

CHAPTER FIVE - DETERMINING THE SENTENCE

Introductory Commentary

For certain categories of offenses and offenders, the guidelines permit the court to impose either imprisonment or some other sanction or combination of sanctions. In determining the type of sentence to impose, the sentencing judge should consider the nature and seriousness of the conduct, the statutory purposes of sentencing, and the pertinent offender characteristics. A sentence is within the guidelines if it complies with each applicable section of this chapter. The court should impose a sentence sufficient, but not greater than necessary, to comply with the statutory purposes of sentencing. 18 U.S.C. § 3553(a).

Historical Note: Effective November 1, 1987.

PART A - SENTENCING TABLE

The Sentencing Table used to determine the guideline range follows:

SENTENCING TABLE

(in months of imprisonment)

| Offense Level | Criminal History Category (Criminal History Points) | | | | | |
|---------------|---|----------------|------------------|-----------------|-------------------|--------------------|
| | I (0 or 1) | II (2 or 3) | III (4, 5, 6) | IV (7, 8, 9) | V (10, 11, 12) | VI (13 or more) |
| Zone A | 1 | 0-6 | 0-6 | 0-6 | 0-6 | 0-6 |
| | 2 | 0-6 | 0-6 | 0-6 | 0-6 | 1-7 |
| | 3 | 0-6 | 0-6 | 0-6 | 0-6 | 2-8 |
| | 4 | 0-6 | 0-6 | 0-6 | 2-8 | 4-10 |
| | 5 | 0-6 | 0-6 | 1-7 | 4-10 | 6-12 |
| | 6 | 0-6 | 1-7 | 2-8 | 6-12 | 9-15 |
| | 7 | 0-6 | 2-8 | 4-10 | 8-14 | 12-18 |
| | 8 | 0-6 | 4-10 | 6-12 | 10-16 | 15-21 |
| Zone B | 9 | 4-10 | 6-12 | 8-14 | 12-18 | 18-24 |
| | 10 | 6-12 | 8-14 | 10-16 | 15-21 | 21-27 |
| | 11 | 8-14 | 10-16 | 12-18 | 18-24 | 24-30 |
| Zone C | 12 | 10-16 | 12-18 | 15-21 | 21-27 | 27-33 |
| | 13 | 12-18 | 15-21 | 18-24 | 24-30 | 30-37 |
| | 14 | 15-21 | 18-24 | 21-27 | 27-33 | 33-41 |
| | 15 | 18-24 | 21-27 | 24-30 | 30-37 | 37-46 |
| | 16 | 21-27 | 24-30 | 27-33 | 33-41 | 41-51 |
| | 17 | 24-30 | 27-33 | 30-37 | 37-46 | 46-57 |
| | 18 | 27-33 | 30-37 | 33-41 | 41-51 | 51-63 |
| | 19 | 30-37 | 33-41 | 37-46 | 46-57 | 57-71 |
| | 20 | 33-41 | 37-46 | 41-51 | 51-63 | 63-78 |
| | 21 | 37-46 | 41-51 | 46-57 | 57-71 | 70-87 |
| | 22 | 41-51 | 46-57 | 51-63 | 63-78 | 77-96 |
| | 23 | 46-57 | 51-63 | 57-71 | 70-87 | 84-105 |
| | 24 | 51-63 | 57-71 | 63-78 | 77-96 | 92-115 |
| | 25 | 57-71 | 63-78 | 70-87 | 84-105 | 100-125 |
| | 26 | 63-78 | 70-87 | 78-97 | 92-115 | 110-137 |
| | 27 | 70-87 | 78-97 | 87-108 | 100-125 | 120-150 |
| Zone D | 28 | 78-97 | 87-108 | 97-121 | 110-137 | 130-162 |
| | 29 | 87-108 | 97-121 | 108-135 | 121-151 | 140-175 |
| | 30 | 97-121 | 108-135 | 121-151 | 135-168 | 151-188 |
| | 31 | 108-135 | 121-151 | 135-168 | 151-188 | 168-210 |
| | 32 | 121-151 | 135-168 | 151-188 | 168-210 | 188-235 |
| | 33 | 135-168 | 151-188 | 168-210 | 188-235 | 210-262 |
| | 34 | 151-188 | 168-210 | 188-235 | 210-262 | 235-293 |
| | 35 | 168-210 | 188-235 | 210-262 | 235-293 | 262-327 |
| | 36 | 188-235 | 210-262 | 235-293 | 262-327 | 292-365 |
| | 37 | 210-262 | 235-293 | 262-327 | 292-365 | 324-405 |
| | 38 | 235-293 | 262-327 | 292-365 | 324-405 | 360-life |
| | 39 | 262-327 | 292-365 | 324-405 | 360-life | 360-life |
| | 40 | 292-365 | 324-405 | 360-life | 360-life | 360-life |
| | 41 | 324-405 | 360-life | 360-life | 360-life | 360-life |
| | 42 | 360-life | 360-life | 360-life | 360-life | 360-life |
| | 43 | life | life | life | life | life |

Commentary to Sentencing Table

Application Notes:

1. *The Offense Level (1-43) forms the vertical axis of the Sentencing Table. The Criminal History Category (I-VI) forms the horizontal axis of the Table. The intersection of the Offense Level and Criminal History Category displays the Guideline Range in months of imprisonment. “Life” means life imprisonment. For example, the guideline range applicable to a defendant with an Offense Level of 15 and a Criminal History Category of III is 24-30 months of imprisonment.*
2. *In rare cases, a total offense level of less than 1 or more than 43 may result from application of the guidelines. A total offense level of less than 1 is to be treated as an offense level of 1. An offense level of more than 43 is to be treated as an offense level of 43.*
3. *The Criminal History Category is determined by the total criminal history points from Chapter Four, Part A, except as provided in §§4B1.1 (Career Offender) and 4B1.4 (Armed Career Criminal). The total criminal history points associated with each Criminal History Category are shown under each Criminal History Category in the Sentencing Table.*

Historical Note: Effective November 1, 1987. Amended effective November 1, 1989 (see Appendix C, amendment 270); November 1, 1991 (see Appendix C, amendment 418); November 1, 1992 (see Appendix C, amendment 462); November 1, 2010 (see Appendix C, amendment 738).