted of a non-worksheet offense or not convicted of any offense, or when multiple worksheets are completed in sentencing events involving multiple offenses.

For fiscal year 2012, the Commission received *valid* worksheets in 38.3 percent of applicable cases, but the total number of worksheets received was significantly higher. Figure 1 shows the fiscal year 2012 number of total received worksheets and the number of valid received worksheets by county and for the entire State.

### **The Number of Total Received Worksheets is Now Reported**

Figure 1.

**Sentencing Standards Worksheets Received  
October 1, 2011-September 30, 2012**

	<b>Worksheet Sentencing Events</b>	<b>Total Received Worksheets for Sentencing Events</b>	<b>Valid Received Worksheets for Sentencing Events</b>	<b>% of Worksheets Sentencing Events with Valid Received Worksheets</b>
Autauga	149	113	101	67.8%
Baldwin	502	86	72	14.3%
Barbour	119	70	63	52.9%
Bibb	48	17	10	20.8%
Blount	79	0	0	0.0%
Bullock	28	0	0	0.0%
Butler	72	38	25	34.7%
Calhoun	482	157	116	24.1%
Chambers	135	127	94	69.6%
Cherokee	120	56	44	36.7%
Chilton	174	153	131	75.3%
Choctaw	35	5	3	8.6%
Clarke	100	13	11	11.0%
Clay	40	26	24	60.0%
Cleburne	54	22	13	24.1%
Coffee	136	162	62	45.6%
Colbert	202	143	83	41.1%
Conecuh	16	10	9	56.3%
Coosa	34	11	9	26.5%
Covington	219	80	65	29.7%
Crenshaw	26	16	13	50.0%
Cullman	271	4	3	1.1%
Dale	129	195	99	76.7%
Dallas	149	52	43	28.9%
Dekalb	150	28	22	14.7%
Elmore	176	137	121	68.8%
Escambia	227	80	76	33.5%
Etowah	259	147	103	39.8%
Fayette	26	0	0	0.0%
Franklin	74	17	12	16.2%
Geneva	72	105	38	52.8%
Greene	14	15	11	78.6%
Hale	35	18	4	11.4%
Henry	59	21	19	32.2%

Figure 1. (Continued)

**Sentencing Standards Worksheets Received**  
**October 1, 2011-September 30, 2012**

	<b>Worksheet Sentencing Events</b>	<b><i>Total</i> Received Worksheets for Sentencing Events</b>	<b><i>Valid</i> Received Worksheets for Sentencing Events</b>	<b>% of Worksheets Sentencing Events with Valid Received Worksheets</b>
Houston	621	486	398	64.1%
Jackson	135	36	22	16.3%
Jefferson	2,724	856	606	22.2%
Lamar	45	0	0	0.0%
Lauderdale	146	17	12	8.2%
Lawrence	75	124	44	58.7%
Lee	291	361	212	72.9%
Limestone	268	2	1	0.4%
Lowndes	11	0	0	0.0%
Macon	39	11	9	23.1%
Madison	835	1,048	356	42.6%
Marengo	63	109	60	95.2%
Marion	114	3	2	1.8%
Marshall	199	68	55	27.6%
Mobile	1,426	1,606	907	63.6%
Monroe	22	0	0	0.0%
Montgomery	754	380	290	38.5%
Morgan	316	202	130	41.1%
Perry	18	0	0	0.0%
Pickens	42	0	0	0.0%
Pike	96	108	56	58.3%
Randolph	75	107	56	74.7%
Russell	214	120	103	48.1%
Shelby	572	604	346	60.5%
St. Clair	308	279	154	50.0%
Sumter	26	34	16	61.5%
Talladega	229	223	208	90.8%
Tallapoosa	155	74	41	26.5%
Tuscaloosa	711	251	213	30.0%
Walker	169	63	44	26.0%
Washington	35	9	3	8.6%
Wilcox	34	0	0	0.0%
Winston	69	0	0	0.0%
Total	15,248	9,305	5,843	38.3%

### **IN/OUT COMPLIANCE**

Figure 2 is a flowchart displaying the “In/Out” worksheet recommendations and “In/Out” dispositions for the worksheets for which judicial compliance is reported statewide. This flowchart is organized as follows:

#### *Valid Worksheets*

- o **Box A** - Displays the number of number of completed and valid worksheets received by the Sentencing Commission used to determine judicial compliance;

#### *Recommended Dispositions*

- o **Box B** - Displays the number of “In” recommendations from the completed worksheets and the percentage of submitted worksheets with a resulting “In” recommendation;

- o **Box C** - Displays the number of “Out” recommendations from the completed worksheets and the percentage of submitted worksheets with a resulting “Out” recommendation;

#### *Imposed Dispositions*

- o **Box D** - Displays the number of “In” recommendations that received an “Out” Disposition. The percentage displayed is the percentage of “In” recommendations that received an “Out” disposition;

- o **Box E** - Displays the number of “In” recommendations that received an “In” Disposition. The percentage displayed is the percentage of “In” recommendations that received an “In” disposition;

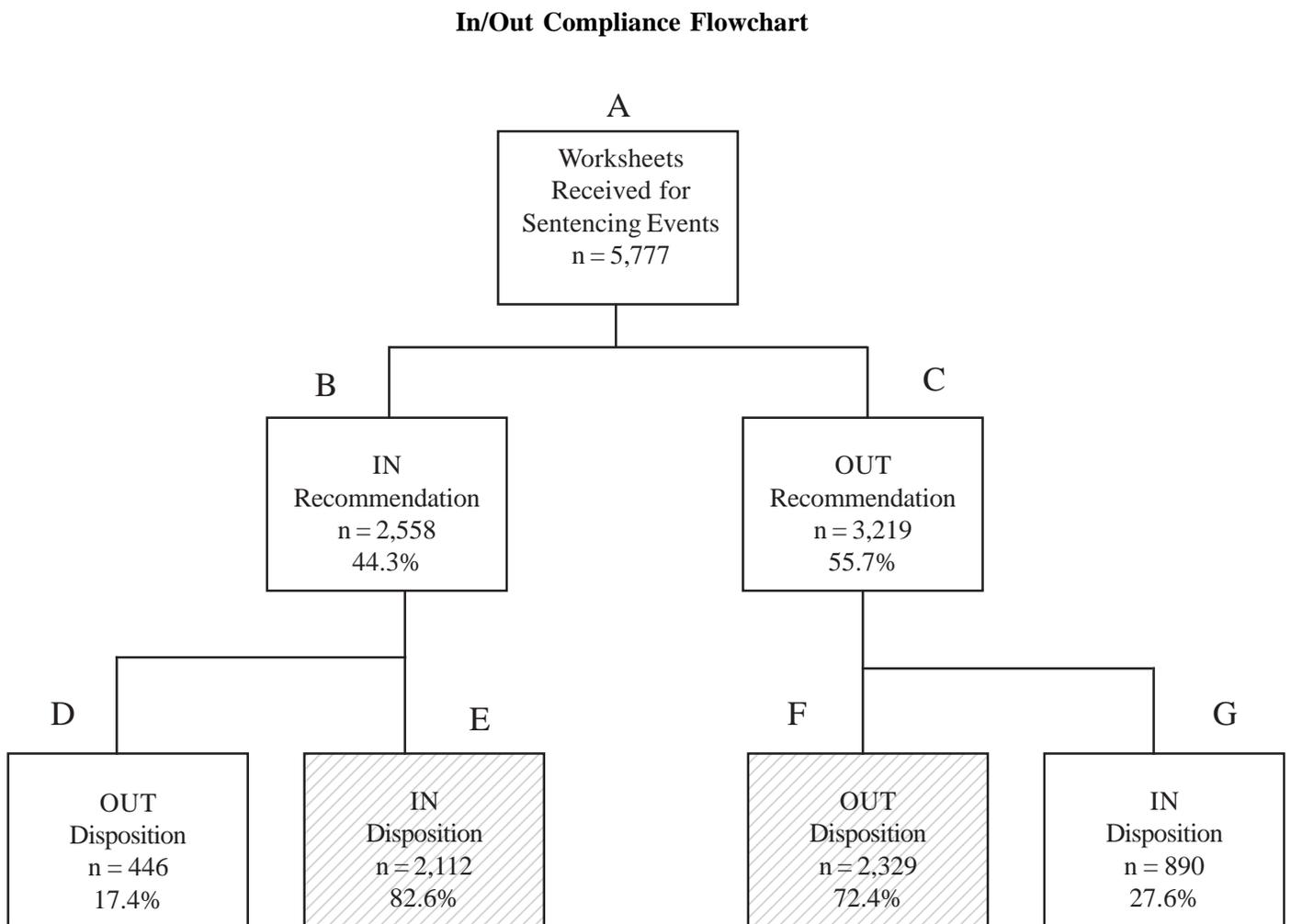
- o **Box F** - Displays the number of “Out” recommendations that received an “Out” Disposition. The percentage displayed is the percentage of “Out” recommendations that received an “Out” disposition;

- o **Box G** - Displays the number of “Out” recommendations that received an “In” Disposition. The percentage displayed is the percentage of “Out” recommendations that received an “In” disposition.

Box A shows the starting number of valid worksheets used to report judicial compliance – 5,777 worksheets. The “In/Out” recommendations reflect the Prison vs. Non-Prison recommendation based on the total score of the “In/Out” worksheet. An “Out” disposition was recommended in 56 percent of the received worksheets and an “In” disposition was recommended in 44 percent of the received worksheets. For those worksheets with an “In” recommendation, an “In” disposition was imposed 83 percent of the time (Box E). For those worksheets with an “Out” recommendation, an “Out” disposition was imposed 72 percent of the time (Box F).

The shaded boxes (Boxes E and F) indicate sentencing events that were “In/Out” compliant - that is a “prison” sentence was imposed for an “In” recommendation, or a “non-prison” sentence was imposed for an “Out” recommendation<sup>2</sup>. Figure 3 provides examples of combinations of worksheet recommendations and case dispositions to show where sentencing events are categorized on the In/Out flowchart.

Figure 2.



<sup>2</sup> For the purpose of determining compliance only, an imposed community corrections sentence was categorized as In/Out compliant regardless of the worksheet In/Out recommendation (see Figure 3 for examples).

Figure 3.

**In/Out Compliance Examples**

<b>Worksheet Recommendation</b>	<b>Imposed Sentence</b>	<b>Box Destination</b>	<b>IN/OUT Compliant</b>
IN	Probation	Box D	No
IN	Community Corrections	Box E	Yes
IN	Jail	Box D	No
IN	Prison	Box E	Yes
OUT	Probation	Box F	Yes
OUT	Community Corrections	Box F	Yes
OUT	Jail	Box F	Yes
OUT	Prison	Box G	No

Figure 4.

**Offense Category Compliance Flowcharts**

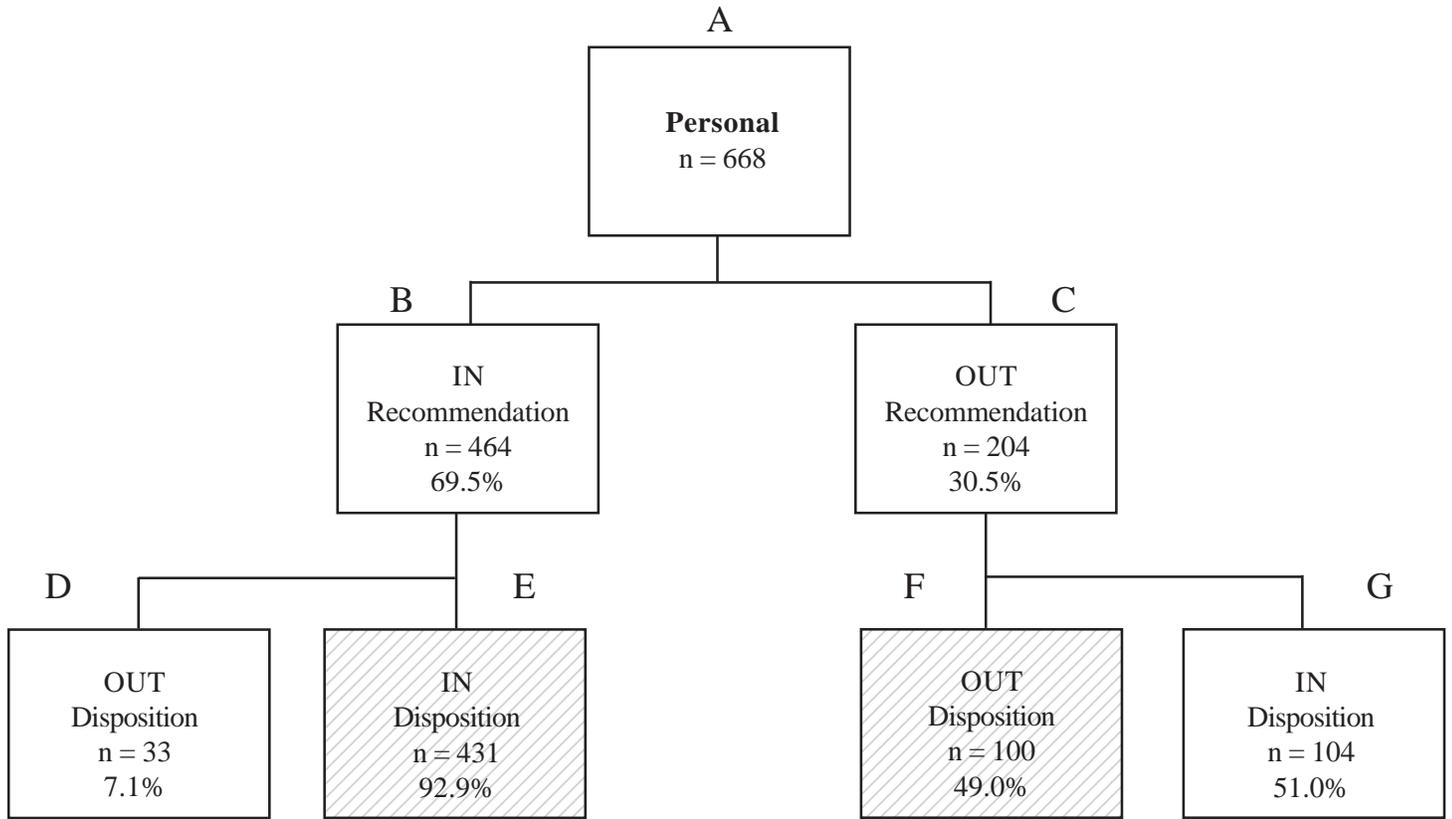


Figure 5.

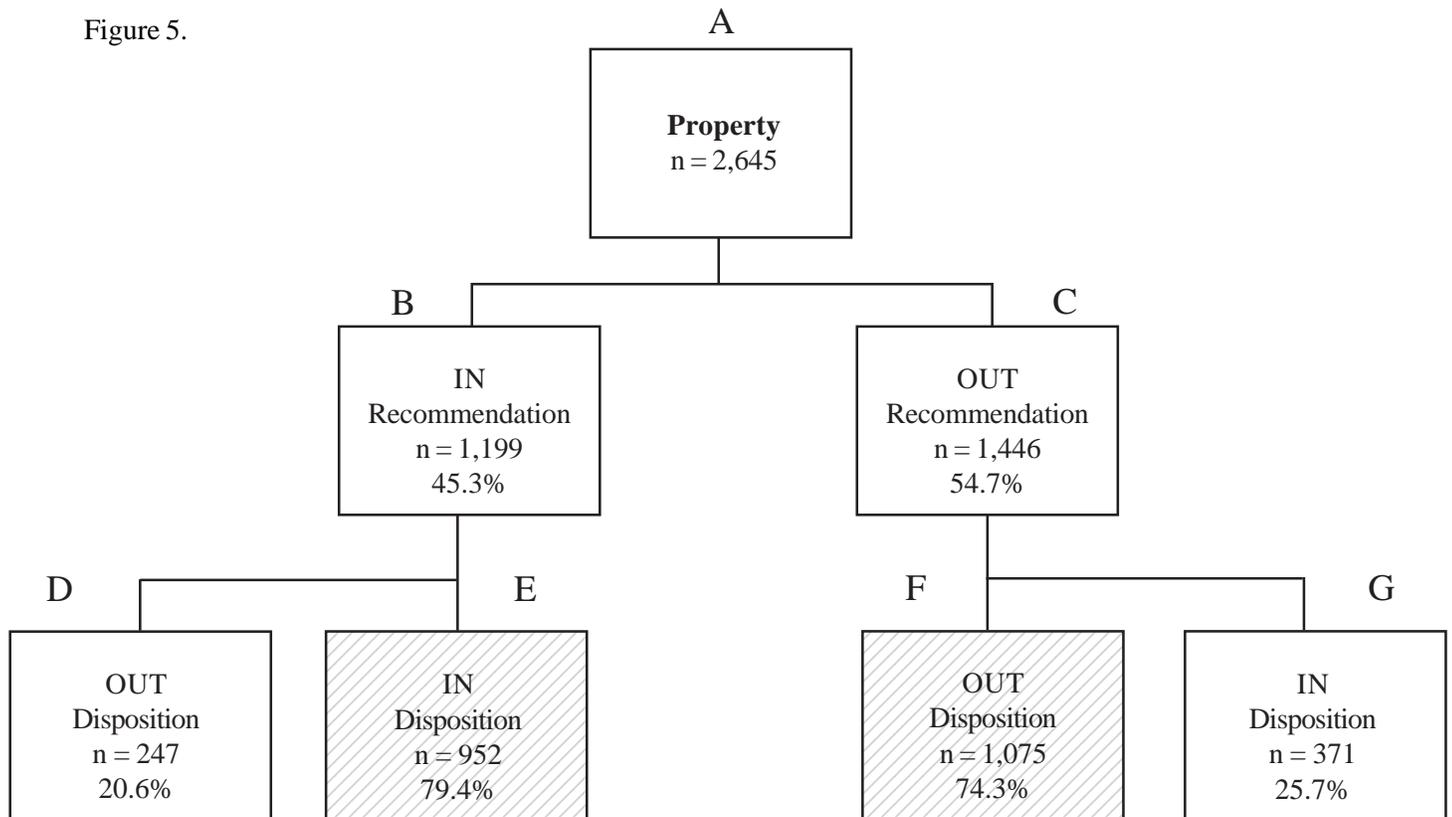


Figure 6.

**Offense Category Compliance Flowcharts (Continued)**

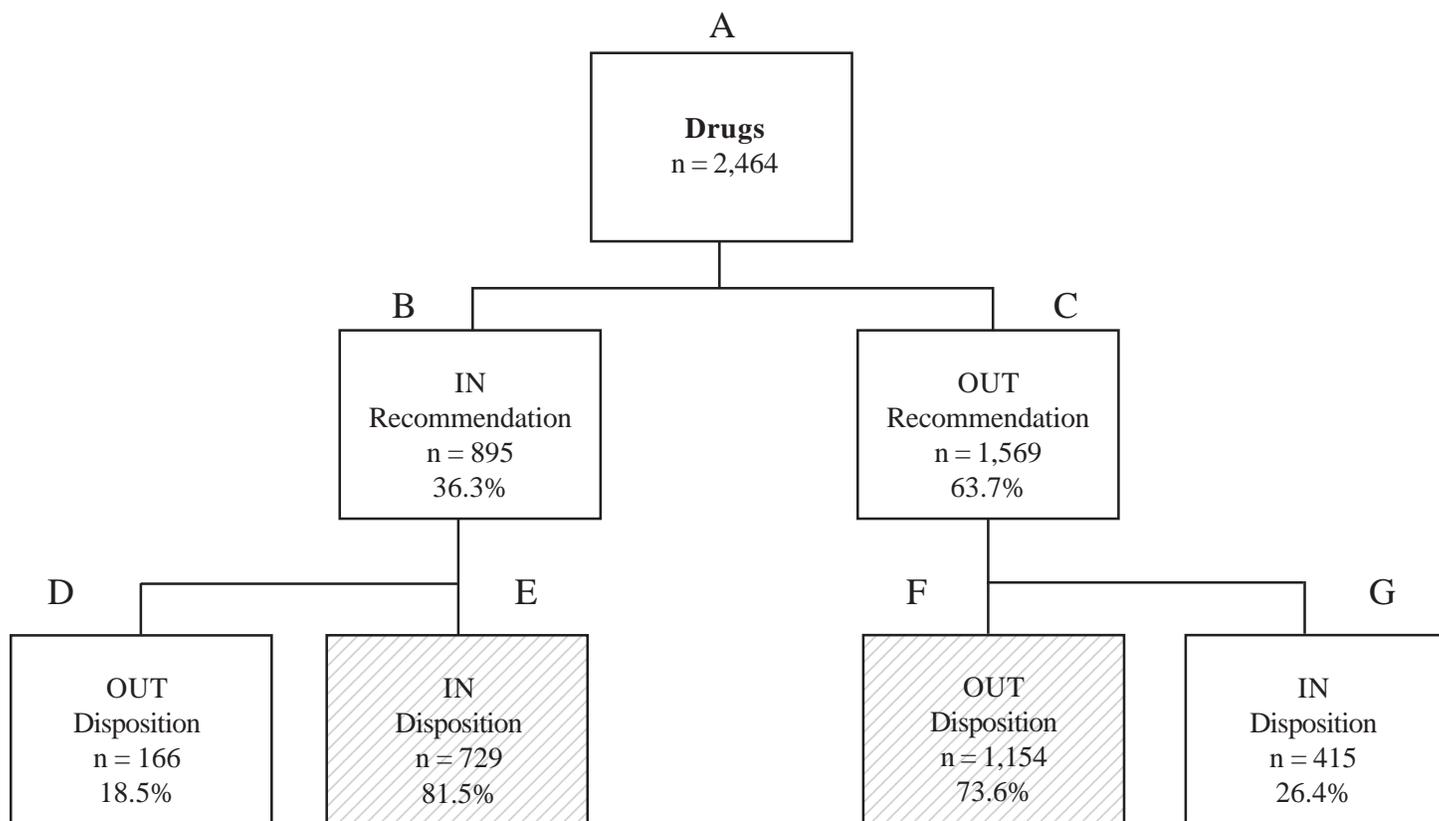


Figure 4 reports the In/Out compliance for the personal worksheet category, Figure 5 reports the In/Out compliance for the property worksheet category, and Figure 6 reports the In/Out compliance for the drug worksheet category.

The Personal worksheet has the highest compliance with “In” recommendations at 93 percent of offenders receiving a prison sentence for a corresponding “In” recommendation. The Property worksheet had 79 percent compliance with “In” recommendations while the Drugs worksheet had 81 percent compliance with “In” recommendations. The Personal worksheet, while having the highest compliance with “In” recommendations, had the lowest compliance with “Out” recommendations at 49 percent. The Property and Drugs worksheets each had 74 percent compliance with “Out” recommendations.

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## Race & Gender Compliance Charts

Figures 7 and 8 display statewide compliance with the Initial Voluntary Sentencing Standards by race and gender respectively. Compliance data with the Standards show similar compliance rates for Black and White offenders. The “Other” category consists of a small number (n=50) of offenders representing numerous racial groups. While no large disparity is found in the compliance figures controlling for race, the overall compliance percentage for females is higher than for males.

Figure 7.

<b>Race</b>			
	Overall	In/Out	
<b>Black</b>	57.3%	77.5%	n=3,095
<b>White</b>	61.0%	76.5%	n=2,632
<b>Other</b>	42.0%	58.0%	n=50

Figure 8.

<b>Gender</b>			
	Overall	In/Out	
<b>Female</b>	70.6%	79.3%	n=1,095
<b>Male</b>	56.1%	76.3%	n=4,682

### **SENTENCE LENGTH COMPLIANCE**

Sentence Length compliance is measured by comparing the term(s) of confinement to the recommended term(s) of confinement found on the Sentence Length sentencing worksheet. For an imposed direct/straight prison sentence, the length of imposed confinement is compared to the “straight” recommended sentence range found on the Sentence Length worksheet. For an imposed split sentence, the split portion *and* the total sentence lengths are compared to the split and straight Sentence Length recommended sentence ranges found on the Sentence Length worksheet. For a direct/straight sentence to be Sentence Length compliant, the imposed confinement must fall within the “straight” Sentence Length range found on the worksheet. For a split sentence to be Sentence Length compliant, the split portion of the sentence and the total length portion of the sentence must both be within the “straight” and “split” ranges found on the worksheet.

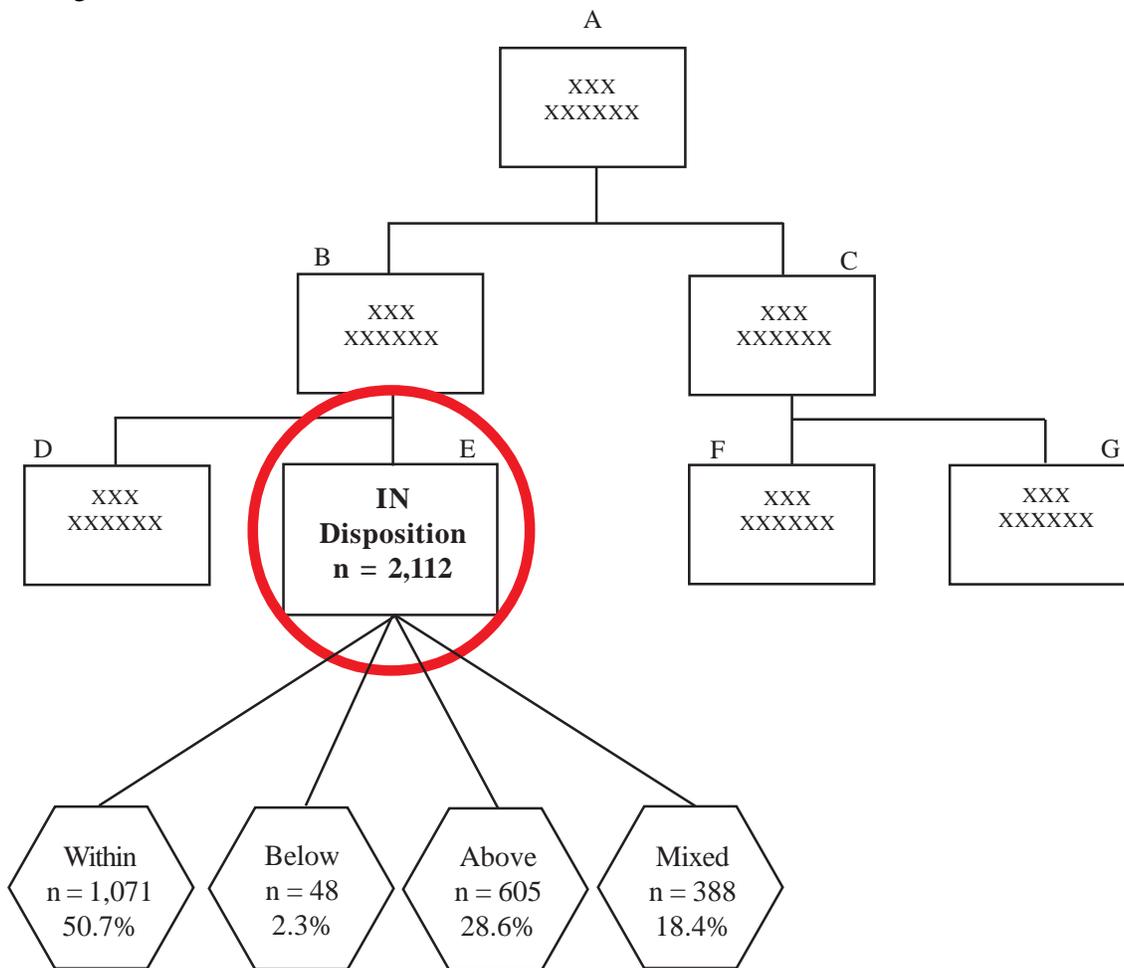
Sentence Length compliance is only reported for those sentencing events where the worksheet recommendation was “In” and the sentencing event also had a corresponding “In” disposition (those events located in Box E of the In/Out flowchart). 2,112 worksheet sentencing events received an “In” recommendation and an “In” sentence and are used to report sentence length compliance (those in Box E).

The diagram (Figure 9) on the following page displays statewide Sentence Length compliance using four categories - Within, Below, Above, and Mixed. The “Mixed” category is applicable only to split sentences when the different portions of the sentence (incarceration and total portions) are not consistent with each other. Instances when the incarceration portion is above the recommended range and the total portion is below the recommended range, or the incarceration portion is within the recommended range and the total range is above the recommended range are examples of split sentences that would fall in the “Mixed” category. If both the split and total portions are within, above, or below the worksheet sentence length recommendations, they would be categorized as such, if they are not, they are categorized as “Mixed”. Approximately half (51%) of eligible sentencing events were sentence length compliant, twenty-nine percent of the sentencing events received sentences above the worksheet recommendations, 2 percent received sentences below the worksheet recommendations, and 18 percent fell in the Mixed category. The overwhelming majority of events in the “Mixed” category consisted of sentences when the incarceration portion of the split sentence fell within the recommendations, but the total sentence exceeded the recommendations.

The three pie charts, Figures 10, 11, and 12, display sentence length compliance for each worksheet offense category - Personal, Property, and Drugs, respectively. The three different worksheet offense categories all have markedly different sentence length compliance patterns. Personal worksheet sentence length recommendations were followed in 68 percent of events, property worksheet sentence length recommendations were followed in 42 percent of events, and drug worksheet sentence length recommendations were followed in 52 percent of events.

Departures from the worksheet sentence length recommendations varied by worksheet offense category as well. Thirty-five percent of all sentences imposed for property offenses were above worksheet recommendations while 26 percent of drug sentences were above, and only 18 percent of personal offense sentences exceeded the worksheet sentence length recommendations.

Figure 9.



### Sentence Length Compliance

Figure 10.

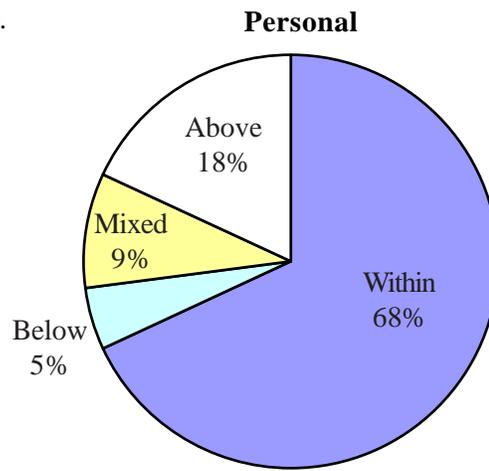


Figure 11.

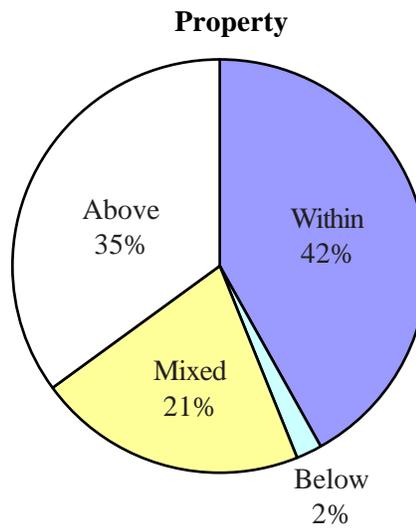
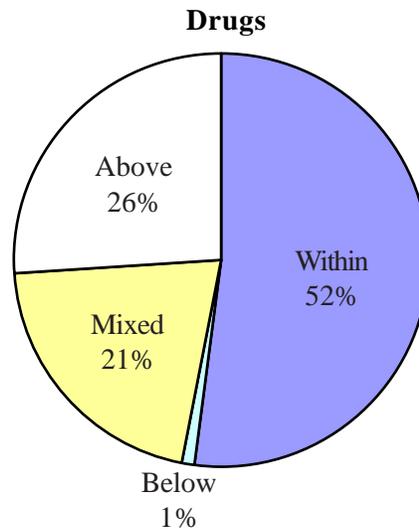


Figure 12.



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## **OVERALL COMPLIANCE**

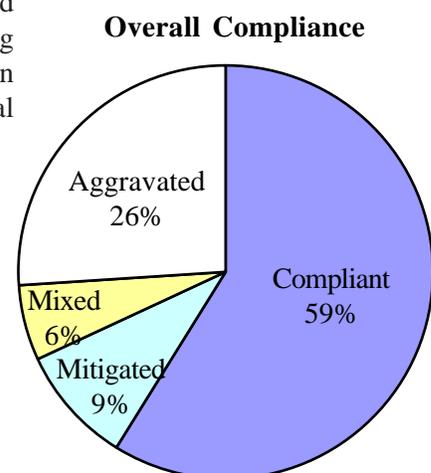
Overall compliance with the sentencing standards worksheet recommendations is achieved by conforming to the “In/Out” recommendation and the “Sentence Length” recommendation (when applicable). For the determination of compliance, sentence length recommendations are only applicable when the worksheets recommend “In” *and* an “In” sentence is imposed – those events located in Box E of the In/Out flowchart (Figure 2).

Consider the following examples for clarification:

- If the worksheet recommendation is “Out”, the sentence length recommendation is not applicable for compliance purposes. If in this example, an “Out” sentence was imposed, this event would be overall compliant. If however an “In” sentence was imposed, this event would be overall non-compliant;
- If the worksheet recommendation is “In”, and an “Out” sentence is imposed, this event would be overall non-compliant. If in this example, an “In” sentence was imposed and the sentence was not within the sentence length recommendation(s), this event would also be overall non-compliant. If using this same scenario, an “In” sentence was imposed and the sentence was within the sentence length recommendation(s), this event would be classified as overall compliant.

Overall compliance statewide is displayed in graphical format in the pie chart below (Figure 13). All valid received worksheets are categorized into one of the categories in the pie chart. Overall compliance was realized in 59 percent of sentencing events. Approximately one quarter (26 percent) of the events were categorized as “Aggravated”, meaning either an “In” sentence was imposed on an “Out” recommendation or the sentence imposed exceeded the worksheet recommendations for “In” recommendations. The “Mitigated” category was significantly smaller than the “Aggravated” category – only 9 percent of events were “Mitigated”. This category is comprised of “Out” sentences imposed on “In” recommendations and sentences that were imposed that fell below the worksheet recommendations for “In” recommendations. The Mixed category (exclusive to splits) contained 6 percent of all worksheet sentencing events – the majority of these events were instances when the incarceration portion of the sentence complied with the recommendation but the total sentence exceeded the sentence length recommendation.

Figure 13.



**Who is in our Prisons - Top 25**

Figure 14.

**In-House Population on September 5, 2013**

Robbery 1st	1	3,635
Murder	2	3,435
Distribution of Controlled Substance	3	1,197
Burglary 3rd	4	1,186
Possession of Controlled Substance	5	1,115
Rape 1st	6	1,108
Burglary 1st	7	958
Theft of Property 1st	8	949
Capital Murder	9	935
Manslaughter	10	758
Attempted Murder	11	683
Robbery 3rd	12	642
Trafficking Drugs	13	631
Sodomy 1st	14	537
Manufacturing Controlled Substance 2nd	15	515
Assault 1st	16	500
Robbery 2nd	17	456
Manufacturing Controlled Substance 1st	18	427
Receiving Stolen Property 1st	19	399
Assault 2nd	20	396
Burglary 2nd	21	395
Rape 2nd	22	349
Possession Marihuana 1st	23	347
Sexual Abuse 1st	24	346
Breaking/Entering a Vehicle	25	343

**Offenders Convicted of Capital Murder, Murder, and Attempted Murder Account for One-Fifth of Prison Population**

<b>Top 25 Offenses</b>	<b>22,242</b>
Other Offenses	3,251
<b>Total In-House Population</b>	<b>25,493</b>

Figure 15.

**In-House Population Offense Category**

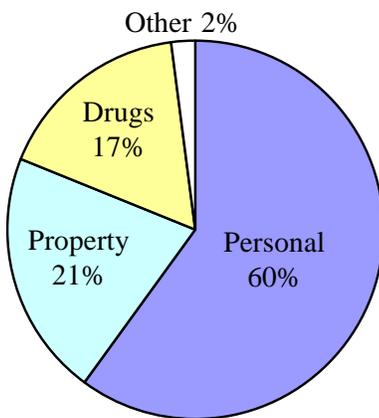
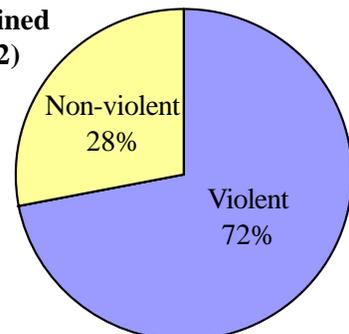


Figure 16.

**In-House Population (Violent as defined in § 12-25-32)**



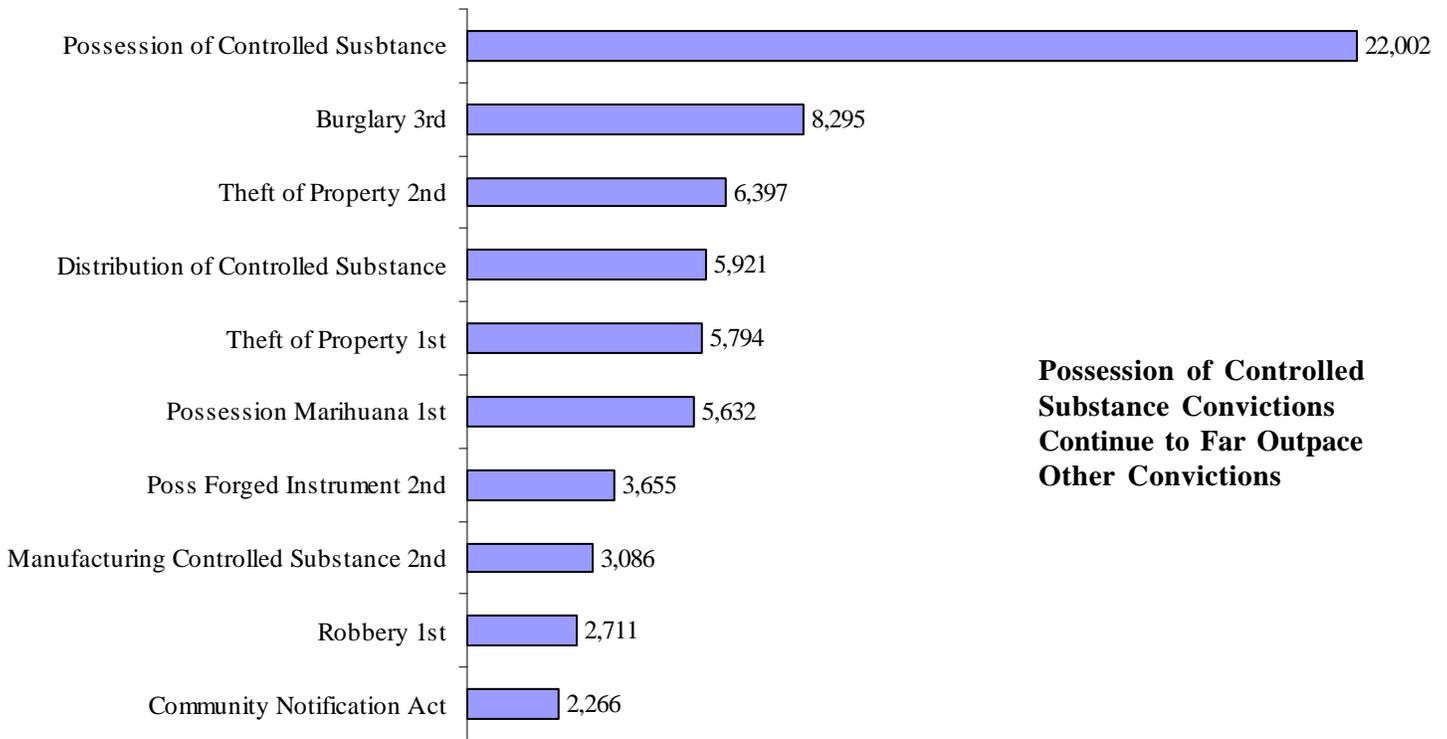
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## Most Frequent Felony Offense at Conviction

Possession of a Controlled Substance convictions continue to far surpass other convictions over the past five years.

Figure 17.

### Most Frequent Felony Offense at Conviction - Top 10 October 1, 2007 - September 30, 2012



**Most Frequent Felony Offense at Conviction - Top 25**

**Overall Convictions Down Again in 2012**

The total number of defendants convicted of felony offenses has fallen in each of the last two years. Possession of a Controlled Substance convictions continue to decline in 2012 dropping ten percent from the number of convictions in 2011. Manufacturing of Controlled Substance convictions (in the first and second degrees) fell in 2012 by significant numbers as well. Theft of Property first and second degree, and Burglary third degree convictions all increased by at least 100 convictions from the 2011 conviction totals. Overall, the total number of defendants convicted of felony offenses continues a recent trend of decreasing from 20,846 defendants in 2010 to 19,155 defendants in 2012.

Figure 18.

**Most Frequent Felony Offense at Conviction  
October 1, 2009 - September 30, 2012**

	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
Possession of Controlled Substance	<b>1</b> 4,650	<b>1</b> 3,992	<b>1</b> 3,577
Burglary 3rd	<b>2</b> 1,667	<b>2</b> 1,765	<b>2</b> 1,869
Theft of Property 2nd	<b>3</b> 1,236	<b>4</b> 1,258	<b>3</b> 1,415
Theft of Property 1st	<b>4</b> 1,201	<b>6</b> 1,108	<b>4</b> 1,234
Distribution of Controlled Substance	<b>6</b> 1,136	<b>3</b> 1,308	<b>5</b> 1,163
Possession Marihuana 1st	<b>5</b> 1,174	<b>5</b> 1,190	<b>6</b> 1,069
Manufacturing Controlled Substance 2nd	<b>7</b> 834	<b>7</b> 874	<b>7</b> 679
Poss Forged Instrument 2nd	<b>8</b> 716	<b>8</b> 669	<b>8</b> 636
Community Notification Act*			<b>9</b> 490
Robbery 1st	<b>9</b> 622	<b>9</b> 441	<b>10</b> 426
Breaking/Entering a Vehicle	<b>12</b> 390	<b>10</b> 426	<b>11</b> 418
Receiving Stolen Property 2nd	<b>13</b> 380	<b>13</b> 394	<b>12</b> 414
Assault 2nd	<b>10</b> 506	<b>11</b> 422	<b>13</b> 369
Receiving Stolen Property 1st	<b>16</b> 317	<b>14</b> 342	<b>14</b> 350
Fraud/Illegal Use Debit/Credit Card	<b>14</b> 379	<b>15</b> 332	<b>15</b> 328
Obstruct Justice-False Identity	<b>18</b> 286	<b>16</b> 308	<b>16</b> 284
Manufacturing Controlled Substance 1st	<b>11</b> 412	<b>12</b> 397	<b>17</b> 277
Robbery 3rd	<b>15</b> 331	<b>18</b> 257	<b>18</b> 217
Trafficking Drugs	<b>17</b> 311	<b>17</b> 269	<b>19</b> 207
Robbery 2nd	<b>20</b> 201	<b>21</b> 181	<b>20</b> 196
Burglary 2nd	<b>24</b> 145	<b>23</b> 164	<b>21</b> 191
Murder	<b>22</b> 187	<b>20</b> 191	<b>22</b> 161
Forgery 2nd	<b>21</b> 191	<b>22</b> 171	<b>23</b> 139
Escape 3rd			<b>24</b> 135
Assault 1st	<b>23</b> 160	<b>25</b> 144	<b>25</b> 124
		<b>24</b> 146	
<b>Top 25 Offenses</b>	<b>17,432</b>	<b>16,749</b>	<b>16,368</b>
Other Offenses	3,414	3,258	2,787
<b>Total Most Serious Felony Offense Convictions</b>	<b>20,846</b>	<b>20,007</b>	<b>19,155</b>

\*This is the first year violations of the Community Notification Act have been combined. In FY12, the majority of violations of the Community Notification Act were Moving Notice and Residency violations.

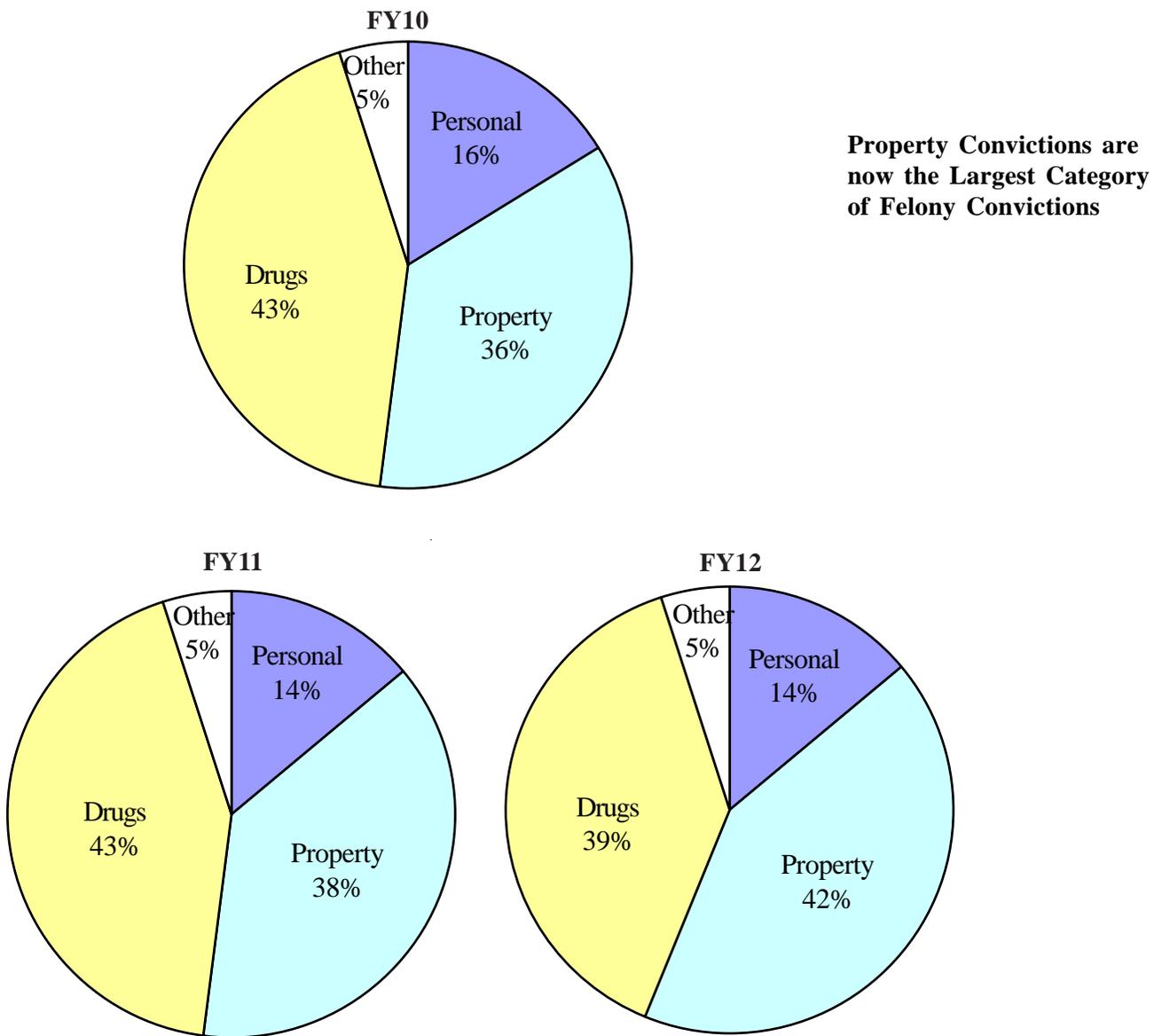
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## Type of Most Frequent Felony Offense at Conviction

Property offenses are now the largest category of felony convictions. In 2012, drug convictions fell four percent while property convictions rose four percent.

Figure 19.

**Most Frequent Felony Offense at Conviction**  
**Offense Category**  
**October 1, 2009 - September 30, 2012**



**Drug Convictions**

**Possession of a Controlled Substance Convictions Continue to Decline**

The overall number of drug convictions has dropped significantly since 2010.

Figure 20.

**Most Frequent Offense at Conviction  
Drug Offenses  
October 1, 2009 - September 30, 2012**

	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
Possession of Controlled Substance	<b>1</b> 4,650	<b>1</b> 3,992	<b>1</b> 3,577
Distribution of Controlled Substance	<b>3</b> 1,136	<b>2</b> 1,308	<b>2</b> 1,163
Possession Marihuana 1st	<b>2</b> 1,174	<b>3</b> 1,190	<b>3</b> 1,069
Manufacturing Controlled Substance 2nd	<b>4</b> 834	<b>4</b> 874	<b>4</b> 679
Manufacturing Controlled Substance 1st	<b>5</b> 412	<b>5</b> 397	<b>5</b> 277
Trafficking Drugs	<b>6</b> 311	<b>6</b> 269	<b>6</b> 207
Attempt - Possession of Controlled Substance	<b>7</b> 133	<b>8</b> 143	<b>7</b> 115
Precursor Chemical - Sale/Poss	<b>8</b> 111	<b>7</b> 146	<b>8</b> 110
<b>Top Drug Offenses</b>	<b>8,761</b>	<b>8,319</b>	<b>7,197</b>
Other Drug Offenses	217	224	196
<b>Total Drug Offenses</b>	<b>8,978</b>	<b>8,543</b>	<b>7,393</b>

**Type of Trafficking Convictions**

**Trafficking Convictions are Down 33 Percent since 2010**

Trafficking convictions, specifically marihuana and cocaine, fell in 2012.

Figure 21.

**Most Frequent Drug Trafficking Convictions  
Drug Type  
October 1, 2009 - September 30, 2012**

	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
Trafficking - Marihuana	94	89	60
Trafficking - Illegal Drugs	67	44	54
Trafficking - Cocaine	105	73	45
Trafficking - Methamphetamine	41	51	32
Other	4	12	16
<b>Total Most Serious Felony Offense Convictions for Trafficking</b>	<b>311</b>	<b>269</b>	<b>207</b>

## Prison Admissions - Top 25

Jurisdictional admissions to the Department of Corrections continue to decrease corresponding to a decrease in the number of defendants convicted of felony offenses.

**Jurisdictional Admissions  
to ADOC Continue to  
Decrease**

Figure 22.

### Prison Admissions for New Offenses October 1, 2009 - September 30, 2012

	FY10		FY11		FY12	
Possession of Controlled Substance	<b>1</b>	1,270	<b>1</b>	1,084	<b>1</b>	1,025
Burglary 3rd	<b>3</b>	753	<b>3</b>	786	<b>2</b>	706
Distribution of Controlled Substance	<b>2</b>	794	<b>2</b>	832	<b>3</b>	686
Theft of Property 1st	<b>5</b>	507	<b>5</b>	507	<b>4</b>	521
Robbery 1st	<b>4</b>	717	<b>4</b>	580	<b>5</b>	491
Manufacturing of Controlled Substance 2nd	<b>7</b>	378	<b>6</b>	428	<b>6</b>	336
Poss Marihuana 1st	<b>6</b>	397	<b>8</b>	358	<b>7</b>	318
Theft of Property 2nd	<b>10</b>	245	<b>7</b>	385	<b>8</b>	298
Manufacturing of Controlled Substance 1st	<b>9</b>	248	<b>9</b>	282	<b>9</b>	214
Breaking/Entering a Vehicle	<b>11</b>	241	<b>T15</b>	155	<b>10</b>	211
Receiving Stolen Property 1st	<b>16</b>	180	<b>T15</b>	155	<b>11</b>	190
Poss Forged Instrument 2nd	<b>15</b>	186	<b>14</b>	171	<b>12</b>	181
Trafficking Drugs	<b>8</b>	256	<b>10</b>	223	<b>13</b>	179
Murder	<b>14</b>	210	<b>11</b>	194	<b>14</b>	175
Assault 2nd	<b>12</b>	237	<b>12</b>	187	<b>15</b>	160
Robbery 2nd	<b>19</b>	158	<b>17</b>	148	<b>16</b>	152
Robbery 3rd	<b>13</b>	218	<b>13</b>	181	<b>17</b>	150
Burglary 2nd	<b>21</b>	122	<b>T19</b>	126	<b>18</b>	136
Community Notification Act Violations	<b>17</b>	164	<b>21</b>	106	<b>19</b>	118
Assault 1st	<b>18</b>	159	<b>22</b>	100	<b>20</b>	117
Receiving Stolen Property 2nd	<b>T25</b>	84	<b>T19</b>	126	<b>21</b>	109
Rape 2nd		73	<b>24</b>	90	<b>22</b>	107
Poss Fraud Use of Credit/Debit Card	<b>23</b>	101	<b>25</b>	70	<b>23</b>	104
Manslaughter	<b>22</b>	118	<b>18</b>	131	<b>24</b>	102
Burglary 1st	<b>20</b>	136	<b>23</b>	99	<b>25</b>	91
Attempted Murder	<b>24</b>	88		56		74
Forgery 2nd	<b>T25</b>	84		57		57
<b>Top 25 Offenses</b>		<b>8,051</b>		<b>7,504</b>		<b>6,877</b>
Other Offenses		1,113		1,098		1,136
<b>Total Prison Admissions for New Offenses</b>		<b>9,164</b>		<b>8,602</b>		<b>8,013</b>

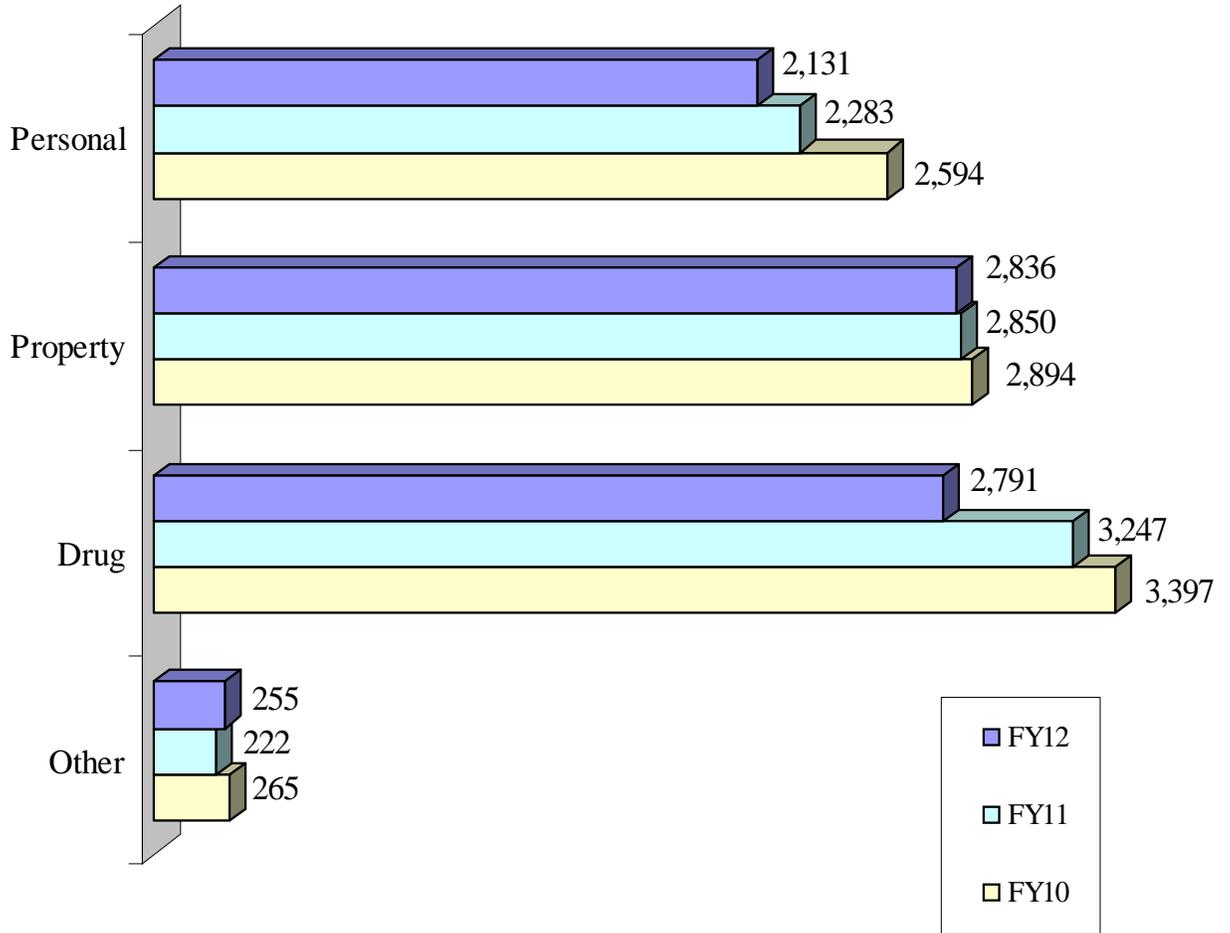
**Prison Admissions for New Offenses by Offense Category**

The decrease in the number of jurisdictional admissions to the Department of Corrections for drug and personal offenses continues while property admissions remain stable.

**Jurisdictional Admissions for Drug Offenses Continue to Decrease**

Figure 23.

**Prison Admissions for New Offenses  
Offense Category  
October 1, 2009 - September 30, 2012**

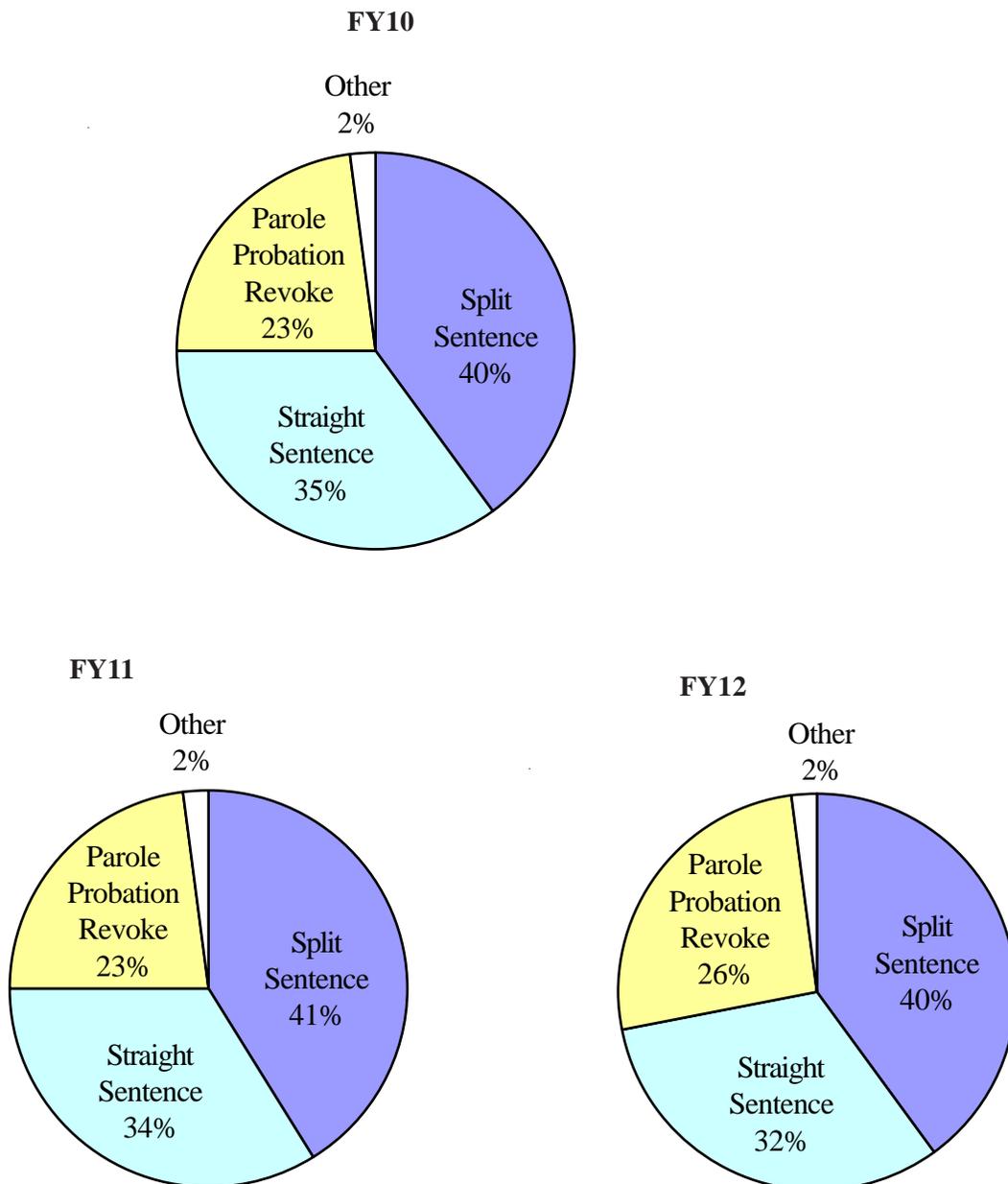


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## Prison Admissions by Type of Admission

Figure 24.

**Prison Admissions (all admissions)**  
**Type**  
**October 1, 2009 - September 30, 2012**



**Prison Releases - Top 25**

Figure 25.

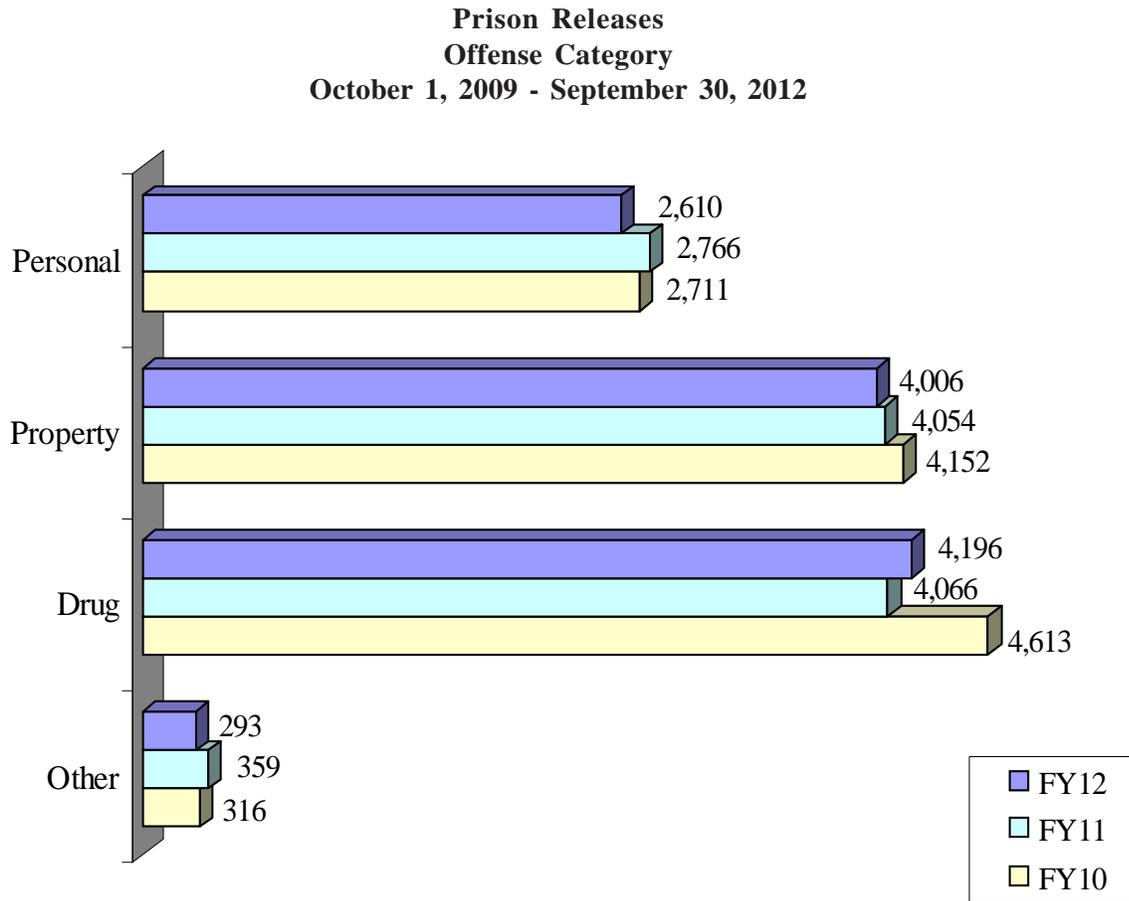
**Prison Releases  
October 1, 2009 - September 30, 2012**

	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
Possession of Controlled Substance	<b>1</b> 1,971	<b>1</b> 1,635	<b>1</b> 1,675
Burglary 3rd	<b>3</b> 986	<b>2</b> 1,053	<b>2</b> 1,015
Distribution of Controlled Substance	<b>2</b> 1,140	<b>3</b> 927	<b>3</b> 981
Robbery 1st	<b>4</b> 687	<b>5</b> 691	<b>4</b> 693
Theft of Property 1st	<b>5</b> 675	<b>4</b> 712	<b>5</b> 683
Poss Marihuana 1st	<b>6</b> 601	<b>6</b> 569	<b>6</b> 495
Manufacturing of Controlled Substance 2nd	<b>14</b> 259	<b>8</b> 327	<b>7</b> 444
Theft of Property 2nd	<b>7</b> 401	<b>7</b> 532	<b>8</b> 372
Breaking/Entering a Vehicle	<b>9</b> 321	<b>14</b> 233	<b>9</b> 334
Poss Forged Instrument 2nd	<b>8</b> 357	<b>11</b> 284	<b>10</b> 278
Receiving Stolen Property 1st	<b>12</b> 294	<b>13</b> 239	<b>11</b> 277
Trafficking Drugs	<b>11</b> 298	<b>12</b> 280	<b>12</b> 271
Robbery 3rd	<b>10</b> 315	<b>9</b> 297	<b>13</b> 270
Assault 2nd	<b>13</b> 289	<b>10</b> 295	<b>14</b> 264
Manufacturing of Controlled Substance 1st	<b>16</b> 178	<b>15</b> 213	<b>15</b> 256
Robbery 2nd	<b>15</b> 179	<b>16</b> 202	<b>16</b> 210
Burglary 2nd	<b>24</b> 148	<b>17</b> 173	<b>17</b> 174
Assault 1st	<b>18</b> 170	<b>21</b> 157	<b>18</b> 166
Burglary 1st	<b>20</b> 164	<b>22</b> 156	<b>19</b> 160
Poss Fraud/Use of Credit/Debit Card	<b>19</b> 169	84	<b>20</b> 159
Murder	<b>25</b> 143	<b>19</b> 167	<b>21</b> 157
Receiving Stolen Property 2nd	<b>17</b> 177	<b>20</b> 164	<b>22</b> 140
Community Notification Act Violations	<b>22</b> 159	<b>18</b> 172	<b>23</b> 135
Forgery 2nd	<b>23</b> 150	<b>23</b> 121	<b>24</b> 102
Manslaughter	128	<b>25</b> 115	<b>25</b> 93
Rape 2nd	102	<b>24</b> 117	
Felony DUI	<b>21</b> 160	106	
<b>Top 25 Offenses</b>	10,391	9,831	9,804
Other Offenses	1,418	1,414	1,301
<b>Total Prison Releases</b>	<b>11,809</b>	<b>11,245</b>	<b>11,105</b>

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## Prison Releases by Offense Category

Figure 26.



### Prison Releases by Type

Figure 27.

**Prison Releases  
Type of Release  
October 1, 2009 - September 30, 2012**

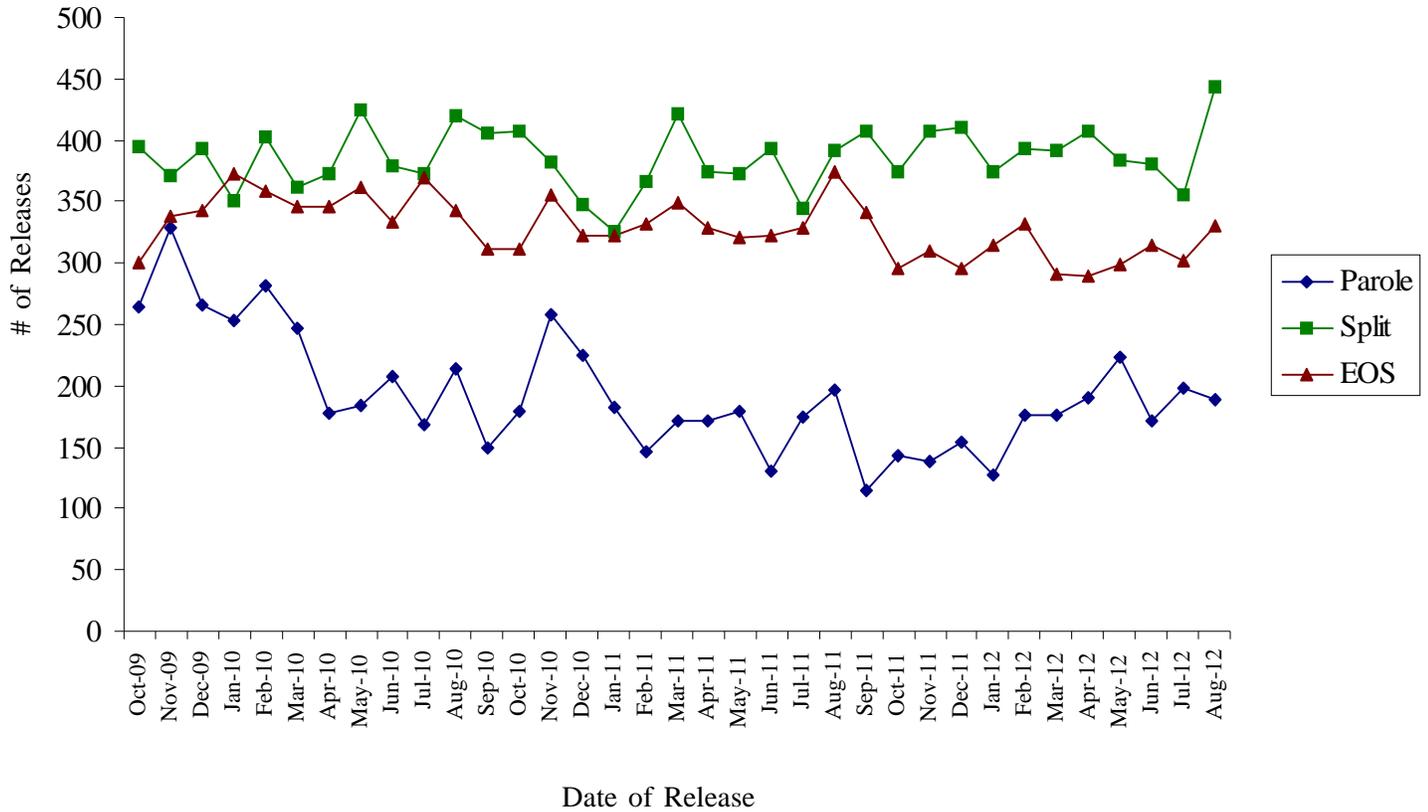


**Prison Releases by Type**

**The Number of Releases by Type of Release is Variable on a Monthly Basis**

Figure 28.

**Prison Releases  
Type of Release  
October 1, 2009 - September 30, 2012**



**Prison Releases by Offense Category by Type**

Figure 29.

**Prison Releases  
Offense Category by Type  
October 1, 2007 - September 30, 2012**

		<b>Parole</b>	<b>Split</b>	<b>EOS</b>	<b>Other</b>	<b>Total</b>
<b>Personal</b>	2008	741	1,008	744	330	2,823
	2009	655	1,069	778	323	2,825
	2010	472	1,142	786	311	2,711
	2011	476	1,208	786	296	2,766
	2012	453	1,152	682	323	2,610
			<b>2,797</b>	<b>5,579</b>	<b>3,776</b>	<b>1,583</b>
<b>Property</b>	2008	1,000	1,391	1,554	384	4,329
	2009	1,044	1,293	1,556	405	4,298
	2010	820	1,465	1,552	315	4,152
	2011	613	1,440	1,668	333	4,054
	2012	559	1,584	1,480	383	4,006
			<b>4,036</b>	<b>7,173</b>	<b>7,810</b>	<b>1,820</b>
<b>Drugs</b>	2008	992	1,606	1,588	304	4,490
	2009	1,154	1,564	1,615	295	4,628
	2010	988	1,698	1,638	289	4,613
	2011	778	1,574	1,400	314	4,066
	2012	795	1,730	1,352	319	4,196
			<b>4,707</b>	<b>8,172</b>	<b>7,593</b>	<b>1,521</b>

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**Board of Pardons & Paroles Information - FY13**

Figure 30.

<b>Paroles</b>	
Considered	7,627
Denied	5,315
Granted	2,312

Figure 31.

<b>Pardons</b>	
Considered	980
Denied	227
Granted	753

Figure 32.

	<b>Probationers</b>	<b>Parolees</b>	<b>On Both Probation &amp; Parole</b>
Supervised	54,288	9,873	364
Revoked - Technical	637	124	2
Revoked - New Offense	985	229	7
Revoked - Both Technical & New Offense	752	263	6



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# APPENDIX A TAB

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## ALABAMA SENTENCING COMMISSION

### § 12-25-1. Created.

There is created within the judicial branch as an agency of the Supreme Court the Alabama Sentencing Commission, hereinafter called the "commission."

(Act 2000-596, p. 1192, §1.)

### § 12-25-2. Purpose.

(a) The purposes of the commission shall be to review existing sentence structure, including laws, policies, and practices, and to determine and recommend to the Legislature and Supreme Court changes regarding the criminal code, criminal procedures, and other aspects of sentencing policies and practices appropriate for the state which:

- (1) Secure the public safety of the state by providing a swift and sure response to the commission of crime.
- (2) Establish an effective, fair, and efficient sentencing system for Alabama adult and juvenile criminal offenders which provides certainty in sentencing, maintains judicial discretion and sufficient flexibility to permit individualized sentencing as warranted by mitigating or aggravating factors, and avoids unwarranted sentencing disparities among defendants with like criminal records who have been found guilty of similar criminal conduct. Where there is disparity, it should be rational and not related, for example, to geography, race, or judicial assignment.
- (3) Promote truth in sentencing, in order that a party involved in a criminal case and the criminal justice process is aware of the nature and length of the sentence and its basis.
- (4) Prevent prison overcrowding and the premature release of prisoners.
- (5) Provide judges with flexibility in sentencing options and meaningful discretion in the imposition of sentences.
- (6) Enhance the availability and use of a wider array of sentencing options in appropriate cases.
- (7) Limit the discretion of district attorneys in determining the charge or crime.

(b) In fulfilling its purposes, the commission shall be mindful of the purposes of sentencing that include, but are not limited to, all of the following:

- (1) Protecting the public.
- (2) Promoting respect for the law.
- (3) Providing just and adequate punishment for the offense.
- (4) Deterring criminal conduct.
- (5) Imposing sanctions which are least restrictive while consistent with the protection of the public and the gravity of the crime.
- (6) Promoting the rehabilitation of offenders.

(Act 2000-596, p. 1192, §2.)

### § 12-25-3. Membership.

(a) The commission shall consist of the following voting members:

- (1) The Chief Justice of the Supreme Court, or at his or her designation, a sitting or retired judge, who shall serve as chair, or at his or her designation another member of the commission shall serve as chair.
- (2) The Governor, or his or her designee.
- (3) The Attorney General, or his or her designee.
- (4) Three district attorneys appointed by the President of the Alabama District Attorneys' Association.
- (5) Two circuit judges, active or retired, appointed by the President of the Alabama Association of Circuit Court Judges.
- (6) A district judge, active or retired, appointed by the President of the Alabama Association of District Court Judges.

- 
- (7) Two victims of a violent felony or persons whose immediate family member was a victim of a violent felony, appointed by the Governor.
  - (8) The Chair of the House Judiciary Committee, or his or her designee who is a member of the House Judiciary Committee.
  - (9) The Chair of the Senate Judiciary Committee, or his or her designee who is a member of the Senate Judiciary Committee.
  - (10) A private attorney specializing in criminal defense appointed by the President of the Alabama Criminal Defense Lawyers' Association.
  - (11) A private attorney specializing in criminal law appointed by the President of the Alabama Lawyer's Association.
  - (12) A county commissioner appointed by the Governor.
  - (13) The Commissioner of the Department of Corrections, or his or her designee.
  - (14) The Chair of the Alabama Board of Pardons and Paroles, or his or her designee.
  - (15) A member of the academic community with a background in criminal justice or corrections policy appointed by the Chief Justice.
  - (16) A sheriff appointed by the Sheriff's Association.
  - (17) An active police officer appointed by the Association of Chiefs of Police.
- (b)(1) Appointed members of the commission shall serve terms of four years and may be reappointed for a second term. Members of the commission who serve because of their public office or position shall serve only as long as they hold such office or position.
  - (2) A member appointed to fill a vacancy on the commission which occurs before the expiration of the term for which his or her predecessor was appointed shall serve only for the remainder of such term.
  - (3) The membership of the commission shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of this state.
- (Act 2000-596, p. 1192, §3; Act 2012-473, §1.)

**§ 12-25-4. Advisory council.**

- (a) An advisory council to the commission shall be established to advise and consult the commission on sentencing matters. The advisory council shall be composed of representatives from the various state and non-state agencies and organizations having an interest in or whose operations directly or indirectly impact upon the criminal justice system. Membership of the advisory council shall include:
    - (1) The Director of Public Safety, or his or her designee.
    - (2) The Director of the Department of Youth Services, or his or her designee.
    - (3) A sheriff appointed by the Alabama Sheriff's Association.
    - (4) A police chief appointed by the Alabama Association of Chiefs of Police.
    - (5) A director of a community corrections program appointed by the Chief Justice.
    - (6) A representative of a prison ministry organization, who is not employed by the state, appointed by the Commissioner of the Department of Corrections.
    - (7) A rehabilitated former prison inmate appointed by the Commissioner of the Department of Corrections.
    - (8) Additional advisory members appointed in the numbers and manner as the commission deems advisable.
  - (b)(1) Appointed members of the advisory council shall serve terms of four years and may be reappointed. Members of the advisory council who serve because of their public office or position shall serve only as long as they hold the office or position.
  - (2) A member appointed to fill a vacancy on the advisory council that occurs before the expiration of the term of his or her predecessor shall serve only for the remainder of the term.
- (Act 2000-596, p. 1192, §4.)

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**§ 12-25-5. Compensation and expenses.**

- (a) Members of the commission and advisory council shall serve without compensation.
  - (b) Members of the commission and advisory council are entitled to reimbursement for expenses while on official business of the commission or attending its meetings. Expenses shall be paid as follows:
    - (1) The expenses of members who are legislators may be paid out of any funds appropriated to the Legislature or out of any funds appropriated for joint interim committees of the Legislature, but in the amounts as if they were performing legislative duties.
    - (2) The expenses of the members representing state or local government departments or agencies may be paid out of any funds available for travel in their respective departments or agencies.
    - (3) The expenses of the other members may be paid out of funds available to the commission for travel and shall be reimbursed in accordance with Sections 36-7-20 to 36-7-22, inclusive.
- (Act 2000-596, p. 1192, §5.)

**§ 12-25-6. Meetings.**

- (a) The commission shall meet quarterly at the State Capitol or at other places as is deemed necessary or convenient and at other times upon call of the chair. All meetings shall be open to the public. The advisory council shall convene at the discretion of the commission, but in any event shall meet jointly with the commission at least once annually.
  - (b) A majority of the members of the commission shall constitute a quorum for conducting business.
  - (c) Except as hereinafter provided, the commission shall act by affirmative vote of a majority of members present and voting.
  - (d) The commission will keep or cause to be kept a record of all transactions discussed or voted on by the commission.
- (Act 2000-596, p. 1192, §6.)

**§ 12-25-7. Executive committee.**

The executive committee of the commission shall be composed of the chair and four other members selected by the commission and shall conduct business as authorized by the commission or as permitted in Section 12-25-12.

(Act 2000-596, p. 1192, §7.)

**§ 12-25-8. Powers.**

The commission shall have the power to perform the functions as necessary to carry out the purposes of this article and may delegate power to any member or designated person. The commission may do all of the following:

- (1) Submit appropriation requests to the Legislature.
  - (2) Serve as an agency to apply for and receive grants, donations, or other monies from public or private sources and to coordinate and conduct studies in connection with any of its purposes and functions.
  - (3) Enter into and perform contracts, leases, cooperative agreements, and other transactions as may be necessary to fulfill the responsibilities of the commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization.
  - (4) Accept voluntary and uncompensated services.
  - (5) Request information, data, and reports from any Alabama agency or judicial officer as the commission may from time to time require and as may be produced consistent with other law.
  - (6) Hold hearings, conduct fact finding tours, and call witnesses to assist the commission in fulfilling its responsibilities.
  - (7) Perform other functions as may be necessary to carry out this article.
- (Act 2000-596, p. 1192, §8.)

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**§ 12-25-9. Duties.**

The commission shall have the following responsibilities:

- (1) To review state sentencing structure, including laws, policies, and practices, and recommend changes to the criminal code, criminal rules of procedure, and other aspects of sentencing necessary to accomplish the purposes and objectives of this article.
  - (2) To review the overcrowding problem in county jails, with particular emphasis on funding for the county jails and the proper removal of state prisoners from county jails pursuant to state law and state and federal court orders, and to make recommendations for resolution of these issues to the Governor, Legislature, Attorney General, and Judicial System Study Commission before the 2002 Regular Legislative Session.
  - (3) To make recommendations to the Governor, Legislature, Attorney General, and Judicial System Study Commission concerning the enactment of laws relating to criminal offenses, sentencing, and correctional or probation matters.
  - (4) To publish an annual report and other reports as the chair deems necessary.
  - (5) To serve as a clearinghouse for the collection, preparation, and dissemination of information on sentencing practices.
  - (6) To maintain and make available for public inspection records of actions taken by the commission.
- (Act 2000-596, p. 1192, §9.)

**§ 12-25-10. Comprehensive discretionary sentencing plan.**

Before or during the 2003 Regular Legislative Session, the commission shall review the present sentencing structure, including laws, policies, and practices, and recommend for consideration in the 2003 Regular Session changes to the criminal code, criminal rules of procedure, and other aspects of sentencing necessary to accomplish a comprehensive discretionary sentencing plan for all felony offenses consistent with the purposes and objectives of this article.

(Act 2000-596, p. 1192, §10; Act 2002-503, p. 1304, §1.)

**§ 12-25-11. Cooperation with commission.**

Agencies of the state government shall cooperate with the commission as necessary for the commission to carry out its responsibilities. Upon the request of the commission, each agency and department of the state shall make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the commission in the execution of its functions without cost to the commission. The commission shall have access to all offender records maintained by other state departments and agencies, including, but not limited to, the Department of Corrections, the Board of Pardons and Paroles, the Administrative Office of Courts, and the Alabama Criminal Justice Information Center. All offender information received by the commission shall remain subject to the confidentiality requirements of the department or agency providing the information. The commission, however, may release non-identifying offender information for statistical and analysis purposes. When possible, information shall be provided to the commission electronically.

(Act 2000-596, p. 1192, §11; Act 2002-503, p. 1304, §1.)

**§ 12-25-12. Director; employees.**

- (a) The Chief Justice shall appoint a director for the commission. The Chief Justice may also authorize other employee positions for the commission. The director and employees of the commission shall be paid from any funds appropriated to the commission and shall be employed in the same manner as employees of the Supreme Court.
  - (b) The executive committee of the commission may employ and fix the compensation of consultants and experts to assist the commission as may be necessary to carry out its responsibilities.
- (Act 2000-596, p. 1192, §12.)

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**§ 12-25-30. Short title.**

This article shall be known and may be cited as the Alabama Sentencing Reform Act of 2003.  
(Act 2003-354, p. 948, §1.)

**§ 12-25-31. Statement of purpose.**

(a) It is essential that Alabama manage its criminal justice system in the manner best able to protect public safety and make the most effective and efficient use of correctional resources. Based on the findings and recommendations of the Alabama Sentencing Commission, the Legislature finds that all of the following are necessary to protect public safety by providing a fair, effective, and efficient criminal justice system:

(1) Voluntary sentencing standards used to guide judicial decision makers in determining the most appropriate sentence for convicted felony offenders.

(2) The abolition of traditional parole and good time credits for convicted felons.

(3) The availability of a continuum of punishment options.

(b) The Legislature further finds, based on the findings and recommendations of the sentencing commission, that subdivisions (1) to (3), inclusive, of subsection (a) are necessary to best achieve all of the following goals:

(1) Incapacitating through incarceration the most dangerous and violent offenders in the state.

(2) Eliminating unwarranted disparity in sentencing.

(3) Assuring truth-in-sentencing.

(4) Providing the most effective use of correctional resources.

(5) Assuring the greatest opportunity for victim restitution.

(6) Protecting against prison and jail overcrowding.

(7) Maintaining meaningful judicial discretion.

(Act 2003-354, p. 948, §2.)

**§ 12-25-31.1. Legislative findings.**

(a) The Legislature finds the Alabama Sentencing Commission has followed the directives of the Legislature in this article, to develop and recommend to the Legislature a discretionary sentencing structure designed to protect public safety by providing a fair, effective, and efficient criminal sentencing system for this state by doing all of the following:

(1) By developing a system of statewide voluntary sentencing standards and worksheets for use in felony cases for 26 felony offenses representing 87 percent of all felony convictions in Alabama over a five-year period.

(2) By taking into account historical sentencing data concerning time imposed and other factors that, after analysis of historical data, appear to be relevant in determining both the duration and disposition of sentences in the applicable felony cases.

(3) By basing the voluntary sentencing standards on historical sentencing practices adjusted to achieve sentencing goals as established in Rule 26 of the Alabama Rules of Criminal Procedure and Section 12-25-31.

(b) The Legislature further recognizes that the development of voluntary sentencing standards by the commission is and should be a continuous process and the commission has been directed to continue the development of the voluntary sentencing standards recommendations by collecting and analyzing sentencing data and incorporating a continuum of punishment options, as required by subdivision (1) of Section 12-25-33, and by identifying, testing, and recommending modifications of the initial voluntary sentencing standards and worksheets as may be necessary to accomplish the purposes and goals set out in this article and Rule 26 of the Alabama Rules of Criminal Procedure.

(Act 2006-312, p. 663, §1.)

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**§ 12-25-32. Definitions.**

For the purposes of this article, the following terms have the following meanings:

(1) COMMISSION. The Alabama Sentencing Commission, established as a state agency under the Supreme Court by this chapter.

(2) CONTINUUM OF PUNISHMENTS. An array of punishment options, from probation to incarceration, graduated in restrictiveness according to the degree of supervision of the offender including, but not limited to, all of the following:

a. Active incarceration. A sentence, other than an intermediate punishment or unsupervised probation, that requires an offender to serve a sentence of imprisonment. The term includes time served in a work release program operated as a custody option by the Alabama Department of Corrections or in the Supervised Intensive Restitution program of the Department of Corrections pursuant to Article 7, commencing with Section 15-18-110, of Chapter 18 of Title 15.

b. Intermediate punishment. A sentence that may include assignment to any community based punishment program or may include probation with conditions or probation in conjunction with a period of confinement. Intermediate punishments include, but are not limited to, all of the following options:

1. A split sentence pursuant to Section 15-18-8.

2. Assignment to a community punishment and corrections program pursuant to the Alabama Community Punishment and Corrections Act or local acts.

3. Assignment to a community based manual labor work program pursuant to Sections 14-5-30 to 14-5-37, inclusive.

4. Intensive probation supervision pursuant to Section 15-22-56.

5. Cognitive and behavioral training.

6. Community service work.

7. County probation.

8. Day fines or means-based fines.

9. Day reporting.

10. Drug or alcohol testing.

11. Drug court programs.

12. Educational programs.

13. Electronic monitoring.

14. Home confinement or house arrest.

15. Ignition interlock.

16. Intermittent confinement.

17. Jail and prison diversion programs.

18. Job readiness and work.

19. Literacy and basic learning.

20. Pretrial diversion programs.

21. Residential drug treatment.

22. Residential community based punishment programs in which the offender is required to spend at least eight hours per day, or overnight, within a facility and is required to participate in activities such as counseling, treatment, social skills training, or employment training, conducted at the residential facility or at another specified location.

23. Restorative justice.

(i) Victim impact panels.

(ii) Voluntary victim offender conferencing.

(iii) Voluntary victim offender mediation.

24. Self-help groups.

25. Sobriety or breath alcohol remote monitoring.

26. Substance abuse education and treatment.

27. Treatment alternatives to street crime (TASC).

- 
28. Voice recognition, curfew restriction, or employment monitoring.
29. Work release, other than those work release programs operated by the Alabama Department of Corrections, as a custody option.
- c. Unsupervised probation. A sentence in a criminal case that includes a period of probation but does not include supervision, active incarceration, or an intermediate punishment.
- d. Post-release supervision. A mandatory period of supervision following sentences of active incarceration as defined in paragraph a. that may include one or more intermediate punishment options.
- (3) COURT. Unless otherwise stated, a district or circuit court exercising jurisdiction to sentence felony offenders.
- (4) FELONY OFFENSE. A noncapital felony offense.
- (5) INITIAL VOLUNTARY STANDARDS. The voluntary sentencing standards effective on October 1, 2006. These standards were based on statewide historic sentences imposed with normative adjustments designed to reflect current sentencing policies.
- (6) NONVIOLENT OFFENSE. All offenses which are not violent offenses.
- (7) NONVIOLENT OFFENDER. Any offender who does not qualify as a violent offender pursuant to subdivision (12).
- (8) OFFENDER. A person convicted of a noncapital felony offense.
- (9) RELEASE AUTHORITY. Any public official, agency, or other entity authorized by law to release a sentenced offender from incarceration or other conditions of a sentence.
- (10) RISK ASSESSMENT. An instrument designed to assess an offender's relative risk for reoffending.
- (11) TRUTH-IN-SENTENCING STANDARDS. The sentencing standards that are scheduled to become effective October 1, 2020. These standards shall be based on statewide historic time served for offenses with adjustments designed by the commission to reflect current sentencing policies.
- (12) UNDER SUPERVISION. All offenders under the supervision of any criminal justice agency or program including, but not limited to, any of the following entities:
- a. The Alabama Department of Corrections.
  - b. State or county probation offices.
  - c. Community corrections programs pursuant to Alabama Community Corrections Act.
  - d. Jails.
  - e. State or local law enforcement agencies.
  - f. Any court.
- (13) VIOLENT OFFENDER. A violent offender is an offender who has been convicted of a violent offense, or who is determined by the trial court judge or a release authority to have demonstrated a propensity for violence, aggression, or weapons related behavior based on the criminal history or behavior of the offender while under supervision of any criminal justice system agency or entity.
- (14) VIOLENT OFFENSE.
- a. For the purposes of this article, a violent offense includes each of the following offenses, or any substantially similar offense to those listed in this subdivision created after June 20, 2003:
    1. Capital murder pursuant to Sections 13A-6-2 and 13A-5-40.
    2. Murder pursuant to Section 13A-6-2.
    3. Manslaughter pursuant to Section 13A-6-3.
    4. Criminally negligent homicide pursuant to Section 13A-6-4.
    5. Assault I pursuant to Section 13A-6-20.
    6. Assault II pursuant to Section 13A-6-21.
    7. Compelling street gang membership pursuant to Section 13A-6-26.
    8. Kidnapping I pursuant to Section 13A-6-43.
    9. Kidnapping II pursuant to Section 13A-6-44.
    10. Rape I pursuant to Section 13A-6-61.
    11. Rape II pursuant to Section 13A-6-62.
    12. Sodomy I pursuant to Section 13A-6-63.
    13. Sodomy II pursuant to Section 13A-6-64.

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14. Sexual torture pursuant to Section 13A-6-65.1.
  15. Sexual abuse I pursuant to Section 13A-6-66.
  16. Enticing a child to enter a vehicle for immoral purposes pursuant to Section 13A-6-69.
  17. Stalking pursuant to Section 13A-6-90.
  18. Aggravated stalking pursuant to Section 13A-6-91.
  19. Soliciting a child by computer pursuant to Section 13A-6-110.
  20. Domestic violence I pursuant to Section 13A-6-130.
  21. Domestic violence II pursuant to Section 13A-6-131.
  22. Burglary I pursuant to Section 13A-7-5.
  23. Burglary II pursuant to Section 13A-7-6.
  24. Burglary III pursuant to Section 13A-7-7.
  25. Arson I pursuant to Section 13A-7-41.
  26. Criminal possession of explosives pursuant to Section 13A-7-44.
  27. Extortion I pursuant to Section 13A-8-14.
  28. Robbery I pursuant to Section 13A-8-41.
  29. Robbery II pursuant to Section 13A-8-42.
  30. Robbery III pursuant to Section 13A-8-43.
  31. Pharmacy robbery pursuant to Section 13A-8-51.
  32. Terrorist threats pursuant to Section 13A-10-15.
  33. Escape I pursuant to Section 13A-10-31.
  34. Promoting prison contraband I pursuant to Section 13A-10-36, involving a deadly weapon or dangerous instrument.
  35. Intimidating a witness pursuant to Section 13A-10-123.
  36. Intimidating a juror pursuant to Section 13A-10-127.
  37. Treason pursuant to Section 13A-11-2.
  38. Discharging a weapon into an occupied building, dwelling, automobile, etc., pursuant to Section 13A-11-61.
  39. Promoting prostitution I pursuant to Section 13A-12-111.
  40. Production of obscene matter involving a minor pursuant to Section 13A-12-197.
  41. Trafficking pursuant to Section 13A-12-231.
  42. Child abuse pursuant to Section 26-15-3.
  43. Elder abuse pursuant to Section 38-9-7.
  44. Terrorism pursuant to Section 13A-10-152.
  45. Hindering prosecution for terrorism pursuant to Section 13A-10-154.
  46. Any substantially similar offense for which an Alabama offender has been convicted under prior Alabama law or the law of any other state, the District of Columbia, the United States, or any of the territories of the United States.
- b. The basis for defining these offenses as violent is that each offense meets at least one of the following criteria:
1. Has as an element, the use, attempted use, or threatened use of a deadly weapon or dangerous instrument or physical force against the person of another.
  2. Involves a substantial risk of physical injury against the person of another.
  3. Is a nonconsensual sex offense.
  4. Is particularly reprehensible.
- c. Any attempt, conspiracy, or solicitation to commit a violent offense shall be considered a violent offense for the purposes of this article.
- d. Any criminal offense which meets the criteria provided in paragraph b. enacted after 2003.  
(Act 2003-354, p. 948, §3; Act 2009-742, p. 2220, §1; Act 2012-473, §1.)

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**§ 12-25-33. Powers and duties of commission.**

To achieve the goals recognized by the Legislature in Chapter 25 and Section 12-25-31, the commission shall:

- (1) Develop, maintain, and modify as necessary a system of statewide voluntary sentencing standards for use in felony cases which shall take into account historical sentencing data, concerning time actually served for various felony offenses, sentences imposed for various felony offenses, and such other factors as appear historically relevant to determining both the duration and disposition of sentences in felony cases. The standards shall recognize a continuum of punishments in recommending the disposition of sentences.
  - (2) Educate judges, prosecutors, defense attorneys, victim's service officers, community corrections officials, probation officers, and other personnel, where appropriate, in the use of the voluntary sentencing standards and worksheets.
  - (3) Develop, distribute, and periodically update sentencing worksheets for the use of courts in determining both the duration and disposition of sentences in felony cases.
  - (4) Prepare, distribute, and periodically update a form for sentencing courts to record the sentence of the offender and the reason or reasons for any departure from the voluntary sentencing standards.
  - (5) Develop and distribute voluntary standards for sentencing courts that include recommended intermediate punishment options.
  - (6) Evaluate risk assessment instruments used by the Board of Pardons and Paroles, the Department of Corrections, and other agencies and entities and assist in developing an offender risk assessment instrument for use in felony cases, based on a study of Alabama felons, that is intended to be predictive of the relative risk that a felon will become a threat to public safety.
  - (7) Collect, analyze, and maintain data regarding sentencing practices in felony cases, including the use of the voluntary sentencing standards, and recommend changes or modifications of the standards and worksheets as the commission deems appropriate.
  - (8) Collect and analyze information including sentencing data, crime trends, and existing correctional resources to enable the commission to make recommendations regarding projected correctional resource needs and to make recommendations to the Governor, the Legislature, the Chief Justice, and the Attorney General in the annual report of the commission. This annual report should also include data showing the impact of the initial voluntary standards and the truth-in-sentencing standards by race, gender, and location of the offender.
  - (9) Study felony statutes in the context of sentencing patterns as they evolve and make recommendations for the revision of criminal offense statutes to provide more specific offense definitions and more narrowly prescribed ranges of punishment.
  - (10) Study bills introduced in the Legislature affecting criminal laws and procedure and prepare impact statements of proposed legislation on Alabama's criminal justice system, including the prison population.
  - (11) Report upon its work and recommendations annually to the Governor, the Legislature, the Chief Justice, and the Attorney General.
  - (12) Perform such other functions as may be required by law or necessary to carry out the duties of the commission prescribed in this chapter and this article.
- (Act 2003-354, p. 948, §4.)

**§ 12-25-34. Development and adoption of the voluntary sentencing standards.**

(a) Statewide voluntary sentencing standards shall be developed and presented to the Legislature in stages over a three-year period as follows:

- (1) By July 31, 2003, the commission shall develop and distribute to all sentencing judges a reference manual analyzing historical sentencing practices by duration of sentence and disposition of felony offenders in Alabama. The reference manual shall indicate those types of offenders historically most likely to be sentenced to punishments other than active incarceration where alternatives to active incarceration are available.
- (2) Concurrently with the development and distribution of the reference manual, the commission shall develop and begin testing worksheets and voluntary sentencing standards in selected circuits for selected felony offenses.
- (3) The commission shall develop and present the initial voluntary sentencing standards to the Legislature before

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or during the 2006 Regular Session. These standards shall be introduced in the 2006 Regular Session and shall become effective on October 1 following the 2006 Regular Session, if approved by an act of the Legislature passed during that session. The initial voluntary sentencing standards based on sentences imposed shall apply to convictions for felony offenses sentenced on or after October 1, 2006, and committed before the effective date of the voluntary truth-in-sentencing standards.

(4) The commission shall develop and present truth-in-sentencing standards to the Legislature before or during the 2020 Regular Session. These standards shall be introduced in the 2020 Regular Session and shall become effective on October 1 following the 2020 Regular Session, if approved by an act of the Legislature. The voluntary truth-in-sentencing standards shall apply only to felony offenses committed on or after the effective date of these standards.

(b) Recommended sentence ranges shall be established by standards that are based on historical sentencing practices, adjusted to achieve sentencing goals as established in Rule 26 of the Alabama Rules of Criminal Procedure, this chapter, and Section 12-25-31.

(c) Voluntary sentencing standards shall take into account and include statewide historically based sentence ranges, including all applicable statutory minimums and sentence enhancement provisions, including the Habitual Felony Offender Act, with adjustments made to reflect current sentencing policies. No additional penalties pursuant to any sentence enhancement statute shall apply to sentences imposed based on the voluntary sentencing standards.

(d) Commencing with the 2013 Regular Session, any modifications to the initial voluntary sentencing standards made by the commission shall be contained in the annual report presented to the Governor, the Legislature, the Chief Justice, and the Attorney General. An annual report containing proposed modifications shall be presented to the Governor, the Legislature, the Chief Justice, and the Attorney General at least forty-five days prior to each regular session of the Legislature. The modifications presented for nonviolent offenses shall become effective on October 1 following the legislative session in which the modifications were presented unless rejected by an act of the Legislature enacted by bill during the legislative session. The modifications presented for violent offenses shall become effective on October 1 following the legislative session in which the modifications were presented, if approved by an act of the Legislature enacted by bill during the legislative session in which the modifications were presented.

(Act 2003-354, p. 948, §5; Act 2006-312, p. 663, §3; Act 2009-742, p. 2220, §1; Act 2012-473, §1.)

#### **§ 12-25-34.1. Approval of the initial voluntary sentencing standards.**

The initial voluntary sentencing standards and the accompanying worksheets and instructions, as adopted by the Sentencing Commission on September 30, 2005, and filed with the Clerk of the Supreme Court, the Secretary of the Senate, and the Clerk of the House of Representatives, are approved for implementation effective on October 1, 2006, under the terms and conditions set out in Sections 12-25-34 and 12-25-35; provided however, that these standards shall not apply to any sex offense involving a victim under the age of 12.

(Act 2006-312, p. 663, §2.)

#### **§ 12-25-34.2. Presumptive sentencing standards.**

(a) For the purposes of this section, the following words shall have the following meanings:

(1) **AGGRAVATING FACTORS.** Substantial and compelling reasons justifying an exceptional sentence whereby the sentencing court may impose a departure sentence above the presumptive sentence recommendation for an offense. Aggravating factors may result in dispositional or sentence range departures, or both, and shall be stated on the record by the court.

(2) **DEPARTURE.** A sentence which departs from the presumptive sentence recommendation for an offender.

(3) **DISPOSITION.** The part of the sentencing courts presumptive sentence recommendation other than sentence length.

(4) **DISPOSITIONAL DEPARTURE.** A sentence which departs from the presumptive sentence recommendation for disposition of sentence.

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(5) MITIGATING FACTORS. Substantial and compelling reasons justifying an exceptional sentence whereby the sentencing court may impose a departure sentence below the presumptive sentence recommendation for an offense. Mitigating factors may result in disposition or sentence range departures, or both, and shall be stated on the record by the court.

(6) NONVIOLENT OFFENSES. As defined in Section 12-25-32.

(7) PRESUMPTIVE SENTENCE RECOMMENDATION. The recommended sentence range and disposition provided in the sentencing standards.

(8) SENTENCE RANGE. The sentencing court's discretionary range of length of sentence as provided and recommended in the presumptive sentencing recommendation.

(9) SENTENCE RANGE DEPARTURE. A sentence which departs from the presumptive sentence recommendation as to the sentence range.

(10) VIOLENT OFFENSES. As defined in Section 12-25-32.

(b) The voluntary sentencing standards as provided for in Section 12-25-34, as applied to nonviolent offenses shall become presumptive sentencing standards effective October 1, 2013, to the extent the modification adopted by the Alabama Sentencing Commission become effective October 1, 2013. The standards shall be applied by the courts in sentencing subject to departures as provided herein. To accomplish this purpose as to the existing initial voluntary sentencing standards, the Alabama Sentencing Commission shall adopt modifications to the standards, worksheets, and instructions to the extent necessary to implement this provision including, but not limited to, defining aggravating and mitigating factors that allow for departure from the presumptive sentencing recommendations. The commission's modifications shall be presented to the Legislature in the commission's annual report within the first five legislative days of the 2013 Regular Session.

(c) Durational and dispositional departures from the presumptive sentencing standards shall be subject to appellate review. Along with the modifications provided for in subsection (b), the Alabama Sentencing Commission shall recommend a narrowly defined scope of appellate review applicable to departures from presumptive sentencing recommendations. The scope of appellate review shall become effective upon approval by an act of the Legislature enacted by bill.

(Act 2012-473, §2.)

#### **§ 12-25-35. Use of voluntary sentencing standards.**

(a) In felony cases, a probation officer, the district attorney, or some other person appointed at the discretion of the sentencing judge, and within the time frame set by the judge, shall, after notice to the offender or his or her attorney, present a completed appropriate voluntary sentencing standards worksheet to the sentencing judge for consideration.

(b) The trial court shall review the sentencing standards worksheet and consider the suitability of the applicable voluntary sentencing standards established pursuant to this article. In imposing sentence, the court shall indicate on the record that the worksheet and applicable sentencing standards have been reviewed and considered.

(c) In any felony case in which the trial court imposes a sentence that departs from the voluntary standards, and sentences outside the voluntary sentencing standards in accordance with existing law, the court may provide a brief written reason for the departure. Neither the departure nor the reason stated for the departure shall be subject to appellate review but shall be supplied to the commission for future consideration concerning modification of the voluntary sentencing standards and for statistical purposes only.

(d) Copies of the voluntary sentencing standards worksheets, prepared pursuant to this article, shall be subject to the same distribution requirements as presentence investigation reports.

(e) Following the imposition of a sentence in a felony case, the clerk of the court in which the case was disposed shall forward a copy of the sentencing order or orders, a copy of the voluntary sentencing standards worksheets prepared in the case, and a copy of any departure explanation to the commission within 45 days after the imposition of sentence.

(f) Failure to follow any or all of the provisions of this section, or failure to follow any or all of the provisions of this section in the prescribed manner, shall not be reviewable on appeal or the basis of any other post-conviction relief.

(Act 2003-354, p. 948, §6.)



**PRESUMPTIVE TAB**



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# PRESUMPTIVE SENTENCING STANDARDS

## I. GENERAL INSTRUCTIONS - Introduction

### The Sentencing Standards<sup>1</sup> – A Structured Sentencing System

Alabama's Sentencing Standards consist of worksheets, instructions, and sentence length tables. The Standards were initially adopted as voluntary sentencing recommendations for Alabama's most frequently sentenced offenses. In Act 2012-473, (ALA. CODE § 12-25-34.2)<sup>2</sup>, the Alabama Legislature changed the Standards for non-violent offenses as defined by ALA. CODE § 12-25-32(6) from voluntary to presumptive recommendations and directed the Alabama Sentencing Commission to make modifications as necessary to effect this change, including defining aggravating and mitigating circumstances that are required for sentencing departures from these recommendations. The primary modifications to the Initial Voluntary Sentencing Standards include defining a list of aggravating and mitigating factors for departures from presumptive sentencing recommendations, defining procedures for departure sentences, clarifying the initial instructions, and the addition of some non-violent offenses, along with higher sentence length ranges to accommodate historical sentencing practices for the additional offenses. The modifications must be used for sentencing events in which the most serious offense is subject to presumptive sentencing recommendations. The modifications made herein are not to be used when the most serious offense sentenced is a violent offense. The sentence recommendations for violent offenses, as defined in ALA. CODE § 12-25-32(14), including all burglaries, are unaffected by these changes and remain completely voluntary and non-appealable.

The Standards are:

- Developed by judges, prosecutors, defense lawyers, victim advocates, and other criminal justice officials in response to the legislative directive to recommend a more structured sentencing system in Alabama to address unwarranted disparity and prison overcrowding (reserving scarce prison resources for the most dangerous and violent offenders ALA. CODE § 12-25-2);
- Created from historical sentencing data reflecting the major factors considered in making sentencing decisions and the importance of those factors in sentencing;
- Developed to include the historical application of Alabama's statutory sentence enhancements and mandatory minimums, except mandatory sentences of life without parole and sex offenses against children under the age of 12;
- Designed to mimic the two decisions in criminal sentencing – where and how the sentence is served, prison or non-prison (disposition), and the length of the sentence (duration);
- Expected to be followed in the vast majority of covered cases, leaving flexibility with judges to sentence higher or lower as appropriate in covered cases;
- Designed to preserve bedspace for violent offenders in prison and to provide more predictability in forecasting correctional populations; and
- Non-appealable, except departure sentences from presumptive recommendations for non-violent offenses are subject to limited appellate review as directed by ALA. CODE § 12-25-34.2(c).

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<sup>1</sup> Hereinafter referred to as "Standards", referencing the Standards' worksheets, instructions, and sentence length tables.

<sup>2</sup> All references to ALA. CODE are to ALA. CODE (1975, as amended).

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In addition, the Standards:

- Cover many of the most frequently sentenced felony offenses representing the vast majority of sentenced cases as well as the inchoate offenses of attempts, conspiracies, and solicitations for certain covered drug offenses;
- Standardize sentence recommendations for more informed and uniform sentencing practices and the elimination of unwarranted disparity;
- Allow judges to retain significant discretion in arriving at sentencing decisions as required by ALA. CODE § 12-25-2(a)(5);
- Encourage the use of probation and community correction programs for supervising appropriate non-violent offenders;
- Are not applicable to convictions requiring a mandatory life without parole sentence or to sex offenses involving a child victim under the age of 12 years; and
- Contain presumptive sentencing recommendations for non-violent offenses and voluntary sentencing recommendations for violent offenses.

The Standards consist of three sets of worksheets and corresponding prison sentence length tables, with instructions for completing each. Each covered offense has been classified into either the drug, property, or personal worksheets.

Each set of worksheets has two components: a prison In/Out worksheet that recommends a sentence disposition and a Prison Sentence Length worksheet that recommends a sentence length range from which a sentence is chosen. The recommendations for personal offenses remain voluntary. The property offenses are subdivided into two subsets to include two types of property offenses. The first property subset, still designated as “Property”, contains the felony burglary offenses and those recommendations remain voluntary. The second property subset, now designated as “Property A”, contains all other covered property offenses and those recommendations, along with the recommendations for covered drug offenses, become presumptive for applicable cases sentenced on or after October 1, 2013. Each type of worksheet relies on a separate sentence length table providing recommended sentence ranges based on the Prison Sentence Length Worksheet score from which the final sentence is selected unless a departure sentence is imposed.

The Standards also include a list of aggravating and mitigating factors upon which a sentence that departs from the presumptive Standards recommendations must be based.

For the purposes of implementing presumptive recommendations for non-violent offenses, the Legislature adopted the following definitions as provided in ALA. CODE §12-25-34.2.

- “(1) **AGGRAVATING FACTORS.** Substantial and compelling reasons justifying an exceptional sentence whereby the sentencing court may impose a departure sentence above the presumptive sentence recommendation for an offense. Aggravating factors may result in dispositional or sentence range departures, or both, and shall be stated on the record by the court.
- (2) **DEPARTURE.** A sentence which departs from the presumptive sentence recommendation for an offender.

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- (3) DISPOSITION. The part of the sentencing courts presumptive sentence recommendation other than sentence length.
  - (4) DISPOSITIONAL DEPARTURE. A sentence which departs from the presumptive sentence recommendation for disposition of sentence.
  - (5) MITIGATING FACTORS. Substantial and compelling reasons justifying an exceptional sentence whereby the sentencing court may impose a departure sentence below the presumptive sentence recommendation for an offense. Mitigating factors may result in disposition or sentence range departures, or both, and shall be stated on the record by the court.
  - (6) NONVIOLENT OFFENSES. As defined in §12-25-32.
  - (7) PRESUMPTIVE SENTENCE RECOMMENDATION. The recommended sentence range and disposition provided in the sentencing Standards.
  - (8) SENTENCE RANGE. The sentencing court's discretionary range of length of sentence as provided and recommended in the presumptive sentencing recommendation.
  - (9) SENTENCE RANGE DEPARTURE. [Durational Departure] A sentence which departs from the presumptive sentence recommendation as to the sentence range.
  - (10) VIOLENT OFFENSES. As defined in Section 12-25-32."



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## **II. GENERAL INSTRUCTIONS - Administrative Procedures**

### **Responsibility for Completing Worksheets**

Pursuant to ALA. CODE § 12-25-35(a), the worksheets shall be completed by any person designated by the trial court judge including the prosecutor, a probation officer, or any other person. *The sentencing judge has the final responsibility for ensuring the worksheets are (1) completed for the most serious offense of conviction and reflect the appropriate worksheet factors, (2) considered by the court, and (3) sent to the court clerk to forward to the Alabama Sentencing Commission.*

### **Responsibilities of Worksheet Preparer**

The worksheet preparer obtains the necessary information needed to complete the worksheet; totals the scores; and determines the recommended disposition and sentence length ranges based on the worksheet scores; distributes the worksheets to the appropriate parties; and presents the completed worksheets to the sentencing judge.

### **Worksheet Distribution**

A copy of the completed sentencing worksheets must be presented to the prosecutor, the defendant and/or his attorney, and the sentencing judge prior to sentencing. ALA. CODE § 12-25-35 (d)

*Worksheets should not be submitted to the Sentencing Commission until the final sentence (length and disposition) is imposed (i.e. probation hearing is not pending).*

### **Use of the Worksheets by the Sentencing Judge**

Prior to sentencing, the trial court shall review the Standards worksheets. In imposing sentence, the court shall indicate on the record that the applicable Standards, along with any aggravating and mitigating circumstances, have been reviewed and considered. § 12-25-35 (b)

After sentencing, the sentencing judge shall sign or initial the completed worksheets and file the completed worksheets, the sentencing order, and if applicable, the reasons for departure with the court clerk to include in the record in the case.

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## **Responsibilities of the court clerk**

The clerk of the court shall forward a copy of the final sentencing order or orders including, if applicable, the reasons for departure and a copy of the completed Standards worksheets prepared in the case to the Alabama Sentencing Commission within 45 days after the imposition of sentence, as required by ALA. CODE §12-25-35 (b).

These documents must be sent in paper form<sup>3</sup> by either:

E-mail: [sentencing.commission@alacourt.gov](mailto:sentencing.commission@alacourt.gov);

Fax: (334) 954-5201;

US mail: Alabama Sentencing Commission  
300 Dexter Avenue, Suite 2-230  
Montgomery, AL 36104-3741

## **Judicial Disagreement with Worksheet Scoring and Instructions**

To comport with the Standards, the sentence(s) must be imposed according to the appropriate Instructions.

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<sup>3</sup> For purposes of this requirement, an ALAVault document is considered a paper document.

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### III. GENERAL INSTRUCTIONS – When to use the Standards and Completing the Worksheets

#### Covered Offenses

The following offenses are covered by the Presumptive Sentencing Standards unless the conviction carries a mandatory life without parole sentence or is a sex offense involving a child victim under 12 years of age.

#### Property “A” Worksheets

Forgery II  
§13A-9-3

Possession of a Forged Instrument II  
§13A-9-6

Receiving Stolen Property I  
§13A-8-17

Receiving Stolen Property II  
§13A-8-18

Theft of Property I  
§13A-8-3

Theft of Property II  
§13A-8-4

Unauthorized Use/Break & Enter Vehicle  
§13A-8-11 (a)(4) & (b)

Unlawful Possession/Use Credit/Debit Card  
§13A-9-14

#### Drug Worksheets

Felony DUI  
§ 32-5a-191(h)

Manufacturing Controlled Substance I  
§ 13A-12-218  
(includes attempts,  
conspiracies, and solicitations)

Manufacturing Controlled Substance II  
§ 13A-12-217  
(includes attempts,  
conspiracies, and solicitations)

Possession of Controlled Substance  
§ 13A-12-212  
(includes attempts,  
conspiracies, and solicitations)

Possession of Marihuana I  
§ 13A-12-213  
(includes attempts,  
conspiracies, and solicitations)

Possession with Intent to  
Distribute Controlled Substance  
§ 13A-12-211(c)  
(includes attempts,  
conspiracies, and solicitations)

Sale/Distribution of Marihuana  
(other than to minor)  
§ 13A-12-211  
(includes attempts,  
conspiracies, and solicitations)

Sale/Distribution of Schedule I-V  
(other than to minor)  
§ 13A-12-211  
(includes attempts,  
conspiracies, and solicitations)

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## Worksheets are Offense Specific

Worksheets should be completed only for worksheet offense convictions. Worksheets are not intended to provide guidance when sentencing similar crimes. The factors on the worksheets have been statistically derived specifically for the covered offenses and may or may not be statistically significant in predicting sentencing outcomes for other offenses not included in a worksheet sentencing event.

## Sentencing Event

A sentencing event includes all convictions sentenced at the same time, whether included as counts in one case or in *multiple* cases, regardless of whether offenses are worksheet offenses.

## The Most Serious Offense

Worksheets must be completed and considered when the “most serious offense” at a sentencing event is a worksheet offense in the same venue. Convictions occurring in different counties or venues constitute separate sentencing events.

## Determining the Most Serious Offense at a Sentencing Event - Four Rules

**Rule 1.** Where two or more offenses at the same sentencing event are the same offense type covered by the same worksheet, the most serious offense is the offense with the highest number of points shown on the corresponding Prison Sentence Length Worksheet.

**Rule 2.** Where two or more offenses at the same sentencing event are covered by different worksheets, the most serious offense is the offense with the highest number of points shown on the applicable Prison Sentence Length worksheets. The preparer may complete all applicable worksheets and select the offense that results in the most severe penalty.

Example:

- If a defendant is being sentenced for Forgery II (44 points on the property Prison Sentence Length worksheet) and Sale/Distribution of Marihuana (84 points on the drug Prison Sentence Length worksheet) at the same sentencing event, the worksheet preparer should first complete the Drug Sentencing Worksheets to determine the recommended sentencing outcome. This is because Sale/Distribution of Marihuana has the highest point value as reflected on the Drug Sentence Length Worksheet. Then, the preparer could elect to score Forgery II as the primary offense on the property worksheets to determine which sentencing outcome would be most appropriate in this particular case.

**Rule 3.** Where a sentencing event includes both a worksheet offense and a non-worksheet offense and both carry the same statutory maximum penalty as governed by the felony offense classification, the worksheet offense is the most serious offense. The other offense should be scored as an additional offense where appropriate.

Example:

- If a defendant is sentenced for Criminal Mischief I and Theft of Property II (both having a statutory maximum penalty of 120 months) at the same event, the worksheet preparer should score the property worksheets for Theft of Property II as the most serious offense. This is because Theft of Property II is covered by the worksheets and Criminal Mischief I is not.

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**Rule 4.** Where a sentencing event includes both a worksheet offense and a non-worksheet offense and the non-worksheet offense has a higher statutory maximum penalty as governed by the felony offense classification, the non-worksheet offense is the most serious offense and the Standards are not applicable to the convictions in that sentencing event.

### **Completing the In/Out Worksheet and the Prison Sentence Length Worksheet**

Both the In/Out Worksheet and the Prison Sentence Length Worksheet applicable to the sentencing event must be completed.

### **Rules for Scoring Prior Records**

*Date of Prior Records* - Prior records are to be scored based on convictions, juvenile delinquency and/or youthful offender adjudications occurring before the arrest date(s) of the offense(s) sentenced.

*Ambiguous Prior Records* - If an ambiguous entry on a prior record document cannot be resolved, the worksheet preparer should treat the information in a way that gives the benefit of the doubt to the offender. If any prior record disposition information is missing, the worksheet preparer should assume that no conviction occurred.

*Burden and Manner of Proving Prior Records* - In the event of a dispute, the burden of proving the prior record is on the prosecutor. For purposes of proving in-state prior convictions, any official court document – whether automated or hard copy – shall be sufficient for meeting the burden of proof requirement. When meeting the burden of proof for out-of-state convictions, certified copies of official court records shall be sufficient evidence. Out-of-state records need not be exemplified.

*Prior Nolo Contendere Dispositions* – Matters disposed of by pleas of *nolo contendere* or “no-contest” should be counted as prior convictions for worksheet purposes. In addition, any incarceration resulting from a plea of *nolo contendere* should be counted in the appropriate places on the worksheets.

*Effect of Pardons* – In the event a defendant has received a pardon for innocence, the conviction for which he or she received the pardon should be excluded when scoring prior convictions. Convictions resulting in all other pardons – e.g. those to restore voting rights – should not be excluded when scoring prior convictions.

*Prior Misdemeanor or Violation Convictions* – All criminal convictions should be counted. Traffic convictions do not count except: Driving Under the Influence, Boating Under the Influence, Leaving the Scene of an Accident, Attempting to Elude Law Enforcement, Driving Without a License, and Driving While License is Suspended or Revoked.

*Prior DUI Convictions* – All felony and misdemeanor DUI convictions occurring before the arrest date for the current offense should be counted as priors, even when the worksheets are being completed for Felony DUI.

*Prior Incarceration* – Any unsuspended incarceration resulting from a final sentence or adjudication including criminal convictions, and youthful offender and juvenile delinquency adjudications, or as the result of a *nolo contendere* disposition. Prior incarcerations do not include incarcerations resulting from probation, parole, or community corrections revocation, which are counted as a separate worksheet factor.

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## **Time for Completing Worksheets and Determining Recommendations**

Worksheets must be completed prior to the imposition of sentence in sufficient time for review by all parties and the sentencing judge.

In pre-trial diversion cases and “specialty” court (including drug court, mental health court, veterans’ court, etc.) cases, worksheets are not required until a sentence is imposed. Some courts impose a sentence as soon as an offender enters drug court. In these courts, worksheets are required to be completed “up front.” In other courts, sentencing does not occur unless the offender “flunks out” of the drug court program. In these courts, the worksheets must be filled out prior to sentencing.

### **Sentence Lengths**

A sentence comports to the Standards when the sentence conforms to the recommendation on the In/Out Worksheet and the sentence length is chosen from the recommended sentence ranges on the Prison Sentence Length Tables, including, where prison is recommended, and a split sentence is imposed, the split portion of the sentence is not suspended and both the total sentence and the incarceration portion of the split conform to the recommendations on the sentence length tables.

A sentence that does not conform to the Standards, as set out above, is a departure sentence and may be entered only upon a finding of aggravating and/or mitigating factors that justify a departure from the presumptive sentence recommendations. Sentence length departures are governed by existing law and must be sentenced completely under existing law regarding length of sentence, independent of the Standards recommendations.

If a score on the Prison Sentence Length Worksheet falls between two scores listed on the Sentence Length Table, select the lower of the two scores to determine the recommended sentence range from which the sentence is chosen.

If a score on the Prison Sentence Length Worksheet is higher than any score listed on the Sentence Length Table, the sentencing event must be sentenced under existing law independent of the Standards.

When choosing a sentence from the recommended sentence range, the sentence chosen must not be less than the statutory sentences specified in ALA. CODE § 13A-5-6(a)(1)-(3), provided, however, the minimum sentence may still be “split” pursuant to ALA. CODE § 15-18-8, as specified in the instructions relating to the imposition of sentence.

- For a Class A felony, the minimum sentence imposed must be at least 120 months.
- For a Class B felony, the minimum sentence imposed must be at least 24 months.
- For a Class C felony, the minimum sentence imposed must be at least 12 months and 1 day.

A recommended sentence of 13 months includes any portion of the 13<sup>th</sup> month, i.e. 12 months and 1 day.

### **Judge’s Colloquy in Guilty Pleas**

The court’s obligation to advise the defendant as to the statutory range of punishment prior to accepting a guilty plea is not affected by the Standards. However, where a departure sentence is sought, an additional colloquy may be required.

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## Imposition of Sentence

A sentence comports to the Standards when the sentence conforms to the recommendation on the In/Out Worksheet and the sentence length is chosen from the recommended sentence ranges on the Prison Sentence Length Table.

Once a sentence has been selected from the recommended Prison Sentence Length Table, the sentencing judge may determine how that sentence shall be imposed for that sentencing event. The total or aggregate sentence for the sentencing event cannot exceed the sentence selected for the most serious offense.

Example:

If a defendant is sentenced for three Class B felonies at one sentencing event and the chosen sentence is 120 months (10 years), the following is a non-exclusive list of examples of sentences the judge may impose:

- 120 months for each conviction to run concurrently = 120 months;
- 40 months for each conviction to run consecutively = 120 months; or
- one 60 month sentence and two 30 month sentences to run consecutively = 120 months.

In the above example, unless there is a departure, no combination of sentences can exceed 120 months for all cases or counts, for both covered and non-covered offenses.

A split sentence conforms to the Standards if the total sentence imposed and the length of the “split” fall within the statutory ranges specified in ALA. CODE §15-18-8 and the recommended sentence ranges provided in the Prison Sentence Length Table. Where the In/Out worksheet recommendation is “Prison” and a split sentence is imposed, the incarceration portion of the “split” cannot be suspended and comport with the Standards. The incarceration portion of the split must be served either in community corrections, if otherwise eligible, or in the actual custody of the Alabama Department of Corrections.

An unsuspended sentence to prison that results in actual incarceration (in a ADOC facility or a facility under contract to ADOC) is considered a “prison” sentence and does not conform to a “non-prison” recommendation under the Standards. A sentence conditioned on completing a program in the Department of Corrections includes an “unsuspended” sentence to prison and therefore does not comply with a “non-prison” recommendation. A sentence to community corrections is considered to conform to either a “prison” or “non-prison” recommendation.

A “reverse split” sentence is considered a “non-prison” sentence and does not conform to a “prison” recommendation under the Standards.

Examples of non-prison and prison dispositions

*Non-prison*

Probation  
Community Corrections  
County Jail / Work Release  
Reverse Split  
Split sentence with a suspended split

*Prison (unsuspended sentence)*

Department of Corrections (prison)  
Community Corrections  
Split to serve incarceration in  
ADOC or Community Corrections

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## Departure Procedures

1. *In General – Departures Should be Rare* - The Standards are designed to provide appropriate recommendations for sentences in covered cases and are presumptive for non-violent covered offenses as defined in ALA. CODE §12-25-32. However, in exceptional cases, upon a finding of aggravating and/or mitigating factors, the sentencing court may depart from either a dispositional or durational sentence recommendation or from both. Departure sentences should be rare, with the court following the presumptive recommendation in the vast majority of sentenced cases.
2. *Two Decisions* - The disposition and the duration of sentence are two separate decisions requiring separate, although not necessarily different, aggravating and/or mitigating factors for each departure.
3. *Consideration of Aggravating and Mitigating Factors* - The Court must consider all aggravating and/or mitigating factors proven for a sentencing event, but the decision to depart from the presumptive sentence recommendation is in the discretion of the court.
  - Recognized aggravating and mitigating factors are provided below.
  - Worksheet scoring factors for the most serious offense may not be used as aggravating factors for the sentencing event.
  - A necessary element of the most serious offense may not be used as an aggravating factor for the sentencing event.<sup>4</sup>
4. *Burden of Proof – Aggravating Factors* - The prosecutor bears the burden of proving beyond a reasonable doubt that an aggravating factor exists. The defendant is entitled to a jury trial on the existence of any aggravating factor, unless the aggravating factor is admitted by the defendant or both the defendant and the prosecutor waive a jury determination and request the judge alone to decide. It is within the discretion of the trial court whether to bifurcate the trial and sentencing phase of a covered case.
5. *Burden of Proof – Mitigating Factors* - The defendant bears the burden of proving by a preponderance of the evidence that a mitigating factor exists. A jury is not required to determine the existence of a mitigating factor.
6. *Notice – Aggravation* - The prosecutor shall give the defendant notice of aggravating factors no less than seven (7) days before trial. Once given, notice is deemed sufficient for any future trial settings. For good cause shown, notice may be given at any time with the consent of the trial court, provided the defendant is given an opportunity to research and rebut the aggravating factor. Notice can be waived.
7. *Notice Requirements - Mitigation* - The defendant shall give the prosecutor notice of mitigating factors no less than seven (7) days before sentencing. Once given, notice is deemed sufficient for any future sentencing settings. For good cause shown, notice may be given at any time with the consent of the trial court, provided the prosecutor is given an opportunity to research and rebut the mitigating factor. Notice can be waived.

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<sup>4</sup> Some worksheet offenses may be committed in multiple ways. For instance, Unlawful Manufacture of a Controlled Substance in the first degree must have a combination of two of seven identified elements. If a third of the seven elements is proven beyond a reasonable doubt and is an aggravating factor, the use of that element as an aggravating factor is not precluded.

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8. *Stating Reasons for Departure* - The aggravating and/or mitigating factors found as reasons for any departure must be stated in the written sentencing order, even if the departure sentence is the result of a plea agreement and the parties have agreed to the existence of the aggravating and/or mitigating factors.

### **Aggravating and Mitigating Factors**

A departure sentence requires an aggravating and/or mitigating factor to be proven. The following is a list of factors that may justify a departure from the Standards.

#### **Mitigating Factors**

- The defendant's participation in the crime was relatively minor or the defendant acted under extreme duress or under the substantial domination of another person.
- At the time of the offense, the defendant was under the influence of extreme mental or emotional disturbance.
- The defendant's age or capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of law at the time of the crime significantly reduced the defendant's culpability at the time the offense was committed.
- The defendant has made substantial or full restitution to the victim(s).
- The defendant has provided substantial assistance in the investigation or prosecution of another person who is alleged to have committed an offense.
- The defendant has received an honorable discharge from the United States armed forces.
- The defendant has been a person of good character or has a good reputation in the community in which the defendant lives.
- The defendant has entered and is currently involved in or has successfully completed a drug treatment program or an alcohol treatment program subsequent to arrest and prior to trial.
- The defendant has a strong positive support system in the community or has exhibited a positive employment history.
- Any other "mitigating factor" reasonably related to the purposes of sentencing.

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## Aggravating Factors

- The crime involved multiple participants in the criminal conduct, and the defendant played a major role in the crime as the leader, organizer, recruiter, manager, or supervisor.
- The offense was committed for the benefit of, or at the discretion of, any streetgang as defined in ALA. CODE 13A-6-26(a), with the specific intent to promote, further, or assist in criminal activity by streetgang members.
- The defendant was hired or paid to commit the offense.
- The defendant held public office at the time of the offense and the offense was related to the conduct of the office.
- The offense involved a fiduciary relationship, including a domestic relationship, which existed between the defendant and victim.
- The victim was particularly vulnerable due to age, infirmity, or reduced physical capacity that was known or should have been known to the defendant.
- The defendant was incarcerated, on pretrial release, on probation or parole, or serving a community corrections sentence at the time the crime was committed, or otherwise under sentence of law.
- The offender being 18 or more years of age employs, hires, uses, persuades, induces, entices, or coerces an individual under 16 years of age to assist in the crime or to assist in avoiding detection or apprehension.
- The offense involved an attempted or actual taking or receipt of property of great monetary value or damage causing great monetary loss to the victim(s).
- The offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, involved multiple victims, or involved a single victim victimized more than once.
- The commission of the offense created a substantial risk to human health or safety or a danger to the environment.
- The defendant exposed a child under 17 years of age to criminal conduct and/or endangerment.
- The defendant was motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, sexual orientation, or physical or mental disability to commit the offense.
- The defendant used the identity of another person without authorization to commit the crime.
- Any other "aggravating factor" reasonably related to the purposes of sentencing.

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## IV. GENERAL INSTRUCTIONS - Completing Each Worksheet

Because of the multiple ways in which sentencing occurs in Alabama, there is no requirement concerning which worksheet is completed first. It is suggested, however, the preparer first complete the case information at the top of the In/Out Worksheet and the Sentence Length Worksheet.

### PRISON IN/OUT WORKSHEET

**Step A** - Complete the case information at the top of the In/Out Worksheet. Please print.

*Defendant* – fill in the defendant’s name as it appears in the court case file.

*Case No.* – fill in the case number for the **most serious offense** for the sentencing event. Include the county of conviction, circuit court (CC) or district court (DC), year of filing, and the case number. (e.g., 38-CC-2014-659)

*Judge* – fill in the name of the judge presiding over sentencing in the case.

*Prosecutor* – fill in the name of the prosecutor at this sentencing event.

*Probation Officer* – fill in the name of the probation officer assigned to this case.

*Defense Attorney* – fill in the name of the attorney representing the defendant at sentencing, or if more than one attorney, the lead attorney in the case.

*Worksheet Preparer, Title* – fill in the name and the title of the worksheet preparer.

*Additional Cases* – If there are two or more cases sentenced at this sentencing event, fill in the case numbers for the additional cases. Also include additional counts by listing the specific additional convicted offenses.

Defendant _____	Case No. _____
Judge _____	Prosecutor _____
Probation Officer _____	Defense Attorney _____
Worksheet Preparer, Title _____	Additional Cases _____

**Step B** - Complete the Sentencing Factors Section. See the instructions for each worksheet.

**Step C - Prison In/Out Worksheet Presumptive Disposition:**

1. Total the scores from the Sentencing Factors Section and record the total score in the Total Score box.
2. Circle the recommendation (non-prison or prison) that conforms to the total score. A sentence disposition under the Standards must conform to the Prison In/Out recommendation unless a sentence disposition departure is entered.

<b>Drug In/Out Presumptive Disposition</b>	<b>Total Score</b> <input type="text"/>
1-7 points: Non-Prison	8 or more points: Prison

<b>Property "A" In/Out Presumptive Disposition</b>	<b>Total Score</b> <input type="text"/>
8-14 points: Non-Prison	15 or more points: Prison

**Step D** - After sentencing, if the judge departs from the In/Out worksheet recommendation, the judge must enter the reason for departure in the sentencing order.

**PRISON SENTENCE LENGTH WORKSHEET**

**Step A** - Complete the case information at the top of the Prison Sentence Length Worksheet.

*Defendant* – fill in the defendant’s name as it appears in the court case file.  
*Case No.* – fill in the case number for the **most serious offense** for the sentencing event.

**Step B** - Complete the Sentencing Factors Section. See the instructions for each worksheet.

**Step C** - Prison Sentence Length Worksheet Recommendation:

1. Total the scores from the Sentencing Factors Section and record the total score in the Total Score box.
2. Go to the Prison Sentence Length Range table and select the sentence ranges that conform to the total score.
3. Record the recommended ranges on the Prison Sentence Length Worksheet.

<b>See Prison Sentence Length Table</b>	<i>Step C1</i> <b>Total Score</b> <input type="text"/>
<b>Step C3</b> Presumptive Sentence Range ___ to ___ (straight) ___ to ___ (split)	
Judge’s Signature/Initial _____	

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## PRISON SENTENCE LENGTH RANGES FOR WORKSHEET

This table contains recommended sentence length ranges from which a specific sentence that comports with the Standards is chosen.

The table is divided into three sections or column groups.

1. The first column is a list of scores corresponding to the “Total Score” from the Sentence Length Worksheet.
2. The next three columns (Total Sentence) list the recommended sentence ranges from which a sentence may be chosen.
3. The last three columns (Time to Serve on Split) provide the recommended sentence ranges for the incarceration portion of a split sentence in the event the judge chooses to impose a split sentence.

<u>Score</u>	<u>Total Sentence</u>			<u>Time to Serve On Split</u>		
	<u>Low</u>	<u>Mid</u>	<u>High</u>	<u>Low</u>	<u>Mid</u>	<u>High</u>
<b>32</b>	13	18	23	6	9	12
<b>37</b>	13	22	31	6	9	12
<b>39</b>	13	22	31	6	9	12
<b>42</b>	13	22	31	6	9	12
<b>44</b>	13	22	31	6	9	12
<b>45</b>	13	22	31	6	9	12
<b>46</b>	13	22	31	6	9	12
<b>47</b>	13	22	31	6	9	12
<b>49</b>	14	23	31	6	9	12
<b>51</b>	14	23	31	6	9	12
<b>52</b>	14	27	38	6	9	12
<b>53</b>	14	27	38	6	9	12
<b>54</b>	14	27	38	6	9	12
<b>55</b>	14	27	38	6	9	12
<b>56</b>	14	31	46	6	9	12
<b>57</b>	14	31	46	6	9	12
<b>58</b>	14	31	46	6	9	12

This table is not intended to encourage or discourage the use of split sentences. The use of split remains a matter entirely within the discretion of the sentencing judge.

**Step A** - Find the score on the sentence length tables that matches the total score on the prison sentence length worksheet. If no match is found, select the next lowest score corresponding to the Total Score on the Prison Sentence Length Worksheet.

If the worksheet score exceeds the highest score on the Sentence Length Table, the sentencing event is no longer a worksheet event, the Standards are not applicable, and the defendant must be sentenced under existing law. In this event, the worksheets, along with the sentencing order still *must* be made a part of the record and filed with the court clerk to be forwarded to the Alabama Sentencing Commission to show why the sentencing event is independent from the Standards.

**Step B** – Identify the recommended sentence range for that score in “Total Sentence” columns.

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**Step C** - Identify the recommended sentence range for the incarceration portion of a split sentence from the “Time to Serve on Split” columns.

**Step D** - Record the recommended sentence ranges on the Prison Sentence Length Worksheet.

**Step E** – After sentencing, if the judge departs from the Prison Sentence Length Worksheet recommendation, the judge must enter the reason for departure in the sentencing order.

**Final Step** - File the completed worksheets (Prison In/Out and Prison Sentence Length) with the court clerk. After final sentencing, the court clerk shall forward a copy of the completed worksheets and a copy of the final sentencing order to the Alabama Sentencing Commission.

Alabama Sentencing Commission  
300 Dexter Avenue, Suite 2-230  
Montgomery, AL 36104-3741  
Fax: (334) 954-5201  
email: [sentencing.commission@alacourt.gov](mailto:sentencing.commission@alacourt.gov)

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The Drug offenses listed below are covered by the Sentencing Standards subject to Presumptive Sentencing.

**Most Serious Offense at Conviction Ranking**

Manufacturing Controlled Substance I  
(includes attempts, conspiracies, and solicitations)  
§ 13A-12-218  
286 points

Sale/Distribution of Schedule I-V (other than to a minor)  
(includes attempts, conspiracies, and solicitations)  
§ 13A-12-211  
113 points

Manufacturing Controlled Substance II  
(includes attempts, conspiracies, and solicitations)  
§ 13A-12-217  
105 points

Possession with Intent to Distribute a Controlled Substance  
(includes attempts, conspiracies, and solicitations)  
§ 13A-12-211(c)  
105 points

Sale/Distribution of Marihuana (other than to a minor)  
(includes attempts, conspiracies, and solicitations)  
§ 13A-12-211  
84 points

Possession of a Controlled Substance  
(includes attempts, conspiracies, and solicitations)  
§ 13A-12-212  
71 points

Felony DUI  
§ 32-5a-191(h)  
42 points

Possession of Marihuana I  
(includes attempts, conspiracies, and solicitations)  
§ 13A-12-213  
42 points

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## INSTRUCTIONS - - Drug Prison In/Out Worksheet

- 1** **1. Case Information Section**  
Complete prior to sentencing. See the General Instructions to complete this section.
- 2** **2. Sentencing Factors Section**  
Complete prior to sentencing.
- 3** **3. Most Serious Conviction Offense** - Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.
- 4** **4. Number of Prior Adult Felony Convictions** - Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 5** **5. Number of Prior Adult Convictions for Misdemeanors or Violations** - Count all criminal convictions for misdemeanor offenses or violations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only include the serious traffic offenses of (1) DUI, (2) BUI, (3) Leaving the Scene of an Accident, (4) Attempting to Elude, (5) Driving without a License or (6) Driving while License is Suspended or Revoked.
- 6** **6. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More** - Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 7** **7. Prior Felony Probation or Parole Revocation** - Count prior probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only *felony* probation revocations should be scored.
- 8** **8. Number of Prior Juvenile Delinquency or Youthful Offender Adjudications** - Count all juvenile delinquency and Youthful Offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. *Note: use the definition for misdemeanors or violations as set out in factor #5.*
- 9** **9. Possession/Use of a Deadly Weapon or Dangerous Instrument** - Count this factor if there was a connection (other than the mere possession of a weapon) between the presence of a deadly weapon or dangerous instrument and the commission of any offense(s) being sentenced at the current sentencing event. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or proceeds of a sale. For the purpose of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.
- 10** **10. Total Score** - Total the scores from the Sentencing Factors Section.
- 11** **Presumptive Disposition**  
**11. Non-Prison: 1-7 Points**  
Circle “non-prison” as the presumptive disposition.
- 12** **12. Prison: 8 or more points**  
Circle “prison” as the presumptive disposition.
- After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk shall forward to the Alabama Sentencing Commission a copy of this worksheet and the Prison Sentence Length worksheet, along with a copy of the Court’s final Sentencing Order after grant or denial of probation.
- Departure Sentences**  
If the presumptive disposition is not followed, refer to the General Instructions III for procedures relating to departure sentences and requiring the finding of aggravating and/or mitigating circumstances.

# Drug Prison In/Out Worksheet

Eff.10-1-2013

**1** Defendant \_\_\_\_\_  
 Judge \_\_\_\_\_  
 Probation Officer \_\_\_\_\_  
**2** Worksheet Preparer, Title \_\_\_\_\_

Case No. \_\_\_\_\_  
 Prosecutor \_\_\_\_\_  
 Defense Attorney \_\_\_\_\_  
 Additional Cases \_\_\_\_\_

**3** **Most Serious Conviction Offense** \_\_\_\_\_ Please circle one *offense*

Possession of Marihuana or Controlled Substance..... 1	Sale/Distribution of Marihuana (other than to minor)..... 6
A/S/C Possess Marihuana or Controlled Substance..... 1	A/S/C Sale/Distribute Marihuana (other than to a minor)..... 6
Felony DUI..... 4	Sale/Distribution of Schedule I-V (other than to minor)..... 6
Possess with Intent to Distribute Controlled Sub..... 5	A/S/C Sale/Distribution of Schedule I-V (other than to a minor)... 6
A/S/C Possess with Intent to Distribute Controlled Sub... 5	Manufacturing Controlled Substance 1 <sup>st</sup> ..... 8
Manufacturing Controlled Substance 2 <sup>nd</sup> ..... 5	A/S/C Manufacturing Controlled Substance 1 <sup>st</sup> ..... 8
A/S/C Manufacturing Controlled Substance 2 <sup>nd</sup> ..... 5	

\*A/S/C = Attempt/Solicitation/Conspiracy

**Score**

**4** **Number of Prior Adult Felony Convictions** \_\_\_\_\_

None .....	0
1 .....	2
2 .....	3
3 .....	5
4 .....	6
5 or more .....	7

**Score**

**5** **Number of Prior Adult Convictions for Misdemeanors or Violations** \_\_\_\_\_

0-1 .....	0
2-5 .....	1
6-9 .....	2
10 or more .....	3

**Score**

**6** **Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** \_\_\_\_\_

If Yes .....

**Score**

**7** **Prior Felony Probation or Parole Revocation** \_\_\_\_\_

If Yes .....

**Score**

**8** **Number of Prior Juvenile Delinquency or YO Adjudications (Violation/Misd/Felony)** \_\_\_\_\_

0 .....	0
1-2 .....	1
3-4 .....	2
5 or more .....	3

**Score**

**9** **Possession/Use of a Deadly Weapon or Dangerous Instrument** \_\_\_\_\_

If Yes .....

**Score**

**Presumptive Disposition**

**10** **Total Score**

**11** 1-7 points: Non-Prison      **12** 8 or more points: Prison

The final sentencing order (after grant or denial of probation) must be attached.

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## INSTRUCTIONS - - Drug Prison Sentence Length Worksheet

- 1. Case Information Section**  
Enter the Defendant's name and Case Number even if it has already been entered on the In/Out worksheet.
- 2. Sentencing Factors Section**  
Complete prior to sentencing.
- 3. Most Serious Conviction Offense** – Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.
- 4. Number of Additional Felony Convictions (Including Counts)** - The preparer should total all offenses being sentenced other than the most serious offense being sentenced at the present time. In the event of a multi-count indictment, all counts in which the defendant was found guilty or entered a guilty plea should be counted the same as separate convictions.
- 5. Number of Prior Adult Felony Convictions** - Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 6. Number of Prior Adult Felony Class C Convictions** - Count only the number of Class C felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 7. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More** - Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 8. Total Score** – Total the scores from the Sentencing Factors Section.
- 9. Presumptive Sentence Range** - Go to the Drug Prison Sentence Length Ranges for Worksheet Table to convert the score into a presumptive sentence length. Record the presumptive sentence ranges for the total sentence and split sentence in the spaces identified as “straight” and “split”. The sentence for the most serious offense must come from these presumptive ranges to comport with the standards. Statutory enhancements, as they have been applied, have been factored into the sentence length table and should *not* be added.
- 10. Judge's Signature or Initials**  
After the sentencing worksheets are completed and sentence has been imposed, the sentencing judge should sign or initial the worksheet to identify and acknowledge the worksheet has been reviewed and was considered prior to sentencing.  
  
After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk shall forward to the Alabama Sentencing Commission a copy of this worksheet and the Prison In/Out worksheet, along with a copy of the Court's final Sentencing Order after grant or denial of probation.

### Departure Sentences

If the presumptive sentence length is not followed, refer to the General Instructions III for procedures relating to departure sentences and requiring the finding of aggravating and/or mitigating circumstances.

# Drug Prison Sentence Length Worksheet

Eff.10-1-2013

**2** Defendant \_\_\_\_\_ **1** Case No. \_\_\_\_\_

**3** **Most Serious Conviction Offense** \_\_\_\_\_ Please circle one *offense*

Felony DUI or Possession of Marihuana..... 42	Manufacturing Controlled Substance 2 <sup>nd</sup> ..... 105
A/S/C Possession of Marihuana..... 42	A/S/C Manufacturing Controlled Substance 2 <sup>nd</sup> ..... 105
Possession of a Controlled Substance..... 71	Sale/Distribution of Schedule I-V (other than to a minor)..... 113
A/S/C Possession of a Controlled Substance..... 71	A/S/C Sale/Distribute Schedule I-V Drugs (other than to minor) 113
Sale/Distribution of Marihuana (other than to a minor)..... 84	Manufacturing Controlled Substance 1 <sup>st</sup> ..... 286
A/S/C Sale/Distribution of Marihuana (other than to a minor).... 84	A/S/C Manufacturing Controlled Substance 1 <sup>st</sup> ..... 286
Possession with Intent to Distribute Controlled Sub.....105	
A/S/C Possession with Intent to Distribute Controlled Sub.. 105	

\*A/S/C = Attempt/Solicitation/Conspiracy

**Score**

**4** **Number of Additional Felony Convictions (Including Counts)** \_\_\_\_\_

None .....	0
1 .....	15
2 .....	29
3 .....	44
4 or more .....	58

**Score**

**5** **Number of Prior Adult Felony Convictions** \_\_\_\_\_

None .....	0
1 .....	10
2 .....	20
3 .....	30
4 .....	40
5 or more .....	50

**Score**

**6** **Number of Prior Adult Felony Class C Convictions** \_\_\_\_\_

None .....	0
1 .....	7
2 .....	14
3 .....	21
4 .....	28
5 .....	35
6 .....	43
7 or more .....	50

**Score**

**7** **Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** \_\_\_\_\_

If Yes .....

**Score**

**See Prison Sentence Length Table**

**8** **Total Score**

**9** **Presumptive Sentence Range** \_\_\_\_\_ to \_\_\_\_\_ (straight) \_\_\_\_\_ to \_\_\_\_\_ (split)

**10** **Judge's Signature/Initial** \_\_\_\_\_

The final sentencing order (after grant or denial of probation) must be attached.

# Drug Prison Sentence Length Ranges for Worksheet

Time in Months

<u>Score</u>	<u>Total Sentence</u>			<u>Time to Serve On Split</u>		
	<u>Low</u>	<u>Mid</u>	<u>High</u>	<u>Low</u>	<u>Mid</u>	<u>High</u>
42	13	23	32	6	9	12
49	13	23	32	6	10	14
52	13	23	32	6	10	14
56	13	23	32	6	10	14
57	13	23	32	6	10	14
59	13	23	32	6	10	14
62	13	23	32	6	10	14
64	13	23	32	6	10	14
66	13	23	32	6	12	18
67	13	23	32	6	12	18
69	13	23	32	6	12	18
70	13	23	32	6	12	18
71	13	23	32	6	12	18
72	13	23	32	6	12	18
73	13	23	32	6	12	18
74	13	23	32	6	12	18
76	13	39	65	6	12	18
77	13	39	65	6	12	18
78	13	39	65	6	17	27
79	13	39	65	6	17	27
80	13	39	65	8	18	27
81	13	39	65	8	18	27
82	13	39	65	8	18	27
83	13	39	65	8	18	27
84	13	39	65	8	18	27
86	13	39	65	8	18	27
87	13	39	65	8	18	27
88	13	39	65	8	18	27
89	13	39	65	8	18	27
90	13	39	65	8	18	27
91	13	39	65	8	18	27
92	13	39	65	8	18	27
93	13	39	65	8	18	27
94	13	39	65	8	18	27
95	13	39	65	8	18	27
96	13	39	65	8	18	27
97	13	39	65	8	18	27
98	13	39	65	8	18	27
99	13	39	65	8	18	27
100	13	39	65	8	18	27
101	13	39	65	8	18	27
102	13	39	65	8	18	27
103	13	39	65	8	18	27
104	13	55	97	8	18	27
105	15	56	97	8	18	27
106	15	56	97	8	18	27
107	15	56	97	8	18	27
108	15	56	97	8	18	27
109	15	56	97	8	18	27
110	15	56	97	8	18	27
111	15	56	97	8	18	27
112	15	56	97	8	18	27
113	15	56	97	8	18	27
115	15	56	97	8	18	27
116	15	56	97	8	18	27

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
117	15	56	97	8	18	27
118	15	56	97	8	18	27
119	15	56	97	8	18	27
120	15	56	97	8	18	27
121	15	56	97	8	18	27
122	15	56	97	8	18	27
123	15	56	97	8	18	27
124	15	56	97	8	18	27
125	15	56	97	8	18	27
126	18	58	97	8	18	27
127	18	58	97	8	18	27
128	18	58	97	8	18	27
130	18	58	97	8	18	27
132	18	58	97	8	18	27
133	18	58	97	8	18	27
134	18	58	97	8	18	27
135	18	58	97	8	18	27
136	18	58	97	8	18	27
137	18	58	97	8	18	27
138	18	58	97	8	18	27
139	18	58	97	8	18	27
140	18	58	97	8	18	27
141	21	62	104	8	18	27
142	21	62	104	8	18	27
143	21	62	104	8	18	27
144	21	62	104	8	18	27
145	21	62	104	8	18	27
146	21	62	104	8	18	27
147	21	62	104	8	18	27
148	24	64	104	8	18	27
149	24	64	104	8	18	27
150	24	64	104	8	18	27
152	24	64	104	8	18	27
154	30	67	104	12	20	27
155	30	67	104	12	20	27
156	30	67	104	12	20	27
157	30	67	104	12	20	27
158	30	67	104	12	20	27
159	30	67	104	12	20	27
160	30	67	104	12	20	27
161	30	67	104	12	20	27
162	30	67	104	12	20	27
163	30	67	104	12	20	27
164	30	67	104	12	20	27
165	30	67	104	12	20	27
166	30	67	104	12	20	27
167	30	67	104	12	20	27
168	30	67	104	12	20	27
169	30	67	104	12	20	27
170	30	67	104	12	20	27
171	30	67	104	12	20	27
172	36	70	104	12	20	27
173	36	70	104	12	20	27
174	36	70	104	12	20	27
176	36	70	104	12	20	27
177	36	70	104	12	24	36
178	36	70	104	12	24	36
181	45	87	130	16	26	36
182	45	87	130	16	26	36

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
183	45	87	130	16	26	36
184	45	87	130	16	26	36
185	45	87	130	16	26	36
188	45	87	130	24	30	36
189	45	87	130	24	30	36
191	45	87	130	24	30	36
192	45	87	130	24	30	36
195	45	87	130	24	30	36
196	45	87	130	24	30	36
198	45	87	130	24	30	36
199	45	87	130	24	30	36
200	45	87	130	24	30	36
203	45	87	130	24	30	36
205	45	87	130	24	30	36
206	45	87	130	24	30	36
212	45	87	130	24	30	36
213	45	87	130	24	30	36
214	45	87	130	24	30	36
220	45	87	130	24	30	36
222	45	87	130	24	30	36
227	45	87	130	24	30	36
232	45	87	130	24	30	36
235	45	87	130	24	30	36
242	45	87	130	24	30	36
250	50	90	130	24	30	36
255	50	90	130	24	30	36
258	60	95	130	24	30	36
262	60	95	130	24	30	36
270	60	95	130	24	30	36
276	70	100	130	24	30	36
280	70	100	130	24	30	36
286	120	150	180	24	30	36
300	120	150	180	24	30	36
315	120	150	180	24	30	36
320	180	210	240	36	48	60
345	180	210	240	36	48	60
360	180	210	240	36	48	60
381	180	210	240	36	48	60

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The Property “A” offenses listed below are covered by the Sentencing Standards subject to Presumptive Sentencing.

**Most Serious Offense at Conviction Ranking**

Theft of Property I  
§ 13A-8-3  
58 points

Receiving Stolen Property I  
§ 13A-8-17  
58 points

Theft of Property II  
§ 13A-8-4  
46 points

Receiving Stolen Property II  
§ 13A-8-18  
46 points

Forgery II  
§ 13A-9-3  
44 points

Possession Forged Instrument II  
§ 13A-9-6  
42 points

Possession/Use Credit/Debit Card  
§ 13A-9-14  
39 points

Unauthorized Use/Break & Enter Vehicle  
§ 13A-8-11(a)(4) & (b)  
32 points

## INSTRUCTIONS - - Property “A” Prison In/Out Worksheet

- 1. Case Information Section**  
Complete prior to sentencing. See the General Instructions to complete this section.
  - 2. Sentencing Factors Section**  
Complete prior to sentencing.
  - 3. Most Serious Conviction Offense**  
– Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.
  - 4. Number of Prior Adult Felony Convictions-** Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
  - 5. Number of Prior Adult Convictions for Same Felony -** Count all felony convictions for the same offense that occurred prior to the arrest date of the most serious offense being sentenced at the current sentencing event. Only count those offenses where the crime and the degree are identical to the current offense. For instance, if the current most serious offense is Theft of Property I, then a prior Theft of Property II or III conviction would not be scored in this section.
  - 6. Number of Prior Adult Convictions for Misdemeanors or Violations -** Count all criminal convictions for misdemeanor offenses or violations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only include the serious traffic offenses of (1) DUI, (2) BUI, (3) Leaving the Scene of an Accident, (4) Attempting to Elude, (5) Driving without a License or (6) Driving while License is Suspended or Revoked.
  - 7. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More -** Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
  - 8. Prior Incarceration with Unsuspended Sentence Imposed of Less Than 1 Year -** Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was less than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
  - 9. Prior Felony Probation or Parole Revocation -** Count probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only *felony* probation revocations should be scored.
  - 10. Number of Prior Juvenile Delinquency or Youthful Offender Adjudications -** Count all juvenile delinquency and Youthful Offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.  
*Note: use the definition for misdemeanors or violations as set out in factor #6.*
  - 11. Possession/Use of a Deadly Weapon or Dangerous Instrument -** Count this factor if there was a connection (other than the mere possession of a weapon) between the presence of a deadly weapon or dangerous instrument and the commission of any of the offense(s) being sentenced at the current sentencing event. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or proceeds of a sale. For the purpose of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.
  - 12. Injury to Victim –** Count this factor if a victim suffered physical injury or serious physical injury during the commission or flight from the offense. For the purposes of completing the worksheet, physical injury shall be defined pursuant to Section 13A-1-2 (12), Code of Alabama 1975, and serious physical injury shall be defined pursuant to Section 13A-1-2 (14), Code of Alabama 1975.
  - 13. Total Score -** Total the scores from the Sentencing Factors Section.
  - Presumptive Disposition**
  - 14. Non-Prison: 8-14 Points**  
Circle “non-prison” as the presumptive disposition.
  - 15. Prison: 15 or more points**  
Circle “prison” as the presumptive disposition.
- After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk shall forward to the Alabama Sentencing Commission a copy of this worksheet and the Prison Sentence Length worksheet, along with a copy of the Court’s final Sentencing Order after grant or denial of probation.
- Departure Sentences**  
If the presumptive disposition is not followed, refer to the General Instructions III for procedures relating to departure sentences and requiring the finding of aggravating and/or mitigating circumstances.

# Property "A" Prison In/Out Worksheet

Eff.10-1-2013

<b>1</b> Defendant _____ Judge _____ Probation Officer _____ Worksheet Preparer, Title _____	Case No. _____ Prosecutor _____ Defense Attorney _____ Additional Cases _____
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**2** \_\_\_\_\_

**3** **Most Serious Conviction Offense** Please circle one *offense* \_\_\_\_\_

Possession/Use Credit/Debit Card .....	8	Score <input style="width: 40px; height: 20px;" type="text"/>
Possession Forged Instrument II, Forgery II, Theft of Prop II, Receive Stolen Prop II .....	9	
Theft of Prop I, Receive Stolen Prop I, Unauthorized Use/B&E Vehicle .....	10	

**4** **Number of Prior Adult Felony Convictions** \_\_\_\_\_

None .....	0	Score <input style="width: 40px; height: 20px;" type="text"/>
1-2 .....	1	
3-4 .....	2	
5 or more .....	3	

**5** **Number of Prior Adult Convictions for Same Felony** \_\_\_\_\_

None .....	0	Score <input style="width: 40px; height: 20px;" type="text"/>
1 .....	1	
2 .....	2	
3-4 .....	3	
5 or more .....	4	

**6** **Number of Prior Adult Convictions for Misdemeanors or Violations** \_\_\_\_\_

0-1 .....	0	Score <input style="width: 40px; height: 20px;" type="text"/>
2-5 .....	1	
6-9 .....	2	
10 or more .....	3	

**7** **Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** \_\_\_\_\_

If Yes .....
 6 | Score |

**8** **Prior Incarceration with *Unuspended* Sentence Imposed of Less Than 1 Year** \_\_\_\_\_

If Yes .....
 3 | Score |

**9** **Prior Felony Probation or Parole Revocation** \_\_\_\_\_

If Yes .....
 2 | Score |

**10** **Number of Prior Juvenile Delinquency or YO Adjudications (Violation/Misd/Felony)** \_\_\_\_\_

None .....	0	Score <input style="width: 40px; height: 20px;" type="text"/>
1 .....	1	
2-3 .....	2	
4 .....	3	
5 or more .....	4	

**11** **Possession/Use of a Deadly Weapon or Dangerous Instrument** \_\_\_\_\_

If Yes .....
 1 | Score |

**12** **Injury to Victim** \_\_\_\_\_

If Yes .....
 2 | Score |

**Presumptive Disposition**

**13** Total Score

**14** 8-14 points: Non-Prison

**15** 15 or more points: Prison

The final sentencing order (after grant or denial of probation) must be attached.

## INSTRUCTIONS - - Property “A” Prison Sentence Length Worksheet

- 1. Case Information Section**  
Enter the Defendant’s name and Case Number even if it has already been entered on the In/Out worksheet.
- 2. Sentencing Factors Section**  
Complete prior to sentencing.
- 3. Most Serious Conviction Offense**  
- Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.
- 4. Number of Additional Felony Convictions (Including Counts) -**  
The preparer should total all offenses being sentenced other than the most serious offense being sentenced at the present time. In the event of a multi-count indictment, all counts in which the defendant was found guilty or entered a guilty plea should be counted the same as separate convictions.
- 5. Number of Prior Adult Felony Convictions -** Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 6. Number of Prior Adult Felony Property Convictions -** Count only the number of felony property convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 7. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More -** Count prior prison, jail, Department of Corrections/ community corrections, and YO and Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 8. Prior Felony Probation or Parole Revocation -** Count probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only *felony* probation revocations should be scored.
- 9. Possession/Use of a Deadly Weapon or a Dangerous Instrument and/or Injury to Victim –**  
Count this factor if there was a connection (other than the mere possession of a weapon) between the presence of a deadly weapon or dangerous instrument and the commission of any offense(s) being sentenced at the current sentencing event. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or proceeds of a sale. For the purpose of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.  
  
Count this factor if a victim suffered physical injury or serious physical injury during the commission or flight from the offense. For the purposes of completing the worksheet physical injury shall be defined pursuant to Section 13A-1-2 (12), Code of Alabama 1975 and serious physical injury shall be defined pursuant to Section 13A-1-2 (14), Code of Alabama 1975.
- 10. Acquired a Firearm During Offense –** Count this if a firearm was acquired during the commission of the offense(s) being scored at the current sentencing event.
- 11. Total Score –** Total the scores from the Sentencing Factors Section.
- 12. Presumptive Sentence Range -** Go to the Property Prison Sentence Length Ranges for Worksheet Table to convert the score into a presumptive sentence length. Record the presumptive sentence range for the total sentence and split sentence in the spaces identified as “straight” and “split”. The sentence for the most serious offense must come from these presumptive ranges to comport with the standards. Statutory enhancements, as they have been applied, have been factored into the sentence length table and should *not* be added.
- 13. Judge’s Signature or Initials**  
After the sentencing worksheets are completed and sentence has been imposed, the sentencing judge should sign or initial the worksheet to identify and acknowledge that the worksheet was reviewed and considered prior to the sentencing.  
  
After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk shall forward to the Alabama Sentencing Commission a copy of this worksheet and the Prison In/Out worksheet, along with a copy of the Court’s final Sentencing Order after grant or denial of probation.

### Departure Sentences

If the presumptive sentence length is not followed, refer to the General Instructions III for procedures relating to departure sentences and requiring the finding of aggravating and/or mitigating circumstances.

# Property "A" Prison Sentence Length Worksheet

Eff.10-1-2013

**2** **1** Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

**3** **Most Serious Conviction Offense** \_\_\_\_\_

Unauthorized Use/B&E Vehicle ..... 32	Theft of Prop II, Receive Stolen Prop II ..... 46
Possession/Use Credit/Debit Card ..... 39	Theft of Prop I, Receive Stolen Prop I ..... 58
Possession Forged Instrument II ..... 42	
Forgery II ..... 44	

Score

**4** **Number of Additional Felony Convictions (Including Counts)** \_\_\_\_\_

None ..... 0
1 ..... 5
2 ..... 10
3 or more ..... 15

Score

**5** **Number of Prior Adult Felony Convictions** \_\_\_\_\_

None ..... 0	6 ..... 72
1 ..... 12	7 ..... 84
2 ..... 24	8 ..... 97
3 ..... 36	9 ..... 109
4 ..... 48	10 or more ..... 121
5 ..... 60	

Score

**6** **Number of Prior Adult Felony Property Convictions** \_\_\_\_\_

None ..... 0
1 ..... 7
2 ..... 14
3 ..... 21
4 ..... 27
5 or more ..... 34

Score

**7** **Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** \_\_\_\_\_

If Yes ..... 15

Score

**8** **Prior Felony Probation or Parole Revocation** \_\_\_\_\_

If Yes ..... 7

Score

**9** **Possession/Use of a Deadly Weapon/Dangerous Instrument or Injury to Victim** \_\_\_\_\_

If Yes ..... 37

Score

**10** **Acquired a Firearm During Offense** \_\_\_\_\_

If Yes ..... 12

Score

**See Prison Sentence Length Table**

**11** **Total Score**

**12** **Presumptive Sentence Range** \_\_\_\_\_ to \_\_\_\_\_ (straight) \_\_\_\_\_ to \_\_\_\_\_ (split)

**13** **Judge's Signature/Initial** \_\_\_\_\_

The final sentencing order (after grant or denial of probation) must be attached.

# Property "A" Prison Sentence Length Ranges for Worksheet

Time in Months

<u>Score</u>	<u>Total Sentence</u>			<u>Time to Serve On Split</u>		
	<u>Low</u>	<u>Mid</u>	<u>High</u>	<u>Low</u>	<u>Mid</u>	<u>High</u>
32	13	18	23	6	9	12
37	13	22	31	6	9	12
39	13	22	31	6	9	12
42	13	22	31	6	9	12
44	13	22	31	6	9	12
45	13	22	31	6	9	12
46	13	22	31	6	9	12
47	13	22	31	6	9	12
49	14	23	31	6	9	12
51	14	23	31	6	9	12
52	14	27	38	6	9	12
53	14	27	38	6	9	12
54	14	27	38	6	9	12
55	14	27	38	6	9	12
56	14	31	46	6	9	12
57	14	31	46	6	9	12
58	14	31	46	6	9	12
59	14	31	46	6	9	12
60	14	31	46	6	9	12
61	16	31	46	6	9	12
62	16	31	46	6	9	12
63	16	31	46	6	9	12
64	16	31	46	6	9	12
65	16	31	46	6	9	12
66	16	31	46	6	9	12
67	16	31	46	6	9	12
68	16	31	46	6	9	12
69	16	31	46	6	9	12
70	16	31	46	6	9	12
71	19	32	46	6	9	12
72	19	32	46	6	9	12
73	19	32	46	6	9	12
74	19	32	46	6	9	12
75	19	32	46	6	9	12
76	19	36	54	6	9	12
77	19	36	54	6	9	12
78	22	42	61	6	9	12
79	22	42	61	6	9	12
80	22	42	61	6	9	12
81	22	42	61	6	9	12
82	22	42	61	6	9	12
83	22	42	61	6	9	12
84	22	42	61	6	9	12
85	22	42	61	6	9	12
86	22	42	61	6	9	12
87	22	42	61	6	9	12
88	22	42	61	6	9	12

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>89</b>	22	42	61	6	12	19
<b>90</b>	22	45	69	6	12	19
<b>91</b>	22	45	69	6	12	19
<b>92</b>	22	45	69	6	12	19
<b>93</b>	22	45	69	6	12	19
<b>94</b>	22	45	69	6	12	19
<b>95</b>	22	45	69	6	12	19
<b>96</b>	22	45	69	6	12	19
<b>97</b>	22	45	69	6	12	19
<b>98</b>	22	45	69	6	12	19
<b>99</b>	22	49	77	6	12	19
<b>100</b>	22	49	77	6	12	19
<b>101</b>	22	68	115	6	12	19
<b>102</b>	22	68	115	6	12	19
<b>103</b>	22	68	115	6	12	19
<b>104</b>	22	68	115	6	12	19
<b>105</b>	22	68	115	6	12	19
<b>106</b>	24	70	115	6	12	19
<b>107</b>	27	71	115	6	12	19
<b>108</b>	27	71	115	6	12	19
<b>109</b>	27	71	115	6	12	19
<b>110</b>	27	71	115	6	12	19
<b>111</b>	27	71	115	6	12	19
<b>112</b>	27	71	115	6	12	19
<b>113</b>	27	71	115	6	12	19
<b>114</b>	27	71	115	6	12	19
<b>115</b>	27	71	115	6	12	19
<b>116</b>	27	71	115	6	12	19
<b>117</b>	27	71	115	6	12	19
<b>118</b>	32	74	115	6	12	19
<b>119</b>	54	85	115	6	12	19
<b>120</b>	54	85	115	6	12	19
<b>121</b>	54	85	115	6	12	19
<b>122</b>	54	85	115	6	12	19
<b>123</b>	54	85	115	6	12	19
<b>124</b>	54	85	115	6	12	19
<b>125</b>	54	85	115	6	12	19
<b>126</b>	54	85	115	6	12	19
<b>127</b>	54	85	115	6	12	19
<b>128</b>	54	85	115	6	12	19
<b>129</b>	54	85	115	6	12	19
<b>130</b>	54	85	115	6	12	19
<b>131</b>	54	85	115	6	12	19
<b>132</b>	54	85	115	6	12	19
<b>133</b>	54	85	115	6	12	19
<b>134</b>	54	85	115	6	12	19
<b>135</b>	54	85	115	6	12	19
<b>136</b>	54	85	115	6	12	19
<b>137</b>	54	85	115	6	12	19
<b>138</b>	54	85	115	6	12	19

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
139	54	85	115	6	12	19
140	54	85	115	6	12	19
141	54	85	115	6	12	19
142	54	85	115	6	12	19
143	54	85	115	6	12	19
144	76	95	115	6	12	19
145	76	95	115	6	12	19
146	76	95	115	6	12	19
147	76	95	115	6	12	19
148	76	95	115	6	12	19
149	76	95	115	6	12	19
150	76	95	115	6	12	19
151	76	95	115	12	15	19
152	76	95	115	12	15	19
153	76	95	115	12	15	19
154	76	95	115	12	15	19
155	76	95	115	12	15	19
156	76	95	115	12	15	19
157	76	95	115	12	15	19
158	76	95	115	12	15	19
159	76	95	115	12	15	19
160	76	95	115	12	15	19
161	76	95	115	12	15	19
162	76	95	115	12	15	19
163	76	95	115	12	15	19
164	76	95	115	12	15	19
165	76	95	115	12	15	19
166	76	95	115	12	15	19
167	76	95	115	12	15	19
168	81	102	123	12	15	19
169	81	102	123	12	15	19
170	81	102	123	12	18	25
171	81	102	123	12	18	25
172	81	102	123	12	18	25
173	81	102	123	12	18	25
174	81	102	123	12	18	25
175	81	102	123	12	18	25
176	81	102	123	12	18	25
177	81	102	123	12	18	25
178	81	102	123	12	18	25
179	81	102	123	12	18	25
180	81	102	123	12	18	25
181	81	102	123	12	18	25
182	81	102	123	12	18	25
183	81	102	123	12	18	25
184	81	102	123	12	18	25
185	81	102	123	12	18	25
186	81	102	123	12	18	25
187	81	102	123	12	18	25
188	81	102	123	12	18	25

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>189</b>	81	102	123	12	18	25
<b>190</b>	81	102	123	12	18	25
<b>191</b>	81	102	123	12	18	25
<b>192</b>	81	117	154	12	18	25
<b>195</b>	81	117	154	12	18	25
<b>197</b>	81	117	154	12	18	25
<b>198</b>	81	117	154	12	18	25
<b>199</b>	81	117	154	12	18	25
<b>201</b>	81	117	154	12	18	25
<b>202</b>	81	117	154	12	18	25
<b>204</b>	81	117	154	12	18	25
<b>205</b>	81	117	154	12	18	25
<b>206</b>	81	117	154	12	22	31
<b>207</b>	81	117	154	12	22	31
<b>208</b>	81	117	154	12	22	31
<b>209</b>	81	117	154	12	22	31
<b>210</b>	81	117	154	12	22	31
<b>211</b>	81	117	154	12	22	31
<b>213</b>	81	117	154	12	22	31
<b>214</b>	81	117	154	12	22	31
<b>215</b>	81	117	154	18	25	31
<b>216</b>	81	117	154	18	25	31
<b>217</b>	81	117	154	18	25	31
<b>219</b>	81	117	154	18	25	31
<b>220</b>	81	117	154	18	25	31
<b>222</b>	81	117	154	18	25	31
<b>223</b>	81	117	154	18	25	31
<b>225</b>	81	117	154	18	25	31
<b>228</b>	81	117	154	18	25	31
<b>232</b>	81	117	154	18	25	31
<b>233</b>	81	117	154	18	25	31
<b>235</b>	81	117	154	18	25	31
<b>245</b>	81	117	154	18	25	31
<b>246</b>	81	117	154	18	25	31
<b>250</b>	81	117	154	18	25	31
<b>260</b>	81	117	154	18	25	31
<b>274</b>	81	117	154	18	25	31
<b>275</b>	120	135	156	24	30	36
<b>280</b>	120	135	156	24	30	36
<b>282</b>	120	135	156	24	30	36
<b>285</b>	120	135	156	24	30	36
<b>287</b>	120	135	156	24	30	36
<b>290</b>	120	135	156	24	30	36
<b>292</b>	120	135	156	24	30	36
<b>294</b>	120	135	156	24	30	36
<b>299</b>	120	135	156	24	30	36
<b>302</b>	120	135	156	24	30	36
<b>304</b>	120	135	156	24	30	36
<b>306</b>	120	135	156	24	30	36
<b>308</b>	120	135	156	24	30	36

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>309</b>	120	135	156	24	30	36
<b>311</b>	120	135	156	24	30	36
<b>312</b>	120	135	156	24	30	36
<b>313</b>	120	135	156	24	30	36
<b>314</b>	120	135	156	24	30	36
<b>317</b>	120	135	156	24	30	36
<b>318</b>	120	150	180	24	30	36
<b>320</b>	120	150	180	24	30	36
<b>321</b>	120	150	180	24	30	36
<b>323</b>	120	150	180	24	30	36
<b>324</b>	120	150	180	24	30	36
<b>326</b>	120	150	180	24	30	36
<b>329</b>	120	150	180	24	30	36
<b>331</b>	120	150	180	24	30	36
<b>333</b>	120	150	180	24	30	36
<b>335</b>	120	150	180	24	30	36
<b>336</b>	120	150	180	24	30	36
<b>338</b>	120	150	180	24	30	36
<b>339</b>	120	150	180	24	30	36
<b>341</b>	120	150	180	24	30	36
<b>342</b>	120	150	180	24	30	36
<b>343</b>	120	150	180	24	30	36
<b>345</b>	120	150	180	24	30	36
<b>347</b>	120	150	180	24	30	36
<b>350</b>	120	150	180	24	30	36
<b>351</b>	120	150	180	24	30	36
<b>353</b>	144	192	240	36	48	60
<b>356</b>	144	192	240	36	48	60
<b>358</b>	144	192	240	36	48	60
<b>359</b>	144	192	240	36	48	60
<b>362</b>	144	192	240	36	48	60
<b>363</b>	144	192	240	36	48	60
<b>364</b>	144	192	240	36	48	60
<b>369</b>	144	192	240	36	48	60
<b>370</b>	144	192	240	36	48	60
<b>375</b>	144	192	240	36	48	60
<b>380</b>	144	192	240	36	48	60
<b>382</b>	144	192	240	36	48	60
<b>385</b>	144	192	240	36	48	60
<b>396</b>	144	192	240	36	48	60
<b>404</b>	144	192	240	36	48	60
<b>418</b>	144	192	240	36	48	60

**VOLUNTARY TAB**



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# VOLUNTARY SENTENCING STANDARDS

## I. GENERAL INSTRUCTIONS - Introduction<sup>5</sup>

### The Voluntary Sentencing Standards and Worksheets – A Structured Sentencing System

The Voluntary Sentencing Standards are:

- Voluntary and non-appealable;
- Developed by judges, prosecutors, defense lawyers, victim advocates, and other criminal justice officials in response to the legislative directive to recommend a more structured sentencing system in Alabama to address unwarranted disparity and prison overcrowding (reserving scarce prison resources for the most dangerous and violent offenders); § 12-25-2, Code of Alabama 1975.
- Created from historical sentencing data, reflecting the major factors considered in making sentencing decisions and the importance of those factors to each other;
- Include the historical application of Alabama’s statutory sentence enhancements and mandatory minimums, except the sentences of life without parole and the child sexual offender laws;
- Designed to mimic the two decisions in criminal sentencing – where and how the sentence is served, prison or non-prison (disposition), and the length of the sentence (duration); and
- Designed to shorten sentence length recommendations for non-violent cases to alleviate overcrowding and to make room for violent offenders.

In addition, the Standards and Worksheets

- Standardize sentence recommendations for more informed and uniform sentencing practices and the elimination of unwarranted disparity;
- Allow judges to retain discretion in arriving at sentencing decisions;
- Make all mandatory minimums and sentence enhancements (except life without parole, and the child sex offender amendments) discretionary; and
- Address overcrowding by providing a mechanism for changing sentence recommendations to meet economic reality while preserving public safety.

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<sup>5</sup> These Instructions are derived from the original 21 General Instructions rules adopted by the Alabama Sentencing Commission and approved by the Alabama Legislature in 2006 and can be found beginning on page 85.

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The Voluntary Sentencing Standards consist of two sets of worksheets and prison sentence length tables that divide the covered offenses into two offense types designated property and personal offenses.

The property and personal offense types each contain an In/Out worksheet that recommends a sentence disposition and a Prison Sentence Length worksheet that recommends a sentence length range.

Each type of worksheet relies on a sentence length table from which a sentence range is recommended based on Prison Sentence Length Worksheet score.

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## **II. GENERAL INSTRUCTIONS - Administrative Procedures**

### **§ 12-25-35**

#### **Responsibility for Completing Worksheets**

Pursuant to ALA. CODE §12-25-35(a), the worksheets shall be completed by any person designated by the trial court judge including the prosecutor, a probation officer, or any other person. *The sentencing judge has the final responsibility for ensuring the worksheets are (1) completed for the most serious offense of conviction and reflect the appropriate worksheet factors, (2) considered by the court, and (3) sent to the court clerk to forward to the Alabama Sentencing Commission.*

#### **Responsibilities of Worksheet Preparer**

The Worksheet Preparer(s) obtains the necessary information needed to complete the worksheet; totals the scores; and determines the recommended sentence based on the worksheet scores, distributes the worksheets to the appropriate parties, and presents the completed recommendation to the sentencing judge.

#### **Worksheet Distribution**

A copy of the sentencing worksheets reflecting the sentencing recommendations must be presented to the prosecutor, the defendant and/or his attorney, and the sentencing judge prior to sentencing. § 12-25-35 (d)

The final worksheets showing not only the recommendations, but also the actual sentence and disposition of the sentence, must be given to the Court Clerk to forward to the Alabama Sentencing Commission.

#### **Use of the Worksheets by the Sentencing Judge**

Prior to sentencing, the trial court shall review the sentencing standards worksheets and consider the suitability of the applicable voluntary sentencing recommendations. In imposing sentence, the court shall indicate on the record that the worksheets and applicable sentencing standards have been reviewed and considered.

§ 12-25-35 (b)

After sentencing, the sentencing judge shall give the completed worksheets showing sentence recommendations, the actual sentence, and if applicable, the reasons for departure, to the Court Clerk who shall forward a copy to the Alabama Sentencing Commission. § 12-25-35 (e)

#### **Departure from the Worksheet Recommendations**

The worksheets are designed with the expectation they will provide appropriate recommendations in covered cases. The sentencing judge may choose to sentence any covered case outside the standards in accordance with existing law.

When the trial court imposes a sentence that departs from the voluntary standards, the Alabama Sentencing Commission requests that the court provide a brief written reason for the departure. This information will be used by the Commission in evaluating the standards and determining where changes should be made. Providing this information gives each sentencing judge an opportunity to have input into future changes to the standards.

§ 12-25-35 (c)

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Neither the departure nor the reason stated for the departure from a voluntary sentencing standard shall be subject to appellate review, but is to be provided to the Alabama Sentencing Commission for future consideration concerning modification of the voluntary sentencing standards and for statistical purposes only. § 12-25-35 (c)

### **Responsibilities of the Court Clerk**

Following the imposition of a sentence in a felony case, the clerk of the court in which the case was disposed shall forward a copy of the sentencing order or orders, a copy of the voluntary sentencing standards worksheets prepared in the case, and a copy of any departure explanation to the commission within 45 days after the imposition of sentence. § 12-25-35 (e)

These documents must be sent in paper form<sup>6</sup> by either:

E-mail: [sentencing.commission@alacourt.gov](mailto:sentencing.commission@alacourt.gov);

Fax: (334) 954-5201

U.S. mail: Alabama Sentencing Commission  
300 Dexter Avenue, Suite 2-230  
Montgomery, AL 36104-3741

The Court Clerk should ensure that the actual sentence recorded on the worksheets is the same as reflected on the case action summary.

### **Appellate Review**

Failure to follow the voluntary standards, or failure to follow any or all of the standards in the prescribed manner, shall not be reviewable on appeal or serve as the basis of any other post-conviction relief. § 12-25-35 (f)

### **Judicial Disagreement with Worksheet Scoring and Instructions**

To comply with the sentencing standards, the sentence imposed must be imposed according to the Instructions in this manual. Any sentence imposed outside the standards must be in accordance with existing law, exclusive of the standards. If a judge disagrees with the standards recommendation or weighting of factors and chooses to disregard the recommendation or the weighting of any factor as set out in the worksheets or worksheet instructions, the only option is to sentence under existing law exclusive of the standards recommendation. The judge's disagreement may be properly expressed by stating the disagreement as a reason for departure on the worksheets.

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<sup>6</sup> For purposes of this requirement, an ALAVault document is considered a paper document.

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### III. GENERAL INSTRUCTIONS – When to use the Standards and Completing the Worksheets

#### Covered Offenses

The following offenses are covered by the Voluntary Sentencing Standards unless the conviction carries a mandatory life without parole sentence or is a sex offense involving a child victim under 12 years of age.

#### Personal Worksheets

Assault I  
§13A-6-20

Assault II  
§13A-6-21

Manslaughter  
§13A-6-3

Murder  
§13A-6-2

Rape I  
§13A-6-61

Rape II  
§13A-6-62

Robbery I  
§13A-8-41

Robbery II  
§13A-8-42

Robbery III  
§13A-8-43

Sodomy I  
§13A-6-63

Sodomy II  
§13A-6-64

#### Property Worksheets

Burglary I  
§13A-7-5

Burglary II  
§13A-7-6

Burglary III  
§13A-7-7

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## Worksheets are Offense Specific

Worksheets are intended for use only when the offense sentenced is a worksheet offense. They are not intended to provide guidance when sentencing similar crimes. The factors on the worksheets have been statistically derived specifically for the listed offenses and may or may not be statistically significant in predicting sentencing outcomes for other offenses.

## The Most Serious Offense

Worksheets must be completed and considered when the “most serious offense” at a sentencing event is a worksheet offense.

## Sentencing Event

A sentencing event includes all convictions sentenced at the same time whether included as counts in one case or in several different cases.

## Determining the Most Serious Offense at a Sentencing Event

**Rule 1.** Where two or more offenses at the same sentencing event are the same crime type (covered by the same worksheet), the most serious offense is the offense with the highest number of points shown on the corresponding Prison Sentence Length Worksheet.

**Rule 2.** Where two or more offenses at the same sentencing event are different crime types (covered by different worksheets), the most serious offense is the offense with the highest number of points shown on the Prison Sentence Length worksheets. The preparer may complete both worksheets and select the offense that results in the most severe penalty.

Example:

- If a defendant is being sentenced for Assault II (72 points) and Burglary II (70 points) at the same sentencing event, the worksheet preparer should first complete the Personal Sentencing Worksheets to determine the recommended sentencing outcome. This is because Assault II has the highest point value in the first section of the “personal” sentence length worksheet. Then, the preparer could elect to score Burglary II as the primary offense on the worksheets to determine which sentencing outcome would be most appropriate in this particular case.

**Rule 3.** Where a sentencing event includes both a worksheet offense and a non-worksheet offense and both carry the same statutory maximum penalty, the worksheet offense is the most serious offense. The other offense should be scored as an additional offense where appropriate.

Example:

- The maximum statutory penalty for Criminal Mischief I (with no prior felony convictions) is 10 years and the maximum statutory penalty for Assault II (with no prior felony convictions) is 10 years. If both are being sentenced at the same event, the worksheet preparer should score the personal worksheets for Assault II. This is because Assault II is covered by the worksheets and Criminal Mischief I is not.
- In the above scenario, if worksheet offense was a drug or property offense, the non-worksheet offense(s) should be scored under the “Number of Additional Felony Convictions (Including Counts)” section of the Sentence Length Worksheets.

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**Rule 4.** Where a sentencing event includes both a worksheet offense and a non-worksheet offense and the non-worksheet offense has a higher statutory maximum penalty, the non-worksheet offense is the most serious offense and the voluntary Sentencing Standards are not applicable.

### **Completing the In/Out Worksheet and the Prison Sentence Length Worksheet**

Both the In/Out Worksheet and the Prison Sentence Length Worksheet applicable to the sentencing event must be completed even in the recommendation is “non-prison.”

### **Rules for Scoring Prior Records**

*Date of Prior Records* - Prior records are to be scored based on convictions, juvenile delinquency and/or youthful offender adjudications occurring before the arrest date(s) of the offense(s) sentenced.

*Ambiguous Prior Records* - If an ambiguous entry on a prior record document cannot be resolved, the worksheet preparer should treat the information in a way that gives the benefit of the doubt to the offender. If any prior record disposition information is missing, the worksheet preparer should assume that no conviction occurred.

*Burden and Manner of Proving Prior Records* - In the event of a dispute, the burden of proving the prior record is on the prosecutor. For purposes of proving in-state prior convictions, any official court document – whether automated or hard copy – shall be sufficient for meeting the burden or proof requirement. When meeting the burden or proof for out of state convictions, certified copies of official court records shall be sufficient evidence. Out of state records need not be exemplified.

*Prior Nolo Contendere Dispositions* – Matters disposed of by pleas of *nolo contendere* or “no-contest” should be counted as prior convictions for worksheet purposes. In addition, any incarceration resulting from a plea of *nolo contendere* should be counted in the appropriate places on the worksheets.

*Effect of Pardons* – In the event a defendant has received a pardon for innocence, the conviction for which he or she received the pardon should be excluded when scoring prior convictions. All other pardons –e.g. those to restore voting rights – should not be excluded.

*Prior Misdemeanor or violation convictions* – All *criminal* convictions should be counted. Traffic convictions do not count except: Driving Under the Influence, Boating Under the Influence, Leaving the Scene of an Accident, Attempting to Elude Law Enforcement, Driving Without a License, and Driving While license is Suspended or Revoked.

*Prior DUI convictions* – All misdemeanor DUI convictions occurring before the arrest date for the current offense should be counted as priors, even when the worksheets are being completed for Felony DUI.

### **Time for Completing Worksheets and Determining Recommendations**

Worksheets must be completed prior to the imposition of sentence in sufficient time for review by all parties and the sentencing judge.

In pre-trial diversion cases and specialty court cases, worksheets are not required until a sentence is imposed. Some courts impose a sentence as soon as an offender enters the specialty court. In these courts, worksheets are required to be completed “up front.” In other courts, sentencing does not occur unless the

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offender “flunks out” of the program. In these courts, the worksheets may be filled out any time prior to sentencing, giving sufficient notice to all parties and the judge.

### **Sentence Lengths**

Where Prison is the sentence disposition on the In/Out Worksheet, the prison sentence must be chosen from within the recommended range for the corresponding score on the Prison Sentence Length Ranges Table for the most serious offense worksheet offense type.

If a score on the Prison Sentence Length Worksheet falls between two scores listed on the Sentence Length Ranges Table, select the lower of the two scores to determine the recommended sentence range.

When choosing a sentence from the recommended sentence range, the sentence chosen must not be less than the statutory sentences specified in Section 13A-5-6(a)(1)-(3), provided, however, the minimum sentence may still be “split” pursuant to Section 15-18-8.

1. For a Class A felony, the minimum sentence imposed must be at least 120 months.
2. For a Class B felony, the minimum sentence imposed must be at least 24 months.
3. For a Class C felony, the minimum sentence imposed must be at least 12 months and 1 day.

A recommended sentence of 13 months includes any portion of the 13<sup>th</sup> month, i.e. 12 months and 1 day.

Sentence lengths recommended on the worksheets are intended to give guidance in imposing prison sentences. They are not intended to suggest terms of probation. Compliance with the Voluntary Sentencing Standards occurs when the sentence conforms to the recommendation on the In/Out Worksheet and,

where prison is recommended, the prison sentence length conforms to the recommended sentence range on the Prison Sentence Length Worksheet, or

where non-prison is recommended, the total suspended sentence length conforms to either the recommended sentence range on the Prison Sentence Length Worksheet or any other sentence length authorized by law.

In other words, where the In/Out Worksheet recommendation is non-prison, the total suspended sentence need not conform to the prison sentence length recommendation. The length of probation terms authorized by law is not affected by the Voluntary Sentencing Standards.

### **Judge’s Colloquy in Guilty Pleas**

The court’s obligation to advise the defendant as to the statutory range of punishment prior to accepting a guilty plea is not affected by the voluntary sentencing standards.

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## **Imposition of Sentence**

Once a sentence has been selected from the recommended Prison Sentence Length Range Table, the sentencing judge may determine how that sentence shall be imposed for that sentencing event.

Example:

If a defendant is sentenced for three felonies at one sentencing event and the chosen sentence is 360 months (30 years) the judge may impose the sentence as:

- 360 months for each conviction to run concurrently;
- 120 months for each conviction to run consecutively; or
- one 240 month sentence and two 60 month sentences to run consecutively.



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#### IV. GENERAL INSTRUCTIONS - Mechanics of Completing the Worksheets

Because of the multiple ways in which sentencing occurs in Alabama, there is no requirement concerning which worksheet is completed first. It is suggested, however, the preparer first complete the case information at the top of the In/Out Worksheet.

##### PRISON IN/OUT WORKSHEET

**Step A** - Complete the case information at the top of the In/Out Worksheet and the Prison Sentence Length Worksheet. Please print.

*Defendant* – fill in the defendant’s name as it appears in the court case file.

*Case No.* – fill in the case number for the most serious offense for the sentencing event.

*Judge* – fill in the name of the judge presiding over sentencing in the case.

*Prosecutor* – fill in the name of the attorney representing the state at this sentencing event.

*Probation Officer* – fill in the name of the probation officer assigned to this case.

*Defense Attorney* – fill in the name of the attorney representing the defendant at sentencing, or if more than one attorney, the lead attorney in the case.

*Worksheet Preparer, Title* – fill in the name and the title of the worksheet preparer.

*Additional Cases* – If there are two or more cases sentenced at this sentencing event, fill in the case numbers for the additional cases. Also include additional counts by listing the specific additional convicted offenses.

Defendant _____	Case No. _____
Judge _____	Prosecutor _____
Probation Officer _____	Defense Attorney _____
Worksheet Preparer, Title _____	Additional Cases _____

**Step B** – Complete the Sentencing Factors Section, adding the score for each section. See the instructions for each worksheet.

**Step C** – Prison In/Out Worksheet:

1. Total the scores from the Sentencing Factors Section and record the total score in the Total Score box.
2. Circle the recommendation (non-prison or prison) that conforms to the total score.

<b>Property In/Out Recommendation</b>	<b>Total Score</b> <input type="text"/>
8-14 points: Non-Prison	15 or more points: Prison

<b>Personal In/Out Recommendation</b>	<b>Total Score</b> <input type="text"/>
1-7 points: Non-Prison	8 or more points: Prison

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**PRISON SENTENCE LENGTH WORKSHEET**

**Step A** - Complete the case information at the top of the Prison Sentence Length Worksheet.

*Defendant* – fill in the defendant’s name as it appears in the court case file.

*Case No.* – fill in the case number for the most serious offense for the sentencing event.

**Step B** – Complete the Sentencing Factors Section, adding the score for each section. See the instructions for each worksheet.

**Step C** - Prison Sentence Length Worksheet:

1. Total the scores from the Sentencing Factors Section and record the total score in the Total Score box.
2. Go to the Prison Sentence Length Range table and select the sentence ranges that conform to the total score.
3. Record the recommended ranges on the Prison Sentence Length Worksheet.

**Step D** - If the sentence imposed does not fall within the recommended sentence ranges, a departure occurs. If a departure from the Sentence Length range occurs, record the reason for the departure.

<b>Prison Sentence Length Recommendation</b>		<i>Step C1</i>
		<b>Total Score</b> <input type="text"/>
<i>Step C3</i>	Recommended Sentence Range ___ to ___ (straight)    ___ to ___ (split)	
<i>Step D</i>	Reason did not accept sentence length recommendation _____	

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## PRISON SENTENCE LENGTH RANGES FOR WORKSHEET

This table contains recommended sentence length ranges from which a sentence imposed under the Voluntary Sentencing Standards is chosen.

The table is divided into three sections or column groups.

1. The first column is a list of scores in actual cases analyzed by the Alabama Sentencing Commission in developing the worksheets and standards.
2. The next three columns (Total Sentence) list the recommended sentence ranges from which a sentence may be chosen.
3. The last three columns (Time to Serve on Split) list the recommended sentence ranges for the incarceration portion of a split sentence in the event the judge chooses to impose a split sentence.

<u>Score</u>	<u>Total Sentence</u>			<u>Time to Serve On Split</u>		
	<u>Low</u>	<u>Mid</u>	<u>High</u>	<u>Low</u>	<u>Mid</u>	<u>High</u>
32	13	18	23	6	9	12
37	13	22	31	6	9	12
39	13	22	31	6	9	12
42	13	22	31	6	9	12
44	13	22	31	6	9	12
45	13	22	31	6	9	12
46	13	22	31	6	9	12
47	13	22	31	6	9	12
49	14	23	31	6	9	12
51	14	23	31	6	9	12
52	14	27	38	6	9	12
53	14	27	38	6	9	12
54	14	27	38	6	9	12
55	14	27	38	6	9	12
56	14	31	46	6	9	12
57	14	31	46	6	9	12
58	14	31	46	6	9	12

This table is not intended to encourage or discourage the use of split sentences. The use of splits remains a matter entirely within the discretion of the sentencing judge.

**Step A** - Find the score that matches or, if no match is found, the next lower score corresponds to the Total Score on the Prison Sentence Length Worksheet.

**Step B** – Identify the recommended sentence range for that score in “Total Sentence” columns.

**Step C** - Identify the matching recommended sentence range for the incarceration portion of a split sentence from the “Time to Serve on Split” columns.

Record the recommended sentence ranges on the Prison Sentence Range Worksheet.

**Final Step** - File the completed worksheets (Prison In/Out and Prison Sentence Length) with the court clerk. After final sentencing, the court clerk shall forward a copy of the completed worksheets and a copy of the final sentencing order to the Alabama Sentencing Commission.

Alabama Sentencing Commission

300 Dexter Avenue, Suite 2-230

Montgomery, AL 36104-3741

Fax: (334) 954-5201

email: [sentencing.commission@alacourt.gov](mailto:sentencing.commission@alacourt.gov)



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The Personal offenses listed below are covered by the Sentencing Standards subject to Voluntary Sentencing Recommendations.

**Most Serious Offense at Conviction Ranking**

Murder  
§13A-6-2  
728 points

Rape I  
§13A-6-61  
386 points

Robbery I  
§13A-8-41  
374 points

Manslaughter  
§13A-6-3  
238 points

Sodomy I  
§13A-6-63  
235 points

Robbery II  
§13A-8-42  
173 points

Assault I  
§13A-6-20  
148 points

Rape II  
§13A-6-62  
129 points

Robbery III  
§13A-8-43  
89 points

Sodomy II  
§13A-6-64  
81 points

Assault II  
§13A-6-21  
72 points

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## INSTRUCTIONS - - Personal Prison In/Out Worksheet

- 1. Case Information Section**  
Complete prior to sentencing. See the General Instructions to complete this section.
  - 2. Sentencing Factors Section**  
Complete prior to sentencing.
  - 3. Most Serious Conviction Offense –**  
Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense. *Note: Rape I or II or Sodomy I or II is not a worksheet offense if the victim of the offense is under the age of 12 years old.*
  - 4. Number of Prior Adult Felony Convictions -** Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
  - 5. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More -**  
Count prior prison, jail or Department of Corrections/community corrections sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.
  - 6. Number of Prior Juvenile Delinquency or Youthful Offender Adjudications -** Count all juvenile delinquency and Youthful Offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. *Note: use the definition for misdemeanors or violations as set out in the General Instructions.*
  - 7. Possession/Use of Deadly Weapon or Dangerous Instrument –** Count this factor if there was a connection (other than the mere possession of a weapon) between the presence of a deadly weapon or dangerous instrument and the commission of any of the offense(s) being sentenced at the current sentencing event. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or proceeds of a sale. For the purpose of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.
  - 8. Total Score –** Prior to sentencing, total the scores from the Sentencing Factors Section.
- Recommendation Section**
- 9. Non-Prison: 1-7 Points**  
Circle “non-prison” as the voluntary disposition.
  - 10. Prison: 8 or more points**  
Circle “prison” as the voluntary disposition.
- After sentencing, the completed worksheet must be filed with the court clerk and made a part of the record. The court clerk shall forward to the Alabama Sentencing Commission a copy of this worksheet and the Prison Sentence Length worksheet, along with a copy of the Court’s final Sentencing Order after grant or denial of probation.

# Personal Prison In/Out Worksheet

<b>1</b> Defendant _____ Judge _____ Probation Officer _____ Worksheet Preparer, Title _____	Case No. _____ Prosecutor _____ Defense Attorney _____ Additional Cases _____
---	--

**2** \_\_\_\_\_

**3** **Most Serious Conviction Offense** Please circle one offense

Assault II ..... 1	Rape II, Sodomy II, Robbery II ..... 5	Score <input style="width: 40px; height: 20px;" type="text"/>
Robbery III ..... 3	Rape I, Sodomy I, Manslaughter, Robbery I ..... 8	
Assault I ..... 4	Murder ..... 10	

**4** **Number of Prior Adult Felony Convictions** \_\_\_\_\_

None ..... 0	Score <input style="width: 40px; height: 20px;" type="text"/>
1 ..... 2	
2 ..... 3	
3 ..... 5	
4 ..... 6	
5 or more ..... 8	

**5** **Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** \_\_\_\_\_

If Yes ..... 1

Score

**6** **Number of Prior Juvenile Delinquency or YO Adjudications (Violation/Misd/Felony)** \_\_\_\_\_

None ..... 0	Score <input style="width: 40px; height: 20px;" type="text"/>
1-2 ..... 1	
3-4 ..... 2	
5 or more ..... 3	

**7** **Possession/Use of Deadly Weapon or Dangerous Instrument** \_\_\_\_\_

If Yes ..... 4

Score

## Recommendation

**8** Total Score

**9** 1-7 points: Non-Prison

**10** 8 or more points: Prison

The final sentencing order (after grant or denial of probation) must be attached.

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## INSTRUCTIONS - - Personal Prison Sentence Length Worksheet

- 1. Case Information Section**  
Enter the Defendant's name and Case Number even if it has already been entered on the In/Out worksheet.
- 2. Sentencing Factors Section**  
Complete prior to sentencing.
- 3. Most Serious Conviction Offense -**  
Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.
- 4. Number of Prior Adult Felony Convictions**  
- Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 5. Number of Prior Incarcerations with Unsuspended Sentence Imposed of 1 Year or More** - Count prior prison, jail or Department of Corrections/community corrections sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.
- 6. Prior Incarceration with Unsuspended Sentence Imposed of Less Than 1 Year -**  
Count prior prison, jail or Department of Corrections/community corrections sentences where the non-suspended time imposed was less than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.
- 7. Total Score** – Total the scores from the Sentencing Factors Section.
- 8. Recommended Sentence Range** - Go to the Drug Prison Sentence Ranges for Worksheet Table to convert the score into a sentence length recommendation. Record the recommended sentence ranges for the total sentence and split sentence in the spaces identified as “straight” and “split”. The sentence for the most serious offense must come from the sentence length tables to comport with the standards. Statutory enhancements, as they have been applied, have been factored into the sentence length table recommendations and should *not* be added.
- 9. Reason Recommendation Not Accepted** – If the sentencing judge decides that no sentence length recommendation fits this case, the judge or another person designated by the judge, is asked to give a reason why the recommendation was not followed. The reason given should be stated here and will be used by the Sentencing Commission to evaluate the effectiveness of the standards.

# Personal Prison Sentence Length Worksheet

**2** **1** Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

**3** Most Serious Conviction Offense \_\_\_\_\_

Assault II .....	72	Sodomy I .....	235
Sodomy II .....	81	Manslaughter .....	238
Robbery III .....	89	Robbery I .....	374
Rape II .....	129	Rape I .....	386
Assault I .....	148	Murder .....	728
Robbery II .....	173		

Score

**4** Number of Prior Adult Felony Convictions \_\_\_\_\_

None .....	0
1 .....	19
2 .....	37
3 .....	56
4 .....	75
5 .....	93
6 .....	112
7 .....	130
8 .....	149
9 .....	168
10 or more .....	186

Score

**5** Number of Prior Incarcerations with *Unuspended* Sentence Imposed of 1 Year or More \_\_\_\_\_

None .....	0
1 .....	51
2 .....	101
3 .....	152
4 .....	202
5 or more .....	253

Score

**6** Prior Incarceration with *Unuspended* Sentence Imposed of Less Than 1 Year \_\_\_\_\_

If Yes ..... 33

Score

See Prison Sentence Length Recommendation Table

**7** Total Score

**8** Recommended Sentence Range \_\_\_\_ to \_\_\_\_ (straight) \_\_\_\_ to \_\_\_\_ (split)

**9** Reason did **not** accept sentence length recommendation \_\_\_\_\_

The final sentencing order (after grant or denial of probation) must be attached.

## Personal Prison Sentence Length Ranges for Worksheet

Time in Months

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>72</b>	13	37	60	6	15	24
<b>81</b>	13	37	60	6	15	24
<b>89</b>	13	37	60	6	15	24
<b>91</b>	13	37	60	6	15	24
<b>100</b>	13	37	60	6	15	24
<b>105</b>	13	47	80	6	15	24
<b>108</b>	13	47	80	6	15	24
<b>109</b>	13	47	80	6	15	24
<b>122</b>	13	47	80	6	15	24
<b>123</b>	13	47	80	6	15	24
<b>124</b>	13	47	80	6	15	24
<b>126</b>	13	47	80	6	15	24
<b>128</b>	13	47	80	6	15	24
<b>129</b>	39	71	102	6	15	24
<b>132</b>	47	74	102	12	18	24
<b>133</b>	47	74	102	12	18	24
<b>137</b>	47	74	102	12	18	24
<b>141</b>	55	78	102	12	18	24
<b>142</b>	55	99	143	12	24	36
<b>145</b>	55	99	143	12	24	36
<b>147</b>	55	99	143	12	24	36
<b>148</b>	55	99	143	12	24	36
<b>156</b>	55	99	143	12	24	36
<b>159</b>	62	103	143	12	24	36
<b>160</b>	62	103	143	12	24	36
<b>162</b>	62	103	143	12	24	36
<b>164</b>	62	103	143	12	24	36
<b>166</b>	62	108	153	12	24	36
<b>167</b>	78	116	153	12	24	36
<b>169</b>	78	116	153	12	24	36
<b>170</b>	78	116	153	12	24	36
<b>173</b>	78	116	153	12	24	36
<b>175</b>	78	116	153	12	24	36
<b>177</b>	78	116	153	12	24	36
<b>178</b>	78	116	153	12	24	36
<b>179</b>	78	116	153	12	24	36
<b>180</b>	78	116	153	12	24	36
<b>181</b>	78	116	153	12	24	36
<b>182</b>	78	116	153	12	24	36
<b>184</b>	78	116	153	12	24	36
<b>185</b>	78	116	153	12	24	36
<b>192</b>	78	126	173	12	24	36
<b>193</b>	78	126	173	12	24	36
<b>196</b>	78	126	173	12	24	36
<b>197</b>	78	126	173	12	24	36
<b>198</b>	78	126	173	12	24	36
<b>199</b>	78	126	173	12	24	36
<b>200</b>	78	126	173	12	24	36
<b>201</b>	78	126	173	12	24	36

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
204	78	126	173	12	24	36
206	78	126	173	12	24	36
209	78	126	173	12	24	36
210	78	126	173	12	24	36
215	78	126	173	12	24	36
217	78	126	173	12	24	36
218	78	126	173	12	24	36
219	78	126	173	12	24	36
223	78	126	173	12	24	36
224	78	126	173	12	24	36
225	78	126	173	12	24	36
227	78	126	173	12	24	36
229	78	126	173	12	24	36
230	78	126	173	12	24	36
231	78	126	173	12	24	36
232	78	126	173	18	29	40
233	78	126	173	18	29	40
235	78	126	173	18	29	40
236	78	126	173	18	33	48
237	78	126	173	18	33	48
238	78	126	173	18	33	48
243	78	126	173	18	33	48
248	78	141	204	18	33	48
249	78	141	204	18	33	48
251	78	141	204	18	33	48
252	78	141	204	18	33	48
253	78	141	204	18	33	48
254	86	145	204	18	33	48
255	86	145	204	18	33	48
256	86	145	204	18	33	48
257	86	145	204	18	33	48
260	86	145	204	18	33	48
261	86	145	204	18	33	48
262	86	145	204	18	33	48
265	86	145	204	18	33	48
266	86	145	204	18	33	48
267	86	145	204	18	33	48
268	86	145	204	18	33	48
269	86	145	204	18	33	48
271	86	145	204	18	33	48
272	86	145	204	18	33	48
274	86	145	204	18	33	48
275	86	145	204	18	33	48
276	86	145	204	18	33	48
280	86	145	204	18	33	48
281	86	145	204	18	33	48
283	101	153	204	18	33	48
286	101	153	204	18	33	48
287	101	153	204	18	33	48
288	101	153	204	18	33	48
289	101	153	204	18	33	48
290	101	153	204	18	33	48
291	101	153	204	18	33	48

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
292	101	153	204	18	33	48
294	101	153	204	18	33	48
299	101	153	204	18	33	48
300	101	153	204	18	33	48
305	101	153	204	18	33	48
307	101	153	204	18	33	48
308	101	153	204	18	33	48
311	101	153	204	22	41	60
313	101	153	204	22	41	60
316	101	153	204	22	41	60
317	101	153	204	22	41	60
319	101	153	204	22	41	60
322	101	153	204	22	41	60
323	101	153	204	22	41	60
324	101	153	204	22	41	60
326	117	161	204	22	41	60
330	117	161	204	22	41	60
331	117	161	204	22	41	60
332	117	161	204	22	41	60
334	117	161	204	22	41	60
335	117	161	204	22	41	60
336	117	161	204	22	41	60
337	117	161	204	22	41	60
338	117	161	204	22	41	60
339	117	161	204	24	42	60
342	117	161	204	24	42	60
344	117	161	204	24	42	60
345	117	161	204	24	42	60
349	117	161	204	24	42	60
350	117	161	204	24	42	60
355	117	161	204	24	42	60
356	117	161	204	24	42	60
358	117	161	204	24	42	60
359	117	161	204	24	42	60
362	117	161	204	24	42	60
363	117	161	204	24	42	60
364	117	161	204	24	42	60
366	117	161	204	24	42	60
367	117	161	204	24	42	60
371	117	186	255	24	42	60
373	117	186	255	24	42	60
374	117	186	255	24	42	60
375	117	186	255	24	42	60
376	117	186	255	24	42	60
378	117	186	255	24	42	60
379	117	186	255	24	42	60
381	117	186	255	24	42	60
386	117	186	255	24	42	60
387	117	186	255	24	42	60
389	117	186	255	24	42	60
393	117	186	255	24	42	60
400	117	186	255	24	42	60
403	117	186	255	24	42	60

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
404	117	186	255	24	42	60
405	117	186	255	24	42	60
406	117	186	255	24	42	60
407	117	186	255	24	42	60
409	117	186	255	24	42	60
411	117	186	255	24	42	60
412	117	186	255	24	42	60
414	117	186	255	24	42	60
418	117	186	255	24	42	60
419	117	186	255	24	42	60
423	117	186	255	24	42	60
425	117	186	255	24	42	60
426	117	186	255	24	42	60
427	117	186	255	24	42	60
428	117	186	255	24	42	60
430	117	186	255	24	42	60
431	117	186	255	24	42	60
436	117	186	255	24	42	60
437	117	186	255	24	42	60
438	156	231	306	24	42	60
439	156	231	306	24	42	60
442	156	231	306	24	42	60
444	156	231	306	24	42	60
449	156	231	306	24	42	60
450	156	231	306	24	42	60
451	156	231	306	36	48	60
455	156	231	306	36	48	60
456	156	231	306	36	48	60
457	156	231	306	36	48	60
458	156	231	306	36	48	60
460	156	231	306	36	48	60
461	156	282	408	36	48	60
462	156	282	408	36	48	60
463	156	282	408	36	48	60
465	156	282	408	36	48	60
467	156	282	408	36	48	60
470	156	282	408	36	48	60
474	156	282	408	36	48	60
475	156	282	408	36	48	60
476	156	282	408	36	48	60
477	156	282	408	36	48	60
483	156	282	408	36	48	60
487	156	282	408	36	48	60
491	156	282	408	36	48	60
493	156	282	408	36	48	60
494	156	282	408	36	48	60
495	156	282	408	36	48	60
498	156	282	408	36	48	60
500	156	282	408	36	48	60
501	156	282	408	36	48	60
505	156	282	408	36	48	60
506	156	588	1020	36	48	60
507	156	588	1020	36	48	60

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
510	156	588	1020	36	48	60
512	156	588	1020	36	48	60
513	156	588	1020	36	48	60
520	156	588	1020	36	48	60
524	156	588	1020	36	48	60
526	156	588	1020	36	48	60
528	156	588	1020	36	48	60
529	156	588	1020	36	48	60
530	156	588	1020	36	48	60
531	156	588	1020	36	48	60
533	156	588	1020	36	48	60
540	156	588	1020			
543	156	588	1020			
544	156	588	1020			
545	156	588	1020			
548	156	588	1020			
550	156	588	1020			
551	156	588	1020			
552	156	588	1020			
553	156	588	1020			
556	156	588	1020			
558	156	588	1020			
562	156	588	1020			
564	156	588	1020			
582	156	588	1020			
590	156	588	1020			
594	156	588	1020			
595	156	588	1020			
601	156	588	1020			
602	156	588	1020			
607	156	588	1020			
619	156	588	1020			
620	156	588	1020			
627	156	588	1020			
632	156	588	1020			
652	156	588	1020			
665	156	588	1020			
676	156	588	1020			
677	156	588	1020			
684	156	588	1020			
688	156	588	1020			
695	156	588	1020			
701	156	588	1020			
706	156	588	1020			
709	156	588	1020			
710	156	588	1020			
728	156	588	1020			
732	156	588	1020			
735	234	627	1020			
747	234	627	1020			
757	234	627	1020			
761	234	627	1020			
765	234	627	1020			

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b><u>Low</u></b>	<b><u>Mid</u></b>	<b><u>High</u></b>	<b><u>Low</u></b>	<b><u>Mid</u></b>	<b><u>High</u></b>
<b>780</b>	234	627	1020			
<b>784</b>	234	627	1020			
<b>790</b>	234	627	1020			
<b>798</b>	234	627	1020			
<b>803</b>	234	627	1020			
<b>812</b>	234	627	1020			
<b>816</b>	234	627	1020			
<b>817</b>	234	627	1020			
<b>831</b>	234	627	1020			
<b>835</b>	234	627	1020			
<b>836</b>	234	627	1020			
<b>840</b>	234	627	1020			
<b>848</b>	234	627	1020			
<b>849</b>	234	627	1020			
<b>854</b>	234	627	1020			
<b>868</b>	234	627	1020			
<b>872</b>	234	627	1020			
<b>885</b>	234	627	1020			
<b>904</b>	234	627	1020			
<b>905</b>	234	627	1020			
<b>918</b>	234	627	1020			
<b>936</b>	234	627	1020			
<b>950</b>	234	627	1020			
<b>955</b>	234	627	1020			
<b>986</b>	234	627	1020			
<b>1010</b>	234	627	1020			
<b>1111</b>	234	627	1020			
<b>1126</b>	234	627	1020			
<b>1130</b>	234	627	1020			



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The Property offenses listed below are covered by the Sentencing Standards subject to Voluntary Sentencing Recommendations.

**Most Serious Offense at Conviction Ranking**

Burglary I  
§13A-7-5  
275 points

Burglary II  
§13A-7-6  
70 points

Burglary III  
§13A-7-7  
45 points

## INSTRUCTIONS - - Property Prison In/Out Worksheet

- 1. Case Information Section**  
Complete prior to sentencing. See the General Instructions to complete this section.
  - 2. Sentencing Factors Section**  
Complete prior to sentencing.
  - 3. Most Serious Conviction Offense** – Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.
  - 4. Number of Prior Adult Felony Convictions-** Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
  - 5. Number of Prior Adult Convictions for Same Felony -** Count all felony convictions for the same offense that occurred prior to the arrest date of the most serious offense being sentenced at the current sentencing event. Only count those offenses where the crime and the degree are identical to the current offense. For instance, if the current most serious offense is Burglary I, then a prior Burglary II or III conviction would not be scored.
  - 6. Number of Prior Adult Convictions for Misdemeanors or Violations -** Count all criminal convictions for misdemeanor offenses or violations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only include the serious traffic offenses of (1) DUI, (2) BUI, (3) Leaving the Scene of an Accident, (4) Attempting to Elude, (5) Driving without a License or (6) Driving while License is Suspended or Revoked.
  - 7. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More** – Count prior prison, jail, Department of Corrections/community corrections, and YO and Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
  - 8. Prior Incarceration with Unsuspended Sentence Imposed of Less Than 1 Year -** Count prior prison, jail, Department of Corrections/community corrections, and YO or Juvenile Delinquency sentences where the non-suspended time imposed was less than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
  - 9. Prior Felony Probation or Parole Revocation -** Count probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only *felony* probation revocations should be scored.
  - 10. Number of Prior Juvenile Delinquency or Youthful Offender Adjudications (Violation/Misd/Felony) -** Count all juvenile delinquency and Youthful Offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. *Note: use the definition for misdemeanors or violations as set out in factor #6.*
  - 11. Possession/Use of a Deadly Weapon or Dangerous Instrument** – Count this factor if there was a connection (other than the mere possession of a weapon) between the presence of a deadly weapon or dangerous instrument and the commission of any of the offense(s) being sentenced at the current sentencing event. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or proceeds of a sale. For the purpose of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.
  - 12. Injury to Victim** – Count this factor if a victim suffered physical injury or serious physical injury during the commission or flight from the offense. For the purposes of completing the worksheet, physical injury shall be defined pursuant to Section 13A-1-2 (12), Code of Alabama 1975 and serious physical injury shall be defined pursuant to Section 13A-1-2 (14), Code of Alabama 1975.
  - 13. Total Score** – Total the scores from the Sentencing Factors Section.
- Recommendation Section**
- 14. Non-Prison: 8-14 Points** Circle “non-prison” as the voluntary disposition.
  - 15. Prison: 15 or more points** Circle “prison” as the voluntary disposition.

# Property Prison In/Out Worksheet

Eff.10-1-2013

<b>1</b>	Defendant _____	Case No. _____
	Judge _____	Prosecutor _____
	Probation Officer _____	Defense Attorney _____
	Worksheet Preparer, Title _____	Additional Cases _____

**2** \_\_\_\_\_

**3** Most Serious Conviction Offense \_\_\_\_\_

Burglary III .....	11	
Burglary II .....	13	
Burglary I .....	14	

Score

**4** Number of Prior Adult Felony Convictions \_\_\_\_\_

None .....	0	
1-2 .....	1	
3-4 .....	2	
5 or more .....	3	

Score

**5** Number of Prior Adult Convictions for Same Felony \_\_\_\_\_

None .....	0	
1 .....	1	
2 .....	2	
3-4 .....	3	
5 or more .....	4	

Score

**6** Number of Prior Adult Convictions for Misdemeanors or Violations \_\_\_\_\_

0-1 .....	0	
2-5 .....	1	
6-9 .....	2	
10 or more .....	3	

Score

**7** Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More \_\_\_\_\_

If Yes .....

6

Score

**8** Prior Incarceration with *Unuspended* Sentence Imposed of Less Than 1 Year \_\_\_\_\_

If Yes .....

3

Score

**9** Prior Felony Probation or Parole Revocation \_\_\_\_\_

If Yes .....

2

Score

**10** Number of Prior Juvenile Delinquency or YO Adjudications (Violation/Misd/Felony) \_\_\_\_\_

None .....	0	
1 .....	1	
2-3 .....	2	
4 .....	3	
5 or more .....	4	

Score

**11** Possession/Use of a Deadly Weapon or Dangerous Instrument \_\_\_\_\_

If Yes .....

1

Score

**12** Injury to Victim \_\_\_\_\_

If Yes .....

2

Score

<b>Recommendation</b>		<b>13</b> Total Score <input style="width: 40px; height: 20px; border: 2px solid black;" type="text"/>
<b>14</b> 8-14 points: Non-Prison	<b>15</b> 15 or more points: Prison	

The final sentencing order (after grant or denial of probation) must be attached.

## INSTRUCTIONS - - Property Prison Sentence Length Worksheet

- 1. Case Information Section**  
Enter the Defendant's name and Case Number even if it has already been entered on the In/Out worksheet.
- 2. Sentencing Factors Section**  
Complete prior to sentencing.
- 3. Most Serious Conviction Offense** - Following the general instructions, the preparer should select only the most serious offense being sentenced at the current sentencing event. Where two or more offenses have the same score, circle the specific offense scored as the most serious conviction offense on this worksheet. The preparer should enter the number of points assigned to the most serious offense.
- 4. Number of Additional Felony Convictions (Including Counts)** - The preparer should total all offenses being sentenced other than the most serious offense being sentenced at the present time. In the event of a multi-count indictment, all counts in which the defendant was found guilty or entered a guilty plea should be counted the same as separate convictions. This does not include prior convictions - they are counted elsewhere.
- 5. Number of Prior Adult Felony Convictions** - Count all felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 6. Number of Prior Adult Felony Property Convictions** - Count only the number of felony property convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 7. Prior Incarceration with Unsuspended Sentence Imposed of 1 Year or More** – Count prior prison, jail, Department of Corrections/ community corrections, and YO and Juvenile Delinquency sentences where the non-suspended time imposed was one year or greater. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 8. Prior Felony Probation or Parole Revocation** - Count probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only *felony* probation revocations should be scored.
- 9. Possession/Use of a Deadly Weapon or Dangerous Instrument and/or Injury to Victim** - Count this factor if there was a connection (other than the mere possession of a weapon) between the presence of a deadly weapon or dangerous instrument and the commission of any of the offense(s) being sentenced at the current sentencing event. This factor should not be counted if the deadly weapon or dangerous instrument is merely “loot” or proceeds of a sale. For the purpose of completing the worksheets, a deadly weapon or dangerous instrument shall be defined pursuant to Sections 13A-1-2 and 13A-11-72.  
  
Count this factor if a victim suffered physical injury or serious physical injury during the commission or flight from the offense. For the purposes of completing the worksheet physical injury shall be defined pursuant to Section 13A-1-2 (12), Code of Alabama 1975 and serious physical injury shall be defined pursuant to Section 13A-1-2 (14), Code of Alabama 1975.  
  
Additionally, this factor should be counted if the defendant enters a dwelling with a deadly weapon whether or not it was used or brandished during the commission of the offense.
- 10. Acquired a Firearm During Offense** – Count this if a firearm was acquired during the commission of the offense(s) being scored at the current sentencing event.
- 11. Total Score** – Total the scores from the Sentencing Factors Section.
- 12. Recommended Sentence Range** - Go to the Drug Prison Sentence Ranges for Worksheet Table to convert the score into a sentence length recommendation. Record the recommended sentence ranges for the total sentence and split sentence in the spaces identified as “straight” and “split”. The sentence for the most serious offense must come from the sentence length tables to comport with the standards. Statutory enhancements, as they have been applied, have been factored into the sentence length table recommendations and should *not* be added.
- 13. Reason Recommendation Not Accepted** – If the sentencing judge decides that no sentence length recommendation fits this case, the judge or another person designated by the judge, is asked to give a reason why the recommendation was not followed. The reason given should be stated here and will be used by the Sentencing Commission to evaluate the effectiveness of the standards.

# Property Prison Sentence Length Worksheet

**2** **1** Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

**3** **Most Serious Conviction Offense** \_\_\_\_\_

Burglary III .....	45	
Burglary II .....	70	
Burglary I .....	275	

Score

**4** **Number of Additional Felony Convictions (Including Counts)** \_\_\_\_\_

None .....	0	
1 .....	5	
2 .....	10	
3 or more .....	15	

Score

**5** **Number of Prior Adult Felony Convictions** \_\_\_\_\_

None .....	0	6 .....	72
1 .....	12	7 .....	84
2 .....	24	8 .....	97
3 .....	36	9 .....	109
4 .....	48	10 or more .....	121
5 .....	60		

Score

**6** **Number of Prior Adult Felony Property Convictions** \_\_\_\_\_

None .....	0	
1 .....	7	
2 .....	14	
3 .....	21	
4 .....	27	
5 or more .....	34	

Score

**7** **Prior Incarceration with *Unuspended* Sentence Imposed of 1 Year or More** \_\_\_\_\_

If Yes ..... 15

Score

**8** **Prior Felony Probation or Parole Revocation** \_\_\_\_\_

If Yes ..... 7

Score

**9** **Possession/Use of a Deadly Weapon/Dangerous Instrument or Injury to Victim** \_\_\_\_\_

If Yes ..... 37

Score

**10** **Acquired a Firearm During Offense** \_\_\_\_\_

If Yes ..... 12

Score

**See Prison Sentence Length  
Recommendation Table**

**11** **Total Score**

**12** Recommended Sentence Range \_\_\_\_\_ to \_\_\_\_\_ (straight) \_\_\_\_\_ to \_\_\_\_\_ (split)

**13** Reason did **not** accept sentence length recommendation \_\_\_\_\_

**14** **Judge's Signature/Initial** \_\_\_\_\_

# Property Prison Sentence Length Ranges for Worksheet

Time in Months

<u>Score</u>	<u>Total Sentence</u>			<u>Time to Serve On Split</u>		
	<u>Low</u>	<u>Mid</u>	<u>High</u>	<u>Low</u>	<u>Mid</u>	<u>High</u>
32	13	18	23	6	9	12
37	13	22	31	6	9	12
39	13	22	31	6	9	12
42	13	22	31	6	9	12
44	13	22	31	6	9	12
45	13	22	31	6	9	12
46	13	22	31	6	9	12
47	13	22	31	6	9	12
49	14	23	31	6	9	12
51	14	23	31	6	9	12
52	14	27	38	6	9	12
53	14	27	38	6	9	12
54	14	27	38	6	9	12
55	14	27	38	6	9	12
56	14	31	46	6	9	12
57	14	31	46	6	9	12
58	14	31	46	6	9	12
59	14	31	46	6	9	12
60	14	31	46	6	9	12
61	16	31	46	6	9	12
62	16	31	46	6	9	12
63	16	31	46	6	9	12
64	16	31	46	6	9	12
65	16	31	46	6	9	12
66	16	31	46	6	9	12
67	16	31	46	6	9	12
68	16	31	46	6	9	12
69	16	31	46	6	9	12
70	16	31	46	6	9	12
71	19	32	46	6	9	12
72	19	32	46	6	9	12
73	19	32	46	6	9	12
74	19	32	46	6	9	12
75	19	32	46	6	9	12
76	19	36	54	6	9	12
77	19	36	54	6	9	12
78	22	42	61	6	9	12
79	22	42	61	6	9	12
80	22	42	61	6	9	12
81	22	42	61	6	9	12
82	22	42	61	6	9	12
83	22	42	61	6	9	12
84	22	42	61	6	9	12
85	22	42	61	6	9	12
86	22	42	61	6	9	12
87	22	42	61	6	9	12
88	22	42	61	6	9	12

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>89</b>	22	42	61	6	12	19
<b>90</b>	22	45	69	6	12	19
<b>91</b>	22	45	69	6	12	19
<b>92</b>	22	45	69	6	12	19
<b>93</b>	22	45	69	6	12	19
<b>94</b>	22	45	69	6	12	19
<b>95</b>	22	45	69	6	12	19
<b>96</b>	22	45	69	6	12	19
<b>97</b>	22	45	69	6	12	19
<b>98</b>	22	45	69	6	12	19
<b>99</b>	22	49	77	6	12	19
<b>100</b>	22	49	77	6	12	19
<b>101</b>	22	68	115	6	12	19
<b>102</b>	22	68	115	6	12	19
<b>103</b>	22	68	115	6	12	19
<b>104</b>	22	68	115	6	12	19
<b>105</b>	22	68	115	6	12	19
<b>106</b>	24	70	115	6	12	19
<b>107</b>	27	71	115	6	12	19
<b>108</b>	27	71	115	6	12	19
<b>109</b>	27	71	115	6	12	19
<b>110</b>	27	71	115	6	12	19
<b>111</b>	27	71	115	6	12	19
<b>112</b>	27	71	115	6	12	19
<b>113</b>	27	71	115	6	12	19
<b>114</b>	27	71	115	6	12	19
<b>115</b>	27	71	115	6	12	19
<b>116</b>	27	71	115	6	12	19
<b>117</b>	27	71	115	6	12	19
<b>118</b>	32	74	115	6	12	19
<b>119</b>	54	85	115	6	12	19
<b>120</b>	54	85	115	6	12	19
<b>121</b>	54	85	115	6	12	19
<b>122</b>	54	85	115	6	12	19
<b>123</b>	54	85	115	6	12	19
<b>124</b>	54	85	115	6	12	19
<b>125</b>	54	85	115	6	12	19
<b>126</b>	54	85	115	6	12	19
<b>127</b>	54	85	115	6	12	19
<b>128</b>	54	85	115	6	12	19
<b>129</b>	54	85	115	6	12	19
<b>130</b>	54	85	115	6	12	19
<b>131</b>	54	85	115	6	12	19
<b>132</b>	54	85	115	6	12	19
<b>133</b>	54	85	115	6	12	19
<b>134</b>	54	85	115	6	12	19
<b>135</b>	54	85	115	6	12	19
<b>136</b>	54	85	115	6	12	19
<b>137</b>	54	85	115	6	12	19
<b>138</b>	54	85	115	6	12	19

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
139	54	85	115	6	12	19
140	54	85	115	6	12	19
141	54	85	115	6	12	19
142	54	85	115	6	12	19
143	54	85	115	6	12	19
144	76	95	115	6	12	19
145	76	95	115	6	12	19
146	76	95	115	6	12	19
147	76	95	115	6	12	19
148	76	95	115	6	12	19
149	76	95	115	6	12	19
150	76	95	115	6	12	19
151	76	95	115	12	15	19
152	76	95	115	12	15	19
153	76	95	115	12	15	19
154	76	95	115	12	15	19
155	76	95	115	12	15	19
156	76	95	115	12	15	19
157	76	95	115	12	15	19
158	76	95	115	12	15	19
159	76	95	115	12	15	19
160	76	95	115	12	15	19
161	76	95	115	12	15	19
162	76	95	115	12	15	19
163	76	95	115	12	15	19
164	76	95	115	12	15	19
165	76	95	115	12	15	19
166	76	95	115	12	15	19
167	76	95	115	12	15	19
168	81	102	123	12	15	19
169	81	102	123	12	15	19
170	81	102	123	12	18	25
171	81	102	123	12	18	25
172	81	102	123	12	18	25
173	81	102	123	12	18	25
174	81	102	123	12	18	25
175	81	102	123	12	18	25
176	81	102	123	12	18	25
177	81	102	123	12	18	25
178	81	102	123	12	18	25
179	81	102	123	12	18	25
180	81	102	123	12	18	25
181	81	102	123	12	18	25
182	81	102	123	12	18	25
183	81	102	123	12	18	25
184	81	102	123	12	18	25
185	81	102	123	12	18	25
186	81	102	123	12	18	25
187	81	102	123	12	18	25
188	81	102	123	12	18	25

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>189</b>	81	102	123	12	18	25
<b>190</b>	81	102	123	12	18	25
<b>191</b>	81	102	123	12	18	25
<b>192</b>	81	117	154	12	18	25
<b>195</b>	81	117	154	12	18	25
<b>197</b>	81	117	154	12	18	25
<b>198</b>	81	117	154	12	18	25
<b>199</b>	81	117	154	12	18	25
<b>201</b>	81	117	154	12	18	25
<b>202</b>	81	117	154	12	18	25
<b>204</b>	81	117	154	12	18	25
<b>205</b>	81	117	154	12	18	25
<b>206</b>	81	117	154	12	22	31
<b>207</b>	81	117	154	12	22	31
<b>208</b>	81	117	154	12	22	31
<b>209</b>	81	117	154	12	22	31
<b>210</b>	81	117	154	12	22	31
<b>211</b>	81	117	154	12	22	31
<b>213</b>	81	117	154	12	22	31
<b>214</b>	81	117	154	12	22	31
<b>215</b>	81	117	154	18	25	31
<b>216</b>	81	117	154	18	25	31
<b>217</b>	81	117	154	18	25	31
<b>219</b>	81	117	154	18	25	31
<b>220</b>	81	117	154	18	25	31
<b>222</b>	81	117	154	18	25	31
<b>223</b>	81	117	154	18	25	31
<b>225</b>	81	117	154	18	25	31
<b>228</b>	81	117	154	18	25	31
<b>232</b>	81	117	154	18	25	31
<b>233</b>	81	117	154	18	25	31
<b>235</b>	81	117	154	18	25	31
<b>245</b>	81	117	154	18	25	31
<b>246</b>	81	117	154	18	25	31
<b>250</b>	81	117	154	18	25	31
<b>260</b>	81	117	154	18	25	31
<b>274</b>	81	117	154	18	25	31
<b>275</b>	120	135	156	24	30	36
<b>280</b>	120	135	156	24	30	36
<b>282</b>	120	135	156	24	30	36
<b>285</b>	120	135	156	24	30	36
<b>287</b>	120	135	156	24	30	36
<b>290</b>	120	135	156	24	30	36
<b>292</b>	120	135	156	24	30	36
<b>294</b>	120	135	156	24	30	36
<b>299</b>	120	135	156	24	30	36
<b>302</b>	120	135	156	24	30	36
<b>304</b>	120	135	156	24	30	36
<b>306</b>	120	135	156	24	30	36
<b>308</b>	120	135	156	24	30	36

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>309</b>	120	135	156	24	30	36
<b>311</b>	120	135	156	24	30	36
<b>312</b>	120	135	156	24	30	36
<b>313</b>	120	135	156	24	30	36
<b>314</b>	120	135	156	24	30	36
<b>317</b>	120	135	156	24	30	36
<b>318</b>	120	150	180	24	30	36
<b>320</b>	120	150	180	24	30	36
<b>321</b>	120	150	180	24	30	36
<b>323</b>	120	150	180	24	30	36
<b>324</b>	120	150	180	24	30	36
<b>326</b>	120	150	180	24	30	36
<b>329</b>	120	150	180	24	30	36
<b>331</b>	120	150	180	24	30	36
<b>333</b>	120	150	180	24	30	36
<b>335</b>	120	150	180	24	30	36
<b>336</b>	120	150	180	24	30	36
<b>338</b>	120	150	180	24	30	36
<b>339</b>	120	150	180	24	30	36
<b>341</b>	120	150	180	24	30	36
<b>342</b>	120	150	180	24	30	36
<b>343</b>	120	150	180	24	30	36
<b>345</b>	120	150	180	24	30	36
<b>347</b>	120	150	180	24	30	36
<b>350</b>	120	150	180	24	30	36
<b>351</b>	120	150	180	24	30	36
<b>353</b>	144	192	240	36	48	60
<b>356</b>	144	192	240	36	48	60
<b>358</b>	144	192	240	36	48	60
<b>359</b>	144	192	240	36	48	60
<b>362</b>	144	192	240	36	48	60
<b>363</b>	144	192	240	36	48	60
<b>364</b>	144	192	240	36	48	60
<b>369</b>	144	192	240	36	48	60
<b>370</b>	144	192	240	36	48	60
<b>375</b>	144	192	240	36	48	60
<b>380</b>	144	192	240	36	48	60
<b>382</b>	144	192	240	36	48	60
<b>385</b>	144	192	240	36	48	60
<b>396</b>	144	192	240	36	48	60
<b>404</b>	144	192	240	36	48	60
<b>418</b>	144	192	240	36	48	60

Original Voluntary  
Sentencing Standards



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**ORIGINAL VOLUNTARY SENTENCING STANDARDS**  
**Adopted September 30, 2005 and effective October 1, 2006**

**General Instructions for Completing Sentencing Worksheets**

1. Worksheets should be completed and considered when the “most serious conviction offense” at a sentencing event, is one of the following:

<b>Personal Worksheets</b>	<b>Property Worksheets</b>	<b>Drug Worksheets</b>
Assault I § 13A-6-20	Burglary I § 13A-7-5	Felony DUI § 32-5a-191(h)
Assault II § 13A-6-21	Burglary II § 13A-7-6	Possession of Marihuana I § 13A-12-213
Manslaughter § 13A-6-3	Burglary III § 13A-7-7	Unlawful Possession of a Controlled Substance § 13A-12-212
Murder § 13A-6-2	Forgery II § 13A-9-3	Sale/Distribution of Marihuana (other than to a minor) § 13A-12-211
Rape I § 13A-6-61	Possession Forged Instrument II § 13A-9-6	Sale/Distribution of Schedule I-V (other than to a minor) § 13A-12-211
Rape II § 13A-6-62	Theft of Property I § 13A-8-3	
Robbery I § 13A-8-41	Theft of Property II § 13A-8-4	
Robbery II § 13A-8-42	Receiving Stolen Property I § 13A-8-17	
Robbery III § 13A-8-43	Receiving Stolen Property II § 13A-8-18	
Sodomy I § 13A-6-63	Unauthorized Use/B&E Vehicle § 13A-8-11(a)(4) & (b)	
Sodomy II § 13A-6-64	Unlawful Possession/Use Credit/Debit Card § 13A-9-14	

A “sentencing event” includes all convictions disposed of at one time.

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2. To determine the “most serious conviction offense” for the purpose of scoring worksheets, the preparer should select the offense with the highest number of points listed in the first section of the corresponding sentence length worksheet.
  3. Both worksheets must be completed even if the recommended disposition is “non-prison.”
  4. If a defendant is being sentenced for more than one crime type at the same sentencing event – e.g. both drug and property offenses – more than one set of worksheets may be completed to determine which offense would most likely result in a recommended prison sentence and/or longest sentence length.

Example:

- If a defendant is being sentenced for Assault II (72 points) and Burglary II (70 points) at the same sentencing event, the worksheet preparer should first complete the Personal Sentencing Worksheets to determine the recommended sentencing outcome. This is because Assault II has the highest point value in the first section of the “personal” sentence length worksheet. Then, the preparer could elect to score Burglary II as the primary offense on the Worksheets to determine which sentencing outcome would be most appropriate in this particular case.
5. If a “worksheet” offense and a “non-worksheet” offense being sentenced at the same sentencing event have the same statutory maximum penalty, then the user should select the “worksheet” offense as the primary offense and the “non-worksheet” offense should be scored as an additional offense.

Example:

- The maximum statutory penalty for Criminal Mischief I (with no prior felony convictions) is 10 years and the maximum statutory penalty for Assault II (with no prior felony convictions) is 10 years. If both are being sentenced at the same event, the worksheet preparer should score the personal worksheets for Assault II. This is because Assault II is covered by the worksheets and Criminal Mischief I is not.
  - In the above scenario, if worksheet offense was a drug or property offense, the non-worksheet offense(s) should be scored under the “Number of Additional Felony Convictions (Including Counts)” section of the Sentence Length Worksheets.
6. If the “non-worksheet” offense has a higher maximum statutory penalty than a “worksheet” offense being sentenced at the same event, then the entire sentencing event is not covered by the worksheets.

Example:

- The maximum statutory penalty for Attempted Arson I (with no prior felony convictions) is 20 years and the maximum statutory penalty for Assault II (with no prior felony convictions) is 10 years. If both are being sentenced at the same event, no worksheets should be prepared. This is because the statutory maximum penalty for Attempted Arson is greater than that for Assault II.

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7. Once a sentence has been selected from the recommended sentence range, it is up to the sentencing judge to decide how it shall be imposed.

For instance, if a defendant is being sentenced for three felonies and the recommended time imposed is 30 years, then the judge has several options. He or she could:

1. order the defendant to serve a 360 month sentence for each offense to be served concurrently;
  2. order the defendant to serve three 120 month sentences consecutively; or
  3. order the defendant to serve one 240 month sentence and two 60 month sentences consecutively, etc.
8. Prior records are to be scored based on convictions, juvenile delinquency and/or youthful offender adjudications occurring before the arrest date(s) of the offense(s) being sentenced. If an ambiguous entry on a prior record document cannot be resolved, the scorer should treat the information in a way that gives the benefit of the doubt to the offender. If any prior record disposition information is missing, the scorer should assume that no conviction occurred. In the event of a dispute, the burden of proving the prior conviction is on the prosecutor. For the purposes of proving in-state prior convictions, any official court document – whether automated or hard copy – shall be sufficient for meeting the burden of proof requirement. When meeting the burden of proof for out-of-state convictions, certified copies of official court records shall be sufficient evidence. Out of state records need not be exemplified.
  9. When completing the worksheets, matters disposed of by pleas of nolo contendere or “no contest” should be counted as prior convictions. In addition, any incarceration resulting from a plea of nolo contendere or “no contest” should be counted in the appropriate places on the worksheets.
  10. In the event a defendant has received a pardon for innocence, the conviction for which he or she received the pardon should be excluded when scoring prior convictions. All other pardons – e.g. those to restore voting rights – should not be construed to affect a defendant’s criminal history.
  11. Worksheets are designed to be used only when the offense being sentenced is on a worksheet. They are not intended to provide guidance when sentencing similar crimes. This is because the factors included on the worksheets have been statistically derived specifically for the listed offenses and may or may not be statistically significant in predicting sentencing outcomes for others.
  12. When scoring prior misdemeanor or violation convictions, all criminal convictions should be counted. Traffic convictions do not count except: Driving Under the Influence, Boating Under the Influence, Leaving the Scene of an Accident, Attempting to Elude Law Enforcement, Driving without a License and Driving While License is Suspended or Revoked.
  13. Sentence lengths recommended on the worksheets are intended to give guidance in imposing prison sentences. They are not intended to suggest terms of probation. Compliance with the standards occurs when the sentence conforms with the recommended disposition (prison v. non-prison) and prison duration (months) indicated on the sentencing standards tables is imposed. Judges may however, sentence offenders sentenced to probation for the duration listed on the tables or any other lawful term and still be considered in compliance.
  14. Worksheets do not have to be filled out for offenders who are assigned to drug court or pre-trial diversion until a sentence is imposed. Some jurisdictions imposed sentence as soon as a person enters drug court. In these cases, the worksheets should be completed at this time. If sentencing does not occur until later – e.g. when the person “flunks out” of the program – then the worksheets do not need to be completed until the time of sentencing. In short, for drug court and other diversionary programs, the worksheets need not be filled out until the time of sentencing.

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15. All previous convictions of misdemeanor Driving Under the Influence (DUI) should be counted as priors, including when the worksheets are being completed for Felony DUI cases.
  16. The court's obligation to advise the defendant as to the statutory range of punishment prior to accepting a guilty plea is not affected by the standards.
  17. The recommended sentence ranges, in months, presented in the sentencing standards are expected to be applied in 75 percent of all cases being sentenced. They do not apply to mandatory life without parole sentences pursuant to the Habitual Felony Offender Act, Section 13A-5-9, Code of Alabama where a defendant who has been previously convicted of three felonies - one of which is a Class A felony. It is expected that 25 percent of all cases will fall outside of the suggested range.
  18. The minimum sentence imposed under the sentencing standards must not be less than the statutory sentences specified in Paragraphs 1-3, Section 13A-5-6, Code of Alabama 1975. (Provided, however, the minimum sentence may still be "split" pursuant to Section 15-18-8, Code of Alabama 1975.)
    1. For a Class A felony, the minimum sentence imposed must be at least 120 months.
    2. For a Class B felony, the minimum sentence imposed must be at least 24 months.
    3. For a Class C felony, the minimum sentence imposed must be at least 12 months and 1 day.

A recommended sentence of 13 months includes any portion of the 13<sup>th</sup> month, i.e. 12 months and 1 day.

19. Pursuant to § 12-25-35, Code of Alabama, 1975, worksheets should be completed and the sentencing standards recommendations shall be considered for all offenders to whom they are applicable.
20. The Sentencing Commission requests that in any case in which a sentence is imposed that is a departure from the voluntary standards, the court provide a brief reason for the departure. Such statements may be included on forms (electronic or hard copy) provided by the Sentencing Commission and used solely by the Sentencing Commission in evaluating the effectiveness of these standards. See §12-25-35 (c) and (e).

Examples:

More severe

- Worksheets do not express the severity of criminality of the offender's history.
- No alternatives to prison available.
- Offender needs long-term substance abuse treatment available only through the Department of Corrections.
- Injury to victim deserves greater punishment.

Less severe

- The worksheets exaggerate the severity of the offender's prior history.
- Prior history not relevant to this proceeding because the prior history is too remote.
- The recommended sentence punishes too harshly or too leniently.
- Offender shows sufficient progress toward rehabilitation to allow alternative to prison.

21. If a score falls between two scores listed on the sentence length ranges, select the lower of the two scores to determine the recommended sentence range.

Adopted by the Alabama Sentencing Commission on September 30, 2005.

Approved by the Legislature in 2006 § 12-25-34.1.

Effective October 1, 2006.