

# Supreme Court of Florida

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Nos. 74,818, 75,364

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IN RE: FLORIDA RULES OF CRIMINAL PROCEDURE  
3.701 AND 3.988 (SENTENCING GUIDELINES).

REVISED ON MOTION FOR CLARIFICATION\*

[September 6, 1991

PER CURIAM.

The Sentencing Guidelines Commission has filed two petitions seeking changes in Florida Rules of Criminal Procedure 3.701 and 3.988. The first amendments, presented in case no.

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\* On motion for clarification we have substituted page 15 of the appendix, recommended ranges for category 6, due to the inadvertent omission of statutory references from that page and have changed the effective date for the new **forms** adopted in case no. 75,364.

74,818, are purely procedural and are intended to incorporate legislative changes regarding crimes subject to the sentencing guidelines. The second petition, case no. 75,364, revises the forms contained in rule 3.988(a)-(j) to conform to the paper-size requirements implemented in In re Amendment to Florida Rules of Judicial Administration, Rule 2.055 (Paper Size), 550 So.2d 457 (Fla. 1989). The forms have been completely revised and require more detailed information than previous forms, but do not change the criteria used to calculate a guidelines sentence or the weight assigned to those criteria.

Therefore, we amend rules 3.701 and 3.988 as indicated in the appendix to this opinion. The amendments adopted in no. 74,818 will be effective immediately upon filing of this opinion. The new forms adopted in no. 75,364 will be effective at 12:01 a.m., January 1, 1991.

It is so ordered.

SHAW, C.J., and OVERTON, McDONALD, EHRLICH, BARKETT, GRIMES and KOGAN, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

APPENDIX

Rule 3.701(c) - OFFENSE CATEGORIES

(c) Offenses have been grouped into nine (9) offense categories encompassing the following statutes:

- Category 1: Murder, manslaughter: Chapter 782 [except subsection 782.04(1)(a)], and subsection 316.193(3)(c)3, and section 327.351(2)
- Category 2: Sexual offenses: Chapters 794 and 800 and section 826.04
- Category 3: Robbery: Section 812.13
- Category 4: Violent personal crimes: Chapters 784 and 836 and section 843.01
- Category 5: Burglary: Chapter 810 and subsection 806.13(3)
- Category 6: Thefts, forgery, fraud: Chapters 322 and 409, section 415.111, chapter 443, section 493.3175, and chapters 509, 812 (except section 812.13), 815, 817, 831, and 832
- Category 7: Drugs: Chapter 893
- Category 8: Weapons: Chapter 790 and section 944.40
- Category 9: All other felony offenses

Rule 3.988(a)  
Category I: Murder, Manslaughter

I. Primary Offense at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	1165	1226	1286	1346	_____
1st bl	150	195	276	336	_____
	136	165	226	286	_____
	77	93	106	121	_____
	<b>45</b>	<b>55</b>	<b>65</b>	<b>75</b>	_____

Primary offense counts in excess of four:

- Add 60 for each additional life \_\_\_\_\_
- Add 60 for each additional 1st pbl \_\_\_\_\_
- Add 60 for each additional 1st \_\_\_\_\_
- Add 15 for each additional 2nd \_\_\_\_\_
- Add 10 for each additional 3rd \_\_\_\_\_
- Total \_\_\_\_\_

II. Additional Offenses at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	61	73	79	85	_____
1st pbl	45	54	58	63	_____
1st	29	35	38	41	_____
2nd	16	19	21	22	_____
3rd	10	12	13	14	_____
MM	2	3	4	5	_____

Additional offense counts in excess of four:

- Add 5 for each additional 1st pbl \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- Add 1 for each additional 3rd \_\_\_\_\_
- Add 1 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

III. A. Prior Record

Degree	Counts				Points
	1	2	3	4	
Life	50	110	180	270	_____
1st pbl	40	88	138	216	_____
1st	30	66	96	162	_____
2nd	15	33	48	81	_____
3rd	5	11	18	27	_____
MM	1	2	4	6	_____

Primary convictions in excess of four:

- Add 90 for each additional life \_\_\_\_\_
- Add 78 for each additional 1st pbl \_\_\_\_\_
- Add 66 for each additional 1st \_\_\_\_\_
- Add 33 for each additional 2nd \_\_\_\_\_
- Add 9 for each additional 3rd \_\_\_\_\_
- Add 2 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

III. B. Prior DUI Convictions

Add 32 for each prior category 1 offense  
 \_\_\_\_\_ Priors x 32 = \_\_\_\_\_ Total Points

IV. Legal Status at Time of Offense

No restrictions	0
Legal constraint	21

V. Victim Injury (physical)

Degree of Injury	x	Number	=	Points
None		0		_____
Slight		7		_____
Moderate		14		_____
Death or severe		21		_____
Total				_____

Rule 3.988(a)  
Category 1: Murder, Manslaughter

Chapter 782 - Homicide (except subsection 782.04(1)(a) - capital murder)

Subsection 316.193(3)(c)(3) - **DUI** Manslaughter (automobile)

Subsection 327.351(2) - **DUI** Manslaughter (vessel)

Points	Recommended Range	Permitted Range
66	any nonstate prison sanction	any nonstate prison sanction.
67 - 92	community control or 12 - 30 months incarceration	any nonstate prison sanction or community control or 1 - 7 years incarceration
93 - 135	$3 \frac{5}{7}$	community control or 1 - 12 years incarceration
136 - 164	$10 \frac{10}{12}$	3 - 17
	15 -	
226 - 285	$20 \frac{20}{22}$	12 - 27
286 - 345	$25 \frac{25}{27}$	17 - 40
346 - 381	$30 \frac{30}{40}$	22 - Life
382+	Life	27 - Life

Note --- Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Fla. Stat. (Supp. 1988).

Rule 3.988(b)  
Category 2: Sexual Offenses

I. Primary Offense at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	262	314	340	366	_____
1st	216	259	281	302	_____
2nd	158	190	206	222	_____
3rd	149	179	193	204	_____

Primary offense counts in excess of four:

- Add 26 for each additional life \_\_\_\_\_
- Add 21 for each additional 1st \_\_\_\_\_
- Add 16 for each additional 2nd \_\_\_\_\_
- Add 16 for each additional 3rd \_\_\_\_\_
- Total \_\_\_\_\_

III. Prior Record

Degree	Counts				Points
	1	2	3	4	
Life	264	530	810	1100	_____
1st pbl	211	424	648	880	_____
1st	158	318	486	660	_____
2nd	80	159	243	330	_____
3rd	26	53	81	110	_____
MM	5	10	15	20	_____

Primary convictions in excess of four:

- Add 290 for each additional life \_\_\_\_\_
- Add 232 for each additional 1st pbl \_\_\_\_\_
- Add 174 for each additional 1st \_\_\_\_\_
- Add 87 for each additional 2nd \_\_\_\_\_
- Add 29 for each additional 3rd \_\_\_\_\_
- Add 5 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

II. Additional Offenses at Conviction

Degree	counts				Points
	1	2	3	4	
Life	44	53	69	97	_____
1st pbl	40	48	62	88	_____
1st	36	43	56	78	_____
2nd	26	31	40	56	_____
3rd	25	30	39	55	_____
MM	5	6	8	11	_____

Additional offense counts in excess of four:

- Add 28 for each additional life \_\_\_\_\_
- Add 26 for each additional 1st pbl \_\_\_\_\_
- Add 22 for each additional 1st \_\_\_\_\_
- Add 16 for each additional 2nd \_\_\_\_\_
- Add 16 for each additional 3rd \_\_\_\_\_
- Add 3 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

IV. Legal Status at Time of Offense

Status	Points
No restrictions	0
Legal constraint	30

Total \_\_\_\_\_

V. Victim Injury (physical)

Degree of Injury	x	Number	=	Points
No Contact	0	_____	_____	_____
Contact but no penetration	20	_____	_____	_____
Penetration or slight injury	40	_____	_____	_____
Death or serious injury	85	_____	_____	_____

Total \_\_\_\_\_

Rule 3.988(b)  
Category 2 Sexual Offenses

Chapter 794 - Sexual Battery

Chapter 800 - Lewdness; Indecent Exposure

Section 826.04 - Incest

Points	Recommended Range	Permitted Range
149 - 169	any nonstate prison sanction	any nonstate prison sanction
170 - 185	community control or 12- 30 months incarceration	any nonstate prison sanction or community control or 1 - 3 1/2 years incarceration
186 -207	3 (2 U2 - 3 112)	community control or 1 - 4 1/2 years incarceration
208 - 229	4 (3 112 - 4 1/2)	2 V2 - 5 112
230 - 250	5 (4 1/2 - 5 U2)	3 V2 - 7
251 - 278	6 (5 1/2 - 7)	4 1/2 - 9
279 - 312	8 (7 - 9)	5 1/2 - 12
313 - 354	10 (9 - 12)	7 - 17
355 - 422	15 (12 - 17)	9 - 22
423 -486	20 (17 - 22)	12 - 27
487 -546	25 (22 - 27)	17 - 40
547 - 582	30 (27 - 40)	22 - Life
583 +	Life	27 - Life

Note ... Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Fla. Stat. (Supp. 1988).

Rule 3.988(c)  
Category 3 Robbery

I. Primary Offense at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	102	122	133	148	_____
1st pbl	82	98	107	119	_____
1st	70	84	91	101	_____
2nd	50	60	65	75	_____
3rd	34	41	44	54	_____

Primary offense counts in excess of four:

- Add 15 for each additional life \_\_\_\_\_
- Add 12 for each additional 1st pbl \_\_\_\_\_
- Add 10 for each additional 1st \_\_\_\_\_
- Add 10 for each additional 2nd \_\_\_\_\_
- Add 10 for each additional 3rd \_\_\_\_\_
- Total \_\_\_\_\_

II. Additional Offenses at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	20	24	26	28	_____
1st pbl	17	20	22	24	_____
1st	14	17	18	19	_____
2nd	10	12	13	14	_____
3rd	7	8	9	10	_____
MM	1	2	3	4	_____

Additional offense counts in excess of four:

- Add 2 for each additional life \_\_\_\_\_
- Add 2 for each additional 1st pbl \_\_\_\_\_
- Add 1 for each additional 1st \_\_\_\_\_
- Add 1 for each additional 2nd \_\_\_\_\_
- Add 1 for each additional 3rd \_\_\_\_\_
- Add 1 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

III. A. Prior Record

Degree	counts				Points
	1	2	3	4	
Life	100	210	330	460	_____
1st pbl	80	168	264	368	_____
1st	60	126	198	276	_____
2nd	30	63	99	138	_____
3rd	10	21	33	46	_____
MM	2	5	8	12	_____

Primary convictions in excess of four:

- Add 130 for each additional life \_\_\_\_\_
- Add 104 for each additional 1st pbl \_\_\_\_\_
- Add 78 for each additional 1st \_\_\_\_\_
- Add 39 for each additional 2nd \_\_\_\_\_
- Add 13 for each additional 3rd \_\_\_\_\_
- Add 4 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

III. B. Same Category Priors

Add 25 for each prior category 3 offense

\_\_\_\_\_ Priors x 25 = \_\_\_\_\_ Total Points

IV. Legal Status at Time of Offense

Status	Points
No restrictions	0
Legal constraint	17

Total \_\_\_\_\_

V. Victim Injury (physical)

Degree of Injury	x	Number	=	Points
None		0		_____
Slight		7		_____
Moderate		14		_____
Death or severe		21		_____

Total \_\_\_\_\_



Rule 3.988(c)  
Category 3: Robbery

Section 812.13 - Robbery

GUIDELINE SENTENCE

Points	Recommended Range	Permitted Range
34 - 53	any nonstate prison sanction	any nonstate prison sanction
54 - 65	community control or 12- 30 months incarceration	any nonstate prison sanction or community control or 1 - 3 1/2 years incarceration
66 - 81	<sup>3</sup> (2 1/2 - 3 1/2)	community control or 1 - 4 1/2 years incarceration
82 - 101	<sup>4</sup> (3 1/2 - 4 1/2)	2 1/2 - 5 1/2
102 - 121	<sup>5</sup> (4 1/2 - 5 1/2)	3 1/2 - 7
122 - 151	<sup>6</sup> (5 1/2 - 7)	4 1/2 - 9
152 - 183	<sup>8</sup> (7 - 9)	5 1/2 - 12
184 - 229	<sup>10</sup> (9 - 12)	7 - 17
230 - 295	<sup>15</sup> (12 - 17)	9 - 22
296 - 357	<sup>20</sup> (17 - 22)	12 - 27
358 - 417	<sup>25</sup> (22 - 27)	17 - 40
418 - 453	<sup>30</sup> (27 - 40)	22 - Life
454 +	Life	27 - Life

Note --- Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Fla. Stat. (Supp. 1988).

Rule 3.988(d)  
Category 4: Violent Personal Crimes

I. Primary Offense at Conviction

Degree	Counts				Points
	1	2	3	4	
2nd	105	126	136	146	_____
3rd	73	88	95	102	_____

Primary offense counts in excess of four:

Add 15 for each additional 1st \_\_\_\_\_  
 Add 10 for each additional 2nd \_\_\_\_\_  
 Add 7 for each additional 3rd \_\_\_\_\_  
Total \_\_\_\_\_

III. Prior Record

Degree	Counts				Points
	1	2	3	4	
Life	50	110	160	270	_____
1st pbl	40	88	128	216	_____
1st	30	66	96	162	_____
2nd	15	33	48	81	_____
3rd	5	11	18	27	_____
MM	1	2	4	6	_____

Primary convictions in excess of four:

Add 90 for each additional life \_\_\_\_\_  
 Add 88 for each additional 1st pbl \_\_\_\_\_  
 Add 66 for each additional 1st \_\_\_\_\_  
 Add 33 for each additional 2nd \_\_\_\_\_  
 Add 9 for each additional 3rd \_\_\_\_\_  
 Add 2 for each additional MM \_\_\_\_\_  
Total \_\_\_\_\_

Degree	1	2	3	4	Points
1st	29	35	38	41	_____
2nd	21	25	27	29	_____
3rd	15	18	20	21	_____
MM	3	4	5	6	_____

Add 2 for each additional 2nd \_\_\_\_\_  
 Add 1 for each additional 3rd \_\_\_\_\_  
 Add 1 for each additional MM \_\_\_\_\_  
Total \_\_\_\_\_

IV. Legal Status at Time of Offense

Status	Points
No restrictions	0
Legal constraint	36

V. Victim Injury (physical)

Degree of Injury	x	Number	=	Points
None		0		_____
Slight		12		_____
Moderate		24		_____
Death or severe		36		_____
Total				_____

Rule 3.988(d)  
 Category 4 Violent Personal Crimes

Chapter 784 - Assault, Battery

Section 836.05 - Threats, Extortion

Section 836.10 - Written Threats to **Kill** or Do Bodily Injury

Section 843.01 - Resisting Officer with Violence

Subsection 381.411(4)(b) - Battery on HRS Employee

GUIDELINE SENTENCE

Points	Recommended Range	Permitted Range
73 - 112	any nonstate prison sanction	any nonstate prison sanction
113 - 154	community control or 12 - 30 months incarceration	any nonstate prison sanction or community control or 1 - 3 1/2 years incarceration
155 - 176	3 (2 1/2 - 3 1/2)	community control or 1 - 4 1/2 years incarceration
177 - 192	4 (3 1/2 - 4 1/2)	2 1/2 - 5 1/2
193 - 206	5 (4 1/2 - 5 1/2)	3 1/2 - 7
207 - 228	6 (5 1/2 - 7)	4 1/2 - 9
229 - 254	8 (7 - 9)	5 1/2 - 12
255 - 292	10 (9 - 12)	7 - 17
293 - 352	15 (12 - 17)	9 - 22
353 - 412	20 (17 - 22)	12 - 27
413 - 412	25 (22 - 27)	17 - 40
473 +	30 (27 - 40)	22 - 40

Note --- Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Fla. Stat. (Supp. 1988).

Rule 3.988(e)  
Category 5: Burglary

I. Primary Offense at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	80	96	104	112	_____
1st pbl	70	84	91	98	_____
1st	60	72	78	84	_____
2nd	30	36	39	42	_____
3rd	20	24	26	28	_____

Primary offense counts in excess of four:

- Add 8 for each additional life \_\_\_\_\_
- Add 7 for each additional 1st pbl \_\_\_\_\_
- Add 6 for each additional 1st \_\_\_\_\_
- Add 3 for each additional 2nd \_\_\_\_\_
- Add 2 for each additional 3rd \_\_\_\_\_
- Total \_\_\_\_\_

III. A. Prior Record

Degree	Counts				Points
	1	2	3	4	
Life	60	130	210	307	_____
1st pbl	48	104	168	246	_____
1st	36	78	126	184	_____
2nd	18	39	63	90	_____
3rd	6	13	21	30	_____
MM	1	2	3	4	_____

Primary convictions in excess of four:

- Add 97 for each additional life \_\_\_\_\_
- Add 78 for each additional 1st pbl \_\_\_\_\_
- Add 58 for each additional 1st \_\_\_\_\_
- Add 27 for each additional 2nd \_\_\_\_\_
- Add 9 for each additional 3rd \_\_\_\_\_
- Add 1 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

II. Additional Offenses at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	16	19	21	23	_____
1st pbl	14	16	18	20	_____
1st	12	14	16	17	_____
2nd	6	7	8	9	_____
3rd	4	5	6	7	_____
MM	1	2	3	4	_____

Additional offense counts in excess of four:

- Add 2 for each additional life \_\_\_\_\_
- Add 2 for each additional 1st pbl \_\_\_\_\_
- Add 1 for each additional 1st \_\_\_\_\_
- Add 1 for each additional 2nd \_\_\_\_\_
- Add 1 for each additional 3rd \_\_\_\_\_
- Add 1 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

III. B. Same Category Priors

Add 5 for each prior category 5 offense  
 \_\_\_\_\_ Priors x 5 = \_\_\_\_\_ Total Points

IV. Legal Status at Time of Offense

No restrictions	0
Legal constraint	10

V. Victim Injury (physical)

Degree of Injury	x	Number	=	Points
None		0		_____
Slight		5		_____
Moderate		10		_____
Death or severe		15		_____
Total				_____

Rule 3.988(e)  
Category 5: Burglary

Chapter 810 • Burglary

Subsection 806.13(3) • Criminal Mischief

Points	Recommended Range	Permitted Range
20 • <del>46</del>	any nonstate prison sanction	any nonstate prison sanction
47 - 71	community control or 12- 30 months incarceration	any nonstate prison sanction or community control or 1 - 3 1/2 years incarceration
72 - 90	<del>3</del> (2 1/2 - 3 1/2)	community control or 1 - 4 1/2 years incarceration
91 - 106	<del>4</del> (3 1/2 - 4 1/2)	2 1/2 - 5 1/2
107 - 120	<del>5</del> (4 1/2 - 5 1/2)	3 1/2 - 7
121 - 143	<del>6</del> (5 1/2 - 7)	4 1/2 - 9
144 - 164	<del>8</del> (7 - 9)	5 1/2 - 12
165 - 205	<del>10</del> (9 - 12)	7 - 17
206 - 265	<del>15</del> (12 - 17)	9 - 22
266 - 325	<del>20</del> (17 - 22)	12 - 27
326 - 385	<del>25</del> (22 - 27)	17 - 40
386 - 445	<del>30</del> (27 - 40)	22 - Life
446 +	Life	27 - Life

Note --- Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Fla. Stat. (Supp. 1988).

Rule 3.988(f)  
Category 6: Thefts, Forgery, Fraud

I. Primary Offense at Conviction

Degree	counts				Points
	1	2	3	4	
Life	86	103	112	120	_____
1st	70	84	91	98	_____
2nd	35	42	46	49	_____
3rd	13	16	17	18	_____

Primary offense counts in excess of four:

- Add 8 for each additional life \_\_\_\_\_
- Add 7 for each additional 1st \_\_\_\_\_
- Add 3 for each additional 2nd \_\_\_\_\_
- Add 1 for each additional 3rd \_\_\_\_\_
- Total \_\_\_\_\_

II. Additional Offenses at Conviction

Degree	Counts				Points
	1	2	3	4	
1st pbl	16	18	20	22	_____
1st	14	17	18	19	_____
2nd	7	8	9	10	_____
3rd	3	4	5	6	_____
MM	1	2	3	4	_____

III. A. Prior Record

Degree	Counts				Points
	1	2	3	4	
Life	50	110	180	270	_____
1st pbl	40	88	138	216	_____
1st	30	66	96	162	_____
2nd	15	33	48	81	_____
3rd	5	11	18	27	_____
MM	1	2	4	6	_____

Primary convictions in excess of four:

- Add 90 for each additional life \_\_\_\_\_
- Add 78 for each additional 1st pbl \_\_\_\_\_
- Add 66 for each additional 1st \_\_\_\_\_
- Add 33 for each additional 2nd \_\_\_\_\_
- Add 9 for each additional 3rd \_\_\_\_\_
- Add 2 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

III. B. Same Category Priors

Add 5 for each prior category 6 offense  
 \_\_\_\_\_ Priors x 5 = \_\_\_\_\_ Total Points

IV. Legal Status at Time of Offense

No restrictions	0
Legal constraint	6

V. Victim Injury (physical)

Degree of Injury	x	Number	=	Points
None		0		_____
Slight		3		_____
Moderate		6		_____
Death or severe		9		_____
Total				_____

Rule 3.988(f)  
Category 6: Thefts, Forgery, Fraud

Chapter 322 - Drivers' Licenses  
 Chapter 409 - Social and Economic Assistance  
 Chapter 443 - Unemployment Compensation  
 Chapter 509 - Public Lodging and Public Food Service Establishments  
 Chapter 812 - Theft (except section 812.13 - Robbery)  
 Chapter 815 - Computer-related Crimes  
 Chapter 817 - Fraudulent Practices  
 Chapter 831 - Forgery and Counterfeiting  
 Chapter 832 - Worthless Checks  
 Section 415.11 - Abuse, Neglect or Exploitation of Aged Person or Disabled Adult  
 Section 493.3175 - Sale of Property by a Licensee

Points	Recommended Range	Permitted Range
13 - 36	any nonstate prison sanction	any nonstate prison sanction
37 - <b>56</b>	community control or 12-30 months incarceration	any nonstate prison sanction or community control or 1- 3 1/2 years incarceration
57 - 74	3 (2 1/2 - 3 1/2)	community control or 1- 4 1/2 years incarceration
75 - 90	4 (3 1/2 - 4 1/2)	2 1/2 - 5 1/2
91 - 104	5 (4 1/2 - 5 1/2)	3 1/2 - 7
105 - 122	6 (5 1/2 - 7)	4 1/2 - 9
123 - 146	8 (7 - 9)	5 1/2 - 12
147 - 180	10 (9 - 12)	7 - 17
181 - 240	15 (12 - 17)	9 - 22
241 - 300	20 (17 - 22)	12 - 27
301 - 360	25 (22 - 27)	17 - 40
361 - 420	30 (27 - 40)	22 - Life
421 +	Life	27 - Life

Note --- Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Fla. Stat. (Supp. 1988).

Rule 3.988(g)  
Category 7: Drugs

I. Primary Offense at Conviction

Degree	Counts				Points
	1	2	3	4	
Lie	151	181	196	211	_____
1st	137	164	178	192	_____
2nd	65	78	84	91	_____
3rd	42	50	55	59	_____

Primary offense counts in excess of four:

- Add 15 for each additional life \_\_\_\_\_
- Add 14 for each additional 1st \_\_\_\_\_
- Add 7 for each additional 2nd \_\_\_\_\_
- Add 4 for each additional 3rd \_\_\_\_\_
- Total \_\_\_\_\_

III. Prior Record

Degree	Counts				Points
	1	2	3	4	
Life	60	130	210	300	_____
1st pbl	48	104	168	240	_____
1st	36	78	126	180	_____
2nd	18	39	63	90	_____
3rd	6	13	21	30	_____
MM	1	2	3	4	_____

Primary convictions in excess of four:

- Add 90 for each additional life \_\_\_\_\_
- Add 72 for each additional 1st pbl \_\_\_\_\_
- Add 54 for each additional 1st \_\_\_\_\_
- Add 27 for each additional 2nd \_\_\_\_\_
- Add 9 for each additional 3rd \_\_\_\_\_
- Add 1 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

II. Additional Offenses at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	30	36	39	42	_____
1st pbl	28	34	37	40	_____
1st	27	32	35	38	_____
2nd	13	16	17	18	_____
3rd	8	10	11	12	_____
MM	2	3	4	5	_____

Additional offense counts in excess of four:

- Add 3 for each additional life \_\_\_\_\_
- Add 3 for each additional 1st pbl \_\_\_\_\_
- Add 3 for each additional 1st \_\_\_\_\_
- Add 1 for each additional 2nd \_\_\_\_\_
- Add 1 for each additional 3rd \_\_\_\_\_
- Add 1 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

IV. Legal Status at Time of Offense

No restrictions	1
Legal constraint	14

V. Victim Injury (physical)

Degree of Injury	x	Number	=	Points
None		0		_____
Slight		5		_____
Moderate		10		_____
Death or severe		15		_____

Total \_\_\_\_\_



## Chapter 893 - Drugs

## GUIDELINE SENTENCE

Points	Recommended Range	Permitted Range
42 - 75	any nonstate prison sanction	any nonstate prison sanction
76 - 113	community control or 12- 30 months incarceration	any nonstate prison sanction or community control or 1 - 3 1/2 years incarceration
114 - 133	3 (2 1/2 - 3 1/2)	community control or 1 - 4 1/2 years incarceration
134 - 147	4 (3 1/2 - 4 1/2)	2 1/2 - 5 1/2
148 - 162	5 (4 1/2 - 5 1/2)	3 1/2 - 7
163 - 184	6 (5 1/2 - 7)	4 1/2 - 9
185 - 208	8 (7 - 9)	5 1/2 - 12
209 - 244	10 (9 - 12)	7 - 17
245 - 304	15 (12 - 17)	9 - 22
305 - 364	20 (17 - 22)	12 - 27
365 - 424	25 (22 - 27)	17 - 40
425 - 483	30 (27 - 40)	22 - Life
484 +	Life	27 - Life

Note --- Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Ha. Stat. (Supp. 1988).

Rule 3.988(h)  
Category 8: Weapons and Escape

**I. Primary Offense at Conviction**

Degree	Counts				Points
	1	2	3	4	
1st	70	84	91	98	_____
2nd	45	54	58	63	_____
3rd	15	18	20	21	_____

**III. Prior Record**

Degree	Counts				Points
	1	2	3	4	
Life	10	20	40	60	_____
1st pbl	8	16	32	48	_____
1st	6	12	24	36	_____
2nd	3	6	12	18	_____
3rd	1	2	4	6	_____
MM	1	2	3	4	_____

Primary convictions in excess of four:

- Add 20 for each additional life \_\_\_\_\_
- Add 16 for each additional 1st pbl \_\_\_\_\_
- Add 12 for each additional 1st \_\_\_\_\_
- Add 6 for each additional 2nd \_\_\_\_\_
- Add 2 for each additional 3rd \_\_\_\_\_
- Add 1 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

Degree	1	2	3	4	
1st	14	17	18	19	_____
2nd	9	11	12	13	_____
3rd	3	4	5	6	_____
MM	1	2	3	4	_____

No restrictions	0
Legal constraint	12

Add 1 for each additional 3rd \_\_\_\_\_

Add 1 for each additional MM \_\_\_\_\_

Total \_\_\_\_\_

**V. Victim Injury (physical)**

Degree of Injury	x	Number	=	Points
None	0	_____		_____
Slight	4	_____		_____
Moderate	8	_____		_____
Death or severe	12	_____		_____
Total				_____

Rule 3.988(h)  
Category 8: Weapons and Escape

Chapter 790 • Weapons and Firearms

Section 944.40 • Escape

Points	Recommended Range	Permitted Range
15 - 49	any nonstate prison sanction	any nonstate prison sanction
50 - 75	community control or 12-30 months incarceration	any nonstate prison sanction or community control or 1 - 3 1/2 years incarceration
76 - 91	<sup>3</sup> (2 1/2 - 3 1/2)	community control or 1 - 4 1/2 years incarceration
92 - 105	<sup>4</sup> (3 1/2 - 4 1/2)	2 1/2 - 5 1/2
106 - 115	<sup>5</sup> (4 1/2 - 5 1/2)	3 1/2 - 7
116 - 133	<sup>6</sup> (5 1/2 - 7)	4 1/2 - 9
134 - 157	<sup>8</sup> (7 - 9)	5 1/2 - 12
158 - 193	<sup>10</sup> (9 - 12)	7 - 17
194 - 253	<sup>15</sup> (12 - 17)	9 - 22
254 - 313	<sup>20</sup> (17 - 22)	12 - 27
314 - 373	<sup>25</sup> (22 - 27)	17 - 40
374 +	<sup>30</sup> (27 - 40)	22 - 40

Note --- Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Fla. Stat. (Supp. 1988).

Rule 3.988(i)  
Category 9: All Other Felony Offenses

I. Primary Offense at Conviction

Degree	Counts				Points
	1	2	3	4	
Life	241	289	376	526	_____
1st pbl	181	217	282	395	_____
1st	133	160	207	290	_____
2nd	108	130	140	150	_____
3rd	52	62	68	72	_____

Primary offense counts in excess of four:

- Add 150 for each additional life \_\_\_\_\_
- Add 113 for each additional 1st \_\_\_\_\_
- Add 83 for each additional 1st \_\_\_\_\_
- Add 10 for each additional 2nd \_\_\_\_\_
- Add 4 for each additional 3rd \_\_\_\_\_
- Total \_\_\_\_\_

III. Prior Record

Degree	Counts				Points
	1	2	3	4	
Life	100	210	330	460	_____
1st pbl	80	168	264	368	_____
1st	60	126	198	276	_____
2nd	30	63	99	138	_____
3rd	10	21	33	46	_____
MM	2	5	8	12	_____

Primary convictions in excess of four:

- Add 130 for each additional life \_\_\_\_\_
- Add 104 for each additional 1st pbl \_\_\_\_\_
- Add 78 for each additional 1st \_\_\_\_\_
- Add 39 for each additional 2nd \_\_\_\_\_
- Add 13 for each additional 3rd \_\_\_\_\_
- Add 4 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

II. Additional Offenses at Conviction

Degree	Counts				Points
	1	2	3	4	
1st pbl	38	45	58	82	_____
1st	27	32	42	59	_____
2nd	22	26	34	48	_____
3rd	10	12	16	22	_____
MM	2	3	4	5	_____

Additional offense counts in excess of four:

- Add 30 for each additional life \_\_\_\_\_
- Add 24 for each additional 1st pbl \_\_\_\_\_
- Add 17 for each additional 1st \_\_\_\_\_
- Add 14 for each additional 2nd \_\_\_\_\_
- Add 6 for each additional 3rd \_\_\_\_\_
- Add 1 for each additional MM \_\_\_\_\_
- Total \_\_\_\_\_

No restrictions	0
Legal constraint	24

None	0
Slight	8
Moderate	16
Death or severe	24

Number = Points

\_\_\_\_\_ = \_\_\_\_\_

\_\_\_\_\_ = \_\_\_\_\_

\_\_\_\_\_ = \_\_\_\_\_

\_\_\_\_\_ = \_\_\_\_\_

Total \_\_\_\_\_

Rule 3.988(i)  
Category 9: All Other Felony Offenses

All felonies not included in categories one through eight.

GUIDELINE SENTENCE

Points	Recommended Range	Permitted Range
52 - 108	any nonstate prison sanction	any nonstate prison sanction
109 - 132	community control or 12- 30 months incarceration	any nonstate prison sanction or community control or 1- 3 1/2 years incarceration
133 - 148	3 (2 1/2 - 3 1/2)	community control or 1- 4 1/2 years incarceration
149 - 162	4 (3 1/2 - 4 1/2)	2 1/2 - 5 1/2
163 - 180	5 (4 1/2 - 5 1/2)	3 1/2 - 7
181 - 208	6 (5 1/2 - 7)	4 1/2 - 9
209 - 240	8 (7 - 9)	5 1/2 - 12
241 - 282	10 (9 - 12)	7 - 17
283 - 348	15 (12 - 17)	9 - 22
349 - 410	20 (17 - 22)	12 - 27
411 - 470	25 (22 - 27)	17 - 40
471 - 506	30 (27 - 40)	22 - Life
507 +	Life	27 - Life

Note --- Any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). §921.001(5), Fla. Stat. (Supp. 1988).

Rule 3.988 (j)

SENTENCING GUIDELINES SCORESHEET

1. Primary Docket Number 2. Additional Docket Numbers 3. OBTS Number 4. Category: 1 0 2 3 4 0 5 6 0 7 0 8 0 9
5. Name (Last Name First) 6. Date of Birth 7. Sex: M F 8. Race: B W Other 9. Violation Prob CC 10. County
11. Judge at Sentencing 12. Date of Offense 13. Date of Sentence 14. Plea Trial 15. DOC Number

OFFICE USE ONLY

POINTS

I. PRIMARY OFFENSE AT CONVICTION
Counts Degree Statute Description
I.

II. ADDITIONAL OFFENSES AT CONVICTION
Counts Fel/Misd Degree Statute Description
II.
(Continue on Reverse)

III. A. PRIOR RECORD
Counts Fel/Misd Degree Statute Description
III. A.
(Continue on Reverse)

III. B. SAME CATEGORY PRIORS (categories 3, 5 and 6 only) III. B.

III. C. PRIOR DUI CONVICTIONS (category 1 only) III. C.

IV. LEGAL STATUS AT TIME OF OFFENSE
(1) no restrictions (2) legal constraint
IV.

V. VICTIM INJURY
Number of Scoreable Victim Injuries Degree of Injury
none or no contact
slight or contact but no penetration
moderate or penetration
severe or death
V.

TOTAL POINTS

RECOMMENDED SENTENCE PERMITTED SENTENCE

TOTAL SENTENCE IMPOSED

REASONS FOR DEPARTURE

JUDGE PREPARER

OFFICE USE ONLY

T.S. OCC Prob.
S.P. C.J. E.F.

**OFFICE USE ONLY**

**II. CONTINUATION OF ADDITIONAL OFFENSES AT CONVICTION**

**Counts Fel/Misd Degree Statute Description**

Counts	Fel/Misd	Degree	Statute	Description

**III. A. CONTINUATION OF PRIOR RECORD**

**Counts Fel/Misd Degree Statute Description**

Counts	Fel/Misd	Degree	Statute	Description

Two Original Proceedings - Florida Rules of Criminal Procedure

Leonard Holton, Director, Sentencing Guidelines Commission,  
Tallahassee, Florida,

for Petitioner