

final minutes

Criminal Justice Policy Commission Meeting

9:00 a.m. • Wednesday, February 3, 2016

Senate Appropriations Room • 3rd Floor State Capitol Building

100 N. Capitol Avenue • Lansing, MI

Members Present:

Senator Bruce Caswell, Chair
Stacia Buchanan
Representative Vanessa Guerra
D. J. Hilson
Kyle Kaminski
Sheryl Kubiak
Barbara Levine
Sarah Lightner
Laura Moody
Jennifer Strange
Judge Paul Stutesman
Andrew Verheek
Judge Raymond Voet

Members Excused:

Senator Patrick Colbeck
Senator Bert Johnson
Sheriff Lawrence Stelma
Representative Michael Webber

I. Call to Order and Roll Call

The Chair called the meeting to order at 9:00 a.m. and asked the clerk to take the roll. A quorum was present and absent members were excused. Judge Paul Stutesman arrived at 9:42 a.m.

II. Approval of the January 6, 2016 CJPC Meeting Minutes

The Chair asked for a motion to approve the January 6, 2016 Criminal Justice Policy Commission meeting minutes.

Commissioner Strange moved, supported by Judge Voet, that the minutes of the January 6, 2016 Criminal Justice Policy Commission meeting as proposed be approved. There was no objection. The motion was approved by unanimous consent.

The Chair called on Judge Voet for an update on a potential speaker at the Commission's April meeting. Judge Voet reported that Dr. Douglas Marlowe from the University of Pennsylvania has agreed to provide testimony at the April meeting on evidence-based practices for measuring criminal justice performance indicators, recidivism, and outcomes.

III. Data Subcommittee Update

a. Presentation by Jeff Anderson, Michigan Department of Corrections

The Chair called on Commissioners Kaminski and Kubiak to introduce Jeff Anderson from the Michigan Department of Corrections. Commissioner Kubiak noted that the data subcommittee has been looking at data in three different areas around recidivism, capacity, and sentencing guidelines. She emphasized that data holes have been found in the recidivism and capacity areas and sentencing guidelines seem to have the best data. She urged members to think about research questions as Mr. Anderson begins his talk. Commissioner Kaminski then introduced Mr. Anderson who presented an overview of sentencing guidelines and a review of potential data sources (see attached handout.) He noted that the current sentencing guidelines attempt to codify the practices at the time and bring about more consistency in sentencing. A period of question and answer followed. Several questions regarding sentencing of habitual offenders and disparity in sentencing were raised. Commissioner Kubiak asked Mr. Anderson to look at the CSG Michigan Report Technical Appendix and let the Commission know of any red flags he sees. He noted that jail and misdemeanor data is missing and those are areas the Commission may want to address.

b. CSG Michigan Report Technical Appendix

Commissioner Kubiak shared the CSG Michigan Report Technical Appendix with members.

c. Senator Colbeck, Revised Data Management System Presentation

Senator Colbeck was not present at today's meeting, but his revised presentation is attached to these minutes.

IV. Mental Health Subcommittee Update

Commissioner Lightner reported that she made contact with Lynda Zeller from the Department of Health and Human Services who has agreed to make a presentation at the Commission's April 6 meeting. Commissioner Lightner indicated

that she submitted a list of questions to Ms. Zeller and will forward the responses to Commission members. Commissioner Strange added that she has reached out to Bob Sheehan from the Michigan Coalition of Community Mental Health Boards to share information as well. Commissioner Lightner reported that she has also made contact with her county's local mental health court and will get any local data that is available for that particular court. The Chair asked if it would be possible to have the mental health court judge or other personnel come before the Commission. Commissioner Lightner will try to coordinate that with the participation of the other individuals she has asked to come before the Commission at either the April or May CJPC meeting.

V. Council of State Governments Findings and Policy Options – Continuation of Discussion

The Chair opened a discussion of Recommendation #2:

2. It is the recommendation of the Criminal Justice Policy Commission that monies should be more equitably distributed between programs to serve the parole and probation populations. Programs designed to help these populations are quite different in each programmatic area and need to be funded for success. Funding that results in success for probationers has the potential to save the taxpayers significant money by avoiding the high cost of incarceration while effectively preventing crimes. Programs must be evaluated utilizing an objective evaluation tool to determine effective evidence-based programming that will result in successful outcomes and reduce the cost of incarceration.

Commissioner Hilson moved, supported by Commissioner Kaminski, to put Recommendation 2 on the floor. A discussion followed.

Commissioner Verheek moved, supported by Commissioner Strange, to amend Recommendation 2, line 2, after "between" by adding "evidence-based" and line 2, after "populations." by adding "Evidence-based", and line 5, after "crimes." by adding "Evidence-based", and line 6, after "effective" by deleting "evidence-based". Commissioner Kubiak moved, supported by Commissioner Strange, to amend Recommendation 2, line 5, after "tool" by inserting "that measures both process and outcomes", and line 6, after "in" by deleting "successful outcomes and reduce the cost of incarceration" and inserting "reducing the number of those incarcerated". The motion did not prevail and the amendment was not adopted.

Commissioner Hilson suggested the need to broaden the scope of incarceration to recidivism.

Commissioner Kubiak moved, supported by Commissioner Moody, to amend Recommendation 2, line 5, after "tool" by inserting "that measures both process and outcomes", and line 6, after "in" by deleting "successful outcomes and reduce the cost of incarceration" and inserting "reducing the number of those who recidivate". There was no further discussion of the amendment. The motion prevailed by unanimous consent of the members present. The amendment was adopted.

Commissioner Buchanan moved, supported by Commissioner Hilson, to amend Recommendation 2, After "success." by deleting "Funding" and inserting "Appropriately funded evidence-based programs" and after "probationers" by deleting "has" and inserting "have". There was no further discussion of the amendment. The motion prevailed by unanimous consent of the members present. The amendment was adopted.

Commissioner Hilson moved, supported by Commissioner Kaminski, to adopt Recommendation 2, amended, to read as follows:

It is the recommendation of the Criminal Justice Policy Commission that monies should be more equitably distributed between evidence-based programs to serve the parole and probation populations. Evidence-based programs designed to help these populations are quite different in each programmatic area and need to be funded for success. Appropriately funded evidence-based programs that result in success for probationers have the potential to save the taxpayers significant money by avoiding the high cost of incarceration while effectively preventing crimes. Evidence-based programs must be evaluated utilizing an objective evaluation tool that measures both process and outcomes to determine effective programming that will result in reducing the number of those who recidivate.

There was no further discussion. The motion prevailed by unanimous consent.

Yeas—13

**Senator Caswell
Commissioner Buchanan
Representative Guerra
Commissioner Hilson
Commissioner Kaminski
Commissioner Kubiak
Commissioner Levine**

**Commissioner Lightner
Commissioner Moody
Commissioner Strange
Judge Stutesman
Commissioner Verheek
Judge Voet**

Nays—0

The Chair announced that this recommendation will be added to the list of approved recommendations sent to Commission members last month and noted that the list was also sent to the Governor for feedback. The revised list will be sent to Commission members. The Chair added that this will more than likely be the last recommendation the Commission will make before turning over an initial list of recommendations to the Legislature and the Governor.

VI. Robina Institute Criminal History Enhancements Sourcebook and Worksheet

The Chair opened a discussion of the Robina Institute Sourcebook and asked Commissioners to indicate which suggestions from the worksheet (see attached) are the most important the Commission should address first.

Judge Voet: 3, 12, and 18
Commissioner Lightner: 3 and 11
Commissioner Kaminski: 3 and 1
Commissioner Levine: 4 and 20
Commissioner Moody: 3 and 18
Commissioner Hilson: 18, 8, 9, 5, and 3
Representative Guerra: 14 and 3
Commissioner Strange: 3 and 18
Commissioner Verheek: 3, 10, 18, 19, and 20
Commissioner Kubiak: 1, 2, 18, 5, and 8
Commissioner Buchanan: 5, 9, 11, and 18
Chairman Caswell: 20, 3, 19, and 11

The Chair then asked members to prioritize, in order of discussion importance, suggestions 1, 3, 4, 5, 8, 9, 10, 11, 12, 14, 18, 19, and 20 and email their list to the clerk. Based upon the feedback, he will set a discussion schedule with #3 on the next meeting agenda. He asked members to re-read the pages associated with #3 referenced on the worksheet.

Judge Stutesman mentioned that members may want to re-read a law review article by Judge Maloney dealing with the rehab versus punishment question. He will send the article out to members.

VII. Public Comments

Mr. Jim Casha, of Ontario, Canada, objected to the synopsis of his testimony in the previous CJPC meeting minutes and testified and submitted written testimony calling for a change in the Commission's leadership and focus. A copy of his written testimony is attached. There were no other public comments.

VIII. Next CJPC Meeting Date

The next CJPC meeting is scheduled for **Wednesday, March 2, 2016, at 9:00 a.m. in the Senate Appropriations Room, 3rd Floor of the State Capitol Building.**

IX. Adjournment

There was no further business. The Chair adjourned the meeting at 11:37 a.m.

(Approved at the March 2, 2016 CJPC meeting.)

Criminal Justice Policy Commission

February 3, 2016

Sentencing Guidelines Overview and Review of Potential Data

Crime Categories: Six broad groups of MCLs that determine which Offense Variables apply.

Offense Variables (OVs): The 20 factors used to evaluate the offense characteristics and to determine to offender's OV score.

OV Score: The total number of points scored for all OVs applicable to the sentencing offense - determined by Crime Category.

OV Level: An offender's OV score determines the offender's OV level. Depending on the specific Crime Class, the OV levels are designated by roman numerals from I to VI (some only have three) along the vertical axis of the grid. The severity of the corresponding penalty increases successively from OV levels I through VI.

Prior Record Variables (PRVs): The 7 factors used to evaluate the offender's criminal history characteristics and determine the offender's PRV score.

PRV Score: The total number of points scored for all seven PRVs – these are the same across all Crime Categories and Classes.

PRV Level: An offender's PRV score determines the offender's PRV level. PRV levels are designated by capital letters from A to F along the horizontal axis of the grid. The severity of the corresponding penalty increases successively from PRV level A up to PRV level F.

Crime Classes (Grids): Nine broad groups of MCLs loosely based on statutory maximum sentences. Classes are designated Murder 2 (M2), A, B, C, D, E, F, G, H in decreasing severity. Intersections of Offense Variables (rows) and Prior Record Variables (columns) on a Class grid provide a cell with a sentencing range within which judicial discretion is suggested (post *Lockridge*).

Attempts: Change the Crime Class with A, B, C, and D becoming E; E, F, and G becoming H; and H attempts receiving only Intermediate Sanctions.

Habituals: Increase the upper limit of the cell range 25%, 50%, or 100% for Habitual 2nd, 3rd, or 4th respectively.

Intermediate Sanction or “Prison Lockout”: The upper limit of the cell range is 18 months or less. Suggests sentencing locally which may include a jail term of 0-12 months or the cell maximum, whichever is less. MCL 769.34(4)(a).

Straddle: Grid cells in which the maximum of the range exceeds 18 months and minimum is 12 months or less. Suggests a minimum prison sentence within the range indicated in the cell OR an intermediate sanction (which may include a jail term of not more than 12 months) is an appropriate sentence. MCL 769.34(4)(c).

Presumptive Prison: Cells in which the minimum of the cell range is greater than 12 months. Suggests a minimum sentence within the range indicated in the cell is an appropriate sentence.

Review of Potential Data and Uses

Felony Court Disposition Data: MDOC has included collection and computation of the Sentencing Guidelines as part of the Presentence Investigation process by probation agents statewide since 2002 in OMNI. This data is offender based and includes all felony offenses sentenced by Michigan Circuit Courts. Offenders charged with multiple offenses and processed by a court on the same day show as multiple records in the data. Also, with the long timespan of the data an offender may have been sentenced multiple times across the years.

The data includes offender demographics and identifiers, criminal history and offenses, sentence types and lengths, sentencing guidelines results as well as the offense variables and prior record variables.

Limitations to Court Disposition Data Usage: The data captures only the completion of the sentencing process and is limited to that use, i.e., the data answers “what was the outcome of the sentencing event?” It cannot be used for details on probation, jail, prison, or parole time served. However, the data can be used to study sentencing patterns such as equity of sentencing across offenses and geographies. It can be used to study the potential impact of sentencing reforms and has been on a limited basis.

Other data sources: A key limitation to using other data sources and combining them with MDOC data is the lack of common identifiers and definitions across state agencies. This makes integrating data from multiple sources difficult, time consuming, and error prone. None of the state agency data systems were designed for use outside of their individual agency. It will take significant resources to merge data from different agencies and to ensure that common terminology across agencies actually have common meanings. For example, a “case disposition” may have different meanings to different agencies.

Limited Data Availability: The lack of a unified source of offender based jail or misdemeanor data limits the ability to project criminal justice system impact due to potential reforms.

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

777.16f MCL 750.110 to 750.131a; felonies to which chapter applicable.

Sec. 16f. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.110	Property	D	Breaking and entering with intent to commit felony or larceny	10
750.110a(2)	Person	B	Home invasion — first degree	20
750.110a(3)	Person	C	Home invasion — second degree	15
750.110a(4)	Person	E	Home invasion — third degree	5
750.111	Property	E	Entering without breaking with intent to commit felony or larceny	5
750.112	Person	A	Burglary with explosives	Life
750.116	Property	E	Possession of burglar's tools	10
750.117	Pub trst	F	Bribing a public officer	4
750.118	Pub trst	D	Public officer accepting bribe	10
750.119(1)(a)	Pub trst	F	Bribing a juror or other person	4
750.119(1)(b)	Pub trst	D	Bribing a juror or other person in case punishable by more than 10 years	10
750.120	Pub trst	F	Juror or other person accepting a bribe	4
750.120a(2)(a)	Pub ord	F	Juror intimidation	4
750.120a(2)(b)	Pub ord	D	Juror intimidation in case punishable by more than 10 years	10
750.120a(2)(c)	Person	C	Juror intimidation by committing crime or threatening to kill or injure	15
750.120a(4)	Person	D	Retaliating against juror	10
750.121	Pub trst	F	Bribing a public officer to influence contract	4
750.122(7)(a)	Pub ord	F	Bribing or intimidating witness	4
750.122(7)(b)	Pub ord	D	Bribing or intimidating witness in case punishable by more than 10 years	10
750.122(7)(c)	Person	C	Intimidating witness by committing crime or threatening to kill or injure	15
750.122(8)	Person	D	Retaliating against witness	10
750.124	Pub trst	G	Bribing an athlete	4
750.128	Pub ord	H	Bucket shop violation	2
750.131(3)(b)(ii)	Property	G	NSF checks — \$100 to \$500 — third or subsequent offense	2
750.131(3)(c)	Property	G	NSF checks — \$500 or more	2
750.131a(1)	Property	H	No account checks	2
750.131a(2)	Property	H	NSF checks, 3 or more within 10 days	2

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 45, Eff. Oct. 1, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2000, Act 498, Eff. Mar. 28, 2001.

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

PART 3

SCORING INSTRUCTIONS FOR SENTENCING GUIDELINES

777.21 Minimum sentence range; determination.

Sec. 21. (1) Except as otherwise provided in this section, for an offense enumerated in part 2 of this chapter, determine the recommended minimum sentence range as follows:

(a) Find the offense category for the offense from part 2 of this chapter. From section 22 of this chapter, determine the offense variables to be scored for that offense category and score only those offense variables for the offender as provided in part 4 of this chapter. Total those points to determine the offender's offense variable level.

(b) Score all prior record variables for the offender as provided in part 5 of this chapter. Total those points to determine the offender's prior record variable level.

(c) Find the offense class for the offense from part 2 of this chapter. Using the sentencing grid for that offense class in part 6 of this chapter, determine the recommended minimum sentence range from the intersection of the offender's offense variable level and prior record variable level. The recommended minimum sentence within a sentencing grid is shown as a range of months or life.

(2) If the defendant was convicted of multiple offenses, subject to section 14 of chapter XI, score each offense as provided in this part.

(3) If the offender is being sentenced under section 10, 11, or 12 of chapter IX, determine the offense category, offense class, offense variable level, and prior record variable level based on the underlying offense. To determine the recommended minimum sentence range, increase the upper limit of the recommended minimum sentence range determined under part 6 for the underlying offense as follows:

(a) If the offender is being sentenced for a second felony, 25%.

(b) If the offender is being sentenced for a third felony, 50%.

(c) If the offender is being sentenced for a fourth or subsequent felony, 100%.

(4) If the offender is being sentenced for a violation described in section 18 of this chapter, both of the following apply:

(a) Determine the offense variable level by scoring the offense variables for the underlying offense and any additional offense variables for the offense category indicated in section 18 of this chapter.

(b) Determine the offense class based on the underlying offense. If there are multiple underlying felony offenses, the offense class is the same as that of the underlying felony offense with the highest crime class. If there are multiple underlying offenses but only 1 is a felony, the offense class is the same as that of the underlying felony offense. If no underlying offense is a felony, the offense class is G.

(5) If the offender is being sentenced for an attempted felony described in section 19 of this chapter, determine the offense variable level and prior record variable level based on the underlying attempted offense.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.22 Offense variables; scoring.

Sec. 22. (1) For all crimes against a person, score offense variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20. Score offense variables 5 and 6 for homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder. Score offense variable 16 under this subsection for a violation or attempted violation of section 110a of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score offense variables 17 and 18 if the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

(2) For all crimes against property, score offense variables 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(3) For all crimes involving a controlled substance, score offense variables 1, 2, 3, 12, 13, 14, 15, 19, and 20.

(4) For all crimes against public order and all crimes against public trust, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(5) For all crimes against public safety, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score offense variable 18 if the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 143, Eff. Apr. 22, 2002;—Am. 2003, Act 134, Eff. Sept. 30, 2003.

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

PART 4
OFFENSE VARIABLES

777.31 Aggravated use of weapon; definitions.

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon. Score offense variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) A firearm was discharged at or toward a human being or a victim was cut or stabbed with a knife or other cutting or stabbing weapon..... 25 points
- (b) The victim was subjected or exposed to a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device..... 20 points
- (c) A firearm was pointed at or toward a victim or the victim had a reasonable apprehension of an immediate battery when threatened with a knife or other cutting or stabbing weapon..... 15 points
- (d) The victim was touched by any other type of weapon..... 10 points
- (e) A weapon was displayed or implied..... 5 points
- (f) No aggravated use of a weapon occurred..... 0 points

(2) All of the following apply to scoring offense variable 1:

- (a) Count each person who was placed in danger of injury or loss of life as a victim.
- (b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.
- (c) Score 5 points if an offender used an object to suggest the presence of a weapon.
- (d) Score 5 points if an offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful substance or device.
- (e) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.

(3) As used in this section:

- (a) "Chemical irritant", "chemical irritant device", "harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", "harmful radioactive device", and "imitation harmful substance or device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.
- (b) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2001, Act 136, Imd. Eff. Oct. 23, 2001;—Am. 2002, Act 137, Eff. Apr. 22, 2002.

777.32 Lethal potential of weapon possessed or used.

Sec. 32. (1) Offense variable 2 is lethal potential of the weapon possessed or used. Score offense variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender possessed or used a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, or harmful radioactive device..... 15 points
- (b) The offender possessed or used an incendiary device, an explosive device, or a fully automatic weapon..... 15 points
- (c) The offender possessed or used a short-barreled rifle or a short-barreled shotgun..... 10 points

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- (d) The offender possessed or used a pistol, rifle, shotgun, or knife or other cutting or stabbing weapon..... 5 points
- (e) The offender possessed or used any other potentially lethal weapon..... 1 point
- (f) The offender possessed or used no weapon..... 0 points

(2) In multiple offender cases, if 1 offender is assessed points for possessing a weapon, all offenders shall be assessed the same number of points.

(3) As used in this section:

(a) "Harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", and "harmful radioactive device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(b) "Fully automatic weapon" means a firearm employing gas pressure or force of recoil or other means to eject an empty cartridge from the firearm after a shot, and to load and fire the next cartridge from the magazine, without renewed pressure on the trigger for each successive shot.

(c) "Pistol", "rifle", or "shotgun" includes a revolver, semi-automatic pistol, rifle, shotgun, combination rifle and shotgun, or other firearm manufactured in or after 1898 that fires fixed ammunition, but does not include a fully automatic weapon or short-barreled shotgun or short-barreled rifle.

(d) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2001, Act 136, Imd. Eff. Oct. 23, 2001.

777.33 Physical injury to victim; "requiring medical treatment" defined.

Sec. 33. (1) Offense variable 3 is physical injury to a victim. Score offense variable 3 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) A victim was killed..... 100 points
- (b) A victim was killed..... 50 points
- (c) Life threatening or permanent incapacitating injury occurred to a victim..... 25 points
- (d) Bodily injury requiring medical treatment occurred to a victim..... 10 points
- (e) Bodily injury not requiring medical treatment occurred to a victim..... 5 points
- (f) No physical injury occurred to a victim..... 0 points

(2) All of the following apply to scoring offense variable 3:

(a) In multiple offender cases, if 1 offender is assessed points for death or physical injury, all offenders shall be assessed the same number of points.

(b) Score 100 points if death results from the commission of a crime and homicide is not the sentencing offense.

(c) Score 50 points if death results from the commission of a crime and the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive and any of the following apply:

(i) The offender was under the influence of or visibly impaired by the use of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(ii) The offender had an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2018, the offender had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(iii) The offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214.

(d) Do not score 5 points if bodily injury is an element of the sentencing offense.

(3) As used in this section, "requiring medical treatment" refers to the necessity for treatment and not the victim's success in obtaining treatment.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2003, Act 134, Eff. Sept. 30, 2003;—Am. 2013, Act 24, Imd. Eff. May 9, 2013.

777.34 Psychological injury to victim.

Sec. 34. (1) Offense variable 4 is psychological injury to a victim. Score offense variable 4 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) Serious psychological injury requiring professional treatment occurred to a victim..... 10 points
- (b) No serious psychological injury requiring professional treatment occurred to a victim..... 0 points

(2) Score 10 points if the serious psychological injury may require professional treatment. In making this determination, the fact that treatment has not been sought is not conclusive.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.35 Psychological injury to member of victim's family.

Sec. 35. (1) Offense variable 5 is psychological injury to a member of a victim's family. Score offense variable 5 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) Serious psychological injury requiring professional treatment occurred to a victim's family..... 15 points
- (b) No serious psychological injury requiring professional treatment occurred to a victim's family..... 0 points

(2) Score 15 points if the serious psychological injury to the victim's family may require professional treatment. In making this determination, the fact that treatment has not been sought is not conclusive.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.36 Intent to kill or injure another individual.

Sec. 36. (1) Offense variable 6 is the offender's intent to kill or injure another individual. Score offense variable 6 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender had premeditated intent to kill or the killing was committed while committing or attempting to commit arson, criminal sexual conduct in the first or third degree, child abuse in the first degree, a major controlled substance offense, robbery, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion, or kidnapping or the killing was the murder of a peace officer or a corrections officer ... 50 points
- (b) The offender had unpremeditated intent to kill, the intent to do great bodily harm, or created a very high risk of death or great bodily harm knowing that death or great bodily harm was the probable result ... 25 points
- ...
- (c) The offender had intent to injure or the killing was committed in an extreme emotional state caused by an adequate provocation and before a reasonable amount of time elapsed for the offender to calm or there was gross negligence amounting to an unreasonable disregard for life ... 10 points
- (d) The offender had no intent to kill or injure ... 0 points

(2) All of the following apply to scoring offense variable 6.

(a) The sentencing judge shall score this variable consistent with a jury verdict unless the judge has information that was not presented to the jury.

(b) Score 10 points if a killing is intentional within the definition of second degree murder or voluntary manslaughter, but the death occurred in a combative situation or in response to victimization of the offender by the decedent.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.37 Offense variable 7; aggravated physical abuse; "sadism" defined.

Sec. 37. (1) Offense variable 7 is aggravated physical abuse. Score offense variable 7 by determining which of the following apply and by assigning the number of points attributable to the 1 that has the highest number of points:

- (a) A victim was treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a victim suffered during the offense..... 50 points

(b) No victim was treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a victim suffered during the offense..... 0 points

(2) Count each person who was placed in danger of injury or loss of life as a victim.

(3) As used in this section, "sadism" means conduct that subjects a victim to extreme or prolonged pain or humiliation and is inflicted to produce suffering or for the offender's gratification.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2002, Act 137, Eff. Apr. 22, 2002;—Am. 2015, Act 137, Eff. Jan. 5, 2016.

777.38 Victim asportation or captivity.

Sec. 38. (1) Offense variable 8 is victim asportation or captivity. Score offense variable 8 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A victim was asported to another place of greater danger or to a situation of greater danger or was held captive beyond the time necessary to commit the offense..... 15 points

(b) No victim was asported or held captive..... 0 points

(2) All of the following apply to scoring offense variable 8:

(a) Count each person who was placed in danger of injury or loss of life as a victim.

(b) Score 0 points if the sentencing offense is kidnapping.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.39 Offense variable 9; number of victims; scoring.

Sec. 39. (1) Offense variable 9 is number of victims. Score offense variable 9 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Multiple deaths occurred..... 100 points

(b) There were 10 or more victims who were placed in danger of physical injury or death, or 20 or more victims who were placed in danger of property loss..... 25 points

(c) There were 2 to 9 victims who were placed in danger of physical injury or death, or 4 to 19 victims who were placed in danger of property loss..... 10 points

(d) There were fewer than 2 victims who were placed in danger of physical injury or death, or fewer than 4 victims who were placed in danger of property loss..... 0 points

(2) All of the following apply to scoring offense variable 9:

(a) Count each person who was placed in danger of physical injury or loss of life or property as a victim.

(b) Score 100 points only in homicide cases.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 548, Eff. Mar. 30, 2007.

777.40 Exploitation of vulnerable victim.

Sec. 40. (1) Offense variable 10 is exploitation of a vulnerable victim. Score offense variable 10 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Predatory conduct was involved..... 15 points

(b) The offender exploited a victim's physical disability, mental disability, youth or agedness, or a domestic relationship, or the offender abused his or her authority status..... 10 points

(c) The offender exploited a victim by his or her difference in size or strength, or both, or exploited a victim who was intoxicated, under the influence of drugs, asleep, or unconscious..... 5 points

(d) The offender did not exploit a victim's

vulnerability..... 0 points

(2) The mere existence of 1 or more factors described in subsection (1) does not automatically equate with victim vulnerability.

(3) As used in this section:

(a) "Predatory conduct" means preoffense conduct directed at a victim, or a law enforcement officer posing as a potential victim, for the primary purpose of victimization.

(b) "Exploit" means to manipulate a victim for selfish or unethical purposes.

(c) "Vulnerability" means the readily apparent susceptibility of a victim to injury, physical restraint, persuasion, or temptation.

(d) "Abuse of authority status" means a victim was exploited out of fear or deference to an authority figure, including, but not limited to, a parent, physician, or teacher.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2014, Act 350, Imd. Eff. Oct. 17, 2014.

777.41 Criminal sexual penetration.

Sec. 41. (1) Offense variable 11 is criminal sexual penetration. Score offense variable 11 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) Two or more criminal sexual penetrations occurred ... 50 points
- (b) One criminal sexual penetration occurred ... 25 points
- (c) No criminal sexual penetration occurred ... 0 points

(2) All of the following apply to scoring offense variable 11:

(a) Score all sexual penetrations of the victim by the offender arising out of the sentencing offense.

(b) Multiple sexual penetrations of the victim by the offender extending beyond the sentencing offense may be scored in offense variables 12 or 13.

(c) Do not score points for the 1 penetration that forms the basis of a first- or third-degree criminal sexual conduct offense.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.42 Contemporaneous felonious criminal acts.

Sec. 42. (1) Offense variable 12 is contemporaneous felonious criminal acts. Score offense variable 12 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) Three or more contemporaneous felonious criminal acts involving crimes against a person were committed ... 25 points
- (b) Two contemporaneous felonious criminal acts involving crimes against a person were committed ... 10 points
- (c) Three or more contemporaneous felonious criminal acts involving other crimes were committed ... 10 points
- (d) One contemporaneous felonious criminal act involving a crime against a person was committed ... 5 points
- (e) Two contemporaneous felonious criminal acts involving other crimes were committed ... 5 points
- (f) One contemporaneous felonious criminal act involving any other crime was committed ... 1 point
- (g) No contemporaneous felonious criminal acts were committed ... 0 points

(2) All of the following apply to scoring offense variable 12:

(a) A felonious criminal act is contemporaneous if both of the following circumstances exist:

(i) The act occurred within 24 hours of the sentencing offense.

(ii) The act has not and will not result in a separate conviction.

(b) A violation of section 227b of the Michigan penal code, 1931 PA 328, MCL 750.227b, should not be considered for scoring this variable.

(c) Do not score conduct scored in offense variable 11.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.43 Continuing pattern of criminal behavior.

Sec. 43. (1) Offense variable 13 is continuing pattern of criminal behavior. Score offense variable 13 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offense was part of a pattern of felonious criminal activity involving 3 or more sexual penetrations against a person or persons less than 13 years of age 50 points
- (b) The offense was part of a pattern of felonious criminal activity directly related to causing, encouraging, recruiting, soliciting, or coercing membership in a gang or communicating a threat with intent to deter, punish, or retaliate against another for withdrawing from a gang 25 points
- (c) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against a person 25 points
- (d) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more crimes against a person or property or a violation of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403 10 points
- (e) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more violations of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403 10 points
- (f) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against property 5 points
- (g) No pattern of felonious criminal activity existed 0 points

(2) All of the following apply to scoring offense variable 13:

- (a) For determining the appropriate points under this variable, all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction.
- (b) The presence or absence of multiple offenders, the age of the offenders, or the degree of sophistication of the organized criminal group is not as important as the fact of the group's existence, which may be reasonably inferred from the facts surrounding the sentencing offense.
- (c) Except for offenses related to membership in an organized criminal group or that are gang-related, do not score conduct scored in offense variable 11 or 12.
- (d) Score 50 points only if the sentencing offense is first degree criminal sexual conduct.
- (e) Do not count more than 1 controlled substance offense arising out of the criminal episode for which the person is being sentenced.
- (f) Do not count more than 1 crime involving the same 1 controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2008, Act 562, Eff. Apr. 1, 2009.

Compiler's note: In subsection (2)(f), the numeral "1" was not included in the language "the same 1 controlled substance" as passed by the legislature, but was incorrectly inserted during the electronic formatting of the bill. Subsection (2)(f) should read as follows:

"(f) Do not count more than 1 crime involving the same controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances."

777.44 Offender's role.

Sec. 44. (1) Offense variable 14 is the offender's role. Score offense variable 14 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender was a leader in a

- multiple offender situation..... 10 points
- (b) The offender was not a leader in a multiple offender situation..... 0 points
- (2) All of the following apply to scoring offense variable 14:
 - (a) The entire criminal transaction should be considered when scoring this variable.
 - (b) If 3 or more offenders were involved, more than 1 offender may be determined to have been a leader.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.45 Aggravated controlled substance offenses; definitions.

Sec. 45. (1) Offense variable 15 is aggravated controlled substance offenses. Score offense variable 15 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 1,000 or more grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(iv)..... 100 points
- (b) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 450 grams or more but less than 1,000 grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(iv)..... 75 points
- (c) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 50 or more grams but less than 450 grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(iv)..... 50 points
- (d) The offense involved traveling from another state or country to this state while in possession of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7212 or 7214 with the intent to deliver that mixture in this state..... 50 points
- (e) The offense involved the sale or delivery of a controlled substance other than marihuana or a mixture containing a controlled substance other than marihuana by the offender who was 18 years of age or older to a minor who was 3 or more years younger than the offender..... 25 points
- (f) The offense involved the sale, delivery, or possession with intent to sell or deliver 45 kilograms or more of marihuana or 200 or more of marihuana plants..... 10 points
- (g) The offense is a violation of section 7401(2)(a)(i) to (iii) pertaining to a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(iv) and was committed in a minor's abode, settled home, or domicile, regardless of whether the minor was present..... 10 points
- (h) The offense involved the delivery or possession with intent to deliver marihuana or any other controlled substance or a counterfeit controlled substance or possession of controlled substances or counterfeit controlled substances having a value or

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under such circumstances as to indicate trafficking.... 5 points

(i) The offense was not an offense described
in subdivisions (a) through (h)..... 0 points

(2) As used in this section:

(a) "Deliver" means the actual or constructive transfer of a controlled substance from 1 individual to another regardless of remuneration.

(b) "Minor" means an individual 17 years of age or less.

(c) "Trafficking" means the sale or delivery of controlled substances or counterfeit controlled substances on a continuing basis to 1 or more other individuals for further distribution.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2002, Act 666, Eff. Mar. 1, 2003;—Am. 2013, Act 203, Eff. Mar. 19, 2014.

777.46 Property obtained, damaged, lost, or destroyed.

Sec. 46. (1) Offense variable 16 is property obtained, damaged, lost, or destroyed. Score offense variable 16 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Wanton or malicious damage occurred beyond that necessary to commit the crime for which the offender is not charged and will not be charged..... 10 points

(b) The property had a value of more than \$20,000.00 or had significant historical, social, or sentimental value..... 10 points

(c) The property had a value of \$1,000.00 or more but not more than \$20,000.00..... 5 points

(d) The property had a value of \$200.00 or more but not more than \$1,000.00..... 1 point

(e) No property was obtained, damaged, lost, or destroyed or the property had a value of less than \$200.00..... 0 points

(2) All of the following apply to scoring offense variable 16:

(a) In multiple offender or victim cases, the appropriate points may be determined by adding together the aggregate value of the property involved, including property involved in uncharged offenses or charges dismissed under a plea agreement.

(b) In cases in which the property was obtained unlawfully, lost to the lawful owner, or destroyed, use the value of the property in scoring this variable. If the property was damaged, use the monetary amount appropriate to restore the property to pre-offense condition in scoring this variable.

(c) The amount of money or property involved in admitted but uncharged offenses or in charges that have been dismissed under a plea agreement may be considered.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999.

777.47 Degree of negligence exhibited.

Sec. 47. (1) Offense variable 17 is degree of negligence exhibited. Score offense variable 17 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender showed a wanton or reckless disregard for the life or property of another person..... 10 points

(b) The offender failed to show the degree of care that a person of ordinary prudence in a similar situation would have shown..... 5 points

(c) The offender was not negligent..... 0 points

(2) Do not score 10 points if points are given in offense variable 6.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.48 Operator ability affected by alcohol or drugs; "any bodily alcohol content" defined.

Sec. 48. (1) Offense variable 18 is operator ability affected by alcohol or drugs. Score offense variable 18 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender operated a vehicle, vessel, ORV,

snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.20 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine..... 20 points

(b) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive when his or her bodily alcohol content was 0.15 grams or more but less than 0.20 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine..... 15 points

(c) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while the offender was under the influence of alcoholic or intoxicating liquor, a controlled substance, or a combination of alcoholic or intoxicating liquor and a controlled substance; or while the offender's body contained any amount of a controlled substance listed in schedule 1 under section 7212 of the public health code, 1978 PA 368, MCL 333.7212, or a rule promulgated under that section, or a controlled substance described in section 7214(a)(iv) of the public health code, 1978 PA 368, MCL 333.7214; or while the offender had an alcohol content of 0.08 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2018, the offender had an alcohol content of 0.10 grams or more but less than 0.15 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine..... 10 points

(d) The offender operated a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while he or she was visibly impaired by the use of alcoholic or intoxicating liquor or a controlled substance or a combination of alcoholic or intoxicating liquor and a controlled substance, or was less than 21 years of age and had any bodily alcohol content..... 5 points

(e) The offender's ability to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive was not affected by an alcoholic or intoxicating liquor or a controlled substance or a combination of alcoholic or intoxicating liquor and a controlled substance..... 0 points

(2) As used in this section, "any bodily alcohol content" means either of the following:

(a) An alcohol content of 0.02 grams or more but less than 0.08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine or, beginning October 1, 2018, 0.02 grams or more but less than 0.10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within an individual's body resulting from the consumption of alcoholic or intoxicating liquor other than the consumption of alcoholic or intoxicating liquor as part of a generally recognized religious service or ceremony.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2003, Act 134, Eff. Sept. 30, 2003;—Am. 2013, Act 24, Imd. Eff. May 9, 2013.

777.49 Security threat to penal institution or court or interference with administration of justice or emergency services.

Sec. 49. Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency services. Score offense variable 19 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender by his or her conduct threatened the security of a penal institution or court..... 25 points
- (b) The offender used force or the threat of force against another person or the property of another person to interfere with, attempt to interfere with, or that results in the interference with the administration of justice or the rendering of emergency services..... 15 points
- (c) The offender otherwise interfered with or attempted to interfere with the administration of justice..... 10 points
- (d) The offender did not threaten the security of a penal institution or court or interfere with or attempt to interfere with the administration of justice or the rendering of emergency services by force or threat of force..... 0 points

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2001, Act 136, Imd. Eff. Oct. 23, 2001;—Am. 2002, Act 137, Eff. Apr. 22, 2002.

777.49a Terrorism; definitions.

Sec. 49a. (1) Offense variable 20 is terrorism. Score offense variable 20 by determining which of the following applies and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender committed an act of terrorism by using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device ... 100 points
- (b) The offender committed an act of terrorism without using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device ... 50 points
- (c) The offender supported an act of terrorism, a terrorist, or a terrorist organization ... 25 points
- (d) The offender did not commit an act of terrorism or support an act of terrorism, a terrorist, or a terrorist organization ... 0 points

(2) As used in this section:

(a) “Act of terrorism” and “terrorist” mean those terms as defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(b) “Harmful biological substance”, “harmful biological device”, “harmful chemical substance”, “harmful chemical device”, “harmful radioactive material”, and “harmful radioactive device” mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(c) “Incendiary device” includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

(d) “Terrorist organization” means that term as defined in section 543c of the Michigan penal code, 1931 PA 328, MCL 750.543c.

History: Add. 2002, Act 137, Eff. Apr. 22, 2002.

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

PART 5
PRIOR RECORD VARIABLES

777.50 Conviction or juvenile adjudication 10 or more years from discharge and commission of next offense.

Sec. 50. (1) In scoring prior record variables 1 to 5, do not use any conviction or juvenile adjudication that precedes a period of 10 or more years between the discharge date from a conviction or juvenile adjudication and the defendant's commission of the next offense resulting in a conviction or juvenile adjudication.

(2) Apply subsection (1) by determining the time between the discharge date for the prior conviction or juvenile adjudication most recently preceding the commission date of the sentencing offense. If it is 10 or more years, do not use that prior conviction or juvenile adjudication and any earlier conviction or juvenile adjudication in scoring prior record variables. If it is less than 10 years, use that prior conviction or juvenile adjudication in scoring prior record variables and determine the time between the commission date of that prior conviction and the discharge date of the next earlier prior conviction or juvenile adjudication. If that period is 10 or more years, do not use that prior conviction or juvenile adjudication and any earlier conviction or juvenile adjudication in scoring prior record variables. If it is less than 10 years, use that prior conviction or juvenile adjudication in scoring prior record variables and repeat this determination for each remaining prior conviction or juvenile adjudication until a period of 10 or more years is found or no prior convictions or juvenile adjudications remain.

(3) If a discharge date is not available, add either the time defendant was sentenced to probation or the length of the minimum incarceration term to the date of the conviction and use that date as the discharge date.

(4) As used in this part:

(a) "Conviction" includes any of the following:

(i) Assignment to youthful trainee status under sections 11 to 15 of chapter II.

(ii) A conviction set aside under 1965 PA 213, MCL 780.621 to 780.624.

(b) "Discharge date" means the date an individual is discharged from the jurisdiction of the court or the department of corrections after being convicted of or adjudicated responsible for a crime or an act that would be a crime if committed by an adult.

(c) "Juvenile adjudication" includes an adjudication set aside under section 18e of chapter XIIA of 1939 PA 288, MCL 712A.18e, or expunged.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998.

777.51 Prior high severity felony convictions.

Sec. 51. (1) Prior record variable 1 is prior high severity felony convictions. Score prior record variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender has 3 or more prior high severity felony convictions..... 75 points
- (b) The offender has 2 prior high severity felony convictions..... 50 points
- (c) The offender has 1 prior high severity felony conviction..... 25 points
- (d) The offender has no prior high severity felony convictions..... 0 points

(2) As used in this section, "prior high severity felony conviction" means a conviction for any of the following, if the conviction was entered before the sentencing offense was committed:

(a) A crime listed in offense class M2, A, B, C, or D.

(b) A felony under a law of the United States or another state corresponding to a crime listed in offense class M2, A, B, C, or D.

(c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

(d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.52 Prior low severity felony convictions.

Sec. 52. (1) Prior record variable 2 is prior low severity felony convictions. Score prior record variable 2 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender has 4 or more prior low severity felony convictions..... 30 points
- (b) The offender has 3 prior low severity felony convictions..... 20 points
- (c) The offender has 2 prior low severity felony convictions..... 10 points
- (d) The offender has 1 prior low severity felony conviction..... 5 points
- (e) The offender has no prior low severity felony convictions..... 0 points

(2) As used in this section, "prior low severity felony conviction" means a conviction for any of the following, if the conviction was entered before the sentencing offense was committed:

- (a) A crime listed in offense class E, F, G, or H.
- (b) A felony under a law of the United States or another state that corresponds to a crime listed in offense class E, F, G, or H.
- (c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.
- (d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.53 Prior high severity juvenile adjudications.

Sec. 53. (1) Prior record variable 3 is prior high severity juvenile adjudications. Score prior record variable 3 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender has 3 or more prior high severity juvenile adjudications..... 50 points
- (b) The offender has 2 prior high severity juvenile adjudications..... 25 points
- (c) The offender has 1 prior high severity juvenile adjudication..... 10 points
- (d) The offender has no prior high severity juvenile adjudications..... 0 points

(2) As used in this section, "prior high severity juvenile adjudication" means a juvenile adjudication for conduct that would be any of the following if committed by an adult, if the order of disposition was entered before the sentencing offense was committed:

- (a) A crime listed in offense class M2, A, B, C, or D.
- (b) A felony under a law of the United States or another state corresponding to a crime listed in offense class M2, A, B, C, or D.
- (c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.
- (d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of 10 years or more.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.54 Prior low severity juvenile adjudications.

Sec. 54. (1) Prior record variable 4 is prior low severity juvenile adjudications. Score prior record variable 4 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender has 6 or more prior low severity juvenile adjudications..... 20 points
- (b) The offender has 5 prior low severity juvenile adjudications..... 10 points

juvenile adjudications.....	15 points
(c) The offender has 3 or 4 prior low severity juvenile adjudications.....	10 points
(d) The offender has 2 prior low severity juvenile adjudications.....	5 points
(e) The offender has 1 prior low severity juvenile adjudication.....	2 points
(f) The offender has no prior low severity juvenile adjudications.....	0 points

(2) As used in this section, "prior low severity juvenile adjudication" means a juvenile adjudication for conduct that would be any of the following if committed by an adult, if the order of disposition was entered before the sentencing offense was committed:

- (a) A crime listed in offense class E, F, G, or H.
- (b) A felony under a law of the United States or another state corresponding to a crime listed in offense class E, F, G, or H.
- (c) A felony that is not listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.
- (d) A felony under a law of the United States or another state that does not correspond to a crime listed in offense class M2, A, B, C, D, E, F, G, or H and that is punishable by a maximum term of imprisonment of less than 10 years.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000;—Am. 2006, Act 655, Imd. Eff. Jan. 9, 2007.

777.55 Prior misdemeanor convictions or prior misdemeanor juvenile adjudications.

Sec. 55. (1) Prior record variable 5 is prior misdemeanor convictions or prior misdemeanor juvenile adjudications. Score prior record variable 5 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 7 or more prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	20 points
(b) The offender has 5 or 6 prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	15 points
(c) The offender has 3 or 4 prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	10 points
(d) The offender has 2 prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	5 points
(e) The offender has 1 prior misdemeanor conviction or prior misdemeanor juvenile adjudication.....	2 points
(f) The offender has no prior misdemeanor convictions or prior misdemeanor juvenile adjudications.....	0 points

(2) All of the following apply to scoring record variable 5:

(a) Except as provided in subdivision (b), count a prior misdemeanor conviction or prior misdemeanor juvenile adjudication only if it is an offense against a person or property, a controlled substance offense, or a weapon offense. Do not count a prior conviction used to enhance the sentencing offense to a felony.

(b) Count all prior misdemeanor convictions and prior misdemeanor juvenile adjudications for operating or attempting to operate a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive while under the influence of or impaired by alcohol, a controlled substance, or a combination of alcohol and a controlled substance. Do not count a prior conviction used to enhance the sentencing offense to a felony.

(3) As used in this section:

(a) "Prior misdemeanor conviction" means a conviction for a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the conviction was entered before the sentencing offense was committed.

(b) "Prior misdemeanor juvenile adjudication" means a juvenile adjudication for conduct that if committed by an adult would be a misdemeanor under a law of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States if the order of disposition was entered

before the sentencing offense was committed.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

777.56 Relationship to criminal justice system.

Sec. 56. (1) Prior record variable 6 is relationship to the criminal justice system. Score prior record variable 6 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender is a prisoner of the department of corrections or serving a sentence in jail ... 20 points
- (b) The offender is incarcerated in jail awaiting adjudication or sentencing on a conviction or probation violation ... 15 points
- (c) The offender is on parole, probation, or delayed sentence status or on bond awaiting adjudication or sentencing for a felony ... 10 points
- (d) The offender is on probation or delayed sentence status or on bond awaiting adjudication or sentencing for a misdemeanor ... 5 points
- (e) The offender has no relationship to the criminal justice system ... 0 points

(2) Score the appropriate points under this section if the offender is involved with the criminal justice system in another state or United States.

(3) As used in this section:

(a) "Delayed sentence status" includes, but is not limited to, an individual assigned or deferred under any of the following:

- (i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.
- (ii) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.
- (iii) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.
- (iv) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.
- (v) Sections 11 to 15 of chapter II.
- (vi) Section 4a of chapter IX.

(b) "Prisoner of the department of corrections or serving a sentence in jail" includes an individual who is an escapee.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2004, Act 220, Eff. Jan. 1, 2005.

777.57 Subsequent or concurrent felony convictions.

Sec. 57. (1) Prior record variable 7 is subsequent or concurrent felony convictions. Score prior record variable 7 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

- (a) The offender has 2 or more subsequent or concurrent convictions..... 20 points
- (b) The offender has 1 subsequent or concurrent conviction..... 10 points
- (c) The offender has no subsequent or concurrent convictions..... 0 points

(2) All of the following apply to scoring record variable 7:

(a) Score the appropriate point value if the offender was convicted of multiple felony counts or was convicted of a felony after the sentencing offense was committed.

(b) Do not score a felony firearm conviction in this variable.

(c) Do not score a concurrent felony conviction if a mandatory consecutive sentence or a consecutive sentence imposed under section 7401(3) of the public health code, 1978 PA 368, MCL 333.7401, will result from that conviction.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 1999, Act 227, Imd. Eff. Dec. 28, 1999;—Am. 2002, Act 666, Eff. Mar. 1, 2003.

Grids

Sentencing Grid for Class M2 (Second-Degree Murder)—MCL 777.61
Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

OV Level	PRV Level										Offender Status		
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points			F 75+ Points	
I 0-49 Points	90	150	144	240	162	270	180	300/L	225	375/L	270	450/L	
		187		300		337		375/L		468/L		562/L	HO2
		225		360		405		450/L		562/L		675/L	HO3
		300		480		540		600/L		750/L		900/L	HO4 [†]
II 50-99 Points	144	240	162	270	180	300/L	225	375/L	270	450/L	315	525/L	
		300		337		375/L		468/L		562/L		656/L	HO2
		360		405		450/L		562/L		675/L		787/L	HO3
		480		540		600/L		750/L		900/L		1050/L	HO4 [†]
III 100+ Points	162	270/L	180	300/L	225	375/L	270	450/L	315	525/L	365	600/L	
		337/L		375/L		468/L		562/L		656/L		750/L	HO2
		405/L		450/L		562/L		675/L		787/L		900/L	HO3
		540/L		600/L		750/L		900/L		1050/L		1200/L	HO4 [†]

[†] Certain fourth habitual offenders may be subject to a mandatory minimum sentence of 25 years' imprisonment. See MCL 769.12(1)(a).

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
 The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

Sentencing Grids

Grids

Sentencing Grid for Class A Offenses—MCL 777.62
Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

Sentencing Grids

OV Level	PRV Level										Offender Status		
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points			F 75+ Points	
I 0-19 Points	21	35	27	45	42	70	51	85	81	135	108	180	
		43		56		87		106		168		225	HO2
		52		67		105		127		202		270	HO3
		70		90		140		170		270		360	HO4 [†]
II 20-39 Points	27	45	42	70	51	85	81	135	108	180	126	210	
		56		87		106		168		225		262	HO2
		67		105		127		202		270		315	HO3
		90		140		170		270		360		420	HO4 [†]
III 40-59 Points	42	70	51	85	81	135	108	180	126	210	135	225	
		87		106		168		225		262		281	HO2
		105		127		202		270		315		337	HO3
		140		170		270		360		420		450	HO4 [†]
IV 60-79 Points	51	85	81	135	108	180	126	210	135	225	171	285	
		106		168		225		262		281		356	HO2
		127		202		270		315		337		427	HO3
		170		270		360		420		450		570	HO4 [†]
V 80-99 Points	81	135	108	180	126	210	135	225	171	285	225	375/L	
		168		225		262		281		356		468/L	HO2
		202		270		315		337		427		562/L	HO3
		270		360		420		450		570		750/L	HO4 [†]
VI 100+ Points	108	180	126	210	135	225	171	285	225	375/L	270	450/L	
		225		262		281		356		468/L		562/L	HO2
		270		315		337		427		562/L		675/L	HO3
		360		420		450		570		750/L		900/L	HO4 [†]

[†] Certain fourth habitual offenders may be subject to a mandatory minimum sentence of 25 years' imprisonment. See MCL 769.12(1)(a).

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

Grids

Sentencing Grid for Class B Offenses—MCL 777.63
Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

OV Level	PRV Level										Offender Status		
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points			F 75+ Points	
I 0-9 Points	0	18*	12	20	24	40	36	60	51	85	72	120	
		22		25		50		75		106		150	HO2
		27		30		60		90		127		180	HO3
		36		40		80		120		170		240	HO4†
II 10-24 Points	12	20	15	25	30	50	51	85	72	120	78	130	
		25		31		62		106		150		162	HO2
		30		37		75		127		180		195	HO3
		40		50		100		170		240		260	HO4†
III 25-34 Points	15	25	21	35	36	60	57	95	78	130	84	140	
		31		43		75		118		162		175	HO2
		37		52		90		142		195		210	HO3
		50		70		120		190		260		280	HO4†
IV 35-49 Points	21	35	24	40	45	75	72	120	84	140	87	145	
		43		50		93		150		175		181	HO2
		52		60		112		180		210		217	HO3
		70		80		150		240		280		290	HO4†
V 50-74 Points	24	40	36	60	51	85	78	130	87	145	99	160	
		50		75		106		162		181		200	HO2
		60		90		127		195		217		240	HO3
		80		120		170		260		290		320	HO4†
VI 75+ Points	36	60	45	75	57	95	84	140	99	160	117	160	
		75		93		118		175		200		200	HO2
		90		112		142		210		240		240	HO3
		120		150		190		280		320		320	HO4†

Sentencing Grids

† Certain fourth habitual offenders may be subject to a mandatory minimum sentence of 25 years' imprisonment. See MCL 769.12(1)(a).

Intermediate sanction cells are marked by asterisks, straddle cells are shaded, and prison cells are unmarked.

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
 The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

Grids

Sentencing Grid for Class C Offenses—MCL 777.64

Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

Sentencing Grids

OV Level	PRV Level										Offender Status		
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points			F 75+ Points	
I 0-9 Points	0	11*	0	17*	10	19	12	24	19	38	29	57	
		13*		21		23		30		47		71	HO2
		16*		25		28		36		57		85	HO3
		22		34		38		48		76		114	HO4†
II 10-24 Points	0	17*	5	17*	12	24	19	38	29	57	36	71	
		21		21		30		47		71		88	HO2
		25		25		36		57		85		106	HO3
		34		34		48		76		114		142	HO4†
III 25-34 Points	10	19	12	24	19	38	29	57	36	71	43	86	
		23		30		47		71		88		107	HO2
		28		36		57		85		106		129	HO3
		38		48		76		114		142		172	HO4†
IV 35-49 Points	12	24	19	38	29	57	36	71	43	86	50	100	
		30		47		71		88		107		125	HO2
		36		57		85		106		129		150	HO3
		48		76		114		142		172		200	HO4†
V 50-74 Points	19	38	29	57	36	71	43	86	50	100	58	114	
		47		71		88		107		125		142	HO2
		57		85		106		129		150		171	HO3
		76		114		142		172		200		228	HO4†
VI 75+ Points	29	57	36	71	43	86	50	100	58	114	62	114	
		71		88		107		125		142		142	HO2
		85		106		129		150		171		171	HO3
		114		142		172		200		228		228	HO4†

† Certain fourth habitual offenders may be subject to a mandatory minimum sentence of 25 years' imprisonment. See MCL 769.12(1)(a).

Intermediate sanction cells are marked by asterisks, straddle cells are shaded, and prison cells are unmarked.

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
 The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

Grids

Sentencing Grid for Class D Offenses—MCL 777.65

Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

OV Level	PRV Level											Offender Status	
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points		F 75+ Points		
I 0-9 Points	0	6*	0	9*	0	11*	0	17*	5	23	10	23	
		7*		11*		13*		21		28		28	HO2
		9*		13*		16*		25		34		34	HO3
		12*		18*		22		34		46		46	HO4†
II 10-24 Points	0	9*	0	11*	0	17*	5	23	10	23	19	38	
		11*		13*		21		28		28		47	HO2
		13*		16*		25		34		34		57	HO3
		18*		22		34		46		46		76	HO4†
III 25-34 Points	0	11*	0	17*	5	23	10	23	19	38	29	57	
		13*		21		28		28		47		71	HO2
		16*		25		34		34		57		85	HO3
		22		34		46		46		76		114	HO4†
IV 35-49 Points	0	17*	5	23	10	23	19	38	29	57	34	67	
		21		28		28		47		71		83	HO2
		25		34		34		57		85		100	HO3
		34		46		46		76		114		134	HO4†
V 50-74 Points	5	23	10	23	19	38	29	57	34	67	38	76	
		28		28		47		71		83		95	HO2
		34		34		57		85		100		114	HO3
		46		46		76		114		134		152	HO4†
VI 75+ Points	10	23	19	38	29	57	34	67	38	76	43	76	
		28		47		71		83		95		95	HO2
		34		57		85		100		114		114	HO3
		46		76		114		134		152		152	HO4†

Sentencing Grids

† Certain fourth habitual offenders may be subject to a mandatory minimum sentence of 25 years' imprisonment. See MCL 769.12(1)(a).

Intermediate sanction cells are marked by asterisks, straddle cells are shaded, and prison cells are unmarked.

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

Grids

Sentencing Grid for Class E Offenses—MCL 777.66

Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

Sentencing Grids

OV Level	PRV Level											Offender Status	
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points		F 75+ Points		
I 0-9 Points	0	3*	0	6*	0	9*	5	23	7	23	9	23	HO2
		3*		7*		11*		28		28		28	
		4*		9*		13*		34		34		34	
		6*		12*		18*		46		46		46	
II 10-24 Points	0	6*	0	9*	0	11*	7	23	10	23	12	24	HO2
		7*		11*		13*		28		28		30	
		9*		13*		16*		34		34		36	
		12*		18*		22		46		46		48	
III 25-34 Points	0	9*	0	11*	0	17*	10	23	12	24	14	29	HO2
		11*		13*		21		28		30		36	
		13*		16*		25		34		36		43	
		18*		22		34		46		48		58	
IV 35-49 Points	0	11*	0	17*	5	23	12	24	14	29	19	38	HO2
		13*		21		28		30		36		47	
		16*		25		34		36		43		57	
		22		34		46		48		58		76	
V 50-74 Points	0	14*	5	23	7	23	14	29	19	38	22	38	HO2
		17*		28		28		36		47		47	
		21		34		34		43		57		57	
		28		46		46		58		76		76	
VI 75+ Points	0	17*	7	23	12	24	19	38	22	38	24	38	HO2
		21		28		30		47		47		47	
		25		34		36		57		57		57	
		34		46		48		76		76		76	

Intermediate sanction cells are marked by asterisks, straddle cells are shaded, and prison cells are unmarked.

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
 The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

Grids

Sentencing Grid for Class F Offenses—MCL 777.67

Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

OV Level	PRV Level											Offender Status	
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points		F 75+ Points		
I 0-9 Points	0	3*	0	6*	0	9*	2	17*	5	23	10	23	
		3*		7*		11*		21		28		28	HO2
		4*		9*		13*		25		34		34	HO3
		6*		12*		18*		34		46		46	HO4
II 10-34 Points	0	6*	0	9*	0	17*	5	23	10	23	12	24	
		7*		11*		21		28		28		30	HO2
		9*		13*		25		34		34		36	HO3
		12*		18*		34		46		46		48	HO4
III 35-74 Points	0	9*	0	17*	2	17*	10	23	12	24	14	29	
		11*		21		21		28		30		36	HO2
		13*		25		25		34		36		43	HO3
		18*		34		34		46		48		58	HO4
IV 75+ Points	0	17*	2	17*	5	23	12	24	14	29	17	30	
		21		21		28		30		36		37	HO2
		25		25		34		36		43		45	HO3
		34		34		46		48		58		60	HO4

Sentencing Grids

Intermediate sanction cells are marked by asterisks, straddle cells are shaded, and prison cells are unmarked.

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
 The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

Grids

Sentencing Grid for Class G Offenses—MCL 777.68

Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

Sentencing Grids

OV Level	PRV Level											Offender Status	
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points		F 75+ Points		
I 0-9 Points	0	3*	0	6*	0	9*	0	11*	0	17*	2	17*	
		3*		7*		11*		13*		21		21	HO2
		4*		9*		13*		16*		25		25	HO3
		6*		12*		18*		22		34		34	HO4
II 10-15 Points	0	6*	0	9*	0	11*	0	17*	2	17*	5	23	
		7*		11*		13*		21		21		28	HO2
		9*		13*		16*		25		25		34	HO3
		12*		18*		22		34		34		46	HO4
III 16+ Points	0	9*	0	11*	0	17*	2	17*	5	23	7	23	
		11*		13*		21		21		28		28	HO2
		13*		16*		25		25		34		34	HO3
		18*		22		34		34		46		46	HO4

Intermediate sanction cells are marked by asterisks, straddle cells are shaded, and prison cells are unmarked.

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
 The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

Grids

Sentencing Grid for Class H Offenses—MCL 777.69

Includes Ranges Calculated for Habitual Offenders (MCL 777.21(3)(a)-(c))

OV Level	PRV Level											Offender Status	
	A 0 Points		B 1-9 Points		C 10-24 Points		D 25-49 Points		E 50-74 Points		F 75+ Points		
I 0-9 Points	0	1*	0	3*	0	6*	0	9*	0	11*	0	17*	
		1*		3*		7*		11*		13*		21	HO2
		1*		4*		9*		13*		16*		25	HO3
		2*		6*		12*		18*		22		34	HO4
II 10-15 Points	0	3*	0	6*	0	9*	0	11*	0	17*	2	17*	
		3*		7*		11*		13*		21		21	HO2
		4*		9*		13*		16*		25		25	HO3
		6*		12*		18*		22		34		34	HO4
III 16+ Points	0	6*	0	9*	0	11*	0	17*	2	17*	5	17*	
		7*		11*		13*		21		21		21	HO2
		9*		13*		16*		25		25		25	HO3
		12*		18*		22		34		34		34	HO4

Sentencing Grids

Intermediate sanction cells are marked by asterisks, straddle cells are shaded, and prison cells are unmarked.

The statutory percentage increases for habitual offenders are rounded down to the nearest whole month.
 The cell range may be less than the maximum possible minimum sentence by a fraction of a month.

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

777.19 Attempt to commit offense; applicability of chapter.

Sec. 19. (1) This chapter applies to an attempt to commit an offense enumerated in this part if the attempted violation is a felony. This chapter does not apply to an attempt to commit a class H offense enumerated in this part.

(2) For an attempt to commit an offense enumerated in this part, the offense category is the same as the attempted offense.

(3) For an attempt to commit an offense enumerated in this part, the offense class is as follows:

- (a) Class E if the attempted offense is in class A, B, C, or D.
- (b) Class H if the attempted offense is in class E, F, or G.

History: Add. 1998, Act 317, Eff. Dec. 15, 1998;—Am. 2000, Act 279, Eff. Oct. 1, 2000.

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

Criminal Justice Data Management System

January 8, 2015

v. 2.0

1

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

CJ Policy Commission Mission Statement

The Criminal Justice Policy Commission was established by Public Act 465 of 2014. The Commission shall do all of the following: Collect, prepare, analyze, and disseminate information regarding state and local sentencing and proposed release policies and practices for felonies and the use of prisons and jails, collect and analyze information concerning how misdemeanor sentences and the detention of defendants pending trial affect local jails, conduct ongoing research regarding the effectiveness of the sentencing guidelines, and in cooperation with the Department of Corrections, collect, analyze, and compile data and make projections regarding the populations and capacities of state and local correctional facilities, the impact of the sentencing guidelines and other laws, rules, and policies on those populations and capacities, and the effectiveness of efforts to reduce recidivism.

2

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

CJ Data Management System Goals

- Define Statement of Work for CJ Research and Data Collection Positions
 - Data Collection Process
 - Define Data Reporting Process
- Define County data requirements
- Define CJ Data System implementation roadmap
- Provide information to stakeholders/public through education/reports

3

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

Data Requirements Scope

CRIMINAL JUSTICE TIMELINE

SOURCE: Senator John Proos 4

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

Scope of Work

CJ Data System

State		County		Federal		Local	
Data Collection	Reporting	Data Collection	Reporting	Data Collection	Reporting	Data Collection	Reporting

In-Scope
Out-of-Scope

5

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

Data Management Framework

6

Decisions

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

Data needs should be driven by the decisions that need to be made

- What capacity is needed?
 - Probation
 - Jail
 - Prison
 - Parole
- What rehabilitation programs are most effective?
 - How do we define "effective"?
 - Recidivism rates by offense?
 - Recidivism rates by program?
 - Program cost and benefits?
- What punishment is proportional to the crime?
 - Is the sentence oriented toward punishment or rehabilitation?
 - Is the sentence proportional to the crime?
- What sentencing reforms would benefit citizens?
 - How do we measure public safety?
 - What policies are needed to increase or maintain public safety?
 - What are potential operational impacts of sentencing reforms for all stakeholders in CJ system?
 - How would it impact other related public safety?
 - What punishment is proportional to the crime?

Data Sources

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

State	County	Local	Federal
<ul style="list-style-type: none"> Judicial Data Warehouse OMNI OMS MDOC LEIN MCOLES 	<ul style="list-style-type: none"> TBD 	<ul style="list-style-type: none"> TBD 	<ul style="list-style-type: none"> TBD

Data Management Overview

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

- Data ≠ Reports

Key Data Object Classes

PATRICK COLBECK
STATE SENATOR
DISTRICT 7

- Offender**
 - Crimes
 - Facilities
 - Programs
- Case**
 - Crime
 - Sentence
 - Location
 - Judge
- Program**
 - Duration
 - Cost
 - Recidivism Rate
 - Dropout Rate
- Crime**
 - Sentencing Guidelines
 - Felonies
 - Misdemeanors

Reports

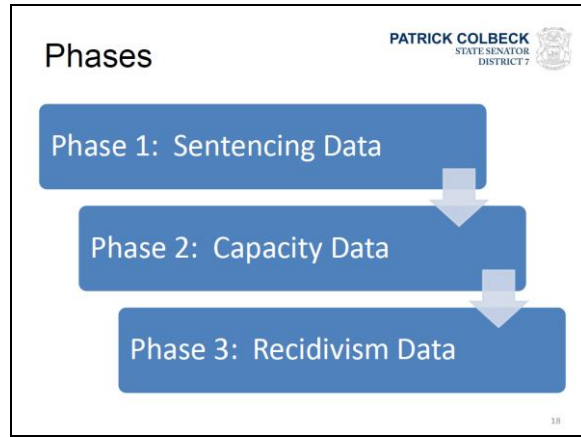
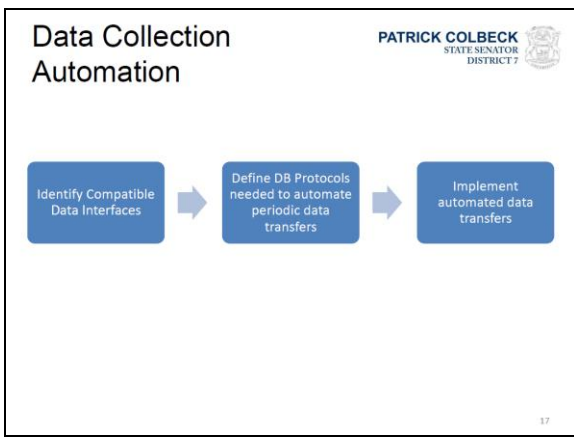
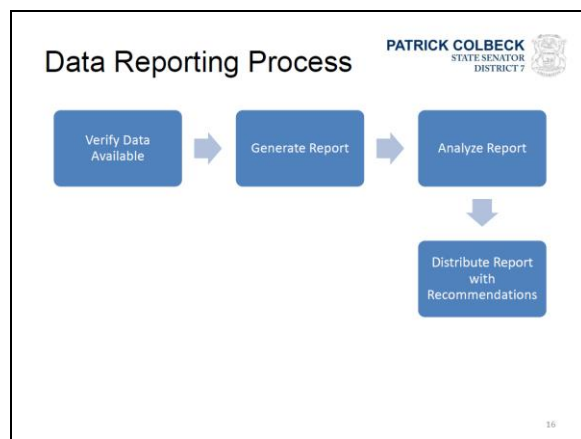
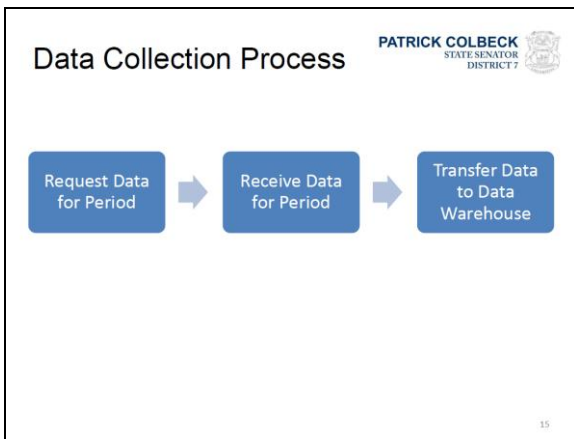
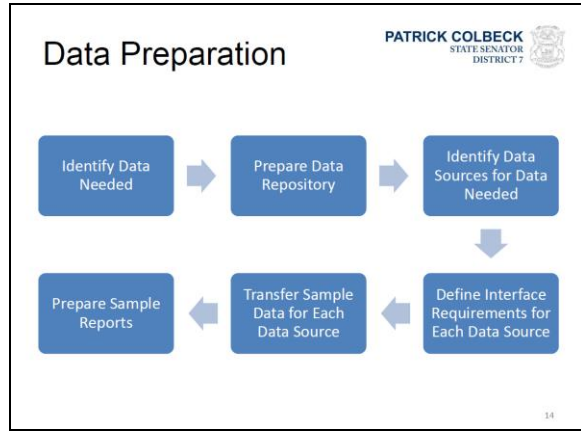
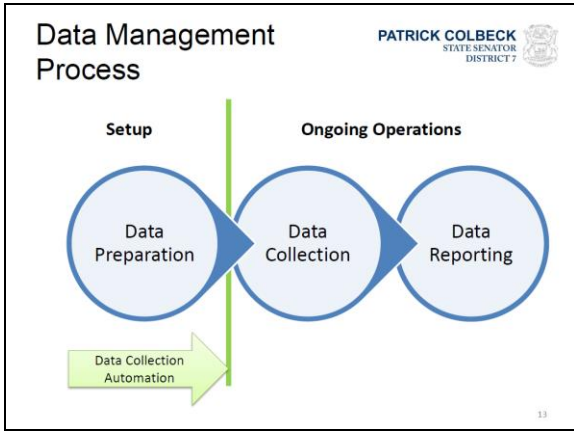
PATRICK COLBECK
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DISTRICT 7

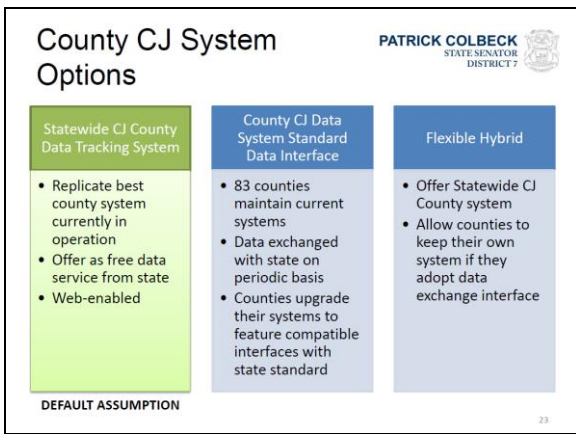
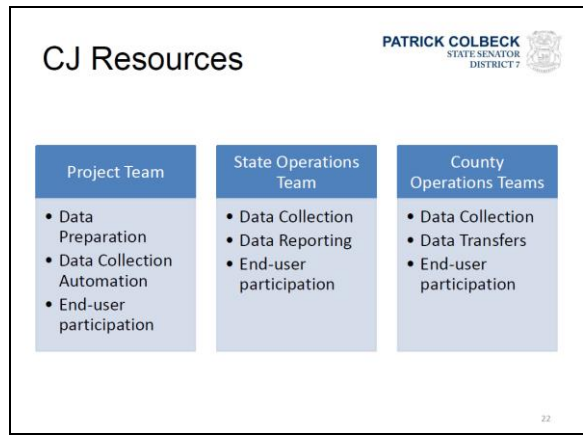
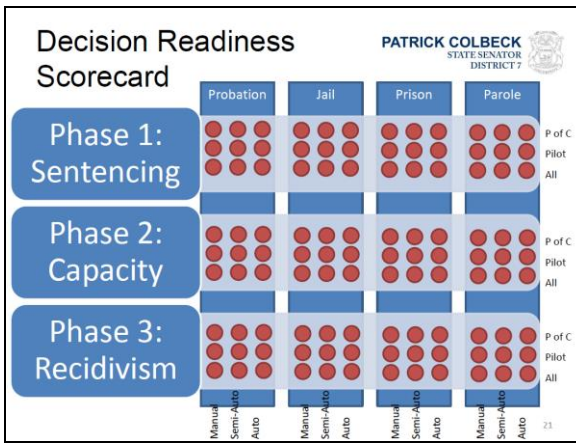
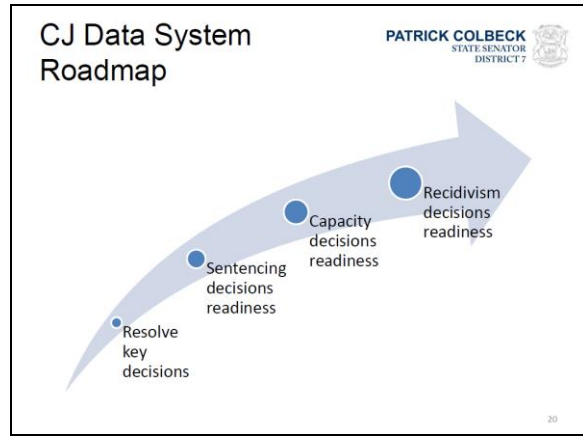
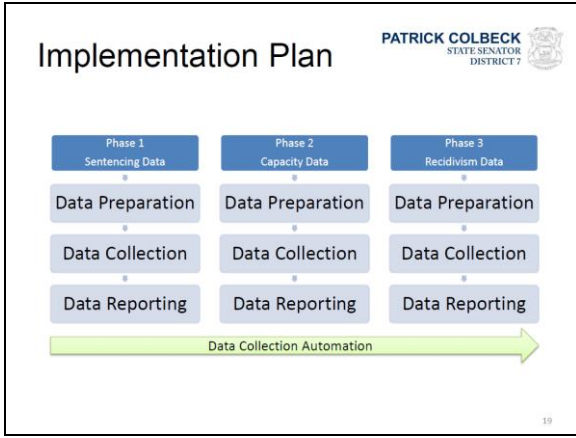
- Capacity**
 - State Prison Capacity
 - County Jail Capacity
- Recidivism**
 - Recidivism Effectiveness by Program
 - Recidivism Timeline by Program
 - Recidivism Program-Crime Map
 - Recidivism Program Costs
- Sentencing**
 - Incarceration Status by Crime
 - Mean Recidivism Time by Crime

CJ Data Management Architecture

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STATE SENATOR
DISTRICT 7

Automated or Manual?





Resource Requirements

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DISTRICT 7

Team	Total Cost	Phase 1	Phase 2	Phase 3
CJ IS Project Team	\$ 510,000.00	\$170,000.00	\$170,000.00	\$170,000.00
State CJ IS Operations Team	\$ 488,160.00	\$ 162,720.00	\$ 162,720.00	\$ 162,720.00
County CJ IS Operations Team	\$ 488,160.00	\$ 162,720.00	\$ 162,720.00	\$ 162,720.00
	\$ 1,486,320.00	\$ 494,440.00	\$ 494,440.00	\$ 494,440.00

CJ Commission Decisions Needed

PATRICK COLBECK
 STATE SENATOR
 DISTRICT 7

- Decisions Supported
- Data Needed for Decisions
- Process Model Validation
- Resource Model Validation
- County CJ System Option
 - Data Interface Requirements

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Policy Recommendations

PATRICK COLBECK
 STATE SENATOR
 DISTRICT 7

- Request appropriations to form a CJ IS Project Team
 - 1 FTE for DTMB Project Lead
 - Issue RFP for 3rd Party to Implement Multi-Phase Project
 - Phase 1 Data Preparation
 - Phase 2 Data Preparation
 - Phase 3 Data Preparation
- Request appropriations to form a State CJ IS Operations Team
 - 1 FTE for State CJ IS Operations Lead
- Designate Proof of Concept County for County CJ IS Operations Team
- Request appropriations to form a County CJ IS Operations Team
 - 1 FTE for County CJ IS Operations Lead
- Do not start State CJ IS Operations or County CJ IS Operations until Phase 1 Data Preparation has been completed

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 DISTRICT 7

BACKUP

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Recidivism

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State CJ Project Team SOW

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 DISTRICT 7

Deliverables	Metrics
<ul style="list-style-type: none"> • State Data Service Bus • Interfaces • Reporting System • County Data Service 	<ul style="list-style-type: none"> • Decision Readiness Scorecard • Project Status • CJ Report Availability <ul style="list-style-type: none"> – Capacity – Recidivism – Sentencing

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State CJ Operations Team SOW

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 STATE SENATOR
 DISTRICT 7

Deliverables	Metrics
<ul style="list-style-type: none"> • Reports 	<ul style="list-style-type: none"> • Timeliness • Accuracy

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County CJ Operations Teams SOW

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STATE SENATOR
DISTRICT 7



Deliverables

- County Data

Metrics

- Timeliness
- Accuracy

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Revised Recommendations from 12/2/15 CJPC Meeting

2. It is the recommendation of the Criminal Justice Policy Commission that monies should be more equitably distributed between programs to serve the parole and probation populations. Programs designed to help these populations are quite different in each programmatic area and need to be funded for success. Funding that results in success for probationers has the potential to save the taxpayers significant money by avoiding the high cost of incarceration while effectively preventing crimes. Programs must be evaluated utilizing an objective evaluation tool to determine effective evidence-based programming that will result in successful outcomes and reduce the cost of incarceration.

Commissioner Kaminski

No comments. I would plan on supporting as written.

Commissioner Kubiak

2. It is the recommendation of the Criminal Justice Policy Commission that monies should be more equitably distributed between programs to serve the parole and probation populations. Programs designed to help these populations are quite different in each programmatic area and need to be funded for success. Funding that results in success for probationers has the potential to save the taxpayers significant money by avoiding the high cost of incarceration while effectively preventing crimes. Programs must be evaluated utilizing an objective evaluation tool that measures both process and outcomes to determine effective evidence-based programming that will result in successful outcomes and in reducing the number of those incarcerated. **cost of incarceration.** (note – remove text highlighted in red and add text underlined (in green)).

Commissioner Levine

Rather than phrase this as a comparison between probationers and parolees, I would suggest something more like: "Adequate funding should be provided for evidence-based programs for both probationers and parolees. Funding that results in success for probationers has the potential to save the taxpayers significant money by avoiding the high cost of incarceration while effectively preventing crimes. Requiring program participation should depend on the offender's risks and needs. Required programs should be delivered in a timely manner. The effectiveness of programs should be regularly re-evaluated."

Commissioner Moody

I agree with 1, 2, and 3.

Commissioner Verheek

I would emphasize the need for the more equitable funding of evidence-based programs in order to emphasize evidence-based practices and programming from the onset. My concern is that if we don't have an emphasis on evidence-based programming from the onset, there may be wiggle-room for the funding of programs that may be popular, look good in the public eye, or are the favorite of a particular stakeholder, but in the end do and are not effective in reducing recidivism and changing the behavior of offenders. This would then change the last sentence to something like "Programs must be evaluated utilizing an objective evaluation tool to determine the continued funding of evidence-based programming that result in successful outcomes and the reduction of incarceration costs."

Judge Voet

I have no problem with proposals 1, 2, and 3.

4. I would also like each of you to give me your thoughts on how many years we should use for enhancing sentences. We currently use 10 years of a clean record which could take us back more than 10 years. Any change here could have a rather dramatic effect on length of sentences and thus save money. In addition, I would like your thoughts on whether we should change how we treat juveniles in terms of sentencing guidelines. When they re-offend as adults should we use all their juvenile violations to establish the new sentence length, use none of those violations or use some middle ground? Finally we need to determine if our justice system should be primarily a prevention system or a punishment system. Give me your thoughts as they will inform many of our decisions on other matters.

Commissioner Kaminski

I still do not have any comments to share related to the 10 year approach, but welcome the discussion. I don't think that we necessarily have to use all juvenile violations to establish sentencing length, but juvenile records, particularly age at first arrest, are a major aspect of determining future risk, so they cannot be ignored in sentencing. I'd reiterate my written comments from the last meeting regarding prevention vs. punishment.

Commissioner Kaminski's Comments Submitted After November Meeting:

I don't have any thoughts to share on the 10 year timeframe. I would suggest that juvenile violations are of significance because age at first arrest is one fact that helps determine future risk on most risk assessments. If the goal is prevention, this information is potentially significant. That being said, utilizing all juvenile violations is likely unnecessary, so we should seek a middle ground.

Realistically, the sentences for some crimes will always be based on punishment (Murder in the 1st Degree), but considering that the vast majority of prisoners will return to the community regardless of whether their sentence is intended to prevent future crime or punish them, it seems sensible that our overall goal should be the prevention of crime. This should not deter stakeholders in the criminal justice system from seeking sentences that are reflective of the serious nature of a crime, but the overall goal of the system should be preventing future crimes because in doing so, we also prevent the creation of future victims.

Commissioner Kubiak

This is a lengthy and rich topic area and I look forward to discussion. My belief is that the criminal justice system has to encompass elements of rehabilitation as well as punishment. Research indicates that positive reinforcement for positive change, in a 6 to 1 ratio over punitive sanctions, works best for those involved in the criminal justice system. Rehabilitative systems have a goal of the prevention of subsequent crime and should be resource rich at the front end of the system for those at risk of reoffending. For those who continue to re-offend or who have committed serious offenses, punishment with rehabilitative elements (i.e. substance abuse treatment; trauma/recovery services) are required. Prison is a punishment— using the time during incarceration to prevent subsequent recidivism through rehabilitative efforts is a worthwhile endeavor.

Re: Youthful offenders – prior offenses that are serious felonies – and not HYTA deemed offenses - should be taken into consideration when sentencing (not misdemeanors).

Commissioner Levine

I don't feel prepared to develop a position yet on either the prior record enhancement or the use of juvenile adjudications. I haven't had the opportunity to thoroughly study the Robina Institute sourcebook. I will do so before the next meeting and may have more of a position then. However I would also like to see a data analysis that would tell us just what the impact of changes on either dimension would be. All that said, I am very concerned about the use of juvenile adjudications, in particular, because I believe they have a disproportionate racial impact -- though again I would like to see the Michigan data.

Finally, I would suggest that the question of "whether our justice system should be primarily a prevention system or a punishment system" be reformulated. Historically, the purposes of sentencing have been defined as

punishment, general deterrence (of the public at large), specific deterrence (of the particular offender), incapacitation and rehabilitation. The range of available sentences exists on a continuum from least to most harsh but virtually any sentence can address all these purposes to a greater or lesser degree.

Our enabling legislation reflects these multiple purposes in Sec. 33a (4)(a) and (b). In subsection (c) the legislation says that our recommendations should reflect a policy: "To render sentences no more severe than necessary to achieve the applicable purposes in subdivisions (a) and (b)." Thus I believe that we should be measuring our current system, including the guidelines, against this principle of least restrictive means.

The word "prevention" conjures up images of preventive detention and controversial uses of risk assessment tools. It raises questions about whether people whose crimes deserve similar punishment should be treated differently based on speculation about their future behavior. And whether people who have served their minimum term of punishment, whether in prison or the community, should be continued in prison or on supervision for the sole purpose of completing programs intended to reduce their risk. On the other hand, the notion that the system should be primarily for punishment fails to adequately acknowledge all the other purposes of sentencing.

I believe a discussion of what punishment is proportional and what the role of rehabilitation should be is of fundamental importance. I would just prefer to see the discussion framed in terms of the policies prescribed in the legislation.

Commissioner Moody

Yes, currently the sentencing guidelines allow for the scoring of prior record variables (meaning prior convictions and juvenile adjudications) in determining the length of a sentence. But no convictions or adjudications are counted preceding a 10 year crime free period. At this point, I don't see any reason why we would not count the juvenile adjudications (all of them) since the age at which a defendant commits his first crime is an indicator of his criminal propensity. And I don't think it would have a dramatic effect on the overall MDOC budget. But I'm willing to discuss.

With respect to whether the criminal justice system is primarily aimed at prevention (and by that I assume we mean rehabilitation of the offender so he does not offend again) or punishment I have to still say that it is a combination of both. Rehabilitation is an extremely important goal because of the cost to victims and communities of re-offense. But even if the criminal justice system could guarantee that, for example, a murderer would only kill once it would hardly be just to allow that murderer to escape punishment simply because he is no longer a danger. Justice to the victims and to society at large would require that he pay for his crime.

Judge Voet

As it relates to proposal 4, I don't think we should pretend some prior crimes never occurred, but yet recognize that other crimes should not dog a person their whole life. Perhaps a graduated system that keeps the more severe crimes on an individual's record for life, the moderately severe crimes and assaultive misdemeanors for 15 years, and everything else for ten? Also, Heidi's Law keeps OWIs on for enhancement for life after two convictions. I think this should remain unchanged.

Comments Submitted To This Question Previously After November Meeting:

Commissioner Buchanan

I would also like each of you to give me your thoughts on how many years we should use for enhancing sentences. We currently use 10 years of a clean record which could take us back more than 10 years. Any change here could have a rather dramatic effect on length of sentences and thus save money. **If I understand your question, you are asking us to evaluate the 10 year gap. Ten years is a very long time without an offense to consider criminal history. It would be helpful if the 10 year gap was not eliminated by minor offenses such as Driving While License Suspended and low level misdemeanors. Perhaps a hybrid, like 10 years without a felony and 3 years without a misdemeanor. Also, sort of a different issue, we should consider whether there should be a 10 year gap rule for habitualization.**

In addition, I would like your thoughts on whether we should change how we treat juveniles in terms of sentencing guidelines. When they re-offend as adults should we use all their juvenile violations to establish the new sentence length, use none of those violations or use some middle ground? **This is a tough one. If you mean adults with a juvenile record, I think juvenile history is a decent predictor of reoffense. However, there should become a time when it no longer matters. I guess the 10 year gap covers that. It also creates a practical problem for defense counsel and many times the prosecutor. Due to the protected status of juvenile records, I often cannot know my client's juvenile history. Many times neither does the prosecutor. Therefore, we make sentencing bargains that are thwarted by the PSR wherein MDOC finds the juvenile history thus raising the guidelines.**

Finally we need to determine if our justice system should be primarily a prevention system or a punishment system. Give me your thoughts as they will inform many of our decisions on other matters. **I always thought it was both, as the goals for sentencing are punishment, rehabilitation, and deterrence. Since we are dealing with post-offense individuals, as opposed to a treatment facility that may have a chance pre-offense, punishment will always be a large part of sentencing.**

Commissioner Hilson

I am willing and interested in engaging in a discussion of how we use prior felony convictions. I am open to listening to reasonable ideas on how we might move forward. I would not change how we handle juvenile adjudications. It mirrors the adult system, but provides for fewer points for each category. I believe that our system carries a deterrent and prevention component. I would like to see the front end of the system be more preventative and focus on assessing the needs of the person and based on that assessment putting them into a program that meets those needs, addresses the problems, and offers solutions that are sustaining. However, our system does have to carry with it a punishment component. As long as there are violent crimes and victims of those crimes, we have to have the ability to punish those who commit the crime.

Commissioner Moody

With respect to whether the criminal justice system is primarily aimed at prevention (and by that I assume we mean rehabilitation of the offender so he does not offend again) or punishment I would say that it is a combination of both. Rehabilitation is an extremely important goal because of the cost to victims and communities of re-offense. But even if the criminal justice system could guarantee that, for example, a murderer would only kill once it would hardly be just to allow that murderer to escape punishment simply because he is no longer a danger. Justice to the victims and to society at large would require that he pay for his crime.

Commissioner Stelma

My thoughts on the "enhancing sentences" issue is that until it's proven to be broken, the process should stay as is. I'm not convinced it is having a significant negative impact.

Juvenile sentence enhancement should have a middle ground. Not everything should be used but certainly crimes of violence should be considered an enhancer.

I don't believe sentencing has to be only "Prevention" or "Punishment". It shouldn't be one or the other but needs to be dictated by the particulars of the given situation.

Commissioner Strange

For the years used for enhancing sentences, I am still researching this and will give my opinion once I feel educated enough in the topic.

For the treatment of juveniles, I imagine this will be a complicated discussion, but I do believe that there should be a difference with how sentencing guidelines are used. I don't necessarily think that juvenile violations should be ignored altogether because past behavior should be considered. It should not be the only thing considered,

however. Ultimately, looking at the interventions utilized in response to juvenile violations would be of interest. I think we will find the same for juveniles that we do for adults. Without enough focus and funding being placed on preventative measures and quality programming, juveniles are likely just going to be streamlined into prison.

Ultimately, it would be preferable to see our justice system become a prevention system which utilizes punishment as one of its tools, rather than a punishment system that uses prevention as one of its tools.

Judge Stutesman

The “ten year back rule” applies in felony cases only. Specifically, [MCL 777.50\(1\)](#) states:

“In scoring prior record variables 1 to 5, do not use any conviction or juvenile adjudication that precedes a period of [ten] or more years between the discharge date from a conviction or juvenile adjudication and the defendant’s commission of the next offense resulting in a conviction or juvenile adjudication.”

This means that if a defendant is able to have 10 years without a conviction his prior record is not counted. The time runs from when the previous sentence ends and the new charge. So if at 17 to 25 I had five breaking and entering convictions and I was able to complete my sentence and did not get any more convictions for ten years those five B&E will not count in my prior record variable score. They still can be used for me to be charged as a Habitual Offender though.

The ten year clock restarts with every conviction also. So if I had been able to remain crime free for 9 years 10 months but then was convicted of fishing without a license (a misd.) the clock starts again and everything counts including the juvenile adjudications. The law does not differentiate between 90 day misd., 93 day misd; or one year misd. and it should.

I am not sure what the question means. Just for counting the PRVs or for the Habitual Offender enhancements? I do not have an opinion on what the best time period is but I do think that it should only be triggered if the conviction is for a one year misdemeanor or higher.

Finally we need to determine if our justice system should be primarily a prevention system or a punishment system. Give me your thoughts as they will inform many of our decisions on other matters.

The trial court’s objective in sentencing a defendant is to tailor a penalty that is appropriate to the seriousness of the offense and the criminal history of the offender.The “framework” of an appropriate sentence consists of four basic considerations:

- the likelihood or potential that the offender could be reformed;
- the need to protect society;
- the penalty or consequence appropriate to the offender’s conduct; and
- the goal of deterring others from similar conduct. Rice, 235 Mich App at 446, citing *People v Snow*, 386 Mich 586, 592 (1972)

The criminal justice system is always geared towards the prevention of crime. It is far less expensive to do so with programs that have proven track records in reducing recidivism rather than just incarceration. There are some crimes that society recognizes as deserving of removal from society for lengthy periods of time even though you may never commit them again. The first goal should always be the protection of society. The framework set forth above should be followed.

CRIMINAL HISTORY ENHANCEMENTS SOURCEBOOK
SUGGESTIONS
11 NOVEMBER, 2015

1. Validate our criminal history formulas to ensure that they predict the risk of future offending. p. 7
2. Identify our goals and principles related to criminal history enhancements, in general and for each criminal history score component. Use sentencing data to examine how well those goals and principles are being followed. Consider changes in criminal history scoring and or weight, to better achieve the system's goals and principles. p. 8
3. Is the primary sentencing objective prevention or punishment or a combination of both? We should make this explicit so that all parties are clear as to the ways prior convictions are counted at sentencing. p. 11 & p. 13 & p. 14
4. The magnitude of criminal history enhancements has two aspects. (1) The extent to which criminal history leads to a greater likelihood of imprisonment and (2) the extent to which the duration of imprisonment is increased. p. 19
5. Examine the magnitude of criminal history enhancements and decide whether the resulting impacts are consistent with our policy goals. p. 19
6. Where the in/out disposition line is drawn on a grid constitutes an important policy decision. Jurisdictions with grids that have a relatively high proportion of cells for which the in/out disposition is based solely on criminal history will likely have higher proportions of offenders recommended for prison. p. 22
7. The greater the criminal history sentence length multiplier, the more significant the impact an offender's criminal history will have on overall sentencing outcomes. p. 23,24
8. Explore ways to reduce the criminal history enhancement magnitude. p. 27
9. We need to look at our decay or gap periods. p. 36 Every state has a different methodology. We simply need to look at what we are doing and see if we feel it is best for our state.
10. What counts as a prior conviction? p. 40 & 43
11. Juvenile adjudications. Do we count them all for criminal history purposes, count none, weight them differently than adult crimes, or only count some of them? We currently count all of them but give felonies less weight than an adult felony. p. 52
12. Should we adjust our use of prior misdemeanors in sentencing enhancement? We currently do not allow such misdemeanors to be counted if they are used in law to enhance the current offense. Should we use misdemeanors if the defendant did not have benefit of counsel? p. 55, 59, 60
13. We do not have patterning rules in effect in Michigan. Should we? p. 63, 66
14. We need to look at our offense weighting rules and determine if they are consistent with our punishment goals. There are many ways of doing this. p. 72 & 79
15. We impose a severity premium if the offender was on probation, parole, or in jail at the time of the current offense. This enhancement affects about 25% of all offenders appearing for sentencing. We know little about the degree to which custody status increases the risk of further offending. The use of custody status as a criminal history enhancement may be more questionable than other dimensions of a criminal record. p. 83
16. We may want to weight custody status differently than prior convictions. p. 86
17. How we treat multiple current offenses can affect uniformity. We have no limits so judges are free to do what they wish in this regard. We should examine the punishment purposes we

believe are served by enhancing sentences based on multiple current convictions. From this we should consider rules changes for judges. p. 91, 93

18. Although an offender's criminal history is clearly related to his risk of recidivism, the risk-predictive accuracy of each guidelines system's criminal history score and all score components should be validated using recidivism data. The risk-prediction value of each score component should also be measured against the added costs or other negative consequences of the sentence enhancements associated with that component. p. 98
19. We should discuss allowing judges to take account of well-documented risk factors beyond criminal history (eg advancing age, young age, substance abuse) as additions or adjustments to the criminal history score or as grounds for departure, so as to further improve risk predictive accuracy and efficiency. p. 98
20. It is important to determine whether particular guidelines, sentencing rules, and policies are contributing to minority over-representation in prisons. We should also examine the racial impact of all components of our criminal history scoring. p. 116



Jim Casha <jim.casha@gmail.com>

Public Comment - Criminal Justice Policy Commission - February 3rd, 2016

1 message

Jim Casha <jim.casha@gmail.com>
To: Jim Casha <jim.casha@gmail.com>

Wed, Feb 3, 2016 at 7:15 AM

Public Comment - Criminal Justice Policy Commission - February 3rd, 2016

Commission Members,

"Never again." Governor Snyder

'Never again' what Governor? 'Never again' will the Governor, State agencies and 'public servants', disregard the needs of Michigan's citizens, and especially it's most vulnerable ...it's children, and disregard their health and well-being???

Well ...

The State Criminal Justice Policy Commission is a sham. It was set up by former Representative, and now, Director of Government Relations for HOPE NETWORK, Joe Haveman, the sponsor of Public Act 465 -2014, for one reason and one reason only, i.e., to provide for future contracts for HOPE NETWORK. Did he have the assistance of Commission Chair Bruce Caswell?

Future contracts for inmate programs to 'rehabilitate' and reduce recidivism that ...won't work.

Seventy-five percent (75%) of those incarcerated have a Fetal Alcohol Spectrum Disorder (FASD). Programs not designed to recognize this 'root cause', 'Prenatal Alcohol Exposure', will fail ...75% of the time. Many of these inmates will be former Michigan foster children. Seventy percent (70%) of foster kids are affected by prenatal alcohol exposure and 60% of those will end up in trouble with the law.

Joe Haveman, and Commission Chair Bruce Caswell, do not believe, or don't want to admit, that this is the case.

You need to stage a 'coup', and immediately, issue a letter to Governor Snyder, calling for replacement of Chair Bruce Caswell on this commission, and refocusing this Commission's mission, as allowed by legislation, to deal with the number one way to reduce the prison population ...PROPER PRENATAL CARE with an emphasis on the PREVENTION of Prenatal Alcohol Exposure (PAE).

Last week, at a Senate Appropriations: Corrections joint with Judiciary Subcommittee, I listened to a presentation on the State's 'Problem-solving' Courts. They had a court for trying to solve every problem ...but the one problem that would most effectively reduce the prison population and recidivism ...a Fetal Alcohol Spectrum Disorder Court. One was proposed in 2008, in Kent County's 61st District Court, it would have been the second in the nation ...but it never got done. Joe Haveman should have known about this.

http://blog.mlive.com/grpress/2008/05/district_court_considers_progr.html

Today, Commission Member Senator Patrick Colbeck, will give a 'Presentation on Criminal Justice Data Management System' to the Senate Appropriations: Corrections joint with Judiciary Subcommittee. Do you want some 'data' Senator?

Of the 8 'boys', in the two families, of the foster children the state dumped in our home, directly from the hospital where they were born, and later adopted by my parents, 6 went to prison. A 'sister', who was left with her birth mother, didn't make it that far. She died, at 14, from a drug overdose, while working as a prostitute in the Cass Corridor. Today we would say she is a victim of **human trafficking**. Across the street, at a human trafficking event sponsored by Senator Emmons, who also doesn't think PAE is a problem, one of the presenters stated that the largest contributor to the human trafficking problem is ...the foster care system! It's not because they don't have a family ...it's because they have a FASD.

You can read the reason I'm here ...here:

http://www.mlive.com/news/index.ssf/2008/05/courts_prisons_fail_in_treatme.html

For a living, I build water intake tunnels. My first boss, and later friend and business partner, built the DWSD Port Huron Water Intake Tunnel in 1969 to supply Flint with some of the cleanest drinking water on the planet. Fred taught me some very valuable lessons:

Number one: Always admit when you make a mistake ...as soon as you know.

Number two: The longer you go with the wrong 'attitude', i.e., a tunnelling machine attitude 'away from line', especially in a curve, the harder it is to 'get back on line'. If you keep going long enough with the 'wrong attitude' ...it can be very difficult, and costly, to ...'get back'.

Sometimes you got to make a 'drastic correction' ...the sooner ...the better.

I suggest the Criminal Justice Policy Commission make a 'drastic correction' ...now.

Pressing on, with unwavering faith,

Jim Casha
540-717-9240
Norwich, ON, Canada