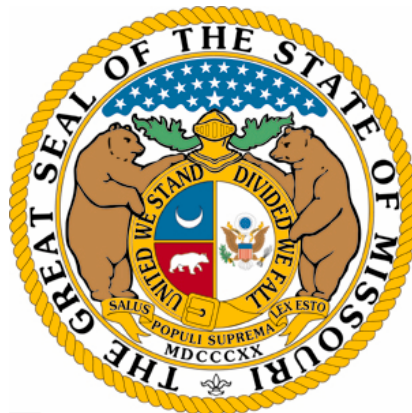


*Missouri Sentencing Advisory  
Commission*

**Recommended Sentencing**

**Report and Implementation Update  
June, 2005**

As required by 558.019.6 RSMo.



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### Changes and Corrections Since Publication (June, 2005)

1. Recommended Sentence Matrix for Violent Offenses, Class B, Medium and Low severity for the Aggravating sentence at Level I Prior Criminal History was changed from 3 years to 5 years. (Page 22) August 1, 2005
2. Corrections to How to use the Recommended Sentences Matrices. (Page 20-21) and Example of a Completed SAR. Changes to the Recommended Sentence and to Offender Risk Factors #4 and #9. (Page 52, 53) September 7, 2005
3. Change SAR Probation Officer's Recommendation to grant or deny a probationary sentence. (Page 49, 52) September 14, 2005
4. Correct/Revise Missouri Statue and Charge Codes in the Preface (Page 4); Missouri Sentencing Laws (Page 14, 16); and Offense Grouping to Measure Offense Severity (Page 75) September 27, 2005

## PREFACE

The Sentencing Advisory Commission is pleased to report on the successful efforts to implement the commission's system of recommended sentencing. This is our second statutorily required report under Section 558.019.6(5) RSMo.

In cooperation with the Department of Corrections and Missouri's judiciary, the commission has tested and adapted its recommendations based on the experience in six "pilot" judicial circuits that consist of a mix of urban and rural jurisdictions. The six pilot sites began using the new recommended sentences in December 2004, and we expect the system to be implemented statewide by November 1, 2005.

The assumptions that drive these efforts are that all who participate in sentencing and corrections decisions should be as fully informed as possible, including vital information about alternatives available in sentencing and in managing individual offenders. **The sentences recommended in this report are based upon current and recent sentencing practices of Missouri's trial judges.**

The Sentencing Advisory Commission's goals are to promote public safety, fairness and efficiency in sentencing and corrections and to promote the wisest use of the state's resources.

Corrections Director Larry Crawford, from his first day on the job in January 2005, has continued the Department's full cooperation in the commission's efforts and has provided matching funds for the commission's federal Byrne program grant. With the grant, the commission hired Executive Director Kim Green, who is assisted by the commission's secretary, Julie Nienhueser, to coordinate and enhance the commission's implementation efforts. The staff's first major initiative involved organizing six training sessions around the state that were attended by nearly 500 judges, prosecutors, defense attorneys, and probation and parole officers. These sessions were very well received and we appreciate the cooperation of the probation and parole staff, prosecutors, public defender staff and commission members whose presentations made up the program. A web-based seminar is planned this month (June) and will be available on the commission's website.

The grant funds also support the work of the data and research component of the commission's work, which the Department of Correction's Director of Research and Evaluation David Oldfield coordinates. His efforts have been the centerpiece of the commission's effort since it was re-established under the 2003 revision of section 559.019.6. RSMo. The first members of the current commission were appointed in late 2003; the revised statute required our first report by June 2004 and this report in June 2005. We could not have done this without him.

Success of the commission's progress in implementation is the result of the efforts of the probation and parole staff, under the leadership of the Board of Probation and Parole Chief State Supervisor Scott Johnston and the implementation team led by Glenn Brucker, probation and parole regional administrator, Central Region. The focus of their

efforts is a revision of the pre-sentence investigation (PSI) report format, called a Sentencing Assessment Report (SAR), which contains the commission's sentencing recommendation for the individual offender, the probation and parole officer's recommendations on how the offender should be managed -- whether on probation, intensive probation (called a Community-Structured Sentence), or in prison to serve either a shock/treatment program or a term sentence.

The Sentencing Assessment Report also details available alternatives to incarceration, where appropriate, and lets the judges and lawyers know what the sentence is likely to mean in terms of the Parole Board's guidelines and actual paroling decisions. The Sentencing Assessment Report tells the judges and lawyers how an offender scores on a statistically validated risk assessment scale – information the Department of Corrections (DOC) uses in offender management strategies in the community and in prison. The scale is based on the salient factor risk assessment the Board of Probation and Parole uses in making parole release decisions.

The commission and DOC adopted the Sentencing Assessment Report strategy after studying why the earlier sentencing commission's 1998 recommendations were not being followed. The Sentencing Assessment Report is intended to remedy the lack of information that decision makers in the criminal justice system had about the previous commission's recommendations. The commission thanks the probation and parole officers in the field, especially those in the six pilot circuits, whose comments and suggestions resulted in major improvements in the system during this implementation year.

The commission staff also is coordinating production of an interactive feature of the commission's website, [www.mosac.mo.gov](http://www.mosac.mo.gov). When completed this summer, the interactive website will allow users, including judges, lawyers, and the public, to enter information on an offender or defendant, if pre-trial, and get access to the commission's sentencing recommendations, risk assessment and the Board of Probation and Parole release guidelines and actual time served estimates. The commission staff, with assistance from Mr. Oldfield, is also making this information accessible in a Users' Guide, produced in conjunction with this report. The commission also has included, as Appendix H to this report, information on restorative justice programs as alternatives to incarceration.

The commission's grant also supports the DOC's efforts to assist probation and parole officers in adapting the department's computer-based offender management system to prepare Sentencing Assessment Reports. The commission is grateful to the Department of Public Safety and its director, Mark James, for the grant support under the federal Byrne program.

The commission believes that the efforts outlined here will have a major impact on promoting public safety, fairness in sentencing, and on the wise use of the state's correctional resources. If our expectation is correct, the achievements are the direct result of the extraordinary cooperation, professionalism and mutual respect shown by all

participants – probation and parole officers, judges, prosecutors and defense attorneys, and corrections professionals. The commission welcomes comments and suggestions; send to executive director Kim Green, PO Box 104480, Jefferson City, MO 65110 or e-mail to [Kim.Green@courts.mo.gov](mailto:Kim.Green@courts.mo.gov).

## **CHANGES TO THE SYSTEM OF RECOMMENDED SENTENCES DURING IMPLEMENTATION**

The System of Recommended Sentencing has been revised in response to feedback the Commission has received during implementation and from the monitoring of the pilot sites using the Sentencing Assessment Report (SAR).

The main change, introduced in March 2005, was the use of a prior criminal history level to determine the recommended sentence. The offender risk indicator, proposed in the 2004 report, was found to be causing concerns in the pilot sites for particular groups of offenders affected by the application of the non-offense risk factors. The most problematic issue was the effect upon young offenders who were penalized by the risk score that identified young offenders as a high-risk group. The prior criminal history level is used to determine the recommended sentence while the offender risk score is used to advise the courts on the level of field supervision and on the likely time an offender sentenced to a prison term will serve before parole. Because the new criminal history measure has offenders with a lesser prior criminal history in level II than the 1998 criminal history level II the recommended sentence of shock or treatment has been replaced with Community Structured Sentence when the percent prison disposition in FY04 was less than 50% (see the Recommended Sentence Matrices).

The other significant change to the recommended sentences is the revision to the recommended sentences for aggravating circumstances for violent, sex and child offenses. The aggravating sentence for these offenses is now a prison sentence. This reflects current sentencing practice and the statutory restrictions on the use of shock or treatment programs for offenders convicted of violent or sex crimes. The sentencing recommendation in the SAR will include a reference to the most suitable sentence, taking into account the available institutional and community alternative sentencing and an assessment of the defendant's criminal history and the offense circumstances.

Other changes include:

- Renaming the offense severity measure from level I (most severe) to III (least severe) to High, Medium and Low severity.
- Renaming the lowest offender risk category from Excellent to Good.
- Changes to the offender risk definitions as a result of experience in the calculation of the risk measures. The offender risk definitions are given in Appendix B.
- The severity of offense listing that accompanies the sentencing matrices for each offense group is simplified to show only the sentencing for the commission of the offense. Convictions for the attempt or as a prior and persistent offender have been excluded.
- An estimate has been made of the impact upon sentencing if the sentencing recommendations are adopted. The analysis is included in Appendix D, page 76.

A review of the responses of judges to the new system of recommended sentences in the pilot sites is contained in Appendix G

## COMMISSION FINDINGS AND PROPOSALS

The commission, after discussion and a review of research and statistical material, has concluded that there appears to be general support for the use of recommended sentences and in the use of alternative sentences. There was evidence, however, that the system of recommended sentences created in 1998 was not widely used. This observation was one of the findings from a study by Professors Robinson and Aruguete of Lincoln University in 2002 (*Attitudes Toward and the Use of Sentencing Guidelines Among Missouri Circuit Court Judges*). The Office of the State Courts Administrator and the Department of Corrections supported the study and the study is available from the Department of Corrections website <http://www.doc.missouri.gov/>.

The commission considers that a major reason for the lack of reference to the recommended sentences is the difficulty judges had in easily interpreting the old sentencing users' manual. The court records did not always include the computation of the prior criminal history level and there may not have been a determination of whether there were mitigating or aggravating circumstances surrounding the offense. The selection of an alternative sentence was made more difficult than it needed to be because the sentencing matrix used abbreviations to describe the recommended alternative sentences. Finally, not all alternative sentences are available to all court circuits (Community Structured Sentences, page 44). The following proposals from the 2004 report have been instituted to allow easier use of recommended sentences and alternative sentences:

### Proposal 1

*The Missouri Department of Corrections and the Board of Probation and Parole will provide the courts with a timely, focused sentencing assessment that will include the calculation of the recommended sentence. A court may decline or waive the assessment if it considers that the delay in sentencing will be burdensome.*

The sentencing assessment now summarizes the offender's criminal history, provides a risk assessment, identifies the victim impact and develops an offender management plan. The recommended sentence and the available alternative sentences are determined. If the recommended sentence is a prison term, the report includes the guideline parole eligibility, expressed as a percent of sentence and the actual percent of sentence served. The report will be completed within the time required by the courts. The Sentencing Assessment Report (SAR) is more concise than the Pre-Sentence Investigation that it will replace. Total statewide switchover to the SAR is expected to be complete by November 1, 2005.

### Proposal 2

*The system of recommended sentences will use the offender's prior criminal history and an offense severity grouping that reflects the public concern over different types of crime. The commission will also use an offender risk assessment to advise on supervision strategies.*



The commission has also concluded that the system of recommended sentences should be improved to address concerns of many judges that the recommended sentences provide insufficient information on offender risk and in the offense severity. The commission wishes to continue to make the recommended sentences reflect current sentencing practice (Appendix D, Page 76).

### Proposal 3

*The sentencing assessment will be provided to the courts when re-sentencing probation violators.*

The system of recommended sentences is based upon the analysis of the first sentencing decision following a conviction or finding of guilt for a felony offense. The system is intended for reference before sentencing. However, because of the value of an improved offender risk assessment, the commission considers that the sentencing assessment and recommended sentence could also be used when a probationer is before the court for a possible revocation and/or re-sentencing. The Board of Probation and Parole has agreed to provide the sentencing assessment form for probation violators. A finding of the sentencing disparity study is that there is a difference in sentencing between the metropolitan areas and other counties. One explanation for this difference is a lack of local alternative sentencing options in all areas of the state but a wider application of the recommended sentences should also help to reduce the disparity. Guidance on the use of the recommended sentences for probation violators is being developed.

### Proposal 4.

*The sentencing assessment will include a community risk assessment of sex offenders using tested and validated methods.*

The commission is supportive of the advantages of conducting a risk assessment of sex offenders in the community without the need for a referral to an institutional assessment unit. The Department of Probation and Parole is developing a sex offender risk assessment tool for the sentencing process.

### Proposal 5

*The commission will continue to study fines, court costs and other charges placed upon offenders after a finding of guilt.*

The commission has discussed the advantages and disadvantages of proposing that the legislature review the fine schedule. The fine schedule was last changed in 1977. Increasing the level of fines would provide additional resources for the state and may, as an alternative sanction, result in fewer offenders receiving jail or prison terms. However, with the increase in court costs in recent years and other charges and restitution that offenders are required to pay on a finding of guilty, the commission is concerned about the effects of an increased financial burden upon offenders who do not have the ability to pay.

### Proposal 6

*The commission will continue to study how to require offenders revoked from probation with outstanding restitution and the ability to pay, to continue restitution after release to parole.*

The commission has discussed the inequality upon victims who are awarded restitution as a condition of probation but who are later denied the restitution because the offender was revoked to prison, thereby canceling the probation. Although the commission is supportive of enforcing restitution when the offer to pay restitution results in an offender receiving a mitigating sentence, the commission is concerned with the increased financial burden upon offenders on prison release.

*The commission has undertaken statistical studies of sentencing disparity and death penalty sentencing. These studies, required by statute 558.019.6 RSMo, are included in the report (pages 54-69).*

## THE SYSTEM OF RECOMMENDED SENTENCES

Judicial discretion is the cornerstone of sentencing in Missouri courts. We said that in the 2004 report, and its truth is borne out in our experience in this year of implementation. The Sentencing Advisory Commission believes that sentencing in Missouri is at its best when the decision makers have accurate and timely information about the offender, the offenses and the options available for sentencing.

Section 558.019.6 RSMo. required the Missouri Sentencing Advisory Commission to review and publish a system of recommended sentences on or before July 1, 2004 and again before July 1, 2005. The next report will then be published by July 1, 2007. The statute also directs the commission to consider the feasibility of incorporating alternative sentences, prison work programs, work release, home-based incarceration and probation and parole options into the recommended sentences. The full text of Section 558.019.6 RSMo is included here as Appendix A, page 70.

The goal of these Sentencing Recommendations, which are consistent with Section 558.019.6 RSMo. and the other statutes on sentencing, is to achieve a system of sentencing that is fair, protects the public and uses corrections resources wisely. One goal of the Sentencing Advisory Commission is to reduce sentencing disparity. However, achieving that goal has often proven to be elusive because disparities in sentencing often are the result of differences between offenders and in the circumstances of their crimes.

The commission builds upon the work of the previous commission whose Advisory Sentencing Guidelines were promulgated in 1998. The commission has examined data and studies of the use and deviations from those guidelines.<sup>1</sup>

The Sentencing Recommendations are **averages**, based upon current sentencing and corrections practices in the state as a whole. They provide:

1. **Criminal history and risk assessment.** The recommendations use an indicator of prior criminal history to determine the recommended sentence and a modified version of the salient risk factors used by the Missouri Board of Probation and Parole to determine eligibility for release on parole. The risk factors have been validated by statistical studies of Missouri incarcerated offenders.
2. **Grouping of offenses.** The recommendations arrange the offenses in groups in the same manner as the offenses are categorized by statute and by the Board of Probation and Parole. The grouping reflects similarity in sentencing practice.
3. **Severity of offenses.** Within each group of offenses, the crimes are arranged in categories of severity from High to Medium to Low. Severity of offenses was

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<sup>1</sup> The commission decided to abandon the use of the phrase "sentencing guidelines" because the same phrase is used in the federal courts to describe a system that is entirely different from the sentencing system in Missouri courts. The commission labels its work as Sentencing Recommendations because that is what they are. They are not compulsory. The Missouri Sentencing Advisory Commission does not support a federal style guidelines system. In fact, the federal system has been rendered voluntary by the US Supreme Court decisions in *Blakely* (6/24/04) and *Booker* (1/12/05)

determined by examining the actual sentences imposed for each crime in the recent five-year period. The intention of the severity level is to ensure that offenses within the same felony class and offense group can be given similar sentences.

**4. Aggravating and mitigating offense circumstances**

Aggravating and mitigating circumstances are specific to each offense group. They are concerned with issues of victim impact and with offender willingness to make restitution or to address rectification of criminally related behavior, such as substance abuse treatment.

5. **Sentencing recommendations.** These are based upon data on *sentences from throughout the state*. The data on sentences for the prior year are included for each category of offense. Recommended sentences are given for the presumptive situation and for mitigating and aggravating circumstances

Following a proposal by the Missouri Department of Corrections and the Board of Probation and Parole, the system of providing pre-sentence information to courts and attorneys will be modified as follows:

The probation and parole officer is to provide the attorneys and the court a Sentencing Assessment Report within a time frame approved by the judge. The Sentencing Assessment Report will contain basic information on the offender and the offense, as well as the impact on the victim, and will provide the court and counsel with:

1. A rating of prior criminal history and the risk of re-offending, by using the offender risk factors as set forth in these Sentencing Recommendations;
2. An analysis of non-prison sentencing alternatives (where appropriate);
3. A recommendation for sentencing in accordance with these Sentencing Recommendations, and
4. Where a prison sentence is indicated, the report will indicate what percentage of the sentence must be served before the offender is eligible for a parole guideline release, and the percent of sentence that offenders with that sentence and risk rating actually served before parole.

The commission thanks the Missouri Department of Corrections and the Board of Probation and Parole for their willingness to integrate these recommendations into their work.

The commission is aware that, in many cases, the sentence is the result of a plea agreement. The information in the pages that follow will be useful in determining appropriate dispositions in plea-agreed cases. Counsel and courts should be aware that, although a plea agreement is done before entry of a plea and preparation of a Sentencing Assessment Report, a probation and parole officer or prison official would prepare a report in any event. This will help guide probation and parole officers in supervising those on probation or other community-based sentences or prison officials who will be responsible for finding the proper placement for those sentenced to prison.

The commission supports the use of drug courts and other diversionary programs like faith-based restorative justice projects for appropriate non-violent offenders. Drug courts have been found to be more effective and efficient than either incarceration or probation

without a treatment component in dealing with individuals whose criminal behavior is primarily the result of illegal drug abuse (*A Cost-Benefit Analysis of the St Louis City Adult Felony Drug Court*, Institute of Applied Research, 2004; *Multi-Jurisdictional Enhancement for Missouri Drug Courts*, University of Missouri-Columbia School of Social Work, 2001). Although not a focus of this study, we note that there are 70 operational drug court programs in Missouri; 2,100 active drug court participants; 3,200 drug court graduates; a 60% retention rate for individuals in drug court; a 10% recidivism rate for individuals who have graduated from drug court; and 144 drug-free babies who have been born to drug court participants.

The Sentencing Recommendations modify the terminology of probation to reflect different kinds of sentences. "Probation", in its traditional usage, means anything from minimal supervision to intensive supervision, electronic monitoring, or various other alternatives. These recommendations use the following terms to describe these different kinds of non-prison sentences:

**Probation:** Supervision in the community with periodic contact with a probation officer.

**Community Structured Sentence (CSS):** This is a non-prison sentence that is served in the community under a plan of strict supervision. It may include home-based incarceration (electronic monitoring) or other strategies for community supervision and may also require the offender to attend substance abuse or other community rehabilitative programs.

**Institutional Shock or Treatment Programs (Shk/Trt):** These include a variety of options under the shock probation statute, Section 559.115 RSMo, or other institution-based programs, as listed in section 4, Recommended Sentence References.

The commission hopes that judges and attorneys will find these recommendations and system changes, to be useful. Comments and suggestions are welcome so that the commission and the Department of Corrections can consider changes that seem desirable in light of experience in using these recommendations.

## MISSOURI SENTENCING LAWS

The following references are made to statutes that define either the sentence disposition, the range within which an authorized sentence can be set or the incarceration time. The Revised Missouri Statutes are available online at

<http://www.moga.state.mo.us/homestat.asp>. Reference can also be made to the Missouri Board of Probation and Parole booklet on Procedures Governing the Granting of Paroles and Conditional Release, <http://www.doc.missouri.gov/pdf/Blue%20book.pdf>.

Authorized dispositions for felony convictions include a term of imprisonment, a fine (if the offense is a class C or D felony, Section 560.011 RSMo.) and a period of probation. In addition, the execution of the sentence may be suspended and the person placed on probation or the imposition of the sentence may be suspended, with or without placing the person on probation (Section 557.011 RSMo.).

The Missouri statutes have provisions for enhanced sentencing when an offender is deemed to be a prior and persistent recidivist, and for a minimum prison time when the offender is deemed to be a recidivist or has been convicted of a dangerous felony. Unless specifically excluded by statute, felony convictions can be sentenced to either probation or to a prison sentence (559.012 RSMo.). In Missouri, a probation term is often accompanied with a suspended prison sentence. When probation is revoked, the prison sentence can be imposed or the offender can be sentenced under the 120-day statutes.

### Recidivists

The recommended sentence for an offender sentenced as a persistent offender (Section 558.016 RSMo.) is the recommended sentence for the same offense group one felony class higher than the statutory defined felony class. The same offense group and level of severity applies. If the offense is Class A then the offense severity is increased by one level, unless the offense is High severity. The offense group DWI has recommended sentences for persistent offenders because there are no Class C DWI offenses upon which to calculate average sentences.

### Attempt, Accessory or Conspiracy to Commit an Offense (inchoate)

Offenders convicted of the attempt or conspiracy are sentenced in accordance with Sections 564.011 and 564.016 RSMo. The sentencing recommendations include sentences at one felony class lower than the commitment of the offense for the same offense group and level of severity.

### Sentencing Statutes

#### **Section 558.011 RSMo. Authorized terms of imprisonment including conditional release:**

Felony Class A	10 to 30 years or life
Felony Class B	5 to 15 years
Felony Class C	Not to exceed 7 years
Felony Class D	Not to exceed 4 years

The probation term for a felony conviction is from one to five years (Section 559.016 RSMo.).

In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the Department of Corrections for a term of years not less than two years and not exceeding the maximum authorized term.

**Section 558.016 RSMo. Extended Terms for Persistent Offenders** (guilty of two or more felonies committed at different times) and dangerous offenders (guilty of a prior Class A or B felony and knowingly murdered or endangered the life or inflicted serious physical injury on another person):

Class A felony: any authorized sentence for a Class A felony

Class B felony: any sentence authorized for a Class A felony

Class C felony: any sentence authorized for a Class B felony

Class D felony: any sentence authorized for a Class C felony

**Section 558.018 RSMo. Persistent Sexual Offender.** A person guilty of forcible rape, statutory rape 1<sup>st</sup> degree, forcible sodomy, statutory sodomy 1<sup>st</sup>, or an attempt of any of the designated offenses shall be sentenced to not less than 30 years without probation or parole if the defendant has a prior finding of guilt for forcible rape, rape, statutory rape 1<sup>st</sup> degree, forcible sodomy, sodomy, or statutory sodomy 1<sup>st</sup>.

**Section 558.018 RSMo. Predatory Sexual Offender.** A person guilty of forcible rape, statutory rape 1<sup>st</sup> degree, forcible sodomy, statutory sodomy 1<sup>st</sup> or an attempt of any of the above designated offenses or child molestation 1<sup>st</sup>, class B felony or sexual abuse, class B, and i) who has a prior finding of guilt of one of the designated offenses or ii) has committed such an offense whether or not there was a conviction or iii) has committed the acts against multiple victims whether or not the defendant was charged is so designated. A predatory sex offender shall be sentenced for life with eligibility for parole. The sentence shall not be discharged. The minimum prison term, to be set by the courts, is 30 years, except when the defendant has previously pleaded guilty to child molestation 1<sup>st</sup> or sexual abuse when the minimum prison term is 15 years. Defendants without a prior finding of guilt for the designated offenses shall serve any authorized sentence if the defendant had not been sentenced as a predatory sexual offender.

**Section 558.019 RSMo. Minimum Prison Terms** for persons with prior prison commitments by the Department of Corrections {excluding regimented discipline (Section 217.378 RSMo.), 120-day programs (Section 559.115 RSMo.) or the long-term drug program (Section 217.362 RSMo.)} and serving a sentence other than in Chapter 195 RSMo. (drug offenses)are:

One prior commitment -- 40% of sentence (or until the age of 70 with 30% of the sentence served);

Two prior commitments -- 50% of sentence (or until the age of 70 with 40% of the sentence served);  
Three or prior commitments -- 80% of sentence (or until the age of 70 with 40% of the sentence served);  
Guilty of a dangerous felony -- 85% of sentence.

In addition, there are enhanced sentences and minimum prison terms for persistent and predatory sexual offenders (Section 558.018 RSMo.), prior and persistent domestic violence offenders (Section 565.063 RSMo.) and prior and persistent drug offenders (Sections 195.285 to 195.296 RSMo.).

#### Parole Restrictions

**Armed Criminal Action** (Section 571.015 RSMo.). For the first conviction, the minimum period is three years; for a second conviction, the minimum period is five years and for the third conviction, the minimum period is ten years.

**Pharmacy Robbery in the first degree** (Section 569.025 RSMo.). The minimum period is ten years.

**Pharmacy Robbery in the second degree** (Section 569.035 RSMo.). The minimum period is five years.

**Capital Murder** (Section 569.001 RSMo.). The minimum term is 50 years.

**Sex offenses.** Offenders imprisoned for sex offenses shall complete the Missouri Sex Offender Program before release to parole (Section 589.040 RSMo.).

**Unlawful Use of a Weapon** (Section 558.016 RSMo.). Prior offenders shall serve at least ten years. Persistent offenders are not eligible for probation, parole or conditional release (Section 571.030 RSMo.).

**Prior or Persistent Domestic Violence Offender** (Section 565.063 RSMo.) shall serve a minimum of six months before probation or parole.

**Aggravated and Chronic DWI Offenders** (577.023 RSMo.). Aggravated offenders must serve at least 60 days and chronic offenders at least two years before probation or parole.

**High School Diploma/GED.** The Board shall not order a parole unless the offender has obtained a high school diploma or its equivalent unless the offender has made a good-faith effort. (Section 217.690 RSMo.).

#### Non-Parole Offenses

**Murder First Degree** (Section 565.020 RSMo.), **Persistent Sexual Offender** (Section 558.018 RSMo.), **Tampering with Victim/ Witness** (Section 575.270 RSMo.), **Drug Trafficking Offenses** (Sections 195.222, 195.223, 195.291, 195.292, 195.295, 195.296 RSMo. in some circumstances.).

#### Dangerous Felonies.

The list of offenses defined as dangerous felonies on June 27, 2003 are:

Forcible Rape, Forcible Sodomy, Robbery 1<sup>st</sup>, Murder 2<sup>nd</sup>, Kidnapping, Arson 1<sup>st</sup>, Assault 1<sup>st</sup>, Attempted Forcible Rape with physical injury, Attempted Forcible Sodomy with physical injury, Assault of a Law Officer 1<sup>st</sup>, Domestic Assault 1<sup>st</sup>, Elder Abuse 1<sup>st</sup>,



Statutory Rape when the victim was less than 12, Statutory Sodomy when the victim was less than 12, and Abuse of a Child if the offense results in the death of the child.

#### Alternative Sentences

The expression “SHK/TRT” in the sentencing grids means any shock time, assessment or treatment, 120-day, 180-day or long-term drug program as specified in statute (Sections 559.115, 217.362, 217.364, 217.378 RSMo.).

#### Eligibility for shock or treatment programs

Excluded are persons who have been convicted of murder in the second degree pursuant to Section 565.021 RSMo; forcible rape pursuant to Section 566.030 RSMo; forcible sodomy pursuant to Section 566.060 RSMo; statutory rape in the first degree pursuant to Section 566.032 RSMo; statutory sodomy in the first degree pursuant to Section 566.062 RSMo; child molestation in the first degree pursuant to Section 566.067 RSMo, when classified as a class B felony; abuse of a child pursuant to Section 568.060 RSMo, when classified as a class A felony; an offender who has been found to be a predatory sexual offender pursuant to Section 558.018 RSMo; or any offense in which there exists a statutory prohibition against either probation or parole.

If the recommended sentence is an institutional shock or treatment program and the offender is ineligible or the offender has already been placed in a similar program within the last three years, then the recommended sentence shall be either a longer or a more intensive treatment program or a prison sentence. The recommended term sentence will normally be the minimum authorized sentence.

## **GLOSSARY OF TERMS**

Community Structured Sentence (CSS). A community structured sentence indicates a higher level of supervision than probation. The supervision can include a requirement to complete either a substance abuse or other rehabilitative program. The range and availability of community structured sentences are described in Community Structured Sentences, page 44.

Felony Class. The felony class as defined in statute. For the purposes of the Recommended Sentences most unclassified felony offenses have been converted to a class (A to D) based upon an analysis of average sentencing from 1999 to 2005 (May). The exception is Armed Criminal Action. The felony class association for other unclassified felony offenses is shown after the listing of the recommended sentences. . Offenses with an average prison sentence of 10 years or more are assigned Class A, average sentences from 8 to 9 years are assigned Class B, offenses with an average sentence from 5 to 7 years are assigned class C and sentences 4 years or less are assigned class D. The offenses are included in the appropriate offense and felony class group.

### Enhanced Sentences

The recommended sentence for an offender sentenced as a persistent offender (Section 558.016 RSMo.) is the recommended sentence for the same offense group one felony class higher than the statutory defined felony class. The same offense group and level of severity applies. If the offense is Class A then the offense severity is increased by one level, unless the offense is High severity. The offense group DWI has specific recommended sentences for persistent offenders because there are no Class C DWI offenses upon which to calculate average sentences.

### Inchoate Offenses

Convictions of the attempt, accessory or conspiracy are made at one felony class lower than the commitment of the offenses (Chapter 564) for the same offense group and level of offense severity.

Mitigating, Presumptive and Aggravating. An indicator of whether special circumstances were present either in the commission of the offense or in the defendant's arrest or during pre-sentencing.

Offense Group. Five groups of offenses that have similar sentencing.

Offense Severity. The separation of offense groups into one of the three levels to reflect the severity of sentencing practice. Not all felony class and offense groups require three levels of offense severity.

Offender Risk. A quantitative assessment of the risk of a person committing further crimes or violating the conditions of supervision. It is based upon a validated assessment of risk by the Board of Probation and Parole and it includes both prior criminal history

and other behavioral and demographic factors. The risk score has five levels from Good, the lowest level of risk, to Poor, the highest level of risk.

Percent Prison Disposition. This is the percent of convictions supervised by the Department of Corrections that received a prison sentence. Offenders who received probation or were sentenced under the 120-day or long-term drug statutes are not counted as prison sentences.

Prison Sentence. This is the average sentence of those persons who received a prison sentence. It does not include the prison sentence when the prison sentence was suspended or when the offender was sentenced under Sections 559.115 or 217.262 RSMo. The minimum prison sentence in the Recommended Sentences is shown as two years to reflect the sentencing of offenders when committed to the Department of Corrections. Statute 558.011 RSMo. Section 2 requires offenders sentenced to more than one year to serve a sentence of at least two years with the Department of Corrections.

Prior Criminal History Level. The assessment of prior criminal history includes felony and misdemeanor findings of guilt and jail sentences of 30 days or more for local ordinances. The assessment is described in detail in appendix B, page 72.

Probation. This designates supervision by the Department of Corrections while the offender is serving a term of probation. For the purposes of the recommended sentences, probation includes a pre-sentence drug court and suspended and executed probation sentences.

SHK/TRT. This disposition requires a short prison stay under the 120-day or long-term drug statutes. If the offender is successful, the offender is released to probation under court jurisdiction. If the offender is ineligible for a shock or treatment program, then the recommended sentence is a prison term for the lowest sentence allowed for the felony class (558.011 RSMo.).

## HOW TO USE THE RECOMMENDED SENTENCES MATRICES

### *Example 1*

A person is convicted of Burglary 2<sup>nd</sup> degree. The sentence assessment report contains the following information about the recommended sentence:

Prior Criminal History. The risk assessment lists the scoring for each of the risk variables and indicates that the Prior Criminal History is Level II.

Burglary 2<sup>nd</sup> is a Class C, non-violent offense that has been given an offense severity level of HIGH (most severe).

From the circumstances of the offense, the court determines that there were no mitigating or aggravating conditions.

The recommended sentence is a community-structured sentence.

If the Prior Criminal History was Level V, then the recommended presumptive sentence would have been a prison sentence of 6 years. If offender risk was **Poor**, the Board of Probation and Parole Guideline prison term before parole is 36 months (50%) and the Board guideline range is from 32 months to 48 months (Appendix E, page 79).

### *Example 2*

A person is convicted of Robbery 1<sup>st</sup> degree. The sentence assessment report contains the following information about the recommended sentence:

Prior Criminal History. The sentence assessment report indicates that the offender is Level I.

Robbery 1<sup>st</sup> is a class A, violent, level of MEDIUM.

If the conditions of the offense are presumptive, then the recommended sentence is 10 years.

If there were mitigating circumstances then the recommended sentence is a community-structured sentence.

If the offender is sentenced to prison, then the offender will serve 85% before becoming eligible for parole because Robbery 1<sup>st</sup> is a dangerous felony.

If the offender was convicted of attempted Robbery 1<sup>st</sup> degree, then the offense severity is class B, violent, level of MEDIUM and the presumptive recommended sentence for a Prior Criminal History is a community-structured sentence.

If there were aggravating circumstances, then the recommended sentence would be five years.

Because the offender would not be sentenced as a dangerous felon, the Board of Probation and Parole guideline prison term for an Offender with offender risk of **Above Average** would be 27 months (45%) a range from 24 months to 30 months.

If an offender has a minimum mandatory prison term, then the guideline term would reflect that statutory requirement if the prison term was longer than the guideline term.

If an offense is not listed in the level of offense severity in the recommended sentences the severity level will be MEDIUM.

*See Sentencing Assessment Report, Page 48, for an example of a completed report.*

# RECOMMENDED SENTENCE MATRICES

## Violent Offenses

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
<b>Class A</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	79.3%	92.0%	89.2%	97.1%	93.1%	
	<i>Ave. Prison Sentence</i>	16.8	17.2	17.7	17.7	17.6	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	CSS	10	15	20	25
		Presumptive	10	15	20	25	30
		Aggravating	15	20	25	30	30
		<b>Medium</b>					
		Mitigating	CSS	Shk/Trt	10	15	20
		Presumptive	10	12	15	20	25
		Aggravating	14	16	20	25	30
		<b>Low</b>					
		Mitigating	Probation	Shk/Trt	10	12	15
	Presumptive	Shk/Trt	10	12	15	17	
Aggravating	12	14	15	17	20		
<b>Class B</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	49.5%	64.1%	76.8%	76.1%	75.9%	
	<i>Ave. Prison Sentence</i>	8.5	9.9	8.6	8.9	11.4	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	CSS	Shk/Trt	6	8	10
		Presumptive	Shk/Trt	6	8	10	12
		Aggravating	6	8	10	12	15
		<b>Medium</b>					
		Mitigating	Probation	CSS	Shk/Trt	7	9
		Presumptive	CSS	Shk/Trt	7	9	11
		Aggravating	5	7	9	11	12
		<b>Low</b>					
		Mitigating	Probation	CSS	Shk/Trt	5	7
	Presumptive	CSS	Shk/Trt	5	7	8	
Aggravating	5	5	7	8	10		
<b>Class C</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	22.0%	32.6%	56.2%	54.0%	62.9%	
	<i>Ave. Prison Sentence</i>	5.0	5.2	5.1	5.6	4.9	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	Probation	Shk/Trt	3	5
		Presumptive	CSS	CSS	4	5	7
		Aggravating	3	4	5	7	7
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	4
		Presumptive	CSS	CSS	Shk/Trt	4	5
		Aggravating	3	3	4	5	7
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	3
	Presumptive	Probation	CSS	Shk/Trt	3	4	
Aggravating	3	3	3	4	6		

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
<b>Class D</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	8.5%	25.0%	53.8%	50.0%	50.0%	
	<i>Ave. Prison Sentence</i>	3.5	2.0	2.9	4.5	4.5	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	3
		Presumptive	CSS	CSS	Shk/Trt	3	4
		Aggravating	2	2	3	4	4
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	2
		Presumptive	CSS	CSS	Shk/Trt	2	3
		Aggravating	2	2	2	3	4
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	2
	Presumptive	CSS	CSS	Shk/Trt	2	2	
Aggravating	2	2	2	2	3		
<b>Class U</b>	Armed Criminal Action						
	<i>Offense Severity Medium</i>						
	Presumptive	5	7	9	12	15	

### Aggravating Factors

#### Serious Aggravating Factors

- The offender's conduct was especially heinous, atrocious or cruel.
- The defendant knowingly created a great risk of death or serious physical injury to more than one person.
- The defendant used a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the use of a dangerous or deadly weapon.
- Serious aggravating factors shall not be offset by mitigating factors

#### Other Aggravating Factors

- The defendant was armed with a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant caused severe financial loss to the victim of the offense. There has been loss of business, employment or serious financial loss when the value of the loss is not included in the offense for which the defendant has been convicted.
- The defendant made, or expected to make, a substantial financial gain from the commission of the offense.
- The defendant caused severe physical or emotional trauma to the victim of the offense. The victim has required medical or mental health intervention and the impact of the trauma is not included in the offense for which the defendant has been convicted.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report

#### Mitigating Factors

- The defendant has made or is making restitution to the victim.
- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant used caution to avoid risk or injury to others and caused no injury, financial loss or trauma to the victim. Not to apply when the offender has been convicted of the attempt of the offense.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more).
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

## OFFENSE SEVERITY

### Class A Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
10021	Murder 1St Degree	565.020	High	303	303	30.0	100%
10031	Murder 2Nd Degree	565.021	High	672	666	23.2	99%
12010	Robbery 1St Degree	569.020	Med	1,350	996	14.8	74%
12035	Pharmacy Roberry First Degree	569.025	Med	8	7	17.1	88%
13025	Domestic Assault-1St Degree Persistent Domestic Violence Offender	565.072	Med	2	1	25.0	50%
13100	Assault Of Law Enforcement Officer First Degree	565.081	Med	65	44	18.4	68%
16010	Kidnapping	565.110	Med	55	40	17.0	73%
31151	Dischrg Frarm At/Or Frm A Motor Veh Or Shoot At Pers,Veh,Build-Inj	571.030	Med	4	4	8.8	100%
13009	Domestic Assault-1St Degree Serious Physical Injury	565.072	Low	27	16	15.6	59%
13011	Assault 1St Degree - Serious Physical Injury	565.050	Low	375	243	17.0	65%
13027	Domestic Assault-1St Degree- Prior Domestic Violence Offender	565.072	Low	3	2	10.0	67%
13028	Domestic Assault-Second/Deg Persistent Domestic Assault Offender	565.073	Low	1	-	-	0%
13060	Assault With Intent To Commit Bus Hijack Ing With Weapon	578.305	Low	2	-	-	0%
26165	Elder Abuse 1St Degree	565.180	Low	2	1	15.0	50%
36006	Knowingly Infect Another W/Hiv Being Blood/Blood Produce,Organ	191.677	Low	1	-	-	0%
36007	Recklessly Infect Another W/Hiv When Actor Knowingly Infected	191.677	Low	1	-	-	0%
36322	Elder Abuse 1St Degree	565.180	Low	6	1	15.0	17%

*Note: Although Murder 1<sup>st</sup> degree is excluded from the Recommended Sentences, Attempted Murder 1<sup>st</sup> degree is a class B Violent offense with High severity.*

### Class B Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
10041	Voluntary Manslaughter	565.023	High	152	136	11.6	90%
16020	Kidnapping - Facilitating A Fel/Flight Thereafter-Inflict Injury-Terrorizi	565.110	High	205	153	11.9	75%
31154	Aid/Abet A Person Dischrg/Shooting A Firearm At Or From Motor Veh	571.030	High	2	2	10.0	100%
31180	Gun,Knife,Weapon Or Other Article That M Ay Be Used To Endanger I	217.360	High	24	23	8.4	96%
36009	Recklessly Risk Infect Of An- Other W/Hiv When Actor Knows	191.677	High	4	3	11.7	75%
12020	Robbery 2Nd Degree	569.030	Med	1,931	998	9.1	52%
12045	Pharmacy Robbery Second Degree	569.035	Med	7	4	10.5	57%
13020	Assault 1St Degree	565.050	Med	656	349	10.0	53%
13071	Violence To An Employee Of Dept Of Corr Or To Inmate By Inmate	217.385	Med	102	100	7.3	98%
13115	Assault On A Law Enforcement While Intox Alcohol/Drug/Vehicular	565.082	Med	14	7	8.6	50%
31152	Dischrg/Shoot Frarm At/Or Frm A Mtr Veh Or Shoot At Pers,Veh,Build	571.030	Med	21	9	10.0	43%
31195	Dan/Weapon In A Correction Facility That Will Endanger Prisoner Or E	221.111	Med	15	11	7.6	73%
13015	Domestic Assault 1St Degree	565.072	Low	106	32	8.5	30%
13032	Domestic Assault-2Nd Degree- Prior Domestic Assault Offender	565.073	Low	3	1	5.0	33%
13110	Assault On Law Enforcement Officer (Reckless/Serious Physical Injury)	565.082	Low	393	188	8.1	48%
13140	Assault/Attempt Assault On L Enf Off Deadly Weapon/Dangerous Instru	565.082	Low	5	2	8.5	40%
17010	Arson 1St Degree	569.040	Low	103	30	7.9	29%
17022	Arson 2Nd Degree Causing Serious Physical Injury Or Death	569.050	Low	4	-	-	0%
26170	Elder Abuse 2Nd Degree	565.182	Low	2	-	-	0%
28100	Aiding Escape Of Prisoner By Deadly Weapon Or Dangerous Instrumen	575.230	Low	1	-	-	0%
31182	Del/Attmpt To Deliver Poss/Dep/Conc Gun Kni/Weap/Other At Corr/Fa	217.360	Low	4	2	7.5	50%
36324	Elder Abuse 2Nd Degree	565.182	Low	1	-	-	0%



### Class C Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
10051	Involuntary Manslaughter-1St Degree	565.024	High	339	204	6.4	60%
10053	Involuntary Manslaughter Vehicular-Intoxicated	565.024	High	150	71	6.9	47%
13137	Assault/Att Assault On Emerg Pers Other Than Deadly Weop/Dang Inst	565.082	High	1	1	5.0	100%
13150	Asslt On Leo (Crim Negligence Create Risk Of Death Or Ser/Physical Inj	565.082	High	5	3	6.0	60%
16030	Felonious Restraint	565.120	High	474	251	5.8	53%
13031	Assault 2Nd Degree	565.060	Med	4,253	1,293	5.2	30%
28055	Escape From Confinement By Force	575.210	Med	5	4	4.5	80%
10054	Involuntary Manslaughter-Water Craft	306.111	Low	1	-	-	0%
13029	Domestic Assault 2Nd Degree	565.073	Low	1,630	378	4.4	23%
13033	Assault 2Nd Degree - Vehicular Injury	565.060	Low	573	95	4.7	17%
13070	Assualt With Intent To Commit Bus Hijack	578.305	Low	1	-	-	0%
13075	Offender Abuse By An Employee Of Dept Of Corrections	217.405	Low	1	-	-	0%
13080	Violence Or Injury To Persons Or Property By An Inmate	217.385	Low	1	-	-	0%
13090	Unlawful Endangerment Of Another In Protecting The Prod Of Control	565.065	Low	2	-	-	0%
13130	Tampering With Judicial Officer	565.084	Low	1	-	-	0%
13142	Asslt/Atte Asslt On Leo By Means Other Deadly/Weap/D Instru/Physica	565.082	Low	5	2	4.5	40%
13146	Asslt/Leo (Crim Negl-Means Of A Dead Weapon/Dangerous Instrument	565.082	Low	1	-	-	0%
13152	Asslt/Leo (Purposely/Recklessly Place Person/Appreh/Immed Ser/Physi	565.082	Low	1	-	-	0%
34210	Aggravated Stalking-2Nd Offense	565.225	Low	3	1	4.0	33%

### Class D Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
10052	Involuntary Manslaughter 2Nd Degree	565.024	High	68	26	4.4	38%
16040	False Imprisonment-Removed From State	565.130	High	4	2	5.0	50%
16090	Child Abduction	565.156	High	23	2	17.5	9%
58020	Mak Terrorist/Threat W Reckless Disr Of Risk/Caus Evac/Quarant/Clos	574.115	High	2	1	4.0	50%
13017	Domestic Assault 3Rd Degree 3Rd/Subsequent Offense	565.074	Med	84	10	2.7	12%
13039	Assault 3Rd Degree With Physical Injury 3Rd Subsequent Offense	565.070	Med	52	11	2.7	21%
16060	Interference With Custody	565.150	Med	11	2	3.0	18%
16080	Parental Kidnapping	565.153	Med	18	4	4.0	22%
34220	Aggravated Stalking-1St Offense Or Stalking 2Nd Offense	565.225	Med	62	11	3.2	18%
13030	Assault 2Nd Degree	565.060	Low	13	-	-	0%
13034	Assault Watercraft 2Nd Degree	306.111	Low	2	-	-	0%
13045	Assault Motivated By Discrimination 3Rd Degree	557.035	Low	4	-	-	0%
13055	Assault While On School Property	565.075	Low	39	2	2.5	5%
34055	Harassment Motivated By Discrimi- Nation Frighten/Disturb Anoth Pers	557.035	Low	1	-	-	0%
34074	Make A Terrorist Threat W Reck- Less Disregard Of Causing Evac/Clos	574.115	Low	2	-	-	0%
34110	Ethnic Intimidation 2Nd Degree	574.093	Low	2	-	-	0%
55130	Assault On Federal Officer	18U.SC1	Low	1	-	-	0%

### Unclassed Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
31010	Armed Criminal Action	571.015	Med	133	133	5.9	100%

Any unlisted offense will have Medium severity.

## Recommended Sentences for Sex and Child Abuse Offenses

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
<b>Class A</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	67.0%	89.3%	96.2%	100.0%	100.0%	
	<i>Ave. Prison Sentence</i>	15.3	13.0	15.5	18.2	17.2	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	CSS	10	15	20	25
		Presumptive	12	15	20	25	30
		Aggravating	15	20	25	30	30
		<b>Medium</b>					
		Mitigating	CSS	CSS	10	15	20
		Presumptive	10	12	15	20	25
		Aggravating	12	15	20	25	30
		<b>Low</b>					
		Mitigating	CSS	CSS	10	12	15
Presumptive		CSS	10	12	15	20	
Aggravating		10	12	15	20	25	
<b>Class B</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	59.6%	94.7%	81.8%	100.0%	100.0%	
	<i>Ave. Prison Sentence</i>	9.0	8.5	7.7	14.5	12.0	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	CSS	Shk/Trt	7	8	10
		Presumptive	Shk/Trt	7	8	10	15
		Aggravating	7	8	10	15	15
		<b>Medium</b>					
		Mitigating	CSS	Shk/Trt	6	7	8
		Presumptive	Shk/Trt	5	7	8	10
		Aggravating	5	7	8	10	15
		<b>Low</b>					
		Mitigating	Probation	CSS	5	6	7
Presumptive		CSS	Shk/Trt	6	7	8	
Aggravating		5	6	7	8	10	
<b>Class C</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	29.4%	48.1%	71.9%	50.0%	92.3%	
	<i>Ave. Sentence</i>	5.2	4.9	5.0	4.6	4.8	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	CSS	Shk/Trt	3	5
		Presumptive	CSS	CSS	4	5	6
		Aggravating	3	4	5	6	7
		<b>Medium</b>					
		Mitigating	Probation	Probation	Shk/Trt	2	4
		Presumptive	CSS	CSS	3	4	5
		Aggravating	3	3	4	5	6
		<b>Low</b>					
		Mitigating	Probation	Probation	Shk/Trt	2	3
Presumptive		CSS	CSS	2	3	4	
Aggravating		3	3	3	4	5	

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
Class D	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	18.6%	41.7%	42.9%	60.0%	60.0%	
	<i>Ave. Prison Sentence</i>	3.7	3.8	3.5	3.7	3.7	
	Offense Severity	<b>High</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	4
		Presumptive	CSS	CSS	Shk/Trt	4	4
		Aggravating	2	2	3	4	4
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	3
		Presumptive	CSS	CSS	Shk/Trt	2	3
		Aggravating	2	2	2	3	4
		<b>Low</b>					
	Mitigating	Probation	Probation	CSS	Shk/Trt	2	
	Presumptive	Probation	CSS	Shk/Trt	2	2	
	Aggravating	2	2	2	2	3	

#### Aggravating Factors

##### Serious Aggravating Factors

- The offender's conduct was especially heinous, atrocious or cruel.
- The defendant knowingly created a great risk of death or serious physical injury to more than one person.
- The defendant used a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the use of a dangerous or deadly weapon.
- The offender has a prior felony conviction under Chapter 566 and the statute of the offense does not include the prior conviction.
- Serious aggravating factors shall not be offset by mitigating factors.

##### Other Aggravating Factors

- The defendant was armed with a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant caused severe financial loss to the victim of the offense. There has been loss of business, employment or serious financial loss when the value of the loss is not included in the offense for which the defendant has been convicted.
- The defendant caused severe physical or emotional trauma to the victim of the offense. The victim has required medical or mental health intervention and the impact of the trauma is not included in the offense for which the defendant has been convicted.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

#### Mitigating Factors

- The defendant has made or is making restitution to the victim.
- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant used caution to avoid risk or injury to others and caused no injury, financial loss or trauma to the victim. Not to apply when the offender has been convicted of the attempt of the offense.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more).
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report

## OFFENSE SEVERITY

### Class A Sex and Child Abuse

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
11005	Force Rape-Sex Interc By Force Serious Inj/Displays Dead Weapon	566.030	High	6	6	18.7	100%
11010	Forcible Rape With Weapn Or Physical Injury	566.030	High	73	68	18.4	93%
11015	Forcible Rape	566.030	High	58	52	19.5	90%
11070	Sodomy - Physical Injury Or With Weapon	566.060	High	7	7	13.9	100%
11071	Forcible Sodomy-With Deadly Weapon Or Serious Physical Injury	566.060	High	11	11	18.4	100%
11082	Forbicle Sodomy Deviate Sex Intercourse Injury/Weapon	566.060	High	1	1	30.0	100%
11084	Forcible Sodomy-Deviate Sexual Intercourse By Forcible Compul	566.060	High	15	10	19.0	67%
22045	Sexual Exploitation Of A Minor Child	573.023	High	4	4	15.0	100%
26054	Abuse Of Child-Resulting In Death	568.060	High	14	13	18.5	93%
11021	Statutory Rape-1St Degree	566.032	Med	206	133	15.2	65%
11075	Forcible Sodomy	566.060	Med	58	45	16.6	78%
11076	Statutory Sodomy 1St Degree	566.062	Med	375	275	17.1	73%
11088	Attempted Forcible Sodomy-Attempt Deviate Sexual Interc By Force	566.060	Med	3	1	28.0	33%
64001	Sexual Exploitation Of A Minor Child	573.023	Med	2	2	11.0	100%
11008	Forcible Rape-Sexual Inter- Course By Forcible Compulsion	566.030	Low	23	13	14.5	57%
11012	Attempt Forcible Rape-Attempt Sexual Intercourse/Force Compul	566.030	Low	5	2	11.5	40%
11025	Statutory Rape-1St Deg Sex Inter Course With A Pers Less Than 14	566.032	Low	124	72	11.4	58%
11095	Stat Sodomy-1St-Deviate Sex Inter Course W/Pers Less 14 Ser/Inj	566.062	Low	26	14	17.6	54%
11097	Stat Sodomy-1St Deg-Deviate Sex Interc W/Pers Less Than 14	566.062	Low	124	89	12.7	72%
22102	Child Molest-1St-Prior/Deadly Weap/Ser Inj/Ritual Or Ceremony	566.067	Low	10	6	17.8	60%

### Class B Sex and Child Abuse

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
22100	Child Molestation-1St Deg-Disply Deadly Weapon/Serious Injury	566.067	High	19	15	9.3	79%
26055	Abuse Of Child - Serious Emotional Injury	568.060	High	20	16	10.8	80%
26071	Child Molest-1St Degree-Displays Deadly Weapon/Serious Phys Injury	566.067	High	1	1	10.0	100%
11032	Stat Rape-1St Deg-Sex Intercourse Less Than 14 Injury/Deadly Weapon	566.032	Med	10	6	9.3	60%
22107	Child Molestation-1St Degree	566.067	Med	265	162	9.0	61%
22200	Use Of Child In Sexual Performance- Serious Emotional Injury	568.080	Med	3	1	14.0	33%
25050	Promoting Child Pornography 1St Degree	573.025	Med	10	6	8.7	60%
64010	Ent/Child/Prev Plead Guilt Or F Guilt Of Viol Sec 566.151,568.045,568	566.151	Med	1	1	7.0	100%
22021	Sex Abuse-Displays Deadly Weapon Or Serious Physical Injury	566.100	Low	16	2	8.0	13%
22055	Sexual Exploitation Of A Child	573.023	Low	7	3	9.3	43%
26021	Abandonment Of Child 1St Degree	568.030	Low	3	-	-	0%
26048	Endangering Welfare Of Child In Ritual Ceremony/1St Deg/2Nd/Subsec	568.045	Low	2	-	-	0%
26091	Use Of Child In Sexual Performance-- Serious Emotional Injury	568.080	Low	2	1	8.0	50%
64005	Sexual Exploitation Of A Minor	573.023	Low	2	-	-	0%

### Class C Sex and Child Abuse

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
11016	Attempt Force Rape-Attempt Sex Interc By Force Serious Injur	566.030	High	2	2	6.0	100%
11050	Sexual Assault 2Nd Degree - Displays A Deadly Weapon Or Serious Ph	566.050	High	1	1	7.0	100%
22105	Child Molestation-1St Degree	566.067	High	287	130	5.9	45%
22206	Promoting A Sexual Performance By A Child	568.090	High	3	2	7.0	67%
26072	Child Molestation 1St Degree	566.067	High	6	2	7.0	33%
11022	Statutory Rape-2Nd Degree	566.034	Med	679	278	5.5	41%
11077	Statutory Sodomy-2Nd Degree	566.064	Med	530	248	5.6	47%
11100	Deviate Sexual Assault 1St Degree	566.070	Med	136	52	5.7	38%
22022	Sexual Abuse	566.100	Med	91	30	5.7	33%
22330	Fail/Comp/Sub Offend/Reg Form With- Chief/Leo/Req Und 589.425(1)	589.425	Med	2	2	2.5	100%
25060	Promoting Child Pornography 2Nd Degree	573.035	Med	6	4	4.8	67%
26100	Use Of Child In Sexual Performance	568.080	Med	1	1	3.0	100%
64015	Enticement Of/Child/Actor 21 Yrs Of Age Or Older/Child Is Less Than	566.151	Med	2	1	4.0	50%
11040	Sexual Assault 1St Degree	566.040	Low	186	72	5.0	39%
22020	Sexual Abuse 1St Degree - Physical Harm	566.100	Low	1	-	-	0%
22035	Sexual Misconduct Involving A Child-2Nd Or Subsequent Offense	566.083	Low	16	1	4.0	6%
22205	Use Of Child In Sexual Performance	568.080	Low	18	5	4.4	28%
25027	Possession Of Child Pornography 2Nd Offense	573.037	Low	1	-	-	0%
25063	Promoting Child Porno- Graphy-2Nd Degree	573.035	Low	6	-	-	0%
26045	Endangering Welfare Of A Child 1St Degree	568.045	Low	240	35	4.1	15%
26051	Endangering Welfare Of Child In Ritual/ Ceremony, 1St Degree-2Nd Or	568.045	Low	38	8	4.5	21%
26063	Abuse Of Child	568.060	Low	421	84	5.0	20%

### Class D Sex and Child Abuse

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
11120	Deviate Sexual Assault 2Nd Degree	566.080	High	3	2	5.0	67%
22011	Sexual Misconduct-1St Deg Prev/Convict Chpt/566 Dis/Dead/Weap/Rit	566.090	High	49	18	4.3	37%
22025	Sex Misconduct Involving A Child-1St Offense	566.083	High	167	49	3.8	29%
22030	Sexual Abuse 1St Degree	566.100	High	11	2	5.0	18%
22090	Incest	568.020	High	29	13	4.5	45%
22110	Child Molestation-2Nd/D-P-Conv/Chpt 566 Dead/Wea-Dang Instru-Inj/	566.068	High	13	5	4.0	39%
22332	Fail/Comp/Sub/Offend/Regist Form/Chief Leo/Req Under Sec 589.425 (1)	589.425	Med	3	1	3.0	33%
26022	Abandonment Of Child-2Nd Degree	568.032	Med	2	1	2.0	50%
26052	Endangering Welfare Of Child 1St Degree	568.045	Med	993	162	3.8	16%
11060	Sexual Assault 2Nd Degree	566.050	Low	1	-	-	0%
22130	Sexual Contact W/An Inmate Or Resid Of Jail,Prisonor Corr Fac	566.145	Low	5	-	-	0%
22145	Attempt To Entic Child-Actor 21 Yrs Or Older-Child Less Than 15	566.151	Low	4	1	1.0	25%
22340	Fail/Time/Veri/Info Made In State/F Offe Reg As Req Und Sec 589.425	589.425	Low	2	-	-	0%
22344	F Of Off To Info C/Leo/New Address As Required Und.Sec 589.425 (1)	589.425	Low	1	-	-	0%
25010	Promoting Pornography 1St Degree	573.020	Low	4	1	3.0	25%
26020	Abandonment Of Child	568.030	Low	2	-	-	0%
26053	Endangering Welfare Of Child In Ritual/Ceremony, 2Nd Degree	568.050	Low	43	5	2.2	12%

Any unlisted offense will have Medium severity.

## Recommended Sentences for Non-Violent Offenses

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
<b>Class A</b>	<i>Data 2004</i> <i>Percent Prison Disposition</i> <i>Ave. Prison Sentence</i>	<i>Insufficient data</i>					
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	CSS	Shk/Trt	10	12
		Presumptive	CSS	Shk/Trt	12	14	15
		Aggravating	Shk/Trt	12	13	15	20
		<b>Medium</b>					
		Mitigating	Probation	CSS	Shk/Trt	10	12
		Presumptive	CSS	Shk/Trt	12	14	15
		Aggravating	Shk/Trt	12	13	15	20
		<b>Low</b>					
		Mitigating	Probation	CSS	Shk/Trt	10	12
		Presumptive	CSS	Shk/Trt	12	14	15
		Aggravating	Shk/Trt	12	13	15	20
<b>Class B</b>	<i>Data 2004</i> <i>Percent Prison Disposition</i> <i>Ave. Prison Sentence</i>	10.1% 6.6	39.6% 6.6	70.9% 7.9	71.4% 8.9	55.0% 9.2	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	8
		Presumptive	CSS	CSS	Shk/Trt	8	10
		Aggravating	Shk/Trt	6	8	10	12
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	8
		Presumptive	CSS	CSS	Shk/Trt	8	10
		Aggravating	Shk/Trt	5	8	10	12
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	6
		Presumptive	Probation	CSS	Shk/Trt	6	8
		Aggravating	CSS	5	6	8	10
<b>Class C</b>	<i>Data 2004</i> <i>Percent Prison Disposition</i> <i>Ave. Prison Sentence</i>	11.4% 4.1	31.9% 4.2	59.3% 4.5	64.1% 4.9	66.8% 5.3	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	5
		Presumptive	Probation	CSS	Shk/Trt	5	6
		Aggravating	CSS	Shk/Trt	5	6	7
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	3
		Presumptive	Probation	CSS	Shk/Trt	3	4
		Aggravating	CSS	Shk/Trt	3	5	6
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	2
		Presumptive	Probation	CSS	Shk/Trt	2	3
		Aggravating	CSS	Shk/Trt	2	3	5

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
Class D	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	8.0%	20.8%	42.1%	46.3%	48.7%	
	<i>Ave. Prison Sentence</i>	3.0	3.2	3.2	3.3	3.1	
	Offense Severity	<b>High</b>					
		Mitigating	Probation	Probation	CSS	CSS	3
		Presumptive	Probation	CSS	CSS	Shk/Trt	4
		Aggravating	CSS	Shk/Trt	Shk/Trt	2	4
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	CSS	2
		Presumptive	Probation	CSS	CSS	Shk/Trt	2
		Aggravating	CSS	Shk/Trt	Shk/Trt	2	3
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	CSS	2
Presumptive		Probation	Probation	CSS	Shk/Trt	2	
Aggravating		CSS	CSS	Shk/Trt	2	3	

#### Aggravating Factors

- The defendant was armed with or used a dangerous or deadly weapon during the commission of the offense or during the arrest and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant has also been convicted of a violent offense (felony, misdemeanor or infraction) committed during the commission of the offense.
- The defendant made, or expected to make, a substantial financial gain from the commission of the offense.
- The defendant caused severe financial loss to the victim of the offense. There has been loss of business, employment or serious financial loss when the value of the loss is not included in the offense for which the defendant has been convicted.
- The defendant caused severe physical or emotional trauma to the victim of the offense. The victim has required medical or mental health intervention and the impact of the trauma is not included in the offense for which the defendant has been convicted.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

#### Mitigating Factors

- The defendant has made or is making restitution to the victim.
- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant used caution to avoid risk or injury to others and caused no injury, financial loss or trauma to the victim. Not to apply when the offender has been convicted of the attempt of the offense.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more).
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

## SEVERITY OF OFFENSE

### Class A Non-Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
15014	Theft Of Anhydrous Ammonia By Truck/Trlr/Rail Tk Car/Field Appl	570.030	Med	10	-	-	0%
29050	Perjury To Secure Conviction Of Accused For Murder	575.040	Med	1	-	-	0%

### Class B Non-Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
28051	Escape Or Attempted Escape From Department Of Corrections	575.210	High	26	20	8.5	77%
14010	Burglary 1St Degree	569.160	Med	1,420	414	8.5	29%
19882	Financ/Exploit/Elderly Or Disabled Person (Property Value \$1000 Or M	570.145	Med	1	1	7.0	100%
15018	Theft/Stealing (Value Of Property Or Services Is \$25,000 Or More	570.030	Low	47	2	7.0	4%
15019	Theft/Attempt Theft Of Anhydrous Ammonia Or Liquid Nitrogen	570.030	Low	93	18	6.7	19%
21030	Promoting Prostitution - 1St Degree	567.050	Low	2	-	-	0%
28115	Aiding Escape Of Prisoner Confined For A Felony	575.230	Low	2	-	-	0%
29060	Perjury To Secure Conviction Of Accused For Felony Other Than Murd	575.040	Low	2	-	-	0%

### Class C Non-Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
14020	Burglary 2Nd Degree	569.170	High	9,566	2,440	5.1	26%
15016	Theft Of Ammonium Nitrate	570.030	High	13	4	4.8	31%
15034	Stealing--3Rd Offense	570.040	High	581	273	5.4	47%
15035	Stealing Related Offense 3Rd Offense	570.040	High	294	111	4.6	38%
17020	Arson 2Nd Degree	569.050	High	348	104	5.7	30%
19180	Removal Or Defacing Manufacturer'S Numbe R	301.400	High	5	1	5.0	20%
19320	Sale Of Unregistered Securities	409.301	High	2	2	6.5	100%
23010	Tampering 1St With Service Of Utility Or Institution	569.080	High	377	205	4.2	54%
23200	Institutional Vandalism	574.085	High	2	1	5.0	50%
29217	Tampering With Judicial Officer	565.084	High	26	18	4.9	69%
15010	Stealing	570.030	Med	7,733	1,416	4.6	18%
15015	Theft/Attempt Theft Of Anhydrous Ammonia Or Liquid Nitrogen	570.030	Med	166	41	4.2	25%
15017	Theft/Stealing Any Cont Substance Defined By Section 195.010, Rsmo	570.030	Med	32	3	5.0	9%
15020	Stealing Motor Vehicle	570.030	Med	1,091	279	4.5	26%
15023	Theft/Stealing Of Any Firearm	570.030	Med	29	7	4.9	24%
15025	Theft/Stealing Of Any Credit Card Or Letter Of Credit	570.030	Med	96	17	4.8	18%
15095	Library Theft-\$500 Or More	570.210	Med	2	1	4.0	50%
15140	Check Kiting	570.220	Med	35	6	5.0	17%
18010	Forgery	570.090	Med	8,487	2,032	4.2	24%
18011	Counterfeiting	570.103	Med	23	6	4.8	26%
23015	Tampering 1St Degree W Mtr Veh, Airplane Motor Boat, Etc	569.080	Med	4,742	1,206	4.2	25%
23106	Property Damage Motivated By Discrimination 1St Degree	557.035	Med	8	1	8.0	13%
23241	Damage To Dept Of Corrections Bldg Or Property By An Innate	217.385	Med	12	12	3.1	100%
24010	Receiving Stolen Property \$150 Or More	570.080	Med	1,734	405	4.3	23%
29070	Perjury In A Procedure Involving A Felony Charge	575.040	Med	13	3	4.3	23%
29220	Tampering With Judicial Proceeding	575.260	Med	10	3	3.7	30%
29230	Tampering With A Witness In Felony Prose	575.270	Med	46	12	4.4	26%
15011	Stealing Over \$150 By Coercion Or Deceit	570.030	Low	14	-	-	0%
15021	Theft/Stealing (Value Of Property Or Services Is \$500 Less Than \$25,00	570.030	Low	3,143	539	4.3	17%
15022	Stealing A Watercraft Or Aircraft	570.030	Low	5	-	-	0%
15027	Theft/Stealing Any Anim/Species Of Horse Mule, Ass, Cattle, Swine, Or C	570.030	Low	3	-	-	0%



### Class C Non-Violent, continued

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
15029	Thef/Steal Live Fish Rais For Comm Sale Value Of Seventy/Five Dollars	570.030	Low	2	-	-	0%
15038	Stealing By Force	570.030	Low	51	3	4.3	6%
15044	Theft/Steal Any Orig Copy Of Act/Bill/Res Intro/Acted Upon By The Legislature	570.030	Low	1	-	-	0%
15046	Theft/Steal Any Pleading/Notice/Judgement Rec/Entry Of Any Ct Of This State	570.030	Low	7	-	-	0%
15060	Theft Of Cable Television Services Value Of \$150 Or More	570.300	Low	4	1	2.0	25%
15065	Theft Of Cable Tv Services Less Than \$500	570.300	Low	3	-	-	0%
15080	Stealing Grain	411.770	Low	10	1	2.0	10%
15090	Theft Of Library Material Material Over \$150.	570.210	Low	1	-	-	0%
15110	Misapplication Of Funds Of Financial Institution--Over \$1000	570.217	Low	7	-	-	0%
18020	Possession Of A Forging Instrumentality	570.100	Low	43	9	3.6	21%
18040	Filing Another's Medical Lic As Own Or Forging Affidavit Of Identification	334.250	Low	1	-	-	0%
19420	Falsifying Signature Of An Owner With Intent To Defraud	429.013	Low	1	-	-	0%
19430	Lien Fraud-Knowingly Issuing A Fraudulent Consent Of Owner Over Value	429.014	Low	7	-	-	0%
19690	Person Previously Convicted Of 2 Vio For Crime Related To Pub Asst/Guilty-C	578.389	Low	1	-	-	0%
19772	Filing A False Insurance Statement	374.216	Low	1	-	-	0%
19880	Financial Exploitation-Elderly/ Disabled Pers (Prop Value Over 250)	570.145	Low	4	-	-	0%
20110	Fraud Counterfeits/Alters/Forge State Lottery Ticket	313.290	Low	1	-	-	0%
21040	Promoting Prostitution - 2Nd Degree	567.060	Low	21	5	4.0	24%
23012	Tampering 1St Degree	569.080	Low	99	8	3.9	8%
23063	Tamper W/Computer Equip, Computer System Or Network Damag \$1000	569.097	Low	1	-	-	0%
23225	Institutional Vandalism Over \$5,000	574.085	Low	3	-	-	0%
24015	Receive Stolen Property-\$500 Or More/As A Dealer In Goods This Type	570.080	Low	703	157	4.1	22%
24100	Failure To Return Leased Or Rented Property Valued \$150 Or More	578.150	Low	212	36	3.6	17%
24105	Failure To Return Leased Or Rented Property \$500 Or More	578.150	Low	87	10	3.2	12%
31015	Unlawful Use Of Weapon Motivated By Discrimination	557.035	Low	20	1	2.0	5%
31070	Unlawful Possession Of Concealable Firearm	571.070	Low	53	14	4.1	26%
31075	Knowingly Poss Explos, Incend Or Poison Subst W/ Pur To Sell, Manufact	571.020	Low	4	-	-	0%
31080	Unlawful Possession, Transport, Manufact Ure, Repair Or Sale Of Illegal	571.020	Low	151	20	4.8	13%
31160	Threat To Place Or Plant Bomb Or Explosive At Or Near Bus Or Terminal	578.310	Low	1	-	-	0%
31170	Possession Of Weapon/Explosive Or Hazardous Material On Bus Or In	578.320	Low	1	-	-	0%
36340	Violations Health Care Pymts 2Nd Off Hcr Inj/Prop/O/\$150	191.905	Low	1	-	-	0%
36801	Keeping Or Maintaining A Public Nuisance Crim Street Gang Use	578.433	Low	9	1	2.0	11%
36967	Unlawful Practice Of Midwifery	334.250	Low	1	-	-	0%
39260	Sell Fish Wildlife Or Parts In Viol Of Rules And Reg - Over \$150	252.235	Low	1	-	-	0%
54076	Violation Of Any Provisions Of Sections 443805 To 443812	443.810	Low	1	-	-	0%

### Class D Non-Violent

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
14030	Possession Of Burglary Tools	569.180	High	151	65	4.2	43%
15012	Theft Of Anhydrous Ammonia	570.030	High	173	42	4.0	24%
15032	Stealing Animals	570.033	High	37	9	4.0	24%
15036	Steal/Relat Offenses/3Rd Offense Include Steal/Receiving/Buying Stolen	570.040	High	76	42	3.5	55%
17030	Knowingly Burning Or Exploding	569.055	High	238	50	4.3	21%
19045	Deceptive Business Practice	407.020	High	18	6	4.8	33%
19080	Defrauding Secured Creditors - \$500 Or More	570.180	High	48	4	4.0	8%
19173	Sale/Poss Of Mtr Veh/Trl/Boat/Mtr Veh Tire/Equip/Parts W/Missing Or F	301.390	High	22	8	3.3	36%
19368	Decept/Fraud Etc., Of Material Fact In Sale Or Advertise Or Solic Fund	407.020	High	27	6	5.2	22%
21050	Promoting Prostitution - 3Rd Degree	567.070	High	32	4	3.8	13%
23020	Tampering With Utility-2Nd Degree 2Nd And Subsequent Offense	569.090	High	10	1	4.0	10%
23137	Trespass Motivated By Discrimination 1St Degree	557.035	High	2	1	4.0	50%

## Class D Non-Violent, continued

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
23220	Institutional Vandalism	574.085	High	6	2	3.5	33%
24030	Alter Or Remove Item Number With Intent To Deprive Lawful Owner	570.085	High	11	3	3.7	27%
24035	Altering/Remove Item Number To Deprive Lawful Owner-\$500/More	570.085	High	2	1	5.0	50%
26083	Vio Of Term Of Ex-Parte On Full Order Of Protection (Within 5 Years)	455.085	High	199	54	3.1	27%
27020	Resisting Arrest Other Than By Flight; Interfering With Arrest For Felon	575.150	High	674	250	3.4	37%
28030	Escaping Custody Under Arrest For A Felony	575.200	High	52	30	3.5	58%
28065	Escape From Confinement	575.210	High	91	63	3.4	69%
29110	Tampering With Physical Evidence Felony	575.100	High	65	20	4.6	31%
29320	Bribery Of A Public Servant	576.010	High	12	1	5.0	8%
29370	Failure To Appear On Felony	544.665	High	152	80	3.1	53%
31040	Unlawful Transfer Of Weapon	571.060	High	15	2	5.0	13%
36048	Abandonment Of A Corpse	194.425	High	8	3	3.7	38%
36190	Recklessly Risk Infection Of Another With Hiv	191.677	High	10	6	4.0	60%
36341	Violations Involving Health Care Payments 1St Offense	191.905	High	6	1	4.0	17%
36545	Animal Abuse-Persistent Offender	578.012	High	31	4	5.0	13%
46682	Opr Mv On Hwy While Dr Lic/Priv Rev (Rev For Unknown Reasons)	302.321	High	176	69	3.2	39%
46685	Opr Mv On Hwy W Dr Lic Rev (Susp For Prob Caus 10/100 Bac/Zero T	302.321	High	9	1	5.0	11%
54029	Fail Offender Inform Law Offical Of New Addr-2Nd/Sub Violation	589.414	High	1	1	5.0	100%
54156	Fail Complete/Submit Offendr Reg Frm To Chief Leo-2Nd/Subs Offns	589.425	High	9	6	3.5	67%
19010	Passing A Bad Check	570.120	Med	3,377	482	3.5	14%
19011	Passing Bad Check-\$500 Or More No Account/Insufficient Funds	570.120	Med	1,401	177	3.2	13%
19030	Fraudulent Use Of Credit/Debit Device (Value Of \$500 Or More)	570.130	Med	883	154	3.7	17%
19042	Defrauding Of Credit Card Holder Issuer, Or Acquirer By An Authorize	407.436	Med	7	2	3.0	29%
19640	Unlaw Transfer Food Stamp Coupons/Atp Cards Val O/\$150 To Person	578.381	Med	2	1	2.0	50%
19778	Use Fund For Private Gains	375.390	Med	1	1	3.0	100%
23110	Property Damage 1St Degree	569.100	Med	1,016	141	3.5	14%
23245	Damage To Jail/Jail Property	221.353	Med	105	43	2.9	41%
26031	Nonsupport In Ea Six Mos Within Twelve Mo-Amt Owed Excess \$500	568.040	Med	7,595	497	3.2	7%
27035	Resist Arrest By Fleeing Caus- Ing Risk Of Injury/Death	575.150	Med	169	57	3.0	34%
28080	Failure To Return To Confinement Missouri Department Of Corrections	575.220	Med	38	28	2.5	74%
28110	Aiding Escape Of Prisoner Confined For A Felony	575.230	Med	7	2	3.0	29%
29030	Hindering Prosecution	575.030	Med	99	14	3.2	14%
31020	Unlawful Use Of Weapon (Sub Section 1-4)	571.030	Med	4,137	589	3.5	14%
33355	Del/Atmpt To Del/Poss/Dep/Con Alkaloid Of Cont/Sub, Intox Liq At C	217.360	Med	1	1	2.0	100%
33365	Alkaloid/Liquor In A Correctional Facility	221.111	Med	9	3	2.3	33%
34015	Making A False Bomb Report	575.090	Med	48	5	3.6	10%
37025	Filing A False Missouri Income Tax Return	143.941	Med	10	3	3.0	30%
46683	Opr Mv On Hwy W Dr Lic/Priv Revoked (Points/Fail To Take Test)	302.321	Med	181	47	2.8	26%
46687	Opr Mv On Hwy W Dr Lic Rev (Susp For Prob Caus 10/100 Bac/Zero T	302.321	Med	3	1	3.0	33%
46689	Oper Mv On Hwy W Dr Lic/Privilege Revoked (Suspended For Points)	302.321	Med	921	240	3.0	26%
46691	Oper Mv On Hwy W Dr Lic/Priv Revok (Susp For Impp Compact State)	302.321	Med	19	2	3.5	11%
46693	Opr Mv W Dl Rev (Sus After Fail Exam Fail To Submit To Exam Req E	302.321	Med	1	1	3.0	100%
48865	Left The Scene Of A Motor Vehicle Accident	577.060	Med	1,255	233	3.5	19%
54158	Including False Info In Offender Regist Stmt-2Nd/Subseq Ofns	589.425	Med	2	2	3.0	100%
54163	Offender Fail To Inform Chief Leo Of New Addr-2Nd/Subsequent Offns	589.425	Med	5	4	2.8	80%
15050	Remove Baggage From Bus Or Terminal W/O Owners Consent	578.330	Low	3	-	-	0%
15120	Misapplication Of Funds Of Financial Institution	570.217	Low	1	-	-	0%
15130	Making False Entries In Records Of Financial Institution	570.219	Low	4	-	-	0%
15152	More Than 1000 Artcls Unauthorized Recording 2Nd/Subsequent Offn	570.225	Low	1	-	-	0%
15212	Causing Tft/Loss To/From Ann Facility From \$300 To \$10,000	578.409	Low	2	-	-	0%
18012	Counterfeiting	570.103	Low	11	-	-	0%
19015	Fraudulently Stop Payment Of An Instrum Over \$150	570.125	Low	22	1	2.0	5%
19016	Fraud Stop Payment Of An Instru- Ment/S Value Of \$500 Or More	570.125	Low	3	-	-	0%
19146	Emp State On Withhold Form Child Sup Not Owe-Know Owe Support	285.308	Low	1	-	-	0%
19150	Obtain Public Assistance Information Illegally	205.967	Low	7	-	-	0%
19190	Removal Or Defacing Manufacturer'S Numbe R On Special Mobile Equ	301.401	Low	4	-	-	0%
19214	Odometer Fraud 2Nd Degree	407.521	Low	1	-	-	0%

### Class D Non-Violent, continued

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
19245	Defacing, Obscuring Or Otherwise Falsifying Any Odometer Reading	407.536	Low	1	-	-	0%
19300	Fraudulent Security Practices	409.101	Low	4	-	-	0%
19305	Making False Or Misleading Statement	409.410	Low	1	-	-	0%
19365	Any Person Willingly And Knowingly Vio An Order Of Atty General/C	407.095	Low	1	-	-	0%
19367	Pyramid Sales Schemes Prohibited	407.420	Low	3	-	-	0%
19600	Unlawfully Receiving Food Stamp Coupons Or Atp Cards Over \$150 V4	578.377	Low	1	-	-	0%
19605	Unlawfully Receiving Food Stamps/Atp Card-\$500 Or More	578.377	Low	1	-	-	0%
19620	Unlawful Conversion Of Food Stamp Coupon Or Atp Cards To Property	578.379	Low	1	-	-	0%
19655	Perjury In Application For Public Assistance \$500/More	205.965	Low	1	-	-	0%
19660	Perjury In The Application To Obtain Public Assistance Over \$150	578.385	Low	1	-	-	0%
19725	Offer Bribe To Health Facility Review Committee - 2Nd Offense	197.326	Low	1	-	-	0%
19775	Commission Of Fraudulent Insurance	375.991	Low	6	-	-	0%
19776	Filing False Statement	374.210	Low	6	1	3.0	17%
19870	Misappropriation Of Funds Of Elderly Nursing Home Residents	198.097	Low	4	-	-	0%
20010	Gambling Professional Player	572.020	Low	1	-	-	0%
20040	Promoting Gambling - 1 St Degree	572.030	Low	6	-	-	0%
20060	Possession Of Gambling Records - 1St Deg Ree	572.050	Low	2	-	-	0%
20120	Intent To Defraud By Mfg/Poss Of Counterfeit Lottery Ticket/Device	313.290	Low	1	-	-	0%
20260	Viol Laws-River Boat Gambling-Juris- Diction Of Port City	313.830	Low	11	-	-	0%
21015	Prostitution-Persistent Offender	567.020	Low	16	4	3.0	25%
23031	Tampering With Property Of An- Other Motivated By Discrimination	557.035	Low	8	2	2.5	25%
23042	Tamper W/Computer Data To Defraud Or Obtain Property Value Over \$	569.095	Low	1	-	-	0%
23043	Tamp W/Computer Data To De- Fraud/Obtain Property \$500/More	569.095	Low	1	-	-	0%
23064	Damage To Computer Equipment, System Or Network \$150 Or More B	569.097	Low	4	-	-	0%
23108	Property Damage Motivated By Discrimination 2Nd Degree	557.035	Low	2	-	-	0%
23230	Institutional Vandalism \$1,000 - \$5,000	574.085	Low	1	-	-	0%
23274	Violate Section 578416 Regard- Ing Crop Loss-\$501-\$1,000	578.418	Low	1	-	-	0%
26030	Non-Support Leave State	568.040	Low	18	-	-	0%
26160	Surrendr/Trnsfr Cust-Minorchld- W/O Obt Crd Ord-Approv/Orderng	453.110	Low	4	1	2.0	25%
26180	Having Custody Of Child In Viol Of Sect 453005-453170/210620	453.112	Low	1	-	-	0%
28010	Escape From Commitment	575.195	Low	9	2	2.5	22%
29010	Concealing An Offense	575.020	Low	6	1	2.0	17%
29075	Perjury In A Procedure Not Involving A Felony Charge	575.040	Low	6	1	3.0	17%
29260	Acceding To Corruption - Felony Prosecut Ion	575.280	Low	2	-	-	0%
29330	Acceding To Corruption By A Public Serv Ant	576.020	Low	10	1	2.0	10%
31127	Loaded Firearm/Weapon-School-School Bus-School Sanctioned Activit	571.030	Low	7	-	-	0%
31162	Poss/Disc Loaded F/A Projectile Weapon While Intoxicated	571.030	Low	11	1	3.0	9%
33285	Selling Intoxicating Liquor Without State License	311.550	Low	4	1	2.0	25%
33350	Possess Alkaloid, Spiritous Or Malt Liquor On Premises Of Corr Facility	217.360	Low	4	1	1.0	25%
34022	Invasion Of Privacy Of Multiple Individuals - 2Nd Degree	565.253	Low	6	-	-	0%
34026	Invasion Of Privacy-Prev Guilty Or Found Guilty-2Nd	565.253	Low	1	-	-	0%
35080	Class One Election Offenses	115.631	Low	6	-	-	0%
36200	Dog Fighting	578.025	Low	9	-	-	0%
36310	Abuse Neg Or Misappropriation Client Prop By Hospice Employee	197.266	Low	1	-	-	0%
36400	False Information For Birth Certificate	193.315	Low	2	-	-	0%
36600	Knowingly Disturb/Destroy/Remove/Vandal/ Damage Unmarked Human	194.410	Low	2	-	-	0%
37005	W/Int To Defraud, Wilfully Fail To Make Sales Tax Retrn/Pay/Keep Recd	144.480	Low	47	3	2.0	6%
37008	Emplyr Willfully Failed To File Return/Pay Withholding Tax	143.221	Low	1	-	-	0%
37015	Failure To File A Missouri Income Tax Return	143.931	Low	17	-	-	0%
37060	Penalty For Filing False Sales Tax Return	144.490	Low	1	-	-	0%
37080	Attempting To Evade Or Defeat Income Tax	143.911	Low	3	-	-	0%
37090	Failure To Collect Or Pay Over Income Tax	143.921	Low	3	-	-	0%
37103	Employee/Trustee Rec Com/Profit -Lands Held By Land Trust	141.810	Low	2	-	-	0%
46004	Op Cmv W/O Sp Fuel License Or Permit By Dor W Int To Defraud	142.422	Low	1	-	-	0%
46609	Operated Vehicle On Hwy W/O Valid License 3Rd & Subsq Offense	302.020	Low	185	21	3.0	11%
46613	Opr Mtrcy When Dr Lic No Vali- Dated For Such Opr-3Rd/Subsq Offns	302.020	Low	11	1	3.0	9%
46681	Opr M/V On Hwy W Driver Lic/Priv Rev (Revoked For Abuse & Lose	302.321	Low	123	25	2.9	20%
46684	Dwr-Suspended For Stealingmotor Fuel As Pursuant To Sect 302286	302.321	Low	11	1	3.0	9%
46692	Oper Mv W Dr Lic/Priv Rev-Revfor Prob Cause 08/100% Bac/Zero Tol	302.321	Low	16	3	2.7	19%
46694	Oper Mv W Dr Lic/Priv Rev-Susp For Prob Cause 08/100% Bac/Zero T	302.321	Low	5	-	-	0%
46695	Opr Mv On Hwy W Dr Lic/Priv Rev (Susp Non Appear/Non Pay Of Fin	302.321	Low	5	1	2.0	20%
46697	Op Mv W Dr Lic/Priv Revok (Susp Non Payment Of Child Support)	302.321	Low	16	4	2.5	25%
48867	Leaving Scene Of Atv Accident--Death Or 2Nd Offense	577.065	Low	8	-	-	0%

**Class D Non-Violent, continued**

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
54028	Fail Complete/Submit Offendr Reg Frm With Law Officer-2Dn/Subs Vi	589.400	Low	3	-	-	0%
54045	Knowingly Cause The Death Or Disablement Of A Police Animal	575.335	Low	1	-	-	0%
54161	Fail To Timely Verify Info In Stmt For Ofndr Reg-2Nd/Subseq Ofns	589.425	Low	1	-	-	0%
54166	Failure Of Offender/Inform Chief Law Enforce/Off/Change/Enroll/Empl	589.425	Low	1	-	-	0%
54205	Leaving The Scene Of A Vessel Accident Physical Injury	306.141	Low	1	-	-	0%
55250	Counterfeiting	18U.SC4	Low	2	-	-	0%
55261	Making A False Affidavit To Secure Federal Employment	7US.C20	Low	1	-	-	0%
55290	Willful And Malicious Injury To Mail Rec Eptacle	18U.SC1	Low	1	-	-	0%
57080	Illegal Wiretapping In Violation Of Section 542.402	542.402	Low	1	-	-	0%
57125	Invasion Of Privacy Of Multiple Individuals/2Nd Degree	565.253	Low	1	-	-	0%
58001	Making A False Bomb Report	575.090	Low	9	2	2.5	22%

Any unlisted offense will have Medium severity.

## Recommended Sentences for Drug Offenses

*For all cases where a community-based sentence is recommended, the commission recommends referral to a drug court where available and where the offender is eligible.*

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
<b>Class A</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	14.4%	17.0%	47.8%	58.3%	66.7%	
	<i>Ave. Prison Sentence</i>	12.1	9.8	12.5	10.7	15.3	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	Probation	Shk/Trt	10	13
		Presumptive	Probation	CSS	10	13	15
		Aggravating	Shk/Trt	10	13	15	20
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	10
		Presumptive	Probation	CSS	Shk/Trt	10	13
		Aggravating	Shk/Trt	Shk/Trt	10	13	18
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	10
		Presumptive	Probation	CSS	Shk/Trt	10	12
Aggravating	CSS	Shk/Trt	10	12	15		
<b>Class B</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	8.9%	24.4%	47.3%	52.9%	50.0%	
	<i>Ave. Prison Sentence</i>	7.1	7.3	8.0	8.2	8.1	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	10
		Presumptive	Probation	CSS	Shk/Trt	10	12
		Aggravating	Shk/Trt	Shk/Trt	10	12	15
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	8
		Presumptive	Probation	CSS	Shk/Trt	8	10
		Aggravating	Shk/Trt	Shk/Trt	8	10	12
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	6
		Presumptive	Probation	CSS	Shk/Trt	6	7
Aggravating	CSS	Shk/Trt	6	7	10		
<b>Class C</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	6.2%	21.7%	44.9%	48.1%	52.7%	
	<i>Ave. Prison Sentence</i>	4.2	4.3	4.5	4.8	5.3	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	5
		Presumptive	Probation	CSS	Shk/Trt	4	6
		Aggravating	CSS	Shk/Trt	4	5	7
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	3
		Presumptive	Probation	CSS	Shk/Trt	3	4
		Aggravating	CSS	Shk/Trt	3	4	5
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	2
		Presumptive	Probation	CSS	Shk/Trt	2	3
Aggravating	CSS	Shk/Trt	2	3	4		

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
Class D	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	9.7%	19.0%	56.2%	50.0%	66.7%	
	<i>Ave. Prison Sentence</i>	3.1	3.1	3.2	3.6	3.8	
	<b>Offense Severity</b>	<b>High</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	2
		Presumptive	Probation	CSS	Shk/Trt	2	3
		Aggravating	CSS	Shk/Trt	2	3	4
		<b>Medium</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	2
		Presumptive	Probation	CSS	Shk/Trt	2	2
		Aggravating	CSS	Shk/Trt	2	2	3
		<b>Low</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	Shk/Trt
		Presumptive	Probation	CSS	Shk/Trt	2	2
Aggravating		CSS	Shk/Trt	2	2	3	

**Aggravating Factors**

- The defendant was armed with or used a dangerous or deadly weapon during the commission of the offense and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant has also been convicted of a violent offense (felony, misdemeanor or infraction) committed during the commission of the offense.
- The defendant made, or expected to make, a substantial financial gain from the commission of the offense.
- The defendant had possession of a substantial amount of illegal drugs or controlled substances or precursor chemicals or possession of large-scale equipment for the manufacturing of illegal drugs.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

**Mitigating Factors**

- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more).
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

## SEVERITY OF OFFENSE

### Class A Drugs

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
32463	Distr/Del/Man (Sell) Controlled Substance Prir/Persisnt Offendr	195.211	High	242	40	14.1	17%
32490	Trafficking In Drugs/Attemp To Traffic In Drugs-1St Degree	195.222	High	312	138	12.9	44%
32497	Trafficking In Drugs/Att To Traffic In Drugs-1St Deg, Within Motor Ve	195.222	High	1	1	30.0	100%
32040	Drug Violation - Possession	195.020	Med	17	2	11.5	12%
32448	Possess Cont Subs Except 35 Gm Or Less Mj Persistent Offender	195.202	Med	67	19	13.3	28%
32485	Distribution Of Controlled Substance Near Schools	195.214	Med	371	46	13.4	12%
32486	Dist Controlled Substance Near Pub House-Govt Assisted Housing	195.218	Med	124	17	11.9	14%
32495	Trafficking In Drugs/Attempt To Traffic In Drugs-2Nd Degree	195.223	Med	982	172	11.8	18%
32461	Manf/Prod/Att/Manf/Prod,5 Grms Marj/C Su In Res W/Child/2000/Sch	195.211	Low	11	3	8.3	27%
32492	Trafficking In Drugs/Attempt To Traffic Drugs-1St Deg-Nea Schools/Pt	195.222	Low	5	-	-	0%

### Class B Drugs

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
32449	Possess Controlled Subs Except 35 Gm Or Less Mj Prior Offender	195.202	Med	218	39	8.3	18%
32465	Distribute, Deliver, Manufacture A Controlled Substance	195.211	Med	12,094	2,369	7.8	20%
32475	Distribute Controlled Substance To A Minor	195.212	Med	51	5	9.0	10%
32500	Trafficking In Drugs/Attempt To Traffic In Drugs-2Nd Degree	195.223	Med	2,228	402	8.0	18%
32645	Any Pers Not The Own/Not In Law/Control Of Appr/Con Allow/Rel Of	577.075	Med	1	1	7.0	100%
32480	Purchase Or Transport Of Controlled Substance With A Minor	195.213	Low	7	-	-	0%

### Class C Drugs

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
32070	Drug Violation - Sell	195.020	High	6	1	5.0	17%
32470	Distribute Or Deliver Not More Than 5 Grams Marijuana	195.211	High	773	115	4.7	15%
32566	Poss Chemicals W/Intent To Mfg Chemicals To Create Controlled Sub	195.420	High	917	289	4.8	32%
32320	Possess Controlled Substance Unless Auth On Premises Of A Correction	217.360	Med	333	157	3.2	47%
32322	Deliver/Attempt To Del/Pos/Dep/Conceal Cont/Subs At Correct/Facility	217.360	Med	51	27	3.7	53%
32327	Controlled Substance In Correction Facil Except With A Written Prescri	221.111	Med	149	61	4.0	41%
32450	Possession Of Controlled Substance	195.202	Med	31,984	4,465	4.5	14%
32531	Appr/Mater Under \$500/The Intent To Manuf/Compound/Prepare/Test C	570.030	Med	10	2	4.0	20%
32255	Keeping Or Maintaining A Public Nuisance	195.130	Low	59	10	4.2	17%
32483	Unlawful Endangerment Of Property	195.219	Low	1	-	-	0%
32581	Acted As Wholesale Drug Or Pharmacy Dis- Tributor Without Obtainin	338.333	Low	1	-	-	0%
32591	Sale Of Drugs By Out-Of-State Distributor Without License	338.340	Low	5	-	-	0%

## Class D Drugs

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
32487	Provide Reagents/Solvents/Percur Matl W Int To Produce Cont Subst	195.226	High	32	12	3.4	38%
32527	Appropriate Und 150 W Int To Manf/ Prod/Etc Amphet/Methamphetamine	570.030	High	15	4	4.0	27%
32529	Appropriate Material Less/\$500 W/Intent To Manf,Test Meth	570.030	High	7	4	4.0	57%
32565	Poss W/Intent To Mfg Compound Convert Test Alter Chem To Control	195.420	High	8	2	4.5	25%
32610	Possession Of Anhydrous Ammonia In A Nonapproved Container	578.154	High	99	37	3.3	37%
32506	Unlawful Use Of Drug Paraphernalia Amphetamine/Methamphetamine	195.233	Med	449	115	3.7	26%
32510	Deliver/Possess/Manufacture With Intent To Deliv Drug Paraphernalia	195.235	Med	262	60	3.5	23%
32520	Deliver Possess Or Manuf W/Intent To Deliver Imitation Contr Substance	195.242	Med	294	47	3.4	16%
32526	Possess Ephedrine With Intent To Manufacture Methamphetamine	195.246	Med	779	199	3.8	26%
32550	Seler, Purchaser Must Sign Rpt That Tran Sfer Was Made Report To De	195.400	Med	13	1	5.0	8%
32568	Manuf/Whsalr-Fail Rept Susp Trans- Meth Precu Durg-Req By Sec 195	195.515	Med	2	1	2.0	50%
32460	Fraudulently Attempting To Obtain Controlled Substance	195.204	Low	822	80	3.1	10%
32528	Sell/Label Any Drug Prod W/Ephe- Edrind Unapp Re Fed Monograph	195.248	Low	6	-	-	0%
32530	Dist/Disp A Controlled Sub W/Out Obtaining A Regist	195.252	Low	6	-	-	0%
32540	Manufact, Distributor Or Agent Or Employ To Deliver Controlled Subst	195.254	Low	87	7	3.6	8%
32545	Mfg, Deliver, Poss With Intent To, A Con Troled Subst In Container Fal	195.256	Low	15	-	-	0%
32560	Sell Transf Furnish Recev Any Substance Without Registration (Effect 7	195.405	Low	8	1	3.0	13%
32570	Knowingly Pur Or Recv Drugs From Other Than Licensed Or Registered	338.315	Low	1	-	-	0%
55350	Violation Of Federal Narcotic Laws	21U.SC8	Low	2	-	-	0%

Any unlisted offense will have Medium severity.



## Recommended Sentences for DWI Offenses

Felony Class		Prior Criminal History					
		Level I	Level II	Level III	Level IV	Level V	
<b>Class D</b>	<i>Data 2004</i>						
	<i>Percent Prison Disposition</i>	8.2%	24.1%	56.7%	59.7%	66.1%	
	<i>Ave. Prison Sentence</i>	2.9	3.3	3.3	3.5	3.7	
	<b>Offense Severity: Medium</b>	<b>Persistent Offender</b>					
		Mitigating	Probation	CSS	5	6	7
		Presumptive	CSS	CSS	5	6	7
		Aggravating	Shk/Trt	Shk/Trt	5	6	7
		<b>Committed</b>					
		Mitigating	Probation	Probation	CSS	Shk/Trt	2
		Presumptive	Probation	CSS	Shk/Trt	2	3
		Aggravating	Shk/Trt	Shk/Trt	2	3	4
		<b>Attempt</b>					
		Mitigating	Probation	Probation	Probation	Shk/Trt	2
		Presumptive	Probation	Probation	CSS	CSS	Shk/Trt
Aggravating		Shk/Trt	Shk/Trt	2	3	4	

### Aggravating Factors

- The defendant possessed a dangerous or deadly weapon during the commission of the offense and has not been convicted of an offense that includes the possession of a dangerous or deadly weapon.
- The defendant has also been convicted of a violent offense (felony, misdemeanor or infraction) committed during the commission of the offense.
- The defendant has more than two prior convictions of the offense of driving while intoxicated third offense or has two or more convictions for driving while intoxicated third offense undischarged, including the current conviction.
- The defendant caused severe financial loss to the victim of the driving offense. There has been loss of business, employment or serious financial loss when the value of the loss is not included in the offense for which the defendant has been convicted.
- The defendant caused severe physical or emotional trauma to the victim of the offense. The victim has required medical or mental health intervention and the impact of the trauma is not included in the offense for which the defendant has been convicted.
- The defendant committed the offense while under supervision by a federal, state or local authority on another charge.
- Any other aggravating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

### Mitigating Factors

- The defendant has made or is making restitution to the victim.
- For offenses related to drug or alcohol dependency, the offender has agreed to enter or has entered a drug or alcohol treatment program and there is a plan for continuing relapse prevention. Not to apply if the sentence involves placement in a drug or alcohol treatment program.
- The defendant used caution to avoid risk or injury to others and caused no injury, financial loss or trauma to the victim. Not to apply when the offender has been convicted of the attempt of the offense.
- The defendant has cooperated with law enforcement.
- The defendant has had a substantial period of crime-free living prior to the commission of the offense (five years or more)
- Any other mitigating factors reasonably related to the purposes of sentencing, as specified by the court or by the sentence assessment report.

## DWI Offenses

### Class D DWI

Offense	Description	RSMO Statute	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
47430	Operated Mtr Veh While In An Intoxicated Condition (Drug Intoxicatio	577.010	Med	90	20	3.8	22%
54310	Operation Of A Watercraft While Intoxi- Cated, 3Rd & Subsqt Off	306.111	Med	2	1	5.0	50%
47410	Operated Mtr Veh While In An Intoxicated Condition (Alcohol Intoxica	577.010	Med	10,607	2,550	3.6	24%
47470	Excessive Bac-Persistent Offender	577.012	Med	74	6	3.7	8%
47450	Operated Mtr Veh While In An Intoxicated Condition (Combined Alc/D	577.010	Med	215	15	3.3	7%

Any unlisted offense will have Medium severity.

**FELONY CLASSIFICATION OF OFFENSES WITHOUT A  
FELONY CLASS FOR THE RECOMMENDED SENTENCES**

The following felony offenses without a classification have been given a felony class from A to D based upon average prison sentences. Offenses with an average prison sentence of 10 years or more are assigned Class A, average sentences from 8 to 9 years are assigned Class B, offenses with an average sentence from 5 to 7 years are assigned Class C and sentences 4 years or less are assigned Class D. The offenses are included in the appropriate offense and felony class group.

Offense Group	Offense	Description	RSMO Statute	Felony Class for Rec. Sen	Offense Severity	Sentence Count	of which Prison	Ave. Prison Sent. Yrs.	Ave. Percent Prison Disp.
SEX	11005	FORCE RAPE-SEX INTERC BY FORCE	566.03	A	HIGH	6	6	18.7	100
SEX	11010	FORCIBLE RAPE WITH WEAPN OR PH	566.03	A	HIGH	73	68	18.4	93.2
SEX	11082	FORBICLE SODOMY DEVIATE SEX IN	566.03	A	HIGH	1	1	30	100
SEX	11084	FORCIBLE SODOMY-DEVIATE SEXUAL	566.06	A	HIGH	15	10	19	66.7
SEX	11088	ATTEMPTED FORCIBLE SODOMY-ATTE	566.06	A	MED	3	1	28	33.3
SEX	11008	FORCIBLE RAPE-SEXUAL INTER- CO	566.03	A	LOW	23	13	14.5	56.5
SEX	11012	ATTEMPT FORCIBLE RAPE-ATTEMPT	566.03	A	LOW	5	2	11.5	40
SEX	11025	STATUTORY RAPE-1ST DEG SEX INT	566.032	A	LOW	124	72	11.4	58.1
SEX	11095	STAT SODOMY-1ST-DEVIATE SEX IN	566.062	A	LOW	26	14	17.6	53.8
SEX	11097	STAT SODOMY-1ST DEG-DEVIATE SE	566.062	A	LOW	124	89	12.7	71.8
SEX	11032	STAT RAPE-1ST DEG-SEX INTERCOU	566.032	B	MED	10	6	9.3	60
SEX	11016	ATTEMPT FORCE RAPE-ATTEMPT SEX	566.03	C	HIGH	2	2	6	100
NVI	19320	SALE OF UNREGISTERED SECURITIE	409.301	C	HIGH	2	2	6.5	100
NVI	29370	FAILURE TO APPEAR ON FELONY	544.665	D	HIGH	152	80	3.1	52.6
NVI	37025	FILING A FALSE MISSOURI INCOME	143.941	D	MED	10	3	3	30
NVI	15152	MORE THAN 1000 ARTCLS UNAUTHOR	570.225	D	LOW	1	0	0	0
NVI	19150	OBTAIN PUBLIC ASSISTANCE INFOR	205.967	D	LOW	7	0	0	0
NVI	19300	FRAUDULENT SECURITY PRACTICES	409.101	D	LOW	4	0	0	0
NVI	19305	MAKING FALSE OR MISLEADING STA	409.41	D	LOW	1	0	0	0
NVI	33285	SELLING INTOXICATING LIQUOR WI	311.55	D	LOW	4	1	2	25
NVI	35080	CLASS ONE ELECTION OFFENSES	115.631	D	LOW	6	0	0	0
NVI	37015	FAILURE TO FILE A MISSOURI INC	143.931	D	LOW	17	0	0	0
NVI	37080	ATTEMPTING TO EVADE OR DEFEAT	143.911	D	LOW	3	0	0	0
NVI	37090	FAILURE TO COLLECT OR PAY OVER	143.921	D	LOW	3	0	0	0
NVI	46004	OP CMV W/O SP FUEL LICENSE OR	142.422	D	LOW	1	0	0	0
NVI	55250	COUNTERFEITING	18U.SC4	D	LOW	2	0	0	0
NVI	55261	MAKING A FALSE AFFIDAVIT TO SE	7US.C20	D	LOW	1	0	0	0
NVI	55290	WILLFUL AND MALICIOUS INJURY T	18U.SC1	D	LOW	1	0	0	0
DRG	32040	DRUG VIOLATION - POSSESSION	195.02	A	MED	17	2	11.5	11.8
DRG	32070	DRUG VIOLATION - SELL	195.02	C	HIGH	6	1	5	16.7
DRG	55350	VIOLATION OF FEDERAL NARCOTIC	21U.SC8	D	LOW	2	0	0	0

## COMMUNITY STRUCTURED SENTENCING

The complete list of available community programs, outline of programs and eligibility requirements are contained in the document “Supervision Strategies and Treatment Alternatives” published by the Board of Probation and Parole.

### State-Sponsored Community Sentencing Alternatives

Program	Drug Courts	Electronic Monitoring Program	Alt-Care Program
<b>Description</b>	<p>Treatment based alternatives to prison, jail and probation. The drug court may serve as a pre-plea diversion program or as post-plea that can accept probationers under revocation status and offenders released from 120 day and long term programs.</p> <p>Most drug court programs have a 12-24 month duration. Intensive supervision and treatment. Integrated and non-adversarial treatment approach. Partnerships with other public agencies and community based organizations.</p>	<p>A home based program providing enhanced control which is monitored 24 hours a day. The multi-phased program is usually 120 days in length. Single phase is 30 days.</p> <p>The court may place offenders on Electronic Monitoring at the time of sentencing or as a result of a violation during the period of probation.</p> <p>For offenders who have a need for more physical control.</p>	<p>An intensive out-patient treatment program for women who have demonstrated a need for substance abuse treatment and related support services.</p> <p>The program is multiphased and may last up to 2 years.</p> <p>Female offenders with substance abuse issues requiring intensive treatment. Pregnant women on medicaid or women with children will be given priority.</p>
<b>Program Criteria</b>	<p>Felony, misdemeanor drug or alcohol charge or drug/alcohol related offense. Most courts accept only non-violent first time offenders.</p>	<p>Offenders must have a viable, stable homeplan with a working telephone, prior to the referral to the Electronic Monitoring Program.</p>	<p>No serious physical or mental health problems.</p>
<b>Availability</b>	<p>At end of June 05 thirty four circuits had drug courts. Contact: Office of State Courts <a href="mailto:Ann.Wilson@courts.mo.gov">Ann.Wilson@courts.mo.gov</a>.</p>	<p>Statewide</p>	<p>Available in Jackson and St. Louis Counties</p>
<b>Judicial Process</b>	<p>Charges must be filed with the court by the prosecuting attorney's office.</p> <p>Eligible participants are screened by the prosecutor, probation officer and treatment provider.</p>	<p>The Court may order Electronic Monitoring. Placement may be determined by the probation officer based on offender's risk and needs.</p>	<p>The Court may order the Alt-Care Program. Placement may be determined by the probation officer based on offender's risk and needs.</p>

## State-Sponsored Community Sentencing Alternatives (continued)

Program	TREND Program	Intensive Supervision Program	Local Resources
<b>Description</b>	<p>TREND is a rehabilitative program designed to assist male offenders in developing long term solutions to their non-productive behaviors pertaining to drug use, employment, education, life skills and criminality.</p> <p>This program provides a structured environment at the Kansas City Community Center with intensive out-patient treatment for the first two phases of the program. A residential program specifically for probationers who have never been to the Missouri Department of Corrections (120day call back probationers are acceptable)</p>	<p>Intensive supervision is a multiphased program with a higher level of contacts between with the offender, the officer, significant others and community resources.</p> <p>Offenders who need training, treatment, and increased behavior management.</p>	<p>Based on geographic location of an offender, local resources or programs may be utilized to address needs and risk.</p> <p>These resources may provide such services as group/individual/ family counseling, chemical dependency education/treatment, mental health diagnosis and/or intervention, and relapse prevention.</p> <p>Court may collaborate with local probation office to assess availability and appropriateness of local resource options.</p>
<b>Program Criteria</b>	<p>Missouri Department of Corrections (120day call back probationers are acceptable)</p> <p><b>TREND IS NOT AN INPATIENT DRUG TREATMENT PROGRAM.</b></p>	<p>Offenders who present a moderate to high risk and high casework needs.</p>	<p>Based on admission criteria established by the designated local resource/program</p>
<b>Availability</b>	<p><i>Continued drug use in the TREND program will result in an unsuccessful discharge.</i></p>		
<b>Judicial Process</b>	<p>Kansas City</p> <p>The Court may order the TREND Program, Placement may be determined by the probation officer based on offender's risk and needs.</p>	<p>Statewide</p> <p>Placement is determined by the probation officer based on offender's risk and needs.</p>	<p>Statewide, however, varies by geographical region Placement and eligibility for a localized resource/program is determined by the probation officer. Court should contact the state probation office in their respective jurisdiction.</p>

## Department Of Corrections (Institutional) Sentencing Alternatives

Program Statute	Shock Incarceration Program 559.115 RSMo	Institutional Treatment Center 559.115 RSMo	Sex Offender Assessment Unit 559.115 RSMo
<b>Description</b>	Program emphasis on general lifeskills, substance abuse education, vocational guidance and the development of an appropriate community based home plan.	Highly structured treatment program with emphasis on criminality, life skills, relapse prevention, substance abuse treatment and community home plan development.	An intensive assessment program for sex offenders that provides a complete psychological assessment to determine an offender's extent of psychopathology, risk to reoffend and amenability to treatment. Offers basic relapse prevention education.
<b>Program Criteria</b>	<p>Male or female</p> <p>Offenders convicted of Murder II, Forcible or Statutory Rape, Forcible or Statutory Sodomy, Child Molestation I (B Felony), Abuse of a Child (A Felony), or a predatory sex offender cannot be sentenced pursuant to 559.115.</p> <p>Serious mental/physical health problems which prevent an offender from benefitting from this program may preclude eligibility.</p> <p>Offenders are housed in general population.</p> <p>No sex offenders</p>	<p>Male or female</p> <p>Must have an active substance problem and failed attempts in community treatment.</p> <p>Offenders convicted of Murder II, Forcible or Statutory Rape, Forcible or Statutory Sodomy, Child Molestation I (B Felony), Abuse of a Child (A Felony), or a predatory sex offender cannot be sentenced pursuant to 559.115.</p> <p>Male offenders with documented, diagnosed mental health and substance abuse issues should be referred to the Co-Occurring Disorders Program, pursuant to RSMo 559.115.</p> <p>No sex offenders</p>	<p>Males only</p> <p>No Alford Plea or pending appeal</p> <p>Offenders convicted of Murder II, Forcible or Statutory Rape, Forcible or Statutory Sodomy, Child Molestation I (B felony), Abuse of a Child (A Felony) or a predatory sex offender cannot be sentenced pursuant to 559.115.</p> <p>Serious mental or physical health problems which prevent an offender from benefitting from treatment may preclude eligibility.</p> <p>A PSI must be completed.</p>
<b>Judicial Process</b>	Reservations Required Sentencing pursuant to RSMo 559.115 (no specific program recommendation needed)	Reservations Required Sentencing pursuant to RSMo 559.115 with recommendation for Institutional Treatment Center (ITC).	After PSI complete, sentencing pursuant to RSMo 559.115 with recommendation for Sex Offender Assessment Unit (SOAU).

**Department Of Corrections (Institutional) Sentencing Alternatives  
(continued)**

<b>Program Statute</b>	<b>MO Post Conviction Drug Program 217.785 RSMo</b>	<b>Long Term Drug Program 217.362 RSMo</b>
<b>Description</b>	Substance abuse program with two phases. Phase I is within the community and Phase II is an Institutional Treatment Center.	Highly structured, long term therapeutic community treatment program for serious substance abusers. Uses self and mutual help, peer pressure and role modeling to achieve recovery goal.
<b>Program Criteria</b>	<p>Male or female</p> <p>First time offender</p> <p>Offense is violation of RSMo 195 OR substance abuse was a precipitating factor in the commission of the offense</p> <p>Active addiction to controlled substance(s) (Alcohol only not eligible)</p> <p>Serious mental or physical health problems which prevent an offender from benefitting from treatment may preclude eligibility INTO PHASE II.</p> <p>No sex offenders in PHASE II.</p>	<p>Literate male or female</p> <p>Documented substance addiction</p> <p>The offender must be found to be a chronic non-violent offender. (must have at least THREE non-violent felony findings of guilt.) A felony SIS probation is considered a finding of guilt.</p> <p>No present sex offenders. Will take prior sex offenders if MOSOP was completed.</p> <p>Offense must be statutorily eligible for probation.</p>
<b>Judicial Process</b>	Order for SIS or SES probation with a special condition for Post-Conviction Treatment RSMo 217.785. MUST SPECIFY EITHER PHASE I OR PHASE II.	Reservations Required Sentence of at least a total of 4 years pursuant to RSMo 217.362 with recommended placement in the Long Term Substance Abuse Program.

In addition to supervision alternatives provided by the Missouri Department of Corrections, there may be local programs available in particular counties or court circuits.

## SENTENCING ASSESSMENT REPORT

The Sentencing Assessment Report is intended to provide the Court with information regarding risk and related factors necessary in the determination of an appropriate sentencing decision. The report incorporates Sentencing Commission standards in conjunction with an identification of the offender's risk level, based on the nature and severity of the offense, prior criminal history, and other relevant factors. Information is provided in the report to assist the Court in determining the impact of the offense on the victim. The report also provides information to the Court regarding available department programs and resources necessary to support the court's sentencing decision and effectively manage the offender's presenting risk level and factors. In addition, the report provides the Court with parole release eligibility based on the sentence structure and Parole Board salient factor guidelines. This report helps the Department of Corrections with assessment, supervision, and management of the offender.

The probation and parole officer compiles the information for the Sentencing Assessment Report via a guided interview with the offender and an investigative process. The format for the report consists of the Introduction; a Risk Assessment Summary (present offense circumstances and severity, prior criminal history, victim impact, and an assets and liabilities assessment); the Offender Management Plan (community sentence strategy options, institutional program/service options, and re-entry/transitional planning considerations); and Conclusion (evaluation and recommendation based on Sentencing Commission standards, parole release eligibility and average time served for offenders with similar risk in the previous fiscal year).

The itemized offender risk score will also be listed.

The Sentencing Assessment Report (SAR) provides valuable information to the Court for its consideration in the sentence decision-making process, in terms of identifying key offender risk indicators, incorporating Sentence Commission standards, and outlining available department resources and strategies necessary to support the Court's sentencing decision.

The results of a survey conducted by the University of Missouri Columbia's Institute of Public Policy to measure the response of judges to the SAR is included as Appendix G.



## **Sentencing Assessment Report Format**

### **I. Offender Identifying Information**

- Name, social security number, date of birth, gender, race
- Court information, including offense class and charge code
- Existence of a plea agreement (if known)

### **II. Risk Assessment**

#### **A. Present Offense Information**

- Concise summary of the offense (nature & severity)
- Offender's version

#### **B. Criminal History**

Findings of guilt - to include prior and/or present supervision history, incarceration history.

#### **C. Victim Impact Statement**

#### **D. Offender Asset and Liability Assessment (including the Offender Risk Assessment)**

- Scored Risk Assets: The variables that have decreased the risk score in the offender risk assessment.
- Scored Risk Liabilities: The variables that have increased the risk score in the offender risk assessment.
- Other Assessment Factors: Residency, financial, social/behavioral, physical health family/significant others/associates, and military)

### **III. Offender Management Plan**

Department resources to support the sentencing decision

- Community sentence strategy options (Court jurisdiction)
- Institutional program/service options (Board jurisdiction)
- Re-entry considerations (transitional planning)

### **IV. Conclusion**

Evaluation/recommendation

- Sentencing Commission standards: Prior criminal history level, offense severity.
- The presumptive sentence with the mitigating and aggravating sentences as a range and the officer's recommendation to grant or deny a probationary sentence.
- Total scoring of the offender risk and the risk scale.
- Parole release eligibility (guideline percent of sentence and average percent time served by offenders of similar risk) or special sentencing conditions if they apply.

### **V. Itemized listing of the offender risk components**

*Example of a completed Sentencing Assessment Report (all identifying information has been changed)*

**Board of Probation and Parole  
INVESTIGATION**

To Honorable JOHN F. SMITH

Division: XXXX

Type of Investigation: Sentencing Assessment

Name: KILEY, RICHARD

DOC ID: xxx

**REQUESTED OF**

Officer: XXXXX JOE BLOW

Req. Date: 04/14/2005

District: DISTRICT XX PROBATION & PAROLE

Completed Date: 05/25/2005

Address: DIELMAN ROCK ISLAND IND

OLIVETTE MO 63132

Phone: XXX-XXX-XXXX

**I. Offender Identifying Information**

Date of Birth: 02/23/1978

Gender: M

Race: W

SSN: xxx-xx-xxxx

Plea Agreement  Yes

No

Unknown

Offense: TRAFFICKING IN DRUGS 2<sup>ND</sup> DEGREE

Cause Number: XXXX-XXXX

Class: A Felony

Judge/Division: SMITH, JOHN

County: ST. LOUIS

Prosecuting Attorney: KABOB, BOB

MoCode: 32495..990

Defense Attorney: LOST, LOUIS

Date of Plea/Finding of Guilt: 04-14-2005

Date of Sentencing: 06-09-2005

**II. Risk Assessment Summary**

**A. Present Offense Information**

Offense Summary: On 3-29-2004 at about 2:00 P.M. police observed a car being driven by Richard Kiley fail to make a complete stop at a stop sign. Kiley then sped off and stopped in a parking lot where police observed him exit the car and throw two plastic bags across the parking lot. The bags were recovered and determined to contain crack cocaine. Kiley was arrested and a search of his car revealed another bag of crack cocaine underneath the driver's seat. Kiley was found to have numerous active warrants for his arrest. At the police station he stated that he had been returning from a drug run where the buyer failed to show up. While he was driving he observed police behind him, became nervous and tried to speed off to lose police. When he stopped and exited his car he saw police pull up, at which time he threw the two bags of crack cocaine. The three bags of crack cocaine weighed a total of 23.73 grams.

Offender's Version:

When interviewed by this writer concerning the present offense Kiley stated, "I was driving to my cousin's house and I saw two unmarked police cars. They got behind me and I parked on a parking lot and they searched my car and said they found another bag in there. The stuff in the parking lot was not mine. The stuff in the car, I guess it was mine, but I didn't know it was in there . . . But I pled guilty so I might as well say I was selling because I don't want to make it sound like I'm lying." Asked a question

to determine if he had any remorse for his actions, Kiley stated, "I feel bad about it. I got two kids, I'm twenty-seven years old, I believe there's more to life than this."

Co-Defendants: None

**B. Criminal History**

<u>DATE</u>	<u>LOCATION</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
04-10-1996	St. Louis City	Poss. C/S (F)	PG: Probation

Cause #XXX-XXXX: Police reports regarding this arrest reflect that police observed Kiley sell two pieces of crack cocaine to another man on a vacant lot. After being arrested, Kiley was found to have several more pieces of crack cocaine in his possession. He pled guilty to Possession of a Controlled Substance – Cocaine (F) on 02-19-1997 and was placed on a two year SIS probation. On 03-01-1999 that probation was continued for two years. Kiley completed the probation on 02-18-2001. While on this probation he incurred violations for a new arrest, failure to report, failure to complete community service, failure to maintain employment, failure to complete the Day Report program, and drug use.

In addition to the above conviction, Kiley has incurred arrests for the following offenses which were not prosecuted, dismissed, or whose dispositions could not be determined: Possession of Controlled Substance (F), Tampering 2<sup>nd</sup> (F), Possession of Marijuana (M), Tampering 2<sup>nd</sup> (M) Domestic Assault 3<sup>rd</sup> (M), Making False Declaration (M), Trespassing on Private Property (C), Minor in Possession of Intoxicants (C), Peace Disturbance (C), Possession of Controlled Substance (C), Gambling (C), and Street Demonstration (C). He has also been convicted of numerous traffic offenses, some of which resulted in brief jail sentences.

**C. Victim Impact**

Victims Name(s): State of Missouri

Does Victim Want to Testify at Sentencing: N/A

Victim Impact: N/A

**D. Offender Asset and Liability Assessment**

Risk Assets: No prior prison incarcerations; 5 years conviction/incarceration free prior to assessment; no revocations of probation/parole; Present offense not recidivist related; No prior escapes;

Risk Liabilities: One prior finding of guilt; substance abuse history; high school dropout; unemployed and at time of commission of present offense.

Kiley dropped out of Sumner High School while in the ninth grade and has not since furthered his education, though he expressed an intention to attend GED classes. He is currently unemployed, having last worked several months ago on an occasional basis with a temporary service. He has a sketchy prior work history, saying his most significant job has been laying carpet with an uncle on and off since the age of nineteen. He has no significant physical or mental health history. He described himself as a casual drinker whose use of alcohol has never been problematic. Kiley related that the only illegal drug he has ever used is marijuana. He began smoking that drug at the age of eighteen. Kiley said he smoked that drug frequently for a couple of years until placed on probation. While on probation he tested positive for marijuana use in 1997 and 1999. He claimed he has not smoked marijuana in three or four years. He reported that he has never attended substance abuse treatment, though his probation records say he was referred to a substance abuse education class in 1999.

Other Assessment Factors: Kiley is one of two children to Sheila Kiley and Dan Thrill. His parents did not marry and split up when he was a small child. Kiley said he has never really had a relationship with this father and has not had contact with him in about seven years. Kiley was raised primarily by his mother and an aunt. He reported a decent childhood and denied any juvenile legal history. He has never married but has been involved in a serious relationship for the past couple of years with Barbie Dall. They have discussed marrying in the future. They have a six-month-old daughter, Ali. Kiley also has another child, seven-year-old Richard, Jr. from a previous relationship with Becky Thatch. That child lives with Thatch and Kiley has weekend visits. He does not pay formal child support but claimed he helps financially with his son.

### **III. Offender Management Plan**

Supervision Plan: The primary component of either an institutional or community placement is the need to reduce Kiley's risk level by addressing his association with drugs, his lack of education, and his lack of employment.

Home Offer: If placed on probation, Kiley will reside with his girlfriend at 8653 Fox Circle, Apt. A, Lemmings, MO 63111, Ph: xxx, Cell Ph: xxx. He will be supervised by District XX.

Employment Offer: To Be Obtained

Strategies/Community: Probation or Community Structured Sentencing. Special conditions may include: Shock jail time; CHOICES program; Community Service; REACT program; Post-plea Drug court or other substance abuse treatment; obtain GED

Strategies/Institution: Shock Incarceration Program (SIP) or Institutional Treatment Center (ITC), both pursuant to RSMo 559.115. Kiley's projected in date for either program is 07-11-2005.

### **IV. Conclusion**

Criminal History Risk Level: Level II (No incarcerations and no more than two felony convictions.)

Offense Severity: Drug Offense, Class A felony, MEDIUM.

Sentencing Commission Recommendation:

**PRESUMPTIVE: Community Structured Sentencing**  
Mitigating: Probation  
Aggravating: Shock Probation or Drug Treatment

Probation Officer's Recommendation:

- Grant Probation/CSS on conditions set forth in Offender Management Plan.
- Deny Probation/CSS; refer to Offender Management Plan.
- Deny Probation/CSS with consideration for institutional treatment center placement; refer to Offender Management Plan.
- Probation Officer's Recommendation Not Applicable; statute requires mandatory prison sentence.

Respectfully submitted,

*Note: There are no Parole Guideline or actual prison time served information in this example because the Sentencing Commission range of recommended sentences did not include a prison sentence.*

**Itemized Listing of the Offender Risk Components – Risk Factors and Values**

- 1. Prior Unrelated Misdemeanor Findings of Guilt   0    
 (0) Three or less  
 (-1) Four or more
  
- 2. Prior Unrelated Felony Findings of Guilt   0    
 (1) None  
 (0) One  
 (-1) Two or more
  
- 3. Prior Prison Incarcerations   0    
 (0) None  
 (-1) One or more
  
- 4. 5 years without a finding of guilt or incarceration   1    
 (1) Yes  
 (0) No
  
- 5. Revocations of probation and parole   0    
 (0) No  
 (-1) Yes
  
- 6. Recidivist-related present offense   0    
 (0) No  
 (-1) Yes
  
- 7. Age   0    
 (2) 45 and over  
 (1) 35 – 44  
 (0) 22 – 34  
 (-1) Under 22
  
- 8. Prior escape   0    
 (0) No  
 (-1) Yes
  
- 9. Substance abuse   0    
 (1) No  
 (0) Yes
  
- 10. Education   0    
 (1) GED/12 grade or higher  
 (0) Below 12 grade
  
- 11. Employment  -1    
 (1) Full Time/3 months or more  
 (0) Part Time or FT<3 months  
 (-1) Unemployed

**TOTAL   0**

<b><u>Risk Ranges:</u></b>	
Good	4 to 7
Above Avg	2 to 3
Average	0 to 1
Below Avg	-1 to -2
Poor	-3 to -8

## A STUDY OF SENTENCING DISPARITY

The study covers three topics: Sentencing in Missouri compared to other states, differences in sentencing by circuit courts and differences in sentencing between different racial groups.

### Sentencing and Time Served in Missouri compared to Other States in the US.

The National Corrections Reporting Program (NCRP) published by the Bureau of Justice Statistics for 2000 indicated that offenders in Missouri serve about three months longer in prison than the national average; however, as a percent of sentence time served, Missouri is similar to the national average (43%). From DOC records and the NCRP report for 1993 and 2000, it is apparent that that time served has increased not only in Missouri but also in other states over the last ten years.

For many offenses, the average sentence in Missouri is higher than in other states. The average sentence reported for all states in the US was 65 months and 72 months in Missouri.

### **Average Sentence and Time Served to First Release (1993 and 2000)**

#### **Time Served to First Release (1993 and 2000)**

Year	All State Prisons			Missouri		
	Max. Sentence	Prison Time Served	Percent Served	Max. Sentence	Prison Time Served	Percent Served
1993	66	21	31.8%	68	23	34.4%
2000	65	28	43.1%	72	31	43.3%

Source: NCRP reports (BJS) and DOC records

### **Average sentence and Time Served to First Release By NCIC Offense (2000)**

	All State Prisons			Missouri		
	Max. Sentence	Prison Time Served	Percent Served	Max. Sentence	Prison Time Served	Percent Served
<i>Violent Offenses</i>						
Homicide	165	90	54.5%	175	102	58.3%
Rape	150	76	50.7%	147	78	53.1%
Robbery	104	49	47.1%	147	78	53.1%
Assault	67	31	46.3%	79.8	39.8	49.9%
<i>Property offenses</i>						
Burglary	88	30	34.1%	66.6	24.2	36.3%
Larceny	47	19	40.4%	56.8	19.7	34.7%
Auto theft	40	18	45.0%	59.3	22.3	37.6%
Fraud	47	18	38.3%	38.6	11.7	30.3%
Stolen Property	47	21	44.7%	53.5	17.5	32.7%
<i>Drug Offenses</i>						
Possession	57	16	28.1%	50.3	13.5	26.8%
Trafficking	76	24	31.6%	86.8	33.9	39.1%
<i>Public Order Offenses</i>						
Weapons	53	22	41.5%	79.3	40.9	51.6%
DWI	41	14	34.1%	42.4	15.6	36.8%
All Offenses	65	28	43.1%	72.1	31.2	43.3%

National Crime Reporting Data (FBI) and DOC records

## Sentencing Differences Between Courts

When circuits are compared by sentence disposition or by average prison sentence, there is a wide variation in sentencing practice. Using the sentence data compiled by the Department of Corrections for FY03, the 45 Missouri circuit courts have been ranked using three measures:

1. Prison sentences as a percentage of all dispositions

The range is from 43% for circuit 18 (Cooper and Pettis counties) down to 14% for circuit 41 (Macon and Shelby). The average percentage is 24%. St. Louis City (23%) and St. Louis County (21%) are slightly below the average and Jackson County (18%) is in the third quartile. Many of the large first class counties outside of the metropolitan areas are in the top quartile, see page 56.

2. Shock and Treatment Sentences as a percentage of Prison and Shock and Treatment Dispositions

The range is from 54% for circuit 35 (Dunklin and Stoddard) down to 17% for circuit 18 (Cooper and Pettis counties). The average percentage is 33%. Jackson County (39%) is in the second quartile and St. Louis City (27%) and St. Louis County (23%) are in the third quartile, see page 57.

3. Average Prison Sentences

St. Louis City has the highest average prison sentence (9.3 years) and Circuit 32 (Bollinger, Cape Girardeau and Perry) has the lowest average sentence (4.7 years), see page 58.

Although these rankings indicate that sentencing standards appear very different between courts, small numbers may add to variability and there may be differences in the level of crime, the type of crime and in the prior criminal history of the offender population that are not considered. For example, St. Louis City has a higher percentage of violent crime than other court circuits and that could explain the high average prison sentence. The high volume of crime in St. Louis may explain the low proportion of sentences that result in a prison sentence.

To account for some of the underlying factors, the data has been aggregated into three types of circuit court based upon the size of the resident population and sentencing has been compared for similar offense groups. This analysis is presented after the circuit court ranking charts.

**Sentence Dispositions in FY03**  
**Prison Sentences as a Percentage of all Dispositions**  
**Circuit Courts Ranked in Descending Order**

Circuit Court	Counties	Term Sentences	Prison Sentences as a Percentage of all Dispositions
18	Cooper, Pettis	155	43%
7	Clay	162	42%
24	St. Francois, Ste. Genevieve, Washington	217	38%
13	Boone, Callaway	249	36%
29	Jasper	124	34%
5	Andrew, Buchanan	176	34%
10	Monroe, Ralls	75	33%
19	Cole	75	32%
23	Jefferson	145	28%
15	Lafayette, Saline	135	27%
6	Platte	62	26%
20	Franklin, Gasconade, Osage	162	26%
33	Mississippi, Scott	129	25%
36	Butler, Ripley	62	24%
26	Camden, Laclede, Miller, Moniteau, Morgan	185	23%
1	Clark, Schuyler, Scotland	19	23%
31	Greene	285	23%
34	New Madrid, Pemiscot	91	23%
11	St. Charles	214	23%
45	Lincoln, Pike	78	23%
22	St. Louis City	550	23%
30	Benton, Dallas, Hickory, Polk, Webster	87	22%
40	McDonald, Newton	74	22%
21	St. Louis County	634	21%
12	Audrain, Montgomery, Warren	99	21%
44	Douglas, Ozark, Wright	32	21%
14	Howard, Randolph	57	21%
17	Cass, Johnson	93	20%
9	Chariton, Linn, Sullivan	24	20%
35	Dunklin, Stoddard	100	19%
2	Adair, Knox, Lewis	31	19%
28	Barton, Cedar, Dade, Vernon	55	19%
37	Carter, Howell, Oregon, Shannon	56	19%
16	Jackson	651	18%
39	Barry, Lawrence, Stone	107	18%
25	Maries, Phelps, Pulaski, Texas	65	18%
43	Caldwell, Clinton, Davies, De Kalb, Livingston	48	17%
32	Bollinger, Cape Girardeau, Perry	87	17%
4	Atchison, Gentry, Holt, Nodaway, Worth	22	17%
27	Bates, Henry, St. Clair	42	17%
8	Carroll, Ray	36	17%
42	Crawford, Dent, Reynolds, Wayne	87	16%
38	Christian, Taney	77	16%
3	Grundy, Harrison, Mercer, Putnam	18	14%
41	Macon, Shelby	22	14%

Mean Percentage



**Sentence Dispositions in FY03**  
**120 Day & LT Drug Sentences as a Percentage of all Prison and Treatment/ Shock Sentences**  
**Circuit Courts Ranked in Descending Order**

Circuit Court	Counties	Sentences	120 Day & LT Drug Sentences as a Percentage of all Prison Sentences
35	Dunklin, Stoddard	117	54%
41	Macon, Shelby	25	53%
3	Grundy, Harrison, Mercer, Putnam	20	53%
4	Atchison, Gentry, Holt, Nodaway, Worth	24	52%
43	Caldwell, Clinton, Davies, De Kalb, Livingston	51	52%
17	Cass, Johnson	97	51%
14	Howard, Randolph	57	50%
8	Carroll, Ray	33	48%
28	Barton, Cedar, Dade, Vernon	46	46%
38	Christian, Taney	59	43%
27	Bates, Henry, St. Clair	31	42%
34	New Madrid, Pemiscot	65	42%
42	Crawford, Dent, Reynolds, Wayne	61	41%
16	Jackson	421	39%
44	Douglas, Ozark, Wright	20	38%
12	Audrain, Montgomery, Warren	59	37%
30	Benton, Dallas, Hickory, Polk, Webster	51	37%
15	Lafayette, Saline	78	37%
45	Lincoln, Pike	45	37%
20	Franklin, Gasconade, Osage	93	36%
39	Barry, Lawrence, Stone	60	36%
19	Cole	41	35%
6	Platte	33	35%
7	Clay	86	35%
1	Clark, Schuyler, Scotland	10	34%
2	Adair, Knox, Lewis	16	34%
33	Mississippi, Scott	65	34%
32	Bollinger, Cape Girardeau, Perry	42	33%
25	Maries, Phelps, Pulaski, Texas	30	32%
26	Camden, Laclede, Miller, Moniteau, Morgan	85	31%
9	Chariton, Linn, Sullivan	11	31%
40	McDonald, Newton	33	31%
10	Monroe, Ralls	30	29%
11	St. Charles	85	28%
37	Carter, Howell, Oregon, Shannon	22	28%
22	St. Louis City	203	27%
23	Jefferson	53	27%
13	Boone, Callaway	89	26%
36	Butler, Ripley	22	26%
5	Andrew, Buchanan	57	24%
24	St. Francois, Ste. Genevieve, Washington	69	24%
21	St. Louis County	199	24%
31	Greene	85	23%
29	Jasper	33	21%
18	Cooper, Pettis	31	17%

Mean Percentage

**Average Prison Sentence in FY03  
By Circuit Court**

<b>Circuit Court</b>	<b>Counties</b>	<b>Average Prison Sentence (yrs.)</b>
22	St. Louis City	9.30
9	Chariton, Linn, Sullivan	8.70
41	Macon, Shelby	8.30
16	Jackson	8.10
15	Lafayette, Saline	7.80
21	St. Louis County	7.80
6	Platte	7.50
25	Maries, Phelps, Pulaski, Texas	7.50
24	St. Francois, Ste. Genevieve, Washington	7.30
4	Atchison, Gentry, Holt, Nodaway, Worth	6.90
14	Howard, Randolph	6.90
17	Cass, Johnson	6.90
34	New Madrid, Pemiscot	6.90
7	Clay	6.60
42	Crawford, Dent, Reynolds, Wayne	6.60
12	Audrain, Montgomery, Warren	6.50
26	Camden, Laclede, Miller, Moniteau, Morgan	6.40
2	Adair, Knox, Lewis	6.30
11	St. Charles	6.30
38	Christian, Taney	6.30
1	Clark, Schuyler, Scotland	6.10
19	Cole	6.00
31	Greene	6.00
5	Andrew, Buchanan	5.90
23	Jefferson	5.90
39	Barry, Lawrence, Stone	5.90
10	Monroe, Ralls	5.80
20	Franklin, Gasconade, Osage	5.70
28	Barton, Cedar, Dade, Vernon	5.70
29	Jasper	5.70
35	Dunklin, Stoddard	5.70
8	Carroll, Ray	5.60
13	Boone, Callaway	5.60
30	Benton, Dallas, Hickory, Polk, Webster	5.60
36	Butler, Ripley	5.60
43	Caldwell, Clinton, Davies, De Kalb, Livingston	5.60
45	Lincoln, Pike	5.50
33	Mississippi, Scott	5.40
40	McDonald, Newton	5.40
3	Grundy, Harrison, Mercer, Putnam	5.30
44	Douglas, Ozark, Wright	5.20
18	Cooper, Pettis	5.10
27	Bates, Henry, St. Clair	5.10
37	Carter, Howell, Oregon, Shannon	5.00
32	Bollinger, Cape Girardeau, Perry	4.70

Mean Percentage

Comparing sentencing when grouped into three categories based upon size of population (Metropolitan, Other First Class Counties and Rural) indicates that the greatest differences are between the metropolitan areas and the rest of the state. The metropolitan areas have the highest prison sentences but the lowest percentage of prison sentences. Rural counties have a slightly higher percentage of shock and treatment sentences than other first class counties. Between the St. Louis metro area and the Kansas City metro area there is a significant difference in the use of shock and treatment programs, (25% for St. Louis metro and 39% for Kansas City metro).

**Sentencing Disposition in FY03  
Metro, First Class and Rural Circuits**

Circuits	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
Metro area	8,685	68.3	10.2	21.5	100.0	8.1
Other First Class	7,210	59.3	12.4	28.3	100.0	5.9
Rural Counties	8,934	62.0	14.2	23.8	100.0	6.1
Total	24,829	63.4	12.3	24.3	100.0	6.7

The metropolitan area comprises St. Louis City, St. Louis County and Jackson County, the other first class counties include circuits 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, 17<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup>, 23<sup>rd</sup>, 26<sup>th</sup>, 29<sup>th</sup>, 31<sup>st</sup>, and 32<sup>nd</sup>. The rural circuits comprise the remainder.

Comparing the three areas for similar offenses reduces the disparity in prison sentences but the differences in disposition remain. The metro areas have the lowest percent of sentences receiving prison sentences. This is true for drugs, DWI and other non-violent offenses. For violent offenses there is a much greater similarity in sentencing. For Class A, B and C felony violent offenses there is very little difference in disposition or prison sentence between the metropolitan counties and the other counties. For Class D violent offenses there is a difference.

**Drug Offenses**

Circuits	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
Metro area	3,508	75.3	11.6	13.1	100.0	6.1
Other First Class	2,187	64.8	12.9	22.3	100.0	5.5
Rural Counties	2,975	59.9	18.5	21.7	100.0	6.2
Total	8,670	67.3	14.3	18.4	100.0	5.9

**DWI Offenses**

Circuits	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
Metro area	406	63.6	19.7	16.8	100.0	4.9
Other First Class	902	49.0	23.0	28.1	100.0	4.3
Rural Counties	772	52.4	24.4	23.2	100.0	4.3
Total	2,080	53.1	22.8	24.0	100.0	4.4

**Non-Violent Offenses other than Drug and DWI Offenses**

Circuits	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
Metro area	3,385	74.9	7.6	17.5	100.0	4.9
Other First Class	3,225	64.7	8.7	26.7	100.0	4.3
Rural Counties	3,992	70.8	8.9	20.2	100.0	4.3
Total	10,602	70.3	8.4	21.3	100.0	4.4

**Violent Offenses**

Circuits	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
<i>Class A</i>						
Metro area	429	11.7	5.1	83.2	100.0	17.1
Other First Class	176	11.9	2.8	85.2	100.0	18.8
Rural Counties	160	8.1	6.3	85.6	100.0	17.7
Total	765	11.0	4.8	84.2	100.0	17.6
<i>Class B</i>						
Metro area	362	27.4	14.4	58.3	100.0	9.0
Other First Class	144	20.1	16.0	63.9	100.0	9.2
Rural Counties	159	25.2	18.2	56.6	100.0	8.5
Total	665	25.3	15.6	59.1	100.0	8.9
<i>Class C</i>						
Metro area	519	56.8	11.2	32.0	100.0	5.5
Other First Class	472	45.6	18.0	36.4	100.0	5.4
Rural Counties	691	50.1	16.5	33.4	100.0	5.5
Total	1,682	50.9	15.3	33.8	100.0	5.4
<i>Class D</i>						
Metro area	52	80.8	11.5	7.7	100.0	4.5
Other First Class	94	63.8	13.8	22.3	100.0	3.7
Rural Counties	170	72.4	9.4	18.2	100.0	3.9
Total	316	71.2	11.1	17.7	100.0	3.9
<i>Unclassed</i>						
Metro area	24	66.7	-	33.3	100.0	18.8
Other First Class	10	70.0	-	30.0	100.0	15.0
Rural Counties	15	40.0	-	60.0	100.0	13.9
Total	49	59.2	-	40.8	100.0	16.0

### Sentencing Disparity by Race

It is an accepted fact in the US that incarceration affects racial groups differently and in Missouri is no exception. The incarceration rate for Blacks is over five times that of Whites.

#### **Missouri Incarceration Rates by Race**

Race/Hispanic	Population 2000 Census	Incarcerated 31-Dec-03	Incarceration Rate per 100,000
Black	626,664	12,368	1,974
Hispanic	117,499	413	351
White	4,750,334	16,919	356
Other	100,714	166	165
Total	5,595,211	29,866	534

There are many factors that play an important part in explaining incarceration differences between different populations. Because the commission has had only access to sentencing data, the commission has only studied the impact of offense type and prior criminal history upon disparity between racial or ethnic groups in Missouri.

Using the sentencing data for FY03, the comparison between the four racial or ethnic groups indicates that Blacks have the highest average prison sentence (7.8 years) compared to an average of 6.7 years for all offenders. The aggregate data does not indicate significant differences in sentence disposition between Blacks and other racial or ethnic groups.

#### **Sentencing Disposition in FY03 All Offenses**

Race/ Hispanic	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
Black	7,564	63.5	11.4	25.2	100.0	7.8
Hispanic	440	59.1	10.7	30.2	100.0	6.6
White	16,688	63.5	12.7	23.7	100.0	6.1
Other	136	65.4	8.8	25.7	100.0	6.7
Total	24,828	63.4	12.3	24.3	100.0	6.7

The disparity in average prison sentence between Blacks and other races is, in general, reduced when the comparison is made between similar offense groups. The exception is for violent offenses. For Class B, C and D violent felony offenses, Blacks have a higher average prison sentence and a higher percent of prison dispositions than other groups.

**Drug Offenses**

Race/ Hispanic	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
Black	3,113	67.8	14.7	17.4	100.0	6.4
Hispanic	146	65.1	12.3	22.6	100.0	6.5
White	5,375	67.0	14.2	18.9	100.0	5.7
Other Races	36	86.1	8.3	5.6	100.0	5.0
Total	8,670	67.3	14.3	18.4	100.0	5.9

**DWI Offenses**

Race/ Hispanic	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
Black	231	57.1	23.4	19.5	100.0	3.4
Hispanic	42	64.3	7.1	28.6	100.0	3.1
White	1,794	52.5	23.1	24.4	100.0	3.7
Other Races	13	38.5	23.1	38.5	100.0	3.2
Total	2,080	53.1	22.8	24.0	100.0	3.6

**Non Violent Offenses Other than Drugs and DWI**

Race/ Hispanic	Sentences	Percent Disposition				Average Prison Sentence (yrs)
		Probation	Shock/ Treatment	Prison	Percent of Sentence	
Black	2,994	71.9	7.5	20.6	100.0	4.9
Hispanic	152	65.1	8.6	26.3	100.0	3.6
White	7,396	69.7	8.8	21.4	100.0	4.5
Other Races	59	64.4	6.8	28.8	100.0	3.7
Total	10,601	70.3	8.4	21.3	100.0	4.6

### Violent Offenses

Felony Class	Race/Hispanic	Sentences	Percent Disposition				Average Prison Sentence (yrs)
			Probation	Shock/Treatment	Prison	Percent of Sentence	
A	Black	362	10.2	3.9	85.9	100.0	17.3
	Hispanic	24	12.5	16.7	70.8	100.0	18.8
	White	374	11.5	5.1	83.4	100.0	17.8
	Other Races	5	20.0	-	80.0	100.0	22.5
	Total	765	11.0	4.8	84.2	100.0	17.6
B	Black	321	22.7	15.0	62.3	100.0	8.9
	Hispanic	14	28.6	7.1	64.3	100.0	7.2
	White	325	27.7	16.9	55.4	100.0	9.0
	Other Races	5	20.0	-	80.0	100.0	10.8
	Total	665	25.3	15.6	59.1	100.0	8.9
C	Black	466	51.8	12.0	36.2	100.0	5.6
	Hispanic	52	50.0	13.5	36.5	100.0	4.2
	White	1,152	50.4	16.7	33.0	100.0	5.5
	Other Races	12	66.7	16.7	16.7	100.0	3.5
	Total	1,682	50.9	15.3	33.8	100.0	5.4
D	Black	66	71.2	9.1	19.7	100.0	3.8
	Hispanic	7	71.4	14.3	14.3	100.0	3.0
	White	238	71.0	11.8	17.2	100.0	3.9
	Other Races	5	80.0	-	20.0	100.0	5.0
	Total	316	71.2	11.1	17.7	100.0	3.9

The sentencing analysis undertaken for the recommended sentences report indicated that the severity of sentencing is influenced by the level of prior criminal history. A necessary analysis, therefore, when measuring racial disparity is to measure any differences in prior criminal history between racial/ethnic groups. Blacks have the lowest percentage of offenders with a level I prior criminal history (68.5%). The average for Whites was 72.8%.

The next step is to measure the sentencing indicators for different levels of prior criminal history between the racial/ethnic groups. For the prison percent of sentences there is little difference between the racial/ethnic groups, but there is a difference in the average length of prison sentence. Blacks have a longer prison sentence than other racial/ethnic groups for all levels of prior criminal history.

The final step in the analysis is to identify whether the differences in prison sentences is attributed to differences in the type offense. For offenders with level I prior criminal history, Blacks convicted of violent offenses have a higher percent receiving a prison sentence (48.8%), compared to 36.7% for Whites and the average sentence is 11.2 years, compared to 10.4 years for Whites. For the other offense groups (Drugs, DWI and other non-violent offenses), there are few differences between the racial/ethnic groups.

**Prior Criminal History and Racial/ Ethnic Origin, FY03 Sentencing**

***Dispositions***

Race/Hispanic	Prior Criminal History				
	Level I	Level II	Level III	Level IV	Total
Black	5,178	1,541	314	531	7,564
Hispanic	360	58	7	15	440
White	12,151	3,153	542	842	16,688
Other	105	21	6	4	136
Total	17,794	4,773	869	1,392	24,828

***Percentages***

Race/Hispanic	Prior Criminal History				
	Level I	Level II	Level III	Level IV	Total
Black	68.5%	20.4%	4.2%	7.0%	100.0%
Hispanic	81.8%	13.2%	1.6%	3.4%	100.0%
White	72.8%	18.9%	3.2%	5.0%	100.0%
Other	77.2%	15.4%	4.4%	2.9%	100.0%
Total	71.7%	19.2%	3.5%	5.6%	100.0%

**Average Prison Sentences (Years), FY03**

Race/Hispanic	Prior Criminal History				
	Level I	Level II	Level III	Level IV	Total
Black	8.0	7.5	7.4	8.6	7.9
Hispanic	6.8	5.3	9.8	5.8	6.6
White	6.6	5.4	5.9	6.1	6.3
Other	7.6	3.8	5.3	10.0	7.0
Total	7.0	6.1	6.5	7.0	6.8

**Prison Sentences as a Percent of All Dispositions, FY03**

Race/Hispanic	Prior Criminal History				
	Level I	Level II	Level III	Level IV	Total
Black	15.8	40.9	54.1	53.1	25.1
Hispanic	28.1	32.8	71.4	53.3	30.2
White	15.2	42.1	54.6	57.5	23.7
Other	19.1	38.1	66.7	75.0	25.7
Total	15.7	41.6	54.7	55.8	24.3

Violent offenses in the analysis are the NCIC offenses of Homicide, Sex Assault, Robbery and Assault and the Missouri offense of Arson 1<sup>st</sup>.



**Prison as a Percent of All Sentences and Average Prison Sentence  
Offenders with No or Little Prior Criminal History (Level I)**

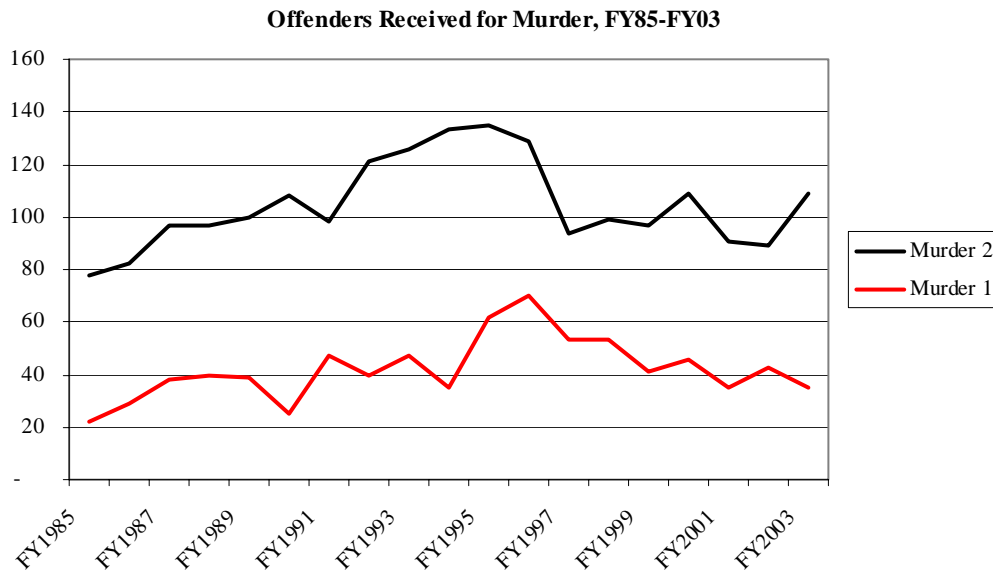
Race/Hispanic	Level I Sentences	Percent Prison Sentences	Average Prison Sentence (yrs.)
<i>Violent</i>			
Black	811	48.8	11.2
Hispanic	84	46.4	10.0
White	1,615	36.7	10.4
Other	21	33.3	14.9
<b>Total Violent</b>	<b>2,531</b>	<b>40.9</b>	<b>10.7</b>
<i>Drugs</i>			
Black	2,134	9.0	5.9
Hispanic	123	20.3	6.6
White	4,067	11.4	5.7
Other	31	-	-
<b>Total Drugs</b>	<b>6,355</b>	<b>10.7</b>	<b>5.8</b>
<i>DWI</i>			
Black	132	12.1	3.3
Hispanic	31	38.7	3.1
White	1,100	13.4	3.4
Other	8	37.5	3.7
<b>Total DWI</b>	<b>1,271</b>	<b>14.0</b>	<b>3.4</b>
<i>Other Non-Violent</i>			
Black	2,101	10.2	4.2
Hispanic	122	20.5	3.7
White	5,369	12.1	4.4
Other	45	22.2	3.7
<b>Total Other Non-Violent</b>	<b>7,637</b>	<b>11.8</b>	<b>4.4</b>
<b>Total Sentence</b>	<b>17,794</b>	<b>15.7</b>	<b>7.0</b>

## DEATH PENALTY SENTENCING

The study describes recent trends in prison admissions for murder, including sentences that require the death penalty, and provides some measures that should identify any racial disparity in the application of capital punishment. The full data tables are included in the appendix F.

### Admissions for Murder 1 and Murder 2

The number of offenders received for Murder I has been declining since FY96. In that year, there were 70 admissions, while in and in FY03 there were 30. Convictions for Murder 2, however, have remained steady at around 100 per year.



### Murder Commitment Rates

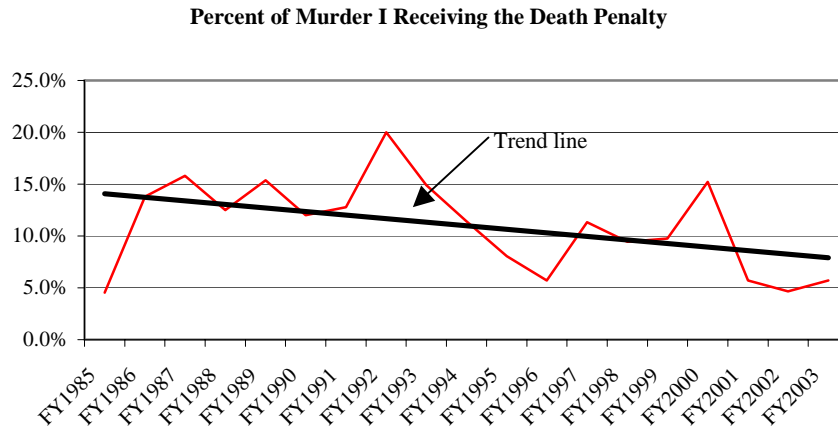
Murder admissions expressed as a rate per 100,000 of the Missouri population have shown a modest drop since 1990. Admissions, calculated as an average of three years to minimize random fluctuations, have fallen from 3.44 in FY 1989-91 to 3.03 in FY2001-2003.

**Murder Commitment Rates (per 100,000 pop.)**  
New admissions for murder

	1989-1991	2001-2003
Murder 1	0.72	0.66
Murder 2	2.72	2.36
Total	3.44	3.03

## The application of the death penalty

The number of offenders sentenced to death has been low in recent years. In FY2001 through to FY2003, there were two per year and in FY2004 there have been none to date. A trend line from FY85 suggests that the application of the death penalty is diminishing.



## Is there a racial disparity in the application of the death penalty?

Racial disparity might exist if one racial group is shown to be more likely to receive the death penalty than other racial groups. Because African-Americans have a higher commitment rate for Murder than other racial groups the comparison has been made between African Americans and Caucasians/Native Americans/Asians.

### Murder Commitment Rates by Race 2001-2003

#### Rates per 100,000 population

African American	11.01
White/Native American/Asian	1.02

Two indicators have been calculated:

- The percent of offenders convicted of Murder I that receive the death penalty
- The percent of offenders who are convicted of Murder that are convicted of Murder I.

The results indicate that there is a racial disparity in both the indicators, **but it is the other group (Whites, Native Americans, Asians) that has the highest rates.**

For the period FY85-FY03, 6.7% of African Americans convicted of Murder I received the death penalty while 12.6% of other races received the death penalty.

**Offenders Received for Murder I, By Race , FY85:FY04**

	African Americans				Other Races			
	Death Penalty	Life	Total	Percent Capital	Death Penalty	Life	Total	Percent Capital
Total	29	407	436	6.7%	58	404	462	12.6%

For the period FY85-FY03, 25.7% of African Americans convicted of Murder were convicted of Murder 1, while 32.4% of other races were convicted of Murder 1.

**Offenders Received with Murder By Race (FY1985:FY2004)**

	African Americans				Other Races			
	Murder I	Murder II	Total	Percent Murder I	Murder I	Murder II	Total	Percent Murder I
Total	407	1,175	1,582	25.7%	404	842	1,246	32.4%

**Is there a geographical disparity in death penalty cases?**

Sentencing is considered by many to be more severe in rural areas than in the urban and metropolitan areas.

During the period FY85-FY04, St. Louis City and Jackson County have much lower percentages of death penalty sentencing compared to the rest of the state. Additionally, St. Louis City has a very low percent of African-Americans with a death penalty sentence (4%). Based upon the figures in the table below, the lower rate of death penalty cases among African-Americans compared to the other races statewide might be attributed to the sentencing practices in St. Louis City. St. Louis City is the only county in the table below that has a significant difference in death penalty rates between races.

**Offenders Received for Murder I, By Race**

	African Americans				Other Races			
	Death Penalty	Life	Total	Percent Capital	Death Penalty	Life	Total	Percent Capital
St. Louis City	8	198	206	4%	4	34	38	11%
Jackson County	6	82	88	7%	2	41	43	5%
St. Louis County	8	58	66	12%	4	33	37	11%
Greene	-	-	-	0%	3	10	13	23%
Other Counties	7	40	47	15%	45	118	273	16%
Total	29	378	407	7%	58	236	404	14%

There is also no significant geographical difference between races in the percent of offenders convicted of murder who are convicted of Murder 1<sup>st</sup>. Statewide, African Americans are less likely to be convicted of Murder 1<sup>st</sup> than other races and that is also true in each of the four selected urban counties.

**Offenders Received for Murder I and Murder 2, By Race**

	African Americans				Other Races			
	Murder I	Murder II	Total	Percent Murder I	Murder I	Murder II	Total	Percent Murder I
St. Louis City	206	486	692	29.8%	38	77	115	33.0%
Jackson County	88	407	495	17.8%	43	126	169	25.4%
St. Louis County	66	157	223	29.6%	37	63	100	37.0%
Greene		5	5	0.0%	13	36	49	26.5%
Other Counties	47	120	167	28.1%	273	540	813	33.6%
<b>Total</b>	<b>407</b>	<b>1,175</b>	<b>1,582</b>	<b>25.7%</b>	<b>404</b>	<b>842</b>	<b>1,246</b>	<b>32.4%</b>

**Conclusions**

Examining the sentencing data from the Missouri Department of Corrections for admissions for murder from FY85-FY04 (to November 2003) the rate of murder convictions has fallen and the number of death penalty cases is now lower that it has been at any time since FY1985. Although African-Americans have a much higher commitment rate for murder, from the analysis undertaken, the evidence suggests that African-Americans are less likely to be sentenced either to the death penalty or to Murder 1. A geographical analysis indicates that St. Louis City has a significantly different ratio of death penalty to life sentencing between African-Americans and other races.

**Because the statistical analysis did not include any severity of offense, prior criminal history or demographic factors, the conclusions should be considered as subject to more detailed investigations.**

## Appendix A

### Authorizing Statute: 558.019 RSMo.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

- (a) The nature and severity of each offense;
- (b) The record of prior offenses by the offender;
- (c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and
- (d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(5) The commission shall publish and distribute its recommendations on or before July 1, 2004. The commission shall study the implementation and use of the recommendations until July 1, 2005, and return a report to the governor, the Speaker of the House of Representatives, and the President Pro Tem of the Senate. Following the July 1, 2005, report, the commission shall revise the recommended sentences every two years.

(6) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(7) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(8) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.
8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:
  - (1) Restitution to any victim for costs incurred as a result of the offender's actions;
  - (2) Offender treatment programs;
  - (3) Mandatory community service;
  - (4) Work release programs in local facilities; and
  - (5) Community-based residential and nonresidential programs.
9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

(L. 1986 H.B. 1098 § 1, A.L. 1988 H.B. 1340 & 1348, A.L. 1989 S.B. 215 & 58, A.L. 1990 H.B. 974, A.L. 1993 H.B. 562, A.L. 1994 S.B. 763, A.L. 1998 H.B. 1508 merged with S.B. 766, A.L. 2003 S.B. 5)

Effective 6-27-03

## Appendix B

### Prior Criminal History Level and Offender Risk Factors

#### Prior criminal history

Select the lowest level that meets all the conditions

<b>Level I</b>	No prior unrelated felony finding of guilt and no more than 3 misdemeanor/jail sentences of 30 days or more.	<b>Level II</b>	No prior prison incarceration and no more than two unrelated felony findings of guilt.
<b>Level III</b>	No more than one prior prison incarceration and no more than three unrelated felony findings of guilt.	<b>Level IV</b>	No more than two prior prison incarcerations and no more than four unrelated felony findings of guilt.
<b>Level V</b>	More than two prior prison incarcerations or more than four unrelated felony findings of guilt		

#### Scoring of the Offender Risk Factors

##### Offense-Related Factors

1. Prior unrelated findings of guilt misdemeanor/jail sentences of 30+ days
  - Three or less           0
  - Four or more           -1
2. Prior unrelated felony findings of guilt
  - None                    1
  - One                     0
  - Two or more           -1
3. Prior prison incarcerations
  - None                    0
  - One or more           -1
4. Five years without a finding of guilt or incarceration
  - Yes                     1
  - No                      0
5. Revocations of probation or parole
  - No                      0
  - Yes                     -1
6. Recidivist related present offense
  - No                      0
  - Yes                     -1

##### Other Risk-Related Factors

7. Age
  - 45 and over            2
  - 35-44                   1
  - 22-34                   0
  - 21 and under          -1
8. Prior escape
  - No                      0
  - Yes                     -1
9. Substance abuse (DOC substance abuse test and verified drug history)
  - No                      1



Yes	0	
10. Education		
GED or educational attainment 12 grade or better	1	
Below 12th grade	0	
11. Employment		
Full time for 3 months or more	1	
Part time or full time for less than three months	0	
Unemployed	-1	

The scoring of the risk factors are subject to review. The Department of Corrections is conducting a research study based upon fiscal year 2001 prison releases and probation openings to validate the risk instrument. The results are expected by July 2005.

### The Offender Risk Score

The range of possible scores for the offender risk scale ranges from 7 to -8 and the scaling is shown in the table below.

Best possible score	7
Worst possible score	-8
Range	15

Risk Class	Score
Good	4 to 7
Above Average	2 to 3
Average	0 to 1
Below Average	-1 to -2
Poor	-3 to -8

### Definitions of the Risk Factors

#### 1. Prior Unrelated Misdemeanor Findings and Jail Sentences

SIS and SES misdemeanor probations and jail sentences (including ordinance violations) of 30 days or more identified at the time the report is completed. Concurrent or consecutive sentences adjudicated by the same court on the same day count as related findings of guilt.

#### 2. Prior Unrelated Felony Findings of Guilt

All felony SIS and SES felony probations and sentences of at least 30 days. Concurrent or consecutive sentences adjudicated by the same court on the same day count as related findings of guilt.

#### 3. Prior Prison Incarcerations

Any commitment to a state or federal prison. Incarceration to a 120-day program pursuant to 559.115 RSMo, the Post Conviction Drug Treatment program, 217.785 RSMo, or the long-term drug program 217.632 RSMo will count as an incarceration even if the offender successfully completed the program, was released to probation supervision and completed the term. Mental health commitments are not considered as incarcerations. Imposed military sanctions do not count.

**4. Five Years without a Finding of Guilt**

The time from release from prison or from a jail sentence of 30 days or more or from the start of the last term of probation supervision until the time the report is completed.

**5. Revocation of Probation and Parole**

Revocation of state or federal adult probations, paroles, conditional releases and revocations resulting in a jail sentence of 30 days or more.

**6. Recidivist-Related Present Offense**

The present offense OR an unexpired sentence the offender is still serving at the time the SAR is completed (i.e. an SIS or SES probation, parole or prison term), related to the following offenses: Burglary 1<sup>st</sup>/2<sup>nd</sup>, Robbery 1<sup>st</sup>/2<sup>nd</sup> Pharmacy Robbery, Stealing a Motor Vehicle or tampering with a motor vehicle. This includes attempts, conspiracy or accessory charges.

**7. Age**

The age of the offender at the time the report is prepared.

**8. Escape**

A Missouri or out-of-state finding of guilt for escape or attempted escape from any jail or prison facility, or an institutional conduct violation for escape from a mainline prison or a status code exit for escape..

**9. Substance Abuse**

The existence of a substance abuse problem is determined through review and consideration of all available collateral information (DOC Substance Abuse Classification Assessment (SACA), criminal history, treatment history, file material or other evidence of substance abusing behavior).

The SACA is done at the time of the Sentencing Assessment Report if one has not been completed within the last twelve months. If more than one SACA exists for an offender, the last assessment will be used to score the variable. A new sentence for drug or alcohol related activity subsequent to the last SACA will indicate a substance abuse problem. Substance abuse is scoring 3 to 5 on the SACA.

**10. Education**

A verified high school diploma or GED or enrollment in high school or GED class at the time the report is prepared.

**11. Employment**

The employment status at the time of arrest unless the offender gains employment prior to sentencing. Full time employment is 35 hours or more per week. Homemakers, retirees, seasonal employees and disabled persons as classified as part time.

## Appendix C

### The Offense Grouping to Measure Offense Severity

#### **Violent A and B felonies** (excluding sex assault)

Murder 1 and 2, Manslaughter, Robbery 1, Robbery 2, Assault 1, Assault on Law Enforcement Officer/Emergency Personal, Domestic Assault 1, NCIC Kidnapping, Arson 1, Arson 2 (causing death), Armed Criminal Action and other A or B weapon offenses (including 31010, 31140, 31150, 31151, 31152, 31153, 31154, 31180, 31182, 31195, 31200), Treason, Elder Abuse 1 and 2 (36322, 36324, 26165, 26170), Escape using violence or weapons (28020, 28050, 28100, 28130), Causing a catastrophe (34070), Bus jacking (12050, 13060, 13070)

#### **Violent C and D felonies:**

Manslaughter, Assault 2, Domestic Assault 2, Assault 3 with deadly weapon, Arson 2 (w/o causing death), NCIC offenses of Kidnapping (felonious restraint), Flight/Escape with use of weapons or force in escape (28055, 28060), Civil disorder (34045), Riot (34047), and Harassment because of discrimination (34055), Terrorist threats (34072, 34074, 34078, 58010, 58020, 58040), Ethnic intimidation (34110, 341120) and Aggravated stalking 1 and 2 (34210, 34220)

#### **Drugs A and B felonies:**

Drug trafficking 1 and 2, Drug manufacturing or distribution and any other A or B felony NCIC Dangerous Drug Offense,

#### **Non-Violent A and B felonies:**

Includes the offenses of Burglary 1, Theft Of Anhydrous Ammonia, Identify Theft

#### **Drugs C and D felonies:**

NCIC Dangerous Drugs

#### **Non-Violent C and D felonies:**

NCIC offenses of Burglary (not 1), Stealing, Arson (not 1 or 2 causing death), Forgery, Fraud, Gambling, Damage Property, Stolen Property, Obscenity, Family Offenses (excluding those listed in Violent C and D felonies), Obstructing Judicial Process, Weapon Offenses, Liquor Laws, Peace Disturbance, Election Laws, Health and Safety, Tax Revenue, Conservation, Motor Vehicles (other than DWI and BAC), Public Order Crimes, (with the listed exceptions in Violent C and D felonies).

#### **Sex and Child Abuse A & B felonies**

Forcible rape, Forcible sodomy, Statutory rape, Statutory sodomy, Sexual assault, Child molestation 1, Abandonment of child 1 and Sexual exploitation.

#### **Sex and Child Abuse C & D felonies**

Child molestation 2, Sexual misconduct, Incest, Abandonment of child 2, Abuse of a child, Endangering the welfare of a child and Child enticement, Child in sexual performance, Trafficking in children

#### **DWI**

Vehicles: 47410-47470, watercraft 54307-54310. Includes BAC.

## Appendix D

### The Expected Impact of the Recommended Sentences

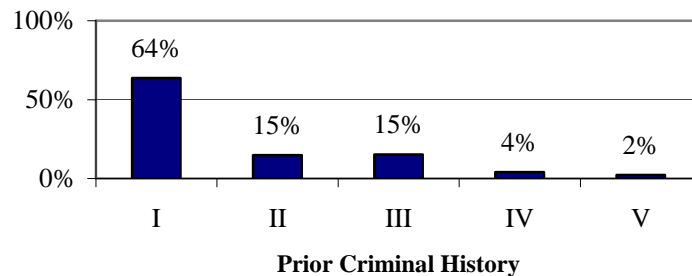
#### The Distribution of the New Prior Criminal History Level

The expected distribution of the criminal behavior indicator is based upon the pre-sentence investigations and sentencing assessment reports completed by the Department of Corrections from January 2005 to March 2005.

From the Pre-Sentence Investigations and Sentencing Assessment Reports:

- 64% were Level I (*no prior felony unrelated findings of guilt and no more than 3 misdemeanor/jail incarcerations of 30 days or more*).
- 15% were Level II (*no more than two felony unrelated findings of guilt and no prison incarceration*).
- 15% were Level III (*no more than one prior incarceration and no more than three felony unrelated findings of guilt*).
- 4% were Level IV (*no more than two incarcerations and no more than four felony unrelated findings of guilt*).
- 2% were Level V (*more than two incarcerations or more than four felony unrelated findings of guilt*).

#### Pre-Sentence Investigations Jan-Mar 2005



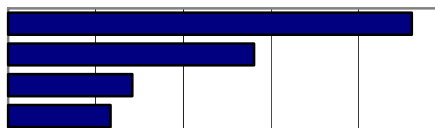
The estimate of the impact of applying the recommended sentences was upon applying the recommended sentences to new court sentencing received by the Department of Corrections in 2004. The analysis included over 19,000 sentences.

#### What were the recommended sentences for the new court sentences?

Forty six percent were recommended straight probation and a further 28% were recommended a community structured sentence. Fourteen percent were recommended a shock or treatment sentence and 12% were recommended prison.

**Recommended Sentences for  
New Commitments/Probations Received By DOC, 2004**

	#	Percent
Probation	8,805	46%
Community Structured Sentence	5,360	28%
Shock/treatment programs	2,709	14%
Prison	2,230	12%
Total	19,104	100%



**Does the Recommended Sentence agree with the actual sentence for the New Court Sentences in 2004?**

Because the community structured sentence is not a sentencing disposition, the recommended sentences were aggregated into two groups:

- Probation and community structured supervision
- Institutional shock and treatment programs and prison terms.
  
- For all new sentences received by the DOC in 2004:  
     74% were recommended for probation supervision  
     74% received a probation sentence.

**Recommended and Actual Sentence: All New Sentences, 2005**

Disposition	Recomm- ended	Actual	Percent	
			Rec.	Actual
Probation/CSS	14,165	14,183	74%	74%
Prison/Shock Treatment	4,939	4,921	26%	26%
Total	19,104	19,104	100%	100%

**The Impact of Recommending Institutional Shock or Treatment**

A specific recommendation to sentence under the 120-day legislation (559.115) or to the long-term drug program (217.362) was an important change in the 2004 System of Recommended Sentences. If the courts accept these shock or treatment recommended sentences then there will be a significant impact on sentencing in Missouri.

Based upon the analysis of new sentences received by the Department of Corrections in 2004, there would have been 2,711 recommended sentences for shock/treatment compared to an actual number of 1,614 offenders sentenced to shock or treatment. As a result of the greater rate of referral to shock or treatment programs there would have been 1,097 fewer offenders sentenced to prison.

	Offenders	Percent
Recommended 120 day shock/treatment/long term drug	2,711	55%
Recommended Prison	2,230	45%
Actual Sentencing to 120 day shock/treatment/long term drug	1614	33%
Actual Sentencing to Prison	3307	67%

Of the offenders recommended for a shock or treatment sentence, 78% will have a drug, DWI or non-violent offense and 68% will have a felony class of C or D.

**Recommended Sentences for Shock/Treatment**

Offense Group	Percent of Prison or Shk/Trt	Percent of Shk/Trt
Drugs	61%	35%
DWI	69%	15%
Non violent	57%	29%
Sex and Child Abuse	33%	9%
Violent	33%	13%
Total	55%	100%

**Recommended Sentences for Shock/Treatment**

Felony Class	Percent
Class A	7%
Class B	24%
Class C	38%
Class D	31%
Total	100%

## Appendix E

### The Board of Probation and Parole Guideline Matrices showing the guideline prison time in months

Notes:

A separate Drug Offenses Guideline Matrix has been developed by the Board of Probation and Parole and the Board plans to be introduce the new matrix before the SAR is introduced statewide. Drug offenses are currently included in non-violent offenses.

Min. is the minimum of the guideline range and Max. is the maximum of the guideline range. For offenders with a Poor risk (the highest risk) the maximum of the range is the conditional release date. For sentences under 10 years, the conditional release date is two-thirds of the sentence. For sentences from 10 to 15 years, the conditional release date is three years before sentence completion and for sentences over 15 years, the conditional release date is five years before sentence completion.

The Board of Probation and Parole's **Excellent** risk category is equivalent to the Sentencing Commission's **Good** risk category.

### Violent Offenses

#### C and D Felonies

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.
	33%	35%	40%	35%	40%	45%	40%	45%	50%	45%	50%	55%	50%	55%	C.R.
2	8	8	10	8	10	11	10	11	12	11	12	13	12	13	16
3	12	13	14	13	14	16	14	16	18	16	18	20	18	20	24
4	16	17	19	17	19	22	19	22	24	22	24	26	24	26	32
5	20	21	24	21	24	27	24	27	30	27	30	33	30	33	40
6	24	25	29	25	29	32	29	32	36	32	36	40	36	40	48
7	28	29	34	29	34	38	34	38	42	38	42	46	42	46	56

#### A and B Felonies

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.
	33%	40%	45%	40%	45%	50%	45%	50%	55%	50%	55%	60%	55%	60%	C.R.
5	20	24	27	24	27	30	27	30	33	30	33	36	33	36	40
6	24	29	32	29	32	36	32	36	40	36	40	43	40	43	48
7	28	34	38	34	38	42	38	42	46	42	46	50	46	50	56
8	32	38	43	38	43	48	43	48	53	48	53	58	53	58	64
9	36	43	49	43	49	54	49	54	59	54	59	65	59	65	72
10	40	48	54	48	54	60	54	60	66	60	66	72	66	72	84
11	44	53	59	53	59	66	59	66	73	66	73	79	73	79	96
12	48	58	65	58	65	72	65	72	79	72	79	86	79	86	108
13	52	62	70	62	70	78	70	78	86	78	86	94	86	94	120
14	56	67	76	67	76	84	76	84	92	84	92	101	92	101	132
15	60	72	81	72	81	90	81	90	99	90	99	108	99	108	144
16	64	77	86	77	86	96	86	96	106	96	106	115	106	115	132
17	68	82	92	82	92	102	92	102	112	102	112	122	112	122	144
18	72	86	97	86	97	108	97	108	119	108	119	130	119	130	156
19	76	91	103	91	103	114	103	114	125	114	125	137	125	137	168
20	80	96	108	96	108	120	108	120	132	120	132	144	132	144	180
21	84	101	113	101	113	126	113	126	139	126	139	151	139	151	192
22	88	106	119	106	119	132	119	132	145	132	145	158	145	158	204
23	92	110	124	110	124	138	124	138	152	138	152	166	152	166	216
24	96	115	130	115	130	144	130	144	158	144	158	173	158	173	228
25	100	120	135	120	135	150	135	150	165	150	165	180	165	180	240
26	104	125	140	125	140	156	140	156	172	156	172	187	172	187	252
27	108	130	146	130	146	162	146	162	178	162	178	194	178	194	264
28	112	134	151	134	151	168	151	168	185	168	185	202	185	202	276
29	116	139	157	139	157	174	157	174	191	174	191	209	191	209	288
30	120	144	162	144	162	180	162	180	198	180	198	216	198	216	300



## Sex and Child Abuse

### C and D Felonies

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min. 33%	Guide 35%	Max. 40%	Min. 35%	Guide 40%	Max. 45%	Min. 40%	Guide 45%	Max. 50%	Min. 45%	Guide 50%	Max. 55%	Min. 50%	Guide 55%	Max. C.R.
2	8	8	10	8	10	11	10	11	12	11	12	13	12	13	16
3	12	13	14	13	14	16	14	16	18	16	18	20	18	20	24
4	16	17	19	17	19	22	19	22	24	22	24	26	24	26	32
5	20	21	24	21	24	27	24	27	30	27	30	33	30	33	40
6	24	25	29	25	29	32	29	32	36	32	36	40	36	40	48
7	28	29	34	29	34	38	34	38	42	38	42	46	42	46	56

### A and B Felonies

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min. 33%	Guide 40%	Max. 45%	Min. 40%	Guide 45%	Max. 50%	Min. 45%	Guide 50%	Max. 55%	Min. 45%	Guide 50%	Max. 55%	Min. 50%	Guide 55%	Max. C.R.
5	20	24	27	24	27	30	27	30	33	27	30	33	30	33	40
6	24	29	32	29	32	36	32	36	40	32	36	40	36	40	48
7	28	34	38	34	38	42	38	42	46	38	42	46	42	46	56
8	32	38	43	38	43	48	43	48	53	43	48	53	48	53	64
9	36	43	49	43	49	54	49	54	59	49	54	59	54	59	72
10	40	48	54	48	54	60	54	60	66	54	60	66	60	66	84
11	44	53	59	53	59	66	59	66	73	59	66	73	66	73	96
12	48	58	65	58	65	72	65	72	79	65	72	79	72	79	108
13	52	62	70	62	70	78	70	78	86	70	78	86	78	86	120
14	56	67	76	67	76	84	76	84	92	76	84	92	84	92	132
15	60	72	81	72	81	90	81	90	99	81	90	99	90	99	144
16	64	77	86	77	86	96	86	96	106	86	96	106	96	106	132
17	68	82	92	82	92	102	92	102	112	92	102	112	102	112	144
18	72	86	97	86	97	108	97	108	119	97	108	119	108	119	156
19	76	91	103	91	103	114	103	114	125	103	114	125	114	125	168
20	80	96	108	96	108	120	108	120	132	108	120	132	120	132	180
21	84	101	113	101	113	126	113	126	139	113	126	139	126	139	192
22	88	106	119	106	119	132	119	132	145	119	132	145	132	145	204
23	92	110	124	110	124	138	124	138	152	124	138	152	138	152	216
24	96	115	130	115	130	144	130	144	158	130	144	158	144	158	228
25	100	120	135	120	135	150	135	150	165	135	150	165	150	165	240
26	104	125	140	125	140	156	140	156	172	140	156	172	156	172	252
27	108	130	146	130	146	162	146	162	178	146	162	178	162	178	264
28	112	134	151	134	151	168	151	168	185	151	168	185	168	185	276
29	116	139	157	139	157	174	157	174	191	157	174	191	174	191	288
30	120	144	162	144	162	180	162	180	198	162	180	198	180	198	300

## Non-Violent Offenses

### C and D Felonies

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min. 15%	Guide 15%	Max. 20%	Min. 15%	Guide 17%	Max. 20%	Min. 15%	Guide 20%	Max. 25%	Min. 25%	Guide 33%	Max. 40%	Min. 45%	Guide 50%	Max. C.R.
2	4	4	5	4	4	5	4	5	6	6	8	10	11	12	16
3	5	5	7	5	6	7	5	7	9	9	12	14	16	18	24
4	7	7	10	7	8	10	7	10	12	12	16	19	22	24	32
5	9	9	12	9	10	12	9	12	15	15	20	24	27	30	40
6	11	11	14	11	12	14	11	14	18	18	24	29	32	36	48
7	13	13	17	13	14	17	13	17	21	21	28	34	38	42	56

### A and B Felonies

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min. 25%	Guide 30%	Max. 35%	Min. 30%	Guide 35%	Max. 40%	Min. 35%	Guide 40%	Max. 45%	Min. 40%	Guide 45%	Max. 55%	Min. 45%	Guide 50%	Max. C.R.
5	15	18	21	18	21	24	21	24	27	24	27	33	27	30	40
6	18	22	25	22	25	29	25	29	32	29	32	40	32	36	48
7	21	25	29	25	29	34	29	34	38	34	38	46	38	42	56
8	24	29	34	29	34	38	34	38	43	38	43	53	43	48	64
9	27	32	38	32	38	43	38	43	49	43	49	59	49	54	72
10	30	36	42	36	42	48	42	48	54	48	54	66	54	60	84
11	33	40	46	40	46	53	46	53	59	53	59	73	59	66	96
12	36	43	50	43	50	58	50	58	65	58	65	79	65	72	108
13	39	47	55	47	55	62	55	62	70	62	70	86	70	78	120
14	42	50	59	50	59	67	59	67	76	67	76	92	76	84	132
15	45	54	63	54	63	72	63	72	81	72	81	99	81	90	144
16	48	58	67	58	67	77	67	77	86	77	86	106	86	96	132
17	51	61	71	61	71	82	71	82	92	82	92	112	92	102	144
18	54	65	76	65	76	86	76	86	97	86	97	119	97	108	156
19	57	68	80	68	80	91	80	91	103	91	103	125	103	114	168
20	60	72	84	72	84	96	84	96	108	96	108	132	108	120	180
21	63	76	88	76	88	101	88	101	113	101	113	139	113	126	192
22	66	79	92	79	92	106	92	106	119	106	119	145	119	132	204
23	69	83	97	83	97	110	97	110	124	110	124	152	124	138	216
24	72	86	101	86	101	115	101	115	130	115	130	158	130	144	228
25	75	90	105	90	105	120	105	120	135	120	135	165	135	150	240
26	78	94	109	94	109	125	109	125	140	125	140	172	140	156	252
27	81	97	113	97	113	130	113	130	146	130	146	178	146	162	264
28	84	101	118	101	118	134	118	134	151	134	151	185	151	168	276
29	87	104	122	104	122	139	122	139	157	139	157	191	157	174	288
30	90	108	126	108	126	144	126	144	162	144	162	198	162	180	300

## Board of Probation and Parole Guideline Matrix for Minimum Eligibility 25% for non-violent C and D offenders with enhanced sentences

### Non-Violent Offenses

Offenders with Enhanced C and D Felony Sentences (convicted as a Prior and Persistent Offender)

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.
	25%	25%	25%	25%	27%	29%	25%	29%	32%	33%	45%	50%	33%	50%	C.R.
5	15	15	15	15	16	17	15	17	19	20	27	30	20	30	40
6	18	18	18	18	19	21	18	21	23	24	32	36	24	36	48
7	21	21	21	21	23	24	21	24	27	28	38	42	28	42	56
8	24	24	24	24	26	28	24	28	31	32	43	48	32	48	64
9	27	27	27	27	29	31	27	31	35	36	49	54	36	54	72
10	30	30	30	30	32	35	30	35	38	40	54	60	40	60	84
11	33	33	33	33	36	38	33	38	42	44	59	66	44	66	96
12	36	36	36	36	39	42	36	42	46	48	65	72	48	72	108
13	39	39	39	39	42	45	39	45	50	52	70	78	52	78	120
14	42	42	42	42	45	49	42	49	54	56	76	84	56	84	132
15	45	45	45	45	49	52	45	52	58	60	81	90	60	90	144
16	48	48	48	48	52	56	48	56	61	64	86	96	64	96	132
17	51	51	51	51	55	59	51	59	65	68	92	102	68	102	144
18	54	54	54	54	58	63	54	63	69	72	97	108	72	108	156
19	57	57	57	57	62	66	57	66	73	76	103	114	76	114	168
20	60	60	60	60	65	70	60	70	77	80	108	120	80	120	180

## Board of Probation and Parole Guideline Matrix for Minimum Eligibility 25% for DWI offenders with enhanced sentences

### DWI

#### D Felonies

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.
	15%	15%	20%	15%	20%	25%	25%	30%	35%	35%	40%	45%	45%	50%	C.R.
2	4	4	5	4	5	6	6	7	8	8	10	11	11	12	16
3	5	5	7	5	7	9	9	11	13	13	14	16	16	18	24
4	7	7	10	7	10	12	12	14	17	17	19	22	22	24	32
5	9	9	12	9	12	15	15	18	21	21	24	27	27	30	40

### DWI

#### Offenders with Enhanced Sentences (convicted as a Prior and Persistent Offender)

Sentence (yrs)	Excellent			Above Average			Average			Below Average			Poor		
	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.	Min.	Guide	Max.
	25%	27%	30%	25%	30%	35%	30%	35%	40%	40%	45%	50%	50%	60%	C.R.
5	15	16	18	15	18	21	18	21	24	24	27	30	30	36	40
6	18	19	22	18	22	25	22	25	29	29	32	36	36	43	48
7	21	23	25	21	25	29	25	29	34	34	38	42	42	50	56
8	24	26	29	24	29	34	29	34	38	38	43	48	48	58	64
9	27	29	32	27	32	38	32	38	43	43	49	54	54	65	72
10	30	32	36	30	36	42	36	42	48	48	54	60	60	72	84

## Parole Board Releases: Time Served by Offense Group and Risk Category

Statistics used in the SARs to indicate expected time served for prison sentences

**Time Served by New Court Commitments in FY04 and Guideline Time  
By Offender Risk Score**

Offense Group	Felony Classes	Offender Risk: Salient Factor Score	FY04 Releases	Ave. Sent. (Mths)	Actual Time Served		Guideline Term		Highest of Guideline or MMPT	
					(Mths)	Percent	(Mths)	Percent	(Mths)	Percent
DWI	C & D	1. Good	55	39.2	12.2	31.2	5.6	15	8.2	21.0
		2. Above Average	69	47.4	18.9	39.9	9.7	20	15.4	32.4
		3. Average	47	41.7	21.1	50.5	12.5	30	16.7	39.9
		4. Below Average	6	46.0	32.2	69.9	18.2	40	28.7	51.5
		5. Poor	-							
	Total DWI		177	43.3	17.9	41.3	9.5	22	13.9	32.2
Nonviolent and Drugs	A & B	1. Good	203	99.7	34.5	34.6	29.8	30	31.4	31.5
		2. Above Average	131	93.4	37.1	39.7	32.4	35	33.8	36.2
		3. Average	126	96.1	46.4	48.2	38.5	40	40.3	41.9
		4. Below Average	36	108.3	59.5	54.9	48.5	45	49.6	45.7
		5. Poor	10	76.8	49.3	64.2	38.4	50	38.4	56.8
		Total NVI AB	506	97.4	40.2	41.3	34.1	35	35.7	36.6
	C & D	1. Good	381	52.7	13.5	25.6	8.1	15	8.8	16.6
		2. Above Average	299	54.4	18.4	33.9	10.1	17	12.8	23.5
		3. Average	396	54.9	22.4	40.7	11.8	20	17.0	30.9
		4. Below Average	125	58.9	28.2	47.9	20.7	33	24.7	41.9
		5. Poor	45	59.5	39.0	65.7	29.6	50	31.9	53.7
		Total NVI CD	1,246	54.7	19.9	36.4	11.8	22	14.8	27.0
		Total Non Violent	1,752	67.0	25.8	38.5	18.2	27	20.8	31.1
		Sex & Child Abuse	A & B	1. Good	93	128.8	97.8	75.9	51.6	40
2. Above Average	27			128.4	106.4	82.8	57.8	45	57.8	45.0
3. Average	11			112.4	93.9	83.6	56.2	50	56.2	50.0
4. Below Average	4			201.0	162.8	81.0	100.5	50	121.3	58.3
5. Poor	2			168.0	141.1	84.0	92.5	55	92.5	65.1
Total Sex AB	137			130.1	100.8	77.4	55.2	42	56.9	43.7
C & D	1. Good		105	61.6	43.3	70.3	21.5	35	21.5	35.0
	2. Above Average		26	57.8	47.5	82.1	22.9	40	23.3	40.3
	3. Average		20	51.6	39.5	76.6	23.3	45	23.7	45.9
	4. Below Average		6	54.0	50.7	93.8	27.0	50	32.8	60.8
	5. Poor		1	60.0	60.0	100.0	33.0	55	33.0	64.3
	Total Sex CD		158	59.4	43.9	73.9	22.2	37	22.6	38.1
Total Sex & Child Abuse	295	92.2	70.3	76.2	37.5	41	38.5	41.8		
Violent	A & B	1. Good	147	153.5	91.6	59.7	61.4	40	71.1	46.3
		2. Above Average	75	156.6	93.8	59.9	70.5	45	79.6	50.8
		3. Average	93	135.9	97.0	71.4	67.9	50	73.3	53.9
		4. Below Average	22	142.9	103.5	72.5	78.6	55	85.3	59.7
		5. Poor	16	129.8	102.1	78.7	77.8	60	82.5	63.6
		Total Violent AB	353	147.8	94.7	64.1	66.9	45	74.9	50.7
	C & D	1. Good	98	63.4	29.2	46.0	22.1	35	23.7	37.5
		2. Above Average	67	64.7	26.0	40.2	25.9	40	27.0	41.7
		3. Average	49	62.1	33.3	53.6	28.0	45	28.8	46.4
		4. Below Average	18	58.7	43.2	73.7	29.9	51	33.0	56.3
		5. Poor	2	66.0	34.5	52.3	36.0	55	46.0	69.7
Total Violent CD	234	63.2	30.3	47.9	25.1	40	26.6	42.2		
Total Violent	587	114.0	69.0	60.5	50.2	44	55.6	48.8		
TOTAL			2,811	78.0	39.0	50.0	26.4	34	29.5	37.8

**Note:** The above statistics on expected time served assume an equivalence between the court-based offender risk score and the Board of Probation and Parole's salient factor score. The Court's **Good** category is equivalent to the Board's **Excellent** category.

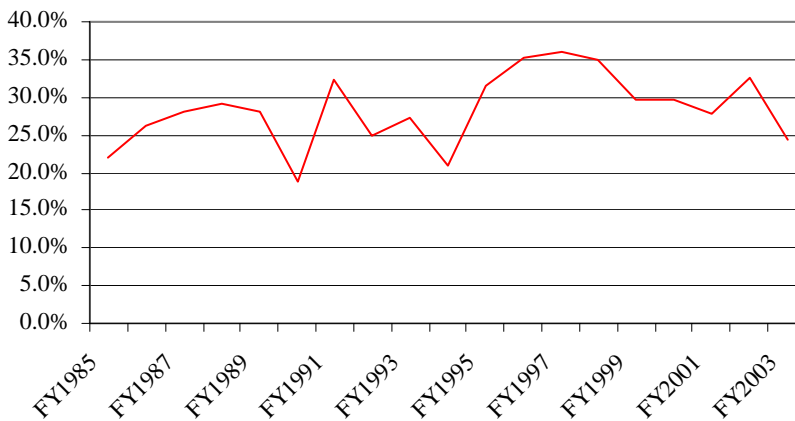
## Appendix F

### Death Penalty Sentencing Statistics

#### Offenders Received for Murder I (FY95-FY03)

	Death Penalty	Life	Total	Percent Capital
FY1985	1	21	22	4.5%
FY1986	4	25	29	13.8%
FY1987	6	32	38	15.8%
FY1988	5	35	40	12.5%
FY1989	6	33	39	15.4%
FY1990	3	22	25	12.0%
FY1991	6	41	47	12.8%
FY1992	8	32	40	20.0%
FY1993	7	40	47	14.9%
FY1994	4	31	35	11.4%
FY1995	5	57	62	8.1%
FY1996	4	66	70	5.7%
FY1997	6	47	53	11.3%
FY1998	5	48	53	9.4%
FY1999	4	37	41	9.8%
FY2000	7	39	46	15.2%
FY2001	2	33	35	5.7%
FY2002	2	41	43	4.7%
FY2003	2	33	35	5.7%
FY2004	0	11	11	0.0%
Total	87	713	800	10.9%

**Murder 1 as Percent of Murder**



**Offenders Received for Murder 1 and Murder 2  
FY05-FY04 (to November, 2003)**

	Murder I	Murder II	Total	Percent Murder I
FY1985	22	78	100	22.0%
FY1986	29	82	111	26.1%
FY1987	38	97	135	28.1%
FY1988	40	97	137	29.2%
FY1989	39	100	139	28.1%
FY1990	25	108	133	18.8%
FY1991	47	98	145	32.4%
FY1992	40	121	161	24.8%
FY1993	47	126	173	27.2%
FY1994	35	133	168	20.8%
FY1995	62	135	197	31.5%
FY1996	70	129	199	35.2%
FY1997	53	94	147	36.1%
FY1998	53	99	152	34.9%
FY1999	41	97	138	29.7%
FY2000	46	109	155	29.7%
FY2001	35	91	126	27.8%
FY2002	43	89	132	32.6%
FY2003	35	109	144	24.3%
FY2004	11	25	36	30.6%
<b>Total</b>	<b>811</b>	<b>2,017</b>	<b>2,828</b>	<b>28.7%</b>

**Offenders Received for Murder I, By Race**

	African Americans				Other Races			
	Death Penalty	Life	Total	Percent Capital	Death Penalty	Life	Total	Percent Capital
FY1985	0	8	8	0.0%	1	14	15	6.7%
FY1986	1	13	14	7.1%	3	16	19	15.8%
FY1987	2	16	18	11.1%	4	22	26	15.4%
FY1988	0	12	12	0.0%	5	28	33	15.2%
FY1989	2	20	22	9.1%	4	19	23	17.4%
FY1990	1	15	16	6.3%	2	10	12	16.7%
FY1991	4	27	31	12.9%	2	20	22	9.1%
FY1992	1	22	23	4.3%	7	18	25	28.0%
FY1993	4	17	21	19.0%	3	30	33	9.1%
FY1994	1	22	23	4.3%	3	13	16	18.8%
FY1995	3	36	39	7.7%	2	26	28	7.1%
FY1996	2	39	41	4.9%	2	31	33	6.1%
FY1997	1	30	31	3.2%	5	23	28	17.9%
FY1998	1	24	25	4.0%	4	29	33	12.1%
FY1999	1	20	21	4.8%	3	21	24	12.5%
FY2000	2	24	26	7.7%	5	22	27	18.5%
FY2001	1	21	22	4.5%	1	14	15	6.7%
FY2002	1	24	25	4.0%	1	19	20	5.0%
FY2003	1	11	12	8.3%	1	24	25	4.0%
FY2004	0	6	6	0.0%	0	5	5	0.0%
<b>Total</b>	<b>29</b>	<b>407</b>	<b>436</b>	<b>6.7%</b>	<b>58</b>	<b>404</b>	<b>462</b>	<b>12.6%</b>



**Offenders Received with Murder By Race**

	African Americans				Other Races			
	Murder I	Murder II	Total	Percent Murder I	Murder I	Murder II	Total	Percent Murder I
FY1985	8	33	41	19.5%	14	45	59	23.7%
FY1986	13	41	54	24.1%	16	41	57	28.1%
FY1987	16	57	73	21.9%	22	40	62	35.5%
FY1988	12	52	64	18.8%	28	45	73	38.4%
FY1989	20	60	80	25.0%	19	40	59	32.2%
FY1990	15	75	90	16.7%	10	33	43	23.3%
FY1991	27	58	85	31.8%	20	40	60	33.3%
FY1992	22	82	104	21.2%	18	39	57	31.6%
FY1993	17	74	91	18.7%	30	52	82	36.6%
FY1994	22	74	96	22.9%	13	59	72	18.1%
FY1995	36	84	120	30.0%	26	51	77	33.8%
FY1996	39	88	127	30.7%	31	41	72	43.1%
FY1997	30	55	85	35.3%	23	39	62	37.1%
FY1998	24	50	74	32.4%	29	49	78	37.2%
FY1999	20	61	81	24.7%	21	36	57	36.8%
FY2000	24	60	84	28.6%	22	49	71	31.0%
FY2001	21	51	72	29.2%	14	40	54	25.9%
FY2002	24	50	74	32.4%	19	39	58	32.8%
FY2003	11	58	69	15.9%	24	51	75	32.0%
FY2004	6	12	18	33.3%	5	13	18	27.8%
<b>Total</b>	<b>407</b>	<b>1,175</b>	<b>1,582</b>	<b>25.7%</b>	<b>404</b>	<b>842</b>	<b>1,246</b>	<b>32.4%</b>

## Appendix G

### COMMISSION SURVEYS JUDGES IN PILOT PROJECTS

*The Missouri Sentencing Advisory Commission contracted with the University of Missouri Columbia's Institute of Public Policy in March to survey judges using the new Sentencing Assessment Reports in portions of the pilot circuits located in the following counties: Buchanan, Cape Girardeau, Cass, Franklin, St. Louis and Taney. Following is the executive summary of that survey.*

During the spring of 2005, the Institute of Public Policy examined judges' perceptions of the new sentencing assessment reports implemented in six circuits in January 2005. The purpose of the review was to determine judges' opinions about the reports and to identify ways that the reports could be improved.

The Institute surveyed judges in the six pilot circuits in April 2005 using both a paper survey and an optional online survey. Questions were developed in cooperation with the staff of the Missouri Sentencing Advisory Commission and the Board of Probation and Parole. After the responses to the survey had been reviewed, additional questions were developed and used in a telephone interview with those judges more experienced with sentencing assessment reports.

The assessment of the new reports occurred very early in the implementation process. Consequently, only 19 judges had reviewed a sentencing assessment report and only 283 reports had been reviewed in total by judges in these circuits. In addition, the sentencing assessment report was modified in mid-March, following an analysis of early reports conducted by the staff of the Board of Probation and Parole, and some of the judges responding to the survey had opinions of the report based upon the initial rather than the revised report. Most of those who responded to the survey had minimal experience with the sentencing assessment report and had not formed opinions about many of the strengths and weaknesses of the new reports as compared to the pre-sentence investigation reports. Finally, some of the judges attended one of the judicial training programs during the months of April and May, but others did not. As a result of these factors, this report describes how judges and parole officers are adapting to the new system as well as their overall perceptions of the value and effectiveness of the sentencing assessment reports.

We also interviewed nine of the 19 judges who responded to the survey, in person or by telephone, to obtain more in-depth information about their reactions to the sentencing assessment reports. The interviews were conducted in late May and early June -- five to eight weeks after the judges had completed the survey. In general, we found that judges and parole officers were adjusting to the changes brought by the use of sentencing assessment reports in that some of the issues identified in the surveys were no longer problems.

### **Findings regarding the sentencing assessment reports**

Specific findings concerning the sentencing assessment reports are outlined below.

- *Aggravating and mitigating circumstances* – Judges responding to the survey overwhelmingly endorsed the summary of aggravating and mitigating circumstances as an improvement over the information provided in the old pre-sentence investigations.
- *Information on time served* – This information was not contained in the pre-sentencing investigation reports and was considered a beneficial addition by the judges.
- *Format* – Format is straight-forward and easy to understand. The summary on the last page is very helpful.
- *Sentencing Commission standard* – Almost always called the “recommended sentence”, the standard provides consistency and allows victims and defendants alike to know the basis of the sentence, although some judges questioned the value of recommended sentences.

### **Findings regarding implementation**

There are adjustments that must be made after the adoption of any significant change in organizational procedures. We found evidence that adjustments are being made in our survey and interviews, and we found other issues that the Sentencing Commission may wish to consider. These are outlined below.

- *Sufficiency of information about the offender* – A number of judges responded to the survey by indicating that the sentencing assessment report focused too much on the offense and provided too little about the offender. However, few of the judges interviewed thought that this was a continuing issue. We infer that both judges and parole officers learned more about the reports in the intervening time and were able to use them more effectively.
- *More information on alternative sentencing options* – Judges usually knew what sentencing alternatives were available in their circuit but they did not always know whether a specific alternative was available at the time of sentencing. For example, a judge might know that drug treatment is available but will not know whether a bed is available or when it might become available.
- *Frequency of use* – Judges do not automatically request a sentencing assessment report, although most judges indicated that they requested a report for almost every offender. Some judges, however, do not request a report when the offender is to be sentenced to prison and others request a report only when there is an open plea.
- *Victim impact* – Most judges wanted more information about the impact of the offense on the victim, and when that information was lacking, some judges were

uncertain whether it was lacking because the victim refused to issue a statement or because the effort to obtain that information was inadequate. We found two themes in our research that were evidence of differing judicial attitudes about sentencing and about the process of crafting that sentence. First, some judges in out-state Missouri expressed concern regarding the recommended or presumptive sentence, indicating that their sentence was likely to be different.

Second, judges were of different minds concerning the role that the probation officer should have in recommending sentences. Some judges viewed recommendations by the parole officer as an unwarranted intrusion into their prerogatives but a substantial majority wanted a recommendation from the parole officer. One judge indicated that he wanted to compare the parole officer's recommendation to the sentence sought by the prosecutor and to the information provided on behalf of the offender by the defense counsel. Several judges argued that parole officers have more knowledge of the offender as an individual and have a more complete view of the offender's history. Based on knowledge, judges viewed it as appropriate for a parole officer to make a recommendation.

### **Conclusion**

Judges reported having sufficient time to learn about the new system, although some had had minimal exposure to the sentencing assessment system prior to using the new reports. At the same time, judicial training that occurred during the period of this research provided attending judges with information and perspectives that they had not had prior to the training. We found that the training helped judges understand and apply the sentencing assessment reports.

## Appendix H

### RESTORATIVE JUSTICE IS VIABLE PRISON ALTERNATIVE

*One of the charges of the Missouri Sentencing Advisory Commission is to explore real alternatives to imprisonment and report those findings to the Governor and General Assembly. The following is a research piece on restorative and reparative justice researched and written for the Commission's 2005 report.*

The challenges of this era have caused many criminal justice practitioners to re-evaluate some of the basic tenets and practices of the system responsible for providing justice in our country. Historically our system is based on an assumption that “the state” assumes responsibility for all those impacted in the justice system. This approach has been widely challenged in recent years with victims and other parties expressing a desire to be heard and represented in this process. Our current system is primarily offender-oriented with the state’s interest driving the process.

Prison overcrowding, extensive correctional resources dedicated to relatively minor and non-violent offenders and the desire for additional involvement in the process by those previously not represented have caused many jurisdictions to look for alternatives. Budget constraints and a desire to make better use of available resources have resulted in an increased interest in innovative ways to address criminal justice issues and involve individuals and groups not previously represented in the criminal justice process.

Missouri’s interest in this area has been expressed in several ways. Section 217.777.1 RSMo., charges the Missouri Department of Corrections to administer a community corrections program to encourage the establishment of local sentencing initiatives. Among the goals in this section are:

- Promote the accountability of offenders to crime victims, local communities and the state
- Increase the use of restitution
- Reduce the costs of treatment, punishment and supervision of offenders
- Improve public confidence in the criminal justice system by involving the public in the development of community-based sentencing options for eligible offenders

In Section 217.440 RSMo., the Director of the Department of Corrections is authorized to establish a program of restorative justice within the department’s correctional centers. The department has been involved in restorative justice efforts primarily by providing an opportunity for community service work while incarcerated as well as victim-oriented programs that provide victims of crime an opportunity to educate offenders on the effects of crime on a victim and the community. These programs, while worthwhile, do little to provide alternative sentencing options or to provide for active participation of a victim and community in a particular crime that affects them.

In addition to the statutory direction, the leadership of the state has expressed increased interest in alternatives to the traditional model by directing department heads and commissions to explore this area. Senate Bill 5, which was enacted June 27, 2003 (Section 558.019.6 RSMo.)

directed the Sentencing Advisory Commission to consider the feasibility of incorporating alternative sentences, work release, home-based incarceration and probation and parole options into their work.

There is little doubt that restorative and reparative justice approaches will not replace prisons. Prisons will continue to be the primary method of sentencing for violent and dangerous offenders. It will also be the primary method for dealing with those offenders who do not lend themselves to these types of sanctions. This approach may, however, be a viable option for lower level adult offenders as well as juvenile offenders.

The concept of restorative and reparative justice is based on the premise that a crime represents a debt owed not only to the state, but to the victim, the victim's family and to the community as a whole. In addition, the offender is to acknowledge responsibility for the harm that has been done. It is the responsibility of the community to provide a forum in which justice can occur.

The resources of restorative or reparative justice depend largely on the assets available in the community as well as the willingness of various individuals and groups to participate in the process. While adherence to the principles is the most important aspect, communities and jurisdictions can develop an approach that is most likely to be successful in their area.

While there are great variations in approaches, some of the more common models will be briefly summarized in this document. The models may reflect the individual priorities of the community as well as the particular needs of the jurisdiction. It is important to note that the term "community" does not necessarily reflect a jurisdictional boundary but is more intended to reflect the social norms and connections that may exist regardless of the geographic boundaries.

### **Victim/Offender Mediation**

This approach creates an environment where the victim has an opportunity to meet with the offender in a safe and structured setting for the purpose of a facilitated discussion of the crime. In this setting the victim is able to tell the offender about the effects of the crime from a physical, emotional and financial perspective. This setting can create an environment for questions to be answered as well as a forum to discuss the restitution plan for the offender.

Cases may be referred by judges, probation officers, prosecutors, defense attorneys and law enforcement officers. This approach has been used as a diversion from prosecution but also may be used after a formal admission of guilt with mediation as a condition of probation or other disposition.

It is important that the victim's and the offender's participation is voluntary. Implementation of such an approach must be mindful of sensitivity to the needs of the victim.

The American Bar Association has endorsed victim-offender mediation and recommends its use in the United States.

The following example of such mediation is cited by Gordon Bazemore, Ph.D. Professor, Department of Criminology and Criminal Justice at Florida Atlantic University, Ft. Lauderdale, Florida and Mark Umbreit, Ph.D. Director, Center for Restorative Justice and Peacemaking, University of Minnesota, St. Paul, Minnesota:

“The victim was a middle-aged woman. The offender, a fourteen-year old neighbor of the victim, had broken into the victim’s home and stolen a VCR. The mediation session took place in the basement of the victim’s church. In the presence of the mediator, the victim and offender talked for two hours. At times, their conversation was heated and emotional. When they finished, the mediator felt that they had heard each other’s stories and learned something important about the impact of crime and about each other.

The participants agreed that the offender would pay \$200 in restitution to cover the cost of damages to the victim’s home resulting from the break-in and would also reimburse the victim for the cost of the stolen VCR (estimated at \$150). They also worked out a payment schedule.

During the session, the offender made several apologies to the victim and agreed to complete community service hours working in a food bank sponsored by the victim’s church. The victim said that she felt less angry and fearful after learning more about the offender and the details of the crime. She also thanked the mediator for allowing the session to be held at her church.”

The connection with her church was comforting to this particular, and indeed, faith-based restorative justice programs are becoming especially popular. A church is often a focal point of a community, and its support for a restorative justice program can be enormous.

### **Community Reparative Boards**

Variations of this model have been in use in this country since the 1920s. These boards are usually comprised of a small group of citizens who have been specifically trained for this responsibility. The board conducts public, face-to-face meetings with offenders ordered by the court to participate in the process. The board discusses the nature of the offense and develops a set of proposed sanctions. These sanctions are discussed with the offender until an agreement is reached. The board also monitors compliance and submits reports to the court.

This model has been used primarily with adult offenders convicted of non-violent and minor offenses. In recent years it has also been used with juvenile offenders.

### **Family Group Counseling**

This model has been used primarily as a diversion option for juveniles but has also more recently been used for minor, non-violent adult offenders. This model uses police officers and school officials to set up and facilitate family conference meetings. Those participating are those most affected by the crime – victims, the offender, family, friends and key supporters. A trained facilitator leads a discussion centered on how the offense affected each of them and others. The result is a plan to determine how the harm can be repaired.

Each participant is given the opportunity to talk about how the crime has affected them. Each participant contributes to the problem-solving process and the development of a contract that addresses the repair that is to be done.

### **Circle Sentencing**

This model is the most extensive in terms of the participants and scope of effort. It has been used extensively in Canada and by American Indians in the United States. It has been used with juvenile and adult offenders in both rural and urban settings. It is designed not only to address the criminal behavior of offenders but also to consider the needs of victims, families and the community.

In this model all circle members – victims, family, friends, police, prosecutors, judges and the offender -- have the opportunity to speak and deliberate to arrive at a consensus for a sentencing plan that addresses the concerns of all involved. The success of this model depends largely on the level of cooperation between the criminal justice system and the community.

Sentencing Circles have been used for serious and violent offenses, but are not appropriate for all crimes. Critical factors for consideration include the offender's character, sincerity and connection to the community. Since this approach can be very labor intensive, it is not recommended for a routine response to first-time offenders and minor offenses.

### **Conclusion**

As previously mentioned, there is a great deal of flexibility in determining the best solution for a community. The key component is a strong relationship between the criminal justice practitioners and the resources of the community. There must be recognition that victim and community have an interest in being a working part of criminal justice and public safety in their area.

Restorative justice programs target the ultimate goals of improving public safety and reducing the likelihood that additional criminal activity will occur. The retribution model of sentencing in the United States has not always been seen as an effective method of achieving those goals, thus alternatives like restorative/reparative justice are gaining in popularity around the country. And, their effectiveness cannot be denied.