Michigan Sentencing Guidelines

1987

Proposed Revisions

for the

Assault,
Criminal Sexual Conduct,
and
Robbery Crime Groups

INTRODUCTION

Since the use of the Michigan Sentencing Guidelines became mandatory in March 1984, numerous judges, defense attorneys, prosecutors, and probation agents have provided the Advisory Committee and staff with valuable information concerning the strengths and weaknesses of the guidelines. The information gleaned from these sources -- along with a statistical analysis of over 3,500 cases -- provided the foundation for a thorough evaluation and careful revision of the sentencing guidelines for the Assault, Criminal Sexual Conduct, and Robbery crime groups.

The Advisory committee encourages all those involved in the sentencing process to evaluate the 1987 Proposed Revisions and to provide the committee with feedback concerning their strengths and weaknesses. Information gathered during the pilot test of the 1987 Proposed Revisions will be used to improve further the Assault, Criminal Sexual Conduct, and Robbery crime groups. In addition, such information will be useful when the Advisory Committee revises the remaining crime groups.

INSTRUCTIONS

All instructions listed behind Tab 1 of The Sentencing Guidelines Manual are applicable to the 1987 Proposed Revisions. The changes and additions are listed below. The revisions to The Sentencing Guidelines Manual have been developed based on the comments received from the state's sentencing judges and probation agents. If you have any questions, problems, or comments that you would like to submit to the Sentencing Guidelines Advisory Committee during the pilot testing period, contact the sentencing Guidelines Staff at (800) 237-2370.

- 1. A 1987 revised Sentencing Information Report must be completed for all felony convictions that are listed in the Assault, Criminal Sexual Conduct, and Robbery Crime Groups.
- 2. The 1987 revised Sentencing Information Report should be scored <u>in addition</u> to the Sentencing Information Report currently being prepared. All sections of the 1987 Revised form should be completed. You do not need to attach a Basic Information Report.
- 3. A 1987 revised Sentencing Information Report is to be completed for all habitual offender cases. Complete the SIR using the data from the underlying conviction offense. The judge is not bound by the recommended range and is therefore not required to furnish a departure reason. The purpose of completing a revised Sentencing Information Report for habitual convictions is to assist the Sentencing Guidelines Advisory Committee when grids are developed for supplemental cases.
- 4. The 1987 revised Sentencing Information Report should be sent to the following address:

Sentencing Guidelines Project State Court Administrative Office 611 W. Ottawa P.O. Box 30048 Lansing, MI 48909

CHANGES IN THE OFFENSE VARIABLES

Note that the Offense Variables in the 1987 Proposed Revisions are not identical to the ones currently being used. A summary of the changes follows:

OFFENSE VARIABLE 12, Criminal Sexual Penetration(s)

Criminal sexual conduct penetrations(s) are scored based on the number of penetrations involved in the same transaction. In addition, when scoring CSC 1st and 3rd do not score the initial penetration that forms the basis of the conviction offense.

OFFENSE VARIABLE 13, Psychological Injury to the Victim

Points should be assessed for this variable in the event that the victim or the victim's family necessitates professional treatment as a result of the offense.

OFFENSE VARIABLE 17, Aggregate Value of Property Obtained

This variable has been added to the Robbery crime Group.

OFFENSE VARIABLE 25, Contemporaneous Criminal Acts

The portion of the original instructions that reads "(2) it is not a cognate or lesser included offense" has been deleted.

CHANGES IN THE MITIGATION VARIABLE

The mitigation variable has been dropped from consideration.

CHANGES IN THE RECOMMENDED SENTENCE RANGES

The recommended ranges that are placed in each of the 4 X 4 grids in the 1987 Revised Guidelines are based upon the experience of the judges over the past three years. Based upon a statistical analysis conducted by the staff, these ranges are consistent with over 75% of the actual sentences over the past three years.

GUIDELINE CRIME LIST for

1987 PROPOSED REVISIONS

#STATUTORY:MAXIMUM # ## MCLA

Life or term of years	750.83 750.89 750.349	* Assault w/intent to commit murder Assault w/intent to rob armed (See ROBBERY) * Kidnapping
180 Months	750.88	Assault w/intent to rob unarmed (See ROBBERY)
120 Months	750.84 750.86 750.87 750.136a	* Assault w/intent to do great bodily harm * Assault w/intent to maim * Assault w/intent to commit felony * Torture children
60 Months	750.83 750.84 750.86 750.87 750.88 750.89 750.136a 750.349 750.520g	Assault w/intent to commit murder (ATT) Assault w/intent to do great bodily harm Assault w/intent to maim (ATT) Assault w/intent to commit felony (ATT) Assault w/intent to rob unarmed (ATT) (See ROBBERY) Assault w/intent to rob armed (ATT) (See ROBBERY) Torture children (ATT) Kidnapping (ATT) Assault w/intent CSC, 2nd degree (See CSC)
48 Months	750.82 750.136	Felonious Assault Cruelty to children
30 Months	750.520g	Assault w/intent CSC, 2nd degree (See CSC)
24 Months	750.82 750.136 750.197c 750.479 750.479a 750.861	Felonious Assault (ATT) Cruelty to children (ATT) Assault on a jail custodian or corrections officer Resisting officer Assault upon Police Officer Kill or injure, negligent use of firearm

^{*} Proposal B applies

STATUTORYMAXIMUM SINGLA SOFFENSES

Life or term of years	750.520b	* Criminal sexual conduct, 1st
180 Months	750.520c 750.520d 750.158	* Criminal sexual conduct, 2nd * Criminal sexual conduct, 3rd * Sodomy/sex delinquent
120 Months	750.520g	* Assault w/intent sexual penetration
60 Months	750.158 750.338 750.338a 750.520b 750.520c 750.520d	Sodomy/sex delinquent, (ATT) * Gross indecency/males * Gross indecency/male, female Criminal sexual conduct, 1st (ATT) Criminal sexual conduct, 2nd (ATT) Criminal sexual conduct, 3rd (ATT)
30 Months	750.338 750.338a	Gross indecency/males (ATT) Gross indecency/males, female (ATT)
24 Months	750.451 750.520e	Prostitution, 3rd offense Criminal sexual conduct, 4th

^{*} Proposal B applies

Life or term of years	750.89 750.529 750.531	* Assault w/intent to rob armed* Robbery armed* Bank robbery
180 Months	750.88 750.530	* Assault w/intent to rob unarmed * Robbery unarmed
120 Months	750.357	* Larceny from a person
60 Months	750.88 750.89 750.529 750.530 750.357	Assault w/intent to rob unarmed (ATT) Assault w/intent to rob armed (ATT) Robbery armed (ATT) Robbery unarmed (ATT) Larceny from person (ATT)

^{*} Proposal B applies

PRIOR RECORD VARIABLES

PRVSPO	nts 👺 Variable Name and Categories 🤝	*Instructions
PRV1	PRIOR HIGH SEVERITY FELONY CONVICTIONS	A high severity felony conviction refers to a conviction for any felony included in the CV
_ <u>50</u> _25 0	2 or more prior high severity felony convictions 1 prior high severity felony conviction No prior high severity felony convictions	crime groups and statutory maxima: Assault (life, 120, 60, 48 month maxima) CSC (life, 180, 120, 60 month maxima) Homicide (life, 180 month maxima) Robbery (ALL)
PRV2	PRIOR LOW SEVERITY FELONY CONVICTIONS	
_20	3 or more prior low severity felony convictions	A low severity felony conviction refers to a conviction for any felony included in the follow crime groups and statutory maxima:
_10	2 prior low severity felony convictions	Assault (24 month maximum)
5	1 prior low severity telony convictions	Burglary (ALL) CSC (24 month maximum) Drug (ALL)
0	No prior low severity felony convictions .	Fraud (ALL) Larceny (ALL) Negligent Homicide (ALL) Property Destruction (ALL) Weapons Possession (ALL)
PRV3	JUVENILE HIGH SEVERITY ADJUDICATIONS	
_25	2 or more high severity juvenile adjudications	A. A high severity juvenile adjudication refers to an adjudication involving conduct included the following crime groups and statutory maxima:
_10	1 high severity juvenile adjudications	Assault (life, 120, 60, 48 month maxima) CSC (life, 180, 120, 60 month maxima)
0	No high severity juvenile adjudications	Homicide (life, 180 month maxima) Robbery (ALL)
		B. The adjudicated offense must occur after the offender's 13th birthday and before the offender's 17th birthday to be scored. C. Curfew and status offenses are not to be scored.
PRV4	JUVENILE LOW SEVERITY ADJUDICATIONS	
	4 or more low severity juvenile adjudications	A low severity juvenile adjudication refers to an adjudication involving conduct included in the
1	Two or three low severity juvenile adjudications	following crime groups and statutory maxima: Assault (24 month maximum)
0	None or one low severity juvenile adjudications	Burgiary (ALL) CSC (24 month maximum) Drug (ALL) Fraud (ALL) Larceny (ALL) Negligent Homicide (ALL) Property Destruction (ALL) Weapons Possession (ALL)
		B. The adjudicated offense must occur after the offender's 13th birthday and before the offender's 17th birthday to be scored.
		C. Curiew and status offenses are not to be scored.
PRV5	PRIOR MISDEMEANOR CONVICTIONS	
5	4 or more prior misdemeanor convictions	A misdemeanor refers to any offense punishable by one year or less of incarceration and related to one of the following crime groups: Assault, Burgiary, Criminal Sexual Conduct.
1	Two or three prior misdemeanor convictions	Drug, Fraud, Homicioe, Larceny, Property Destruction, Robbery, or Weapons Possession.
0	None or one prior misdemeanor conviction	!

PRIV Points a Variable Name and Categories PRV6 PRIOR RELATIONSHIP TO CRIMINAL JUSTICE SYSTEM A. A post-conviction relationship exists if, at the time of the instant offense, the offender was: 10 Post-conviction relationship exists 1. incarcerated by Michigan Department of Corrections (includes escapee) Other relationship exists 2. incarcerated in jail (includes escapee) 3. on parole or probation 4, awaiting sentence on a probation violation, guilty No relationship exists verdict or guitty plea 5. on delayed sentence status B. Other relationships exist if, at the time of the instant offense, the offender was: 1. on bond and/or bail 2. on pre-trial diversion 3. on Holmes Youthful Trainee status C. Score the appropriate point value if the defendant was involved with the criminal justice system of another state or the federal government as specified by the relationships D. Score "5" points if the defendant committed the instant offense within six months of termination of probation or parole. PRV7 SUBSEQUENT/CONCURRENT FELONY CONVICTIONS A. Score the appropriate category when the defendant is convicted of multiple felony 2 or more high severity subsequent convictions counts or is convicted of a felony subsequent to the commission of the instant offense. 1 high severity subsequent conviction or 2 or more low B. A felony firearm conviction should not be used when scoring this variable. severity subsequent convictions C. See the instructions for PRV1 and PRV2 for definitions of what constitutes a high and low severity conviction. No high severity subsequent convictions, 1 or no low severity subsequent convictions Prior Record Levels 0 В. 1-24 25-49

D.

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ASSAULT

OFFENSE VARIABLES

and

RECOMMENDED SENTENCE RANGES

OV	Point	S *** Variable Name and Categories	Instructions
OV1		WEAPON: PRESENCE, TYPE AND USE	
	25	A firearm discharged or pointed toward victim; touching with other weapon	A. In multiple offender cases, when one offender is assessed points for the presence, type and/or use of a weapon, all offenders shall be assessed the same number of points.
:	10	A firearm implied or possessed but not displayed; any other weapon displayed	A firearm refers to an operational or non-operational firearm, or any instrument fashioned to appear to be a firearm.
	0	No weapon displayed, implied or possessed	C. Score "10" if an offender uses an object in his or her pocket to suggest the presence of a firearm.
OV2		PHYSICAL ATTACK AND/OR INJURY	
	100	Victim killed and/or treated with excessive brutality	A. in multiple offender cases when one offender is assessed points for physical attack and/or injury, all offenders shall be assessed the same number of points.
	25	Bodily injury and/or subjected to terrorism	Score "100" when death results from the commission of a crime and homicide is not the conviction offense.
	0	No injury	Terrorism is conduct that is designed to increase substantially the fear and anxiety that the victim suffers during the offense.
			D. Score *0* if a victim is struck in an assaultive crime and there is no bodily injury.
OV5		VICTIM WAS CARRIED AWAY OR HELD CAPTIVE	·
	10	Victim was either carried away to another place or held captive beyond that which was necessary to commit	A. Score "10" where the "carrying away" of a victim would amount to asponation under Michigan kidnapping law (MCLA 750,349).
,		the offense	B. Score *0* if the conviction offense is kidnapping.
	0	Victim was not carried away or held captive	
OV6		MULTIPLE VICTIMS	
	10	Three or more victims	Count each person who was placed in danger of injury or loss of life as a victim.
	1	Two victims	
	0	Not a multiple victim situation	
OV7		OFFENDER EXPLOITATION OF VICTIM'S VULNERABILITY	
-	5	Offender did exploit victim's vulnerability	A. Score "5" where the victim lacks substantial capacity to defend against the offense and the victim's vulnerability is apparent at the time of the offense. Examples which indicate a victim's vulnerability may include but are not limited to:
	<u> </u>	No exploitation	(1) Physical disability (7) Abuse of authority status
			(2) Mental disability (B) Intoxication (3) Youth (9) Under influence of drugs (4) Agedness (10) Asleep (5) Disparity in size (11) Unconscious
			The mere existence of one or more of these factors should not automatically be equated with victim vulnerability.
			B. Exploitation refers to the manipulation of the victim for selfish or unethical purposes.
			C. Vulnerability reters to the readily apparent susceptibility of the victim to injury, physical attack, persuation or temptation.

D. Abuse of authority status refers to situations where a victim is exploited out of fear or

deference to an authority figure. (e.g., parent-child, doctor-patient.)

∄DV ∰Point	s >== Wariable Name and Categories	Instructions -
OV8		
000	PROFESSIONAL/ORGANIZED CRIME OR RING	A. The degree of sophistication of the group is not so important as the fact of existence, which can in part he interred from the leasth of the sound of the soun
25	Offender is a member of a professional/organized crim or ring	which can in part be inferred from the length of time the organization has been in operation:
0	No membership	B. Score "25" if the offense is part of a pattern of criminal activities over a period of time from which the offender has derived a substantial portion of his or her income and/or the instant offense is directly related to membership in an organized criminal group.
		C. This may include a juvenile gang.
0) (0		 D. Presence of multiple offenders should not automatically be defined as constituting an organized oriminal group.
OV9	OFFENDERS ROLE	• ***
1	Leader in multiple offender situation	
0	Not a leader	The entire criminal episode or situation should be taken into account in determining whether an offender is a leader.
DV13	PSYCHOLOGICAL INJURY TO VICTIM	
5	Serious psychological injury to victim or victims	
	family necessitating professional treatment	
0	No psychological injury	
	en e	
105		
V25	CONTEMPORANEOUS CRIMINAL ACTS	
10	Three or more contemporaneous criminal acts	A reference of the control of the co
5	One or two contemporaneous criminal acts	A criminal act is contemporaneous if 1) it occurs within twenty-four hours of the offense upon which the detendant is being sentenced or within six months if it is identical to or similar in nature and 2) at the time of this sentencing has not resulted in a separate conviction.
0	No contemporaneous criminal acts	
		:
Assault	Offense Levels	
i.	0-24	
ASTRONO Services	25-39	
III.	40-99	
IV.	. 100+	

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Prior	Record	Level
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Offense Level	А	В	С	D
Feaci	0-48	12-60	36-96	60-120
11	12-60	24-72	60-180	96-240
][]	60-180	72-180	96-240	120-300
IV	120-180	120-240	180-LIFE	180-LIFE

750.83 Assault w/intent to commit murder Kidnapping

120 Months

		Prior Red	ord Level	
Offense Level	A	В	С	D
Level	0-12	0-24	12-60	24-72
11	0-24	0-48	24-72	36-80
111	12-60	24-72	36-80	60-80
1V	36-80	48-80	60-80	60-80

750.85 Assault w/intent to do great bodily harm 750.86 Assault w/intent to maim 750.87 Assault w/intent to commit felony 750.136a Torture children

60	Months
$\mathcal{Q}\mathcal{Q}$	

Prior Record Level

			movo:	
Offense Level	А	В	С	D
 	0-6	0-12	6-24	12-30
11	0-12	0-24	12-30	18-40
111	6-24	12-30	24-40	32-40
IV	18-40	24-40	32-40	36-40

/50.83	Assault w/intent to commit murder (ATT)
750.84	Assault w/intent to do great bodily harm (ATT)
750.86	Assault w/intent to maim (ATT)
750.87	Assault w/intent to commit felony (ATT)
750.136a	Torture children (ATT)
750.349	
150,547	Kidnapping (ATT)

48 Months

Prior Record Level

Offense Level	A	В	С	La Company of the Com
120VE1	0-6	0-12	6-18	12-24
11	0-12	0-18	6-24	12-32
	0-18	0-24	12-32	18-32
IV	24-32	24-32	24-32	24-32

750.82 Felonious Assault 750.136 Cruelty to children

24 Months

Prior Record Level

Offense Level	А	В	С	D
	0-3	0-6	0-9	3-9
11	0-6	0-12	3-12	6-12
111	0-12	0-18	6-12	12-16
IV	12-16	12-16	12-16	12-16

/50.82	Felonious Assault (ATT)
750.136	Cruelty to children (ATT)
750.197c	Assault on a jail custodian or corrections officer
750.479	Resisting officer
750.479a	Assault upon Police Officer
750.861	Kill or injure, negligent use of firearm

CRIMINAL SEXUAL CONDUCT

OFFENSE VARIABLES

and

RECOMMENDED SENTENCE RANGES

第0) [/6	Points	Variable Name and Categories	- Instructions
OV1		WEAPON: PRESENCE, TYPE AND USE	
		A firearm discharged or pointed toward victim; touching with other weapon	A. in multiple offender cases, when one offender is assessed points for the presence, type and/or use of a weapon, all offenders shall be assessed the same number of points.
	10	A firearm implied or possessed but not displayed; any other weapon displayed	B. A firearm refers to an operational or non-operational firearm, or any instrument feshioned to appear to be a firearm.
	0	No weapon displayed, implied or possessed	C. Score "10" if an offender uses an object in his or her pocket to suggest the presence of firearm.
OV2		PHYSICAL ATTACK AND/OR INJURY	
	100	Victim killed and/or treated with excessive brutality	 A. In multiple offender cases when one offender is assessed points for physical aπack and/or injury, all offenders shall be assessed the same number of points.
	25	Bodily injury and/or subjected to terrorism	B. Score "100" when death results from the commission of a crime and homicide is not the conviction offense.
	0	No injury	C. Terrorism is conduct that is designed to increase substantially the fear and anxiety that the victim suffers during the offense.
			D. Score "0" if a victim is struck in an assaultive crime and there is no bodily injury.
			E. Score "0" in a CSC crime which does not cause bodily injury in addition to acts of sexual contact and/or penetration.
OV5		VICTIM WAS CARRIED AWAY OR HELD CAPTIVE	
	10	Victim was either carried away to another place or held captive beyond that which was necessary to commit the offense	A Score "10" where the "carrying away" of a victim would amount to asponation under Michigan kidnapping law (MCLA 750.349).
	0		 Score "0" if the conviction offense is kidnapping.
		Victim was not carried away or held captive	
OV6		MULTIPLE VICTIMS	
	10	Three or more victims	Count each person who was placed in danger of injury or loss of life as a victim.
	1	Two victims	
•	0	Not a multiple victim situation	
OV7		OFFENDER EXPLOITATION OF VICTIM'S VULNERABILITY	
_	5	Offender did exploit victim's vulnerability	A. Score "5" where the victim lacks substantial capacity to defend against the offense and the victim's vulnerability is apparent at the time of the offense. Examples which indicate a victim's vulnerability may include but are not limited to:
<u></u>	0	No exploitation	(1) Physical disability (6) Intoxication
			(2) Mental disability (7) Under influence of drugs (3) Youth (8) Asleep (4) Agedness (9) Unconscious (5) Abuse of authority status (10) Physical restraint
			The mere existence of one or more of these factors should not automatically be equated with victim vulnerability.
			Exploitation refers to the manipulation of the victim for selfish or unethical purposes.

C. Vulnerability refers to the readily apparent susceptibility of the victim to injury, physical

 $\bar{\text{D}}.$ Abuse of authority status refers to situations where a victim is exploited out of feat or

deference to an authority figure. (e.g., parent-child, doctor-patient.)

attack, persuation or temptation.

®OV ≅	Points	→ Variable Name and Categories	###Instructions
OV8		PROFESSIONAL/ORGANIZED CRIME OR RING	A. The degree of sophistication of the group is not so important as the fact of existence, which can in part be inferred from the length of time the organization has been in operation:
	25	Offender is a member of a professional/organized crim or ring	B. Score "25" if the offense is part of a pattern of criminal activities over a period of time f which the offender has derived a substantial portion of his or her income and/or the instal offense is directly related to membership in an organized criminal group.
-	0	No membership or professionalism	C. This may include a juvenile gang.
			 D. Presence of multiple offenders should not automatically be defined as constituting an organized criminal group.
OV9		OFFENDERS ROLE	
-	1	Leader in multiple offender situation	The entire criminal episode or situation should be taken into account in determining wheth
-	0	Not a leader	an offender is a leader.
OV12		CRIMINAL SEXUAL PENETRATION (S)	
	100	3 or more criminal sexual penetrations*	
	<u>50</u>	2 criminal sexual penetrations*	Score criminal sexual penetrations arising out of the same criminal transaction. Criminal sexual penetration includes penetration of any kind with sexual organ, with other parts of the body, or with any other object.
_	<u>25</u>	1 criminal sexual penetration*	In CSC 1st and CSC 3rd do not score the one penetration that forms the basis of the
_	0	No criminal sexual penetrations*	conviction affense.
OV13			
		PSYCHOLOGICAL INJURY TO VICTIM	
	5	Serious psychological injury to victim or victims family necessitating professional treatment	
	0	No psychological injury	
DV25			
		CONTEMPORANEOUS CRIMINAL ACTS	
	<u>10</u>	Three or more contemporaneous criminal acts	
	5	One or two contemporaneous criminal acts	A criminal act is contemporaneous if 1) it occurs within twenty-tour hours of the offense upon which the defendant is being sentenced or within six months if it is identical to or similar in nature and 2) at the time of this sentencing has not resulted in a separate conviction.
	0	None contemporaneous criminal acts	
CS	SC Offe	ense Levels	
		0-24	
	B)	25-39	
	dentery generally generally	40-99	
	EV /	4 A A	

LIFE

	Prior Record Level			
Offense Level	Α	В	С	D
Level	12-84	36-120	72-180	120-240
!!	36-120	72-180	96-240	120-300
	72-180	96-240	120-300	180-LIFE
IV	120-240	180-300	180-LIFE	300-LIFE

750.520b

Criminal sexual conduct, 1st

180 Months

	Prior Record Level			
Offense	Α	В	С	D
Level	0-36*	12-60	24-72	36-96
11	12-60	24-60	36-96	72-120
111	24-72	36-84	60-120	84-120
IV	84-120	96-120	102-120	108-120

750.520c 750.520d 750.158

Criminal sexual conduct, 2nd Criminal sexual conduct, 3rd Sodomy/sex delinquent

^{*} Probation is not an option for CSC 3rd

120 Months

	Prior Record Level			
Offense	А	В	C	D
Level	0-18	0-24	12-48	24-60
11	0-24	12-48	24-60	36-80
111	12-48	24-60	36-80	60-80
IV	36-80	48-80	60-80	60-80

750.520g Assault w/intent sexual penetration

60 Months

		Prior Red	ord Level	
Offense	Α	В	С	D
Level	0-12	0-18	6-24	18-30
11	0-18	6-24	12-30	18-30
111	6-24	12-30	18-30	24-36
IV	18-30	24-36	30-40	36-40

750.158 Sodomy/sex delinquent (ATT)
750.338 Gross indecency/males
750.520b Criminal sexual conduct. 1st (ATT)
750.520c Criminal sexual conduct, 2nd (ATT)
750.520d Criminal sexual conduct, 3rd (ATT)

30 Months

		Prior Rec	ord Level	
Offense Level	А	В	С	D
1	0-6	0-12	0-18	6-18
11	0-12	0-18	3-18	6-18
Ш	0-18	6-18	6-18	12-20
IV	16-20	16-20	16-20	16-20

750.338 Gross indecency/males (ATT) 750.338a Gross indecency/males,female (ATT)

24 Months

	Prior Record Level			
Offense Level	A	В	C	D
1	0-6	0-9	0-12	6-12
1	0-9	0-12	3-12	6-12
111	0-12	3-12	3-12	9-16
!V	12-16	12-16	12-16	12-16

750.451 Prostitution, 3rd offense 750.520e Criminal sexual conduct, 4th

ROBBERY

OFFENSE VARIABLES

and

RECOMMENDED SENTENCE RANGES

	@Points	****Variable Name and Categories	anstructions
OV1		WEAPON: PRESENCE, TYPE AND USE	
· · · · · · · · · · · · · · · · · · ·	25	A firearm discharged or pointed toward victim; touching with other weapon	A. In multiple offender cases, when one offender is assessed points for the presence, type and/or use of a weapon, all offenders shall be assessed the same number of points.
	10	A firearm implied or possessed but not displayed; any other weapon displayed	B. A firearm refers to an operational or non-operational firearm, or any instrument fashioned to appear to be a firearm.
	0	No weapon displayed, implied or possessed	C. Score "10" if an offender uses an object in his or her pocket to suggest the presence of a firearm.
OV2		PHYSICAL ATTACK AND/OR INJURY	
	100	Victim killed and/or treated with excessive brutality	A. In multiple offender cases when one offender is assessed points for physical attack and/or injury, all offenders shall be assessed the same number of points.
	<u>25</u>	Bodily injury and/or subjected to terrorism	Score "100" when death results from the commission of a crime and homicide is not the conviction offense.
	0	No injury	C. Terrorism is conduct that is designed to increase substantially the fear and anxiety that the victim suffers during the offense.
			D. Score "0" if a victim is struck in an assaultive crime and there is no bodily injury.
OV5		VICTIM WAS CARRIED AWAY OR HELD CAPTIVE	
	10	Victim was either carried away to another place or held captive beyond that which was necessary to commit	A. Score "10" where the "carrying away" of a victim would amount to asportation under Michigan kidnapping law (MCLA 750.349).
	_	the offense	B. Score "0" if the conviction offense is kidnapping.
	0	Victim was not carried away or held captive	
OV6		MULTIPLE VICTIMS	
-	10	Three or more victims	Count each person who was placed in danger of injury or loss of life as a victim.
-	1	Two victims	
	0	Not a multiple victim situation	
OV7		OFFENDER EXPLOITATION OF VICTIM'S VULNERABILITY	
_	5	Offender did exploit victim's vulnerability	A. Score "5" where the victim lacks substantial capacity to defend against the offense and the victim's vulnerability is apparent at the time of the offense. Examples which indicate a victim's vulnerability may include but are not limited to:
· · · · · · · · · · · · · · · · · · ·	0	No exploitation	(1) Physical disability (7) Abuse of authority status (2) Mental disability (8) Intoxication (3) Youth (9) Under influence of drugs (4) Agedness (10) Asleep (5) Disparity in size (11) Unconscious (6) Disparity in strength (12) Physical restraint
			The mere existence of one or more of these factors should not automatically be equated with victim vulnerability.
			B. Exploitation refers to the manipulation of the victim for selfish or unethical purposes.
			C. Vulnetability refers to the readily apparent susceptibility of the victim to injury, physical attack, persuation or temptation.

D. Abuse of authority status refers to situations where a victim is exploited out of fear or

deterence to an authority figure. (e.g., parent-child, doctor-patient.)

\$OV	ã;Po	ints	Se Nariable Name and Categories	≇Instructions
: OV8	3		PROFESSIONAL/ORGANIZED CRIME OR RING	
; ;	_25	5	Offender is a member of a professional/organized crime or ring	A. The degree of sophistication of the group is not so important as the fact of existence, which can in part be inferred from the length of time the organization has been in operation:
	(õ	No membership or professionalism	B. Score "25" if the offense is part of a pattern of criminal activities over a period of time fro which the offender has derived a substantial portion of his or her income and/or the instant offense is directly related to membership in an organized criminal group.
				C. This may include a juvenile gang.
				 D. Presence of multiple offenders should not automatically be defined as constituting an organized criminal group.
OV9			OFFENDERS ROLE	
	1		Leader in multiple offender situation	The entire criminal episode or situation should be taken into account in determining whether
	0		Not a leader	an offender is a leader.
OV13	3		PSYCHOLOGICAL INJURY TO VICTIM	
	5		Serious psychological injury to victim or victims family necessitating professional treatment	·
	0		No psychological injury	
OV 1	7		AGGREGATE VALUE OF PROPERTY OBTAINED, DAMAGED OR DESTROYED	
	10		More than \$5000 or property having significant historical, social or sentimental value	Trial court may consider the total amount of money involved in admitted but uncharged offenses or in charges which have been dismissed pursuant to a plea agreement.
	5		\$1,000 to \$5000	
	1		\$200 to \$1000	
	0		Less than \$200	
OV25			CONTEMPORANEOUS CRIMINAL ACTS	
	<u>10</u>		Three or more contemporaneous criminal acts	A criminal act is contemporaneous if 1) it occurs within twenty-four hours of the offense upon
	5		One or two contemporaneous criminal acts	which the defendant is being sentenced or within six months if it is identical to or similar in nature and 2) at the time of this sentencing has not resulted in separate conviction.
	0		No contemporaneous criminal acts	
	Robb	ery	Offense Levels	· · · · · · · · · · · · · · · · · · ·
		I.	0-24	·
		STATE OF THE PERSON OF THE PER	25-39	
		######################################	40-99	
		IV.	100÷	

	F	E
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	Prior Record Level				
Offense	А	В	C	D	
Level	0-36	12-60	24-96	60-120	
11	12-60	24-96	36-120	72-180	
111	24-96	48-96	60-180	120-240	
IV	120-180	120-240	180-LIFE	180-LIFE	

750.89 750.529	Assault w/intent to rob armed Robbery armed
750.531	Bank robbery

180 Months

	Prior Record Level				
Offense	А	В	С	D	
Level	0-18	0-36	12-48	36-84	
11	0-36	12-48	36-72	48-96	
111	18-48	24-60	48-96	96-120	
IV	72-96	84-108	96-120	96-120	

750.88 Assault w/intent to rob unarmed Robbery unarmed

120 Months

	Prior Record Level			
Offense Level	Α	В	С	D
reve:	0-12	0-24	0-36	12-60
11	0-24	0-36	12-60	36-80
	12-36	24-48	36-80	60-80
IV	36-80	48-80	60-80	60-80

750.357

Larceny from a person

60 Months

	Prior Record Level			
Offense Level	A	В	C	D
LOVOI	0-12	0-12	0-24	12-40
11	0-12	0-18	6-30	18-40
111	6-24	12-30	18-36	30-40
١٧	18-40	24-40	30-40	30-40

750.88 Assault w/intent to rob unarmed (ATT)
750.89 Assault w/intent to rob armed (ATT)
750.529 Robbery armed (ATT)
750.530 Robbery unarmed (ATT)
750.357 Larceny from a person (ATT)

SAMPLE CASE

SAMPLE CASE

CONVICTIONS:

Armed Robbery (Life or any term of years) Felony Firearm (2 year mandatory)

INVESTIGATOR'S VERSION OF THE OFFENSE:

The following information was taken from Lansing Township Police Department Complaint #86-0333:

On January 24, 1986, Larry Forbes, David Dibbs and William Davis drove to the Village Party Store located at 3500 E. Main Street to commit an Armed Robbery. Mr. Dibbs waited in the get away car while William and Larry went into the store. Reportedly, Larry pulled a small caliber pistol on the victim, a young woman whose name is Betty Smith, and instructed her to "open the cash register". At this point, it is believed that the victim attempted to reach under a counter to get a weapon and Larry discharged his pistol over her head. He then slapped her with the back of his hand knocking her to the ground. The victim received several cuts and abrasions.

William then reportedly grabbed another employee of the party store who had been unknowingly sweeping in the rear of the store. They were able to get him to open the cash register, whereupon, they took approximately \$400 in cash and \$49 in food stamps and promptly left the store. The second employee in the store called the Police Department and reported the robbery.

It might be noted, details described above were obtained from codefendant William as part of a plea agreement with the Ingham County Prosecutor's Office. As a result of William's information, Larry was arrested on February 1, 1986 several days after the robbery took place.

It should be noted that since this robbery took place, the victim has been unable to work her regular evening shift due to the trauma brought on by the offense and has been undergoing professional psychological treatment.

OFFENDER'S VERSION OF THE OFFENSE:

Mr. Forbes advised this agent that he concurs with the information in the police reports.

PREVIOUS CRIMINAL HISTORY:

According to information received from the Macon County Prosecutor's Office and Probation Department (Macon, Indiana), Larry had contacts with the Indiana juvenile authorities as a youngster. Larry's juvenile criminal record commenced in 1972 when he and two other youths were taken into custody by police for taking the clothes from a seven year old girl.

Between 1972 and 1977. Larry was charged with two B & Es of unoccupied dwellings as well as numerous status offenses. It is unclear as to the punishment associated with these offenses. He was, however, under the authority of the Indiana Youth Commission.

As an adult, Larry has had several contacts with the criminal justice system. Charges and disposition are as follows:

02/8/78 Drunk and Disorderly (Misd)

10/15/78 Convicted of a Robbery charge and sentenced 2-10 years to prison. Paroled from

prison 6/21/80.

2/20/81 Armed Robbery - Defendant sentenced to serve 5-15 year prison term. Paroled from

prison on 6/15/85.

10/14/85 Assault and Battery (Misd)

Instant offense:

Larry is represented by appointed counsel and currently has no relationship to the criminal justice system. Defendant is out on bail that was set at \$5000. To my knowledge, Larry has no other known charges pending in Ingham County.

PERSONAL HISTORY:

Very little information is known about defendant's personal background. The following brief information was taken from a Pre-Sentence Investigation Report prepared by the Macon County Probation Department (Indiana).

Both of the defendants parents are deceased and he is believed to have 4 other brothers ranging in ages from 23-40. Their names and whereabouts are unknown. However, it is believed that all of Larry's relatives are now residing in Indiana. The defendant advised this agent that his relatives know where he is and that should be no concern of the Michigan Department of Corrections.

Larry is 26 years of age, is in good physical health and has a high school education. He has held part time jobs on and off over the past 3 years. Prior to that he worked as a carpenters helper. The defendant admitted to frequently indulging in alcoholic binges and of using cocaine when the opportunity presents itself. Larry has no known dependents and has personal assets of approximately \$600.

		NFORMATION REPORT	
		13987 Revisions	
Judge		Probation Officer	
	SID #)	Circuit # Dock	et#
CURRENT OF	FFENSE DATA: Original Charge	MCLA # Original Char	ge
:	Conviction Offense	MCLA # Conviction Of	fense
GUIDELINES	INFORMATION: Crime Group	Statutory Maximum of Conviction C	Offense:
PRIOR RECO PRV1: / PRV TOTA	PRV2: PRV3: PRV4: PRV5:		A B C D (0) (1-24) (25-49) (50+)
	OFFENSE SCORE: (indicate points for each v	variable in crime group)	Offense Severity Level (circle one)
ASSAULT	OV 1: OV 2: OV 5: OV 6: OV 9: OV 13: OV 25:	OV 7: OV 8:	(0-24) (25-39) (40-99) (100+)
csc	OV 1: OV 2: OV 5: OV 6: OV 9: OV 12: OV 13: OV 25:	OV 7: OV 8: TOTAL:	(0-24) (25-39) (40-99) (100+)
ROBBERY	OV 1: OV 2: OV 5: OV 6: OV 9: OV 13: OV17: OV25:	OV 7: OV 8: TOTAL:	(0-24) (25-39) (40-99) (100+)
EVEN THO HABITUA	ne Range for PRV Level and OV Level BUGH THE GUIDELINE RANGE DOES NOT APPLY TO HABITUAL OFFEND L INFORMATION: If there was a supplemental information of the conviction or the conviction or the conviction of the convi	DER CONVICTIONS, PLEASE PROVIDE THE FOLLOW	New Statutory Maximum
Probation	TO Max.	is the actual sentence the result of Agreement/Prosecutor Recomme	
Delayed Sen	tence Yes	Sentending Judge	Date
DEPARTU	JRE: (If sentence is outside of recommended re	ange, please provide a departure i	reason):

Judge		Probation Of		
Offender				
(name and/or s	SID#) Larry Forbes	Circuit #	Docket	#
CURRENT OF	FENSE DATA: Original Charge Robbery Armed		MCLA # Original Charge	750.529
	Conviction Offense Robbery Armed		MCLA # Conviction Offe	nse750.529
GUIDELINES	INFORMATION: Crime Group Robbery	Statutory Ma	eximum of Conviction Off	ense: Life
PRIOR RECO	RD SCORE:			
PRV1: 50	PRV2: 0 PRV3: 0 PRV4: 0 PRV5: 0 F	RV6: 0 PRV	/7: 0 A	B C D
PRV TOTA	L: 50 PRV CLASS: D		(0) (1-24) (25-49) (50+)
	OFFENSE SCORE: (indicate points for each va	riable in crime gi	roup)	Offense Severity Level (circle one)
	OV 1: OV 2: OV 5: OV 6:	OV 7: OV	' 8: T	
ASSAULT	OV 9: OV 13: OV 25:		TOTAL:	(0-24) (25-39) (40-99) (100+)
csc	OV 1: OV 2: OV 5: OV 6:	OV 7: OV	/ 8:	
	OV9: OV12: OV 13: OV 25:		TOTAL:	(0-24) (25-39) (40-99) (100+)
ROBBERY	OV 1: 25 OV 2: 25 OV 5: 0 OV 6: 1	OV 7: 0 OV	/ 8: 0	
	OV 9: 0 OV 13: 5 OV17: 1 OV25: 0		TOTAL: 57	(0-24) (25-39) (40-99) (100+)
The Guidelin	e Range for PRV Level <u>D</u> and OV Level <u>II:</u>	I is: <u>120</u> -	-240	
	JGH THE GUIDELINE RANGE DOES NOT APPLY TO HABITUAL OFFENDE INFORMATION: If there was a supplemental informati			G INFORMATION:
-	- Contracting	or Subsequent C	·	New Statutory Maximum
ACTUAL SE	NTENCE LENGTH (in months):	1 4b	- L	
Is the actual sentence the result of a Sentence Probation Agreement/Prosecutor Recommendation? Yes				
Jail				
Prison	120 mos. TO Max. 240 mos.			
Delayed Sent	rence Yes		Sentencing Juage	Date
DEPARTU	RE: (If sentence is outside of recommended rai	nge, please pr	ovide a departure re	ason):
Plus	two years for Felony Firearm o	conviction	n.	······································