

Rules of the  
State Sentencing Guidelines Board

Approved, Directed, and Amended by the 67th Legislative Assembly  
Adopted by the State Sentencing Guidelines Board September 10, 1993

**OAR 253-01-000 NOTICE OF RULEMAKING: TIME AND MANNER.** Prior to the adoption, amendment or repeal of any rule, the chairperson of the Board shall give notice of the proposed action at least fifteen (15) days prior to the effective date:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360.
- (2) By mailing a copy of the notice to persons on the Board mailing list established pursuant to ORS 183.335(7).
- (3) By mailing or furnishing a copy of the notice to:
  - (a) Associated Press and United Press International;
  - (b) The Oregonian, Portland, Oregon;
  - (c) East Oregonian, Pendleton, Oregon;
  - (d) Statesman Journal, Salem, Oregon;
  - (e) Medford Mail Tribune, Medford, Oregon;
  - (f) The Register Guard, Eugene, Oregon;
  - (g) The Bulletin, Bend, Oregon;
  - (h) Oregon State Bar Bulletin;
  - (i) Chief Justice, Oregon Supreme Court;
  - (j) Chief Justice, Oregon Court of Appeals;
  - (k) Oregon Circuit Judges Association;
  - (l) Oregon District Judges Association;
  - (m) State Court Administrator;
  - (n) American Civil Liberties Union;
  - (o) Association of Oregon Counties;
  - (p) Crime Victims United;
  - (q) Oregon Association of Chiefs of Police;

- (r) Oregon Community Corrections Association;
- (s) Oregon Criminal Defense Lawyers Association;
- (t) Oregon District Attorneys Association;
- (u) Oregon State Sheriffs Association;
- (v) State Indigent Defense Board;
- (w) State Public Defenders;
- (x) Regional Offices, Department of Corrections;
- (y) Superintendents of State Correctional Institutions;
- (z) Association of Municipal Court Judges; and
- (aa) Justices of the Peace Association.

**OAR 253-01-005 RULEMAKING PROCEDURE.** All new and revised rules will be adopted in accordance with the provisions of ORS Chapter 183 and the Model Rules of Procedure adopted by the Oregon Attorney General.

**OAR 253-02-001 STATEMENT OF PURPOSES AND PRINCIPLES.** (1) The primary objectives of sentencing are to punish each offender appropriately, and to insure the security of the people in person and property, within the limits of correctional resources provided by the Legislative Assembly, local governments and the people.

(2) Sentencing guidelines are intended to forward the objectives described in section (1) by defining presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons; and presumptive punishments for post-prison or probation supervision violations, again subject to deviation.

(3) The basic principles which underlie these guidelines are:

(a) The response of the corrections system to crime, and to violation of post-prison and probation supervision, must reflect the resources available for that response. A corrections system that overruns its resources is a system that cannot deliver its threatened punishment or its rehabilitative impact. This undermines the system's credibility with the public and the offender, and vitiates the objectives of prevention of recidivism and reformation of the offender. A corrections system that overruns its resources can produce costly litigation and the threat of loss of system control to the federal judiciary. A corrections system that overruns its resources can increase the risk to life and property within the system and to the public.

(b) Oregon's current sentencing system combines indeterminate sentences with a parole matrix. Although many citizens believe the indeterminate sentence sets the length of imprisonment, that sentence only sets an offender's maximum period of incarceration and the matrix controls actual length of stay. The frequent disparity between the indeterminate sentence length and time served under the matrix confuses and angers the public and damages the corrections system's credibility with the public. Sentences of imprisonment should represent the time an offender will actually serve, subject only to any reduction authorized by law.

(c) Under sentencing guidelines the response to many crimes will be state imprisonment. Other crimes will be punished by local penalties and restrictions imposed as part of probation. All offenders released from prison will be under post-prison supervision for a period of time. The ability of the corrections system to enforce swiftly and sternly the conditions of both probation and post-prison supervision, including by imprisonment, is crucial. Use of state institutions as the initial punishment for crime must, therefore, leave enough institutional capacity to permit imprisonment, when appropriate, for violation of probation and post-prison supervision conditions.

(d) Subject to the discretion of the sentencing judge to deviate and impose a different sentence in recognition of aggravating and mitigating circumstances, the appropriate punishment for a felony conviction should depend on the seriousness of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) Subject to the sentencing judge's discretion to deviate in recognition of aggravating and mitigating circumstances, the corrections system should seek to respond in a consistent way to like crimes combined with like criminal histories; and in a consistent way to like violations of probation and post-prison supervision conditions.

#### **OAR 253-03-001 DEFINITIONS.**

As used in these rules:

- (1) "Bench probation" means a probationary sentence which directs the probationer to remain under the supervision and control of the sentencing judge.
- (2) "Board" means the State Board of Parole and Post-Prison Supervision.
- (3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.
- (4) "Department" means the Department of Corrections.

(5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.

(6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.

(7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions.

(8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, [term of post-prison supervision,] term of supervised probation or number of [custody] sanction units which may be imposed as a condition of probation.

(9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1.

(10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender's criminal history classification.

(11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act which, if committed by an adult, would be punishable as a felony.

(12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.

(13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 253-05-006.

(14) "Person felonies" are in numerical statutory order: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (Appendix 3); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.205 Criminal Mistreatment I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.275 Coercion as defined in Crime Category 7 (Appendix 3); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse [I] II; ORS 163.427 Sexual Abuse I; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.732 Stalking; ORS 163.747 Violation of Officer's Stalking Order; ORS 163.750

**Violation of Court's Stalking Order;** ORS 164.075 Theft by Extortion as defined in Crime Category 7 (Appendix 3); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (Appendix 3); ORS 164.325 Arson I; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; **ORS 164.877(3) Tree Spiking (Injury);** **ORS 166.087 Abuse of Corpse I;** ORS 166.165 Intimidation I; ORS 166.220 Carrying Dangerous Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; **ORS 468.???** **Environmental Endangerment;** ORS 811.705 Hit and Run Vehicle (INJURY) and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 163.160 Assault IV; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.208 Assault Officer; ORS [163.425] **163.415** Sexual Abuse [II] **III**; ORS [153.545] **163.545** Child Neglect; ORS 163.575 Endanger Welfare of Minor; ORS 163.605 Criminal Defamation; ORS 166.155 Intimidation II; ORS 488.164 Hit and Run Boat; and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history.

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.

[(18) "Single judicial proceeding" means one or more proceedings linked in time with respect to a single defendant convicted of multiple crimes which are:

(a) Of the same or similar character;

(b) Based on the same act or transaction; or

(c) Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.]

(19) "Supervisory authority" means the state and local corrections official or officials designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

**ORAR 253-04-001 SENTENCING GUIDELINES GRID.** (1) The **sentencing guidelines** grid is a two-dimensional [offense and criminal history] classification tool. The [grid's] vertical axis is the

Crime Seriousness Scale which classifies current crimes of conviction. The [grid's] horizontal axis is the Criminal History Scale which classifies criminal histories.

(2) Each grid block states the presumptive sentence for an offender whose crime of conviction and criminal history place him or her in that grid block. The solid black line dividing the grid blocks is the dispositional line. The grid is set forth as Appendix 1.

**OAR 253-04-002 CRIME SERIOUSNESS SCALE.** (1) The Crime Seriousness Scale consists of eleven categories of crimes. Each crime category represents crimes of relatively equal seriousness. The complete Crime Seriousness Scale is set forth as Appendix 2.

(2) When the statutory definition of an offense includes a broad range of criminal conduct, the offense may be subclassified factually in more than one crime category to capture the full range of criminal conduct covered by the statutory offense. The list of subclassified offenses is set forth as Appendix 3.

(3) Drug related offenses are separately classified and subclassified. Those classifications are set forth as Appendix 4.

**OAR 253-04-003 AGGRAVATED MURDER.** The offense of Aggravated Murder is not ranked in the Crime Seriousness Scale because the sentence is set by statute as death or mandatory life imprisonment (ORS 163.095-163.105).

**OAR 253-04-004 OTHER UNRANKED OFFENSES.** Except for ORS 163.095 - 163.105 Aggravated Murder, when a person is convicted of any other felony or crime punishable by state imprisonment which is omitted from the Crime Seriousness Scale, the sentencing judge shall determine the appropriate crime category for the current crime of conviction and shall state on the record the reasons for the offense classification.

**OAR 253-04-005 ATTEMPTS AND SOLICITATIONS.** (1) A conviction for an attempted crime shall be ranked on the Crime Seriousness Scale at two crime categories below the appropriate category for the completed crime. A sentence imposed for an attempted crime shall not exceed the maximum sentence permitted for such criminal conduct under ORS 161.405.

(2) A conviction for soliciting a crime shall be ranked on the Crime Seriousness Scale at two crime categories below the appropriate category for the completed crime. A sentence imposed for a solicitation offense shall not exceed the maximum sentence permitted by law for such criminal conduct under ORS 161.435.

(3) A conviction for attempted aggravated murder, or soliciting aggravated murder shall be ranked on the Crime Seriousness Scale at crime category 10.

(4) A conviction for an attempt or solicitation of an offense ranked on the Crime Seriousness Scale at crime category 1 or 2 shall be ranked at crime category 1.

OAR 253-04-006 CRIMINAL HISTORY SCALE. (1) The Criminal History Scale includes nine mutually exclusive categories used to classify an offender's criminal history according to the extent and nature of the offender's criminal history at the time the current crime or crimes of conviction is sentenced. The nine categories in the scale are labelled alphabetically and are arranged in order of seriousness from the most serious (Criminal History Category A) to the least serious (Criminal History Category I).

(2) An offender's criminal history is based upon the number of adult felony and Class A misdemeanor convictions and juvenile adjudications in the offender's criminal history at the time the current crime or crimes of conviction [is] are sentenced. For crimes committed on or after Nov. 1, 1989 a conviction is considered to have occurred upon the pronouncement of sentence in open court. For crimes committed prior to Nov. 1, 1989 a conviction is considered to have occurred upon pronouncement in open court of a sentence, or upon the pronouncement in open court of the suspended imposition of a sentence. Prior adult convictions or juvenile adjudications which have been expunged shall not be considered when classifying an offender's criminal history. Prior findings of "guilty except for insanity" shall not be considered when classifying an offender's criminal history.

[(3) When multiple sentences in a prior single judicial proceeding are imposed concurrently, the defendant shall be considered to have one conviction for criminal history purposes and the crime of conviction having the highest crime seriousness ranking shall be counted in the offender's criminal history. All other convictions, whether sentenced consecutively or concurrently, shall be counted separately in the offender's criminal history.]

(3) [(4)] Whether a prior offense should be classified as a misdemeanor conviction or a felony conviction for criminal history purposes shall be determined by the classification of the offense at the time of conviction as announced by the sentencing judge [the crime of conviction] rather than by the sentence imposed for the crime.

**OAR 253-04-007 CRIMINAL HISTORY CATEGORIES.** The criminal history categories in the Criminal History Scale are:

**Criminal  
History**

**Category Descriptive Criminal History**

- A The offender's criminal history includes three or more person felonies in any combination of adult convictions or juvenile adjudications.
- B The offender's criminal history includes two person felonies in any combination of adult convictions or juvenile adjudications.
- C The offender's criminal history includes one adult conviction or juvenile adjudication for a person felony; and one or more adult conviction or juvenile adjudication for a non-person felony.
- D The offender's criminal history includes one adult conviction or juvenile adjudication for a person felony; but no adult conviction or juvenile adjudications for a non-person felony.
- E The offender's criminal history includes four or more adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
- F The offender's criminal history includes two or three adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
- G The offender's criminal history includes four or more adult convictions for Class A misdemeanors; one adult conviction for a non-person felony; or three or more juvenile adjudications for non-person felonies, but no adult conviction or juvenile adjudication for a person felony.
- H The offender's criminal history includes no adult felony conviction or juvenile adjudication for a person felony; no more than two juvenile adjudications for non-person felonies; and no more than three adult convictions for Class A misdemeanors.
- I The offender's criminal history does not include any juvenile adjudication for a felony or any adult conviction for a felony or Class A misdemeanor.

**OAR 253-04-008 PERSON CLASS A ADULT MISDEMEANOR CONVICTIONS.**

Every two prior adult convictions of person Class A misdemeanors

in the offender's criminal history shall be counted as one adult conviction of a person felony for criminal history purposes.

**OAR 253-04-009 PRIOR ORS 813.010 (DUII) CONVICTIONS.** If the current crime of conviction is for ORS 163.118 Manslaughter I, ORS 163.125 Manslaughter II or ORS 163.145 Negligent Homicide and the crime involved the use of a vehicle, every three prior convictions for ORS 813.010 (Driving Under the Influence of Intoxicants) or comparable statutory offense or ordinance violation in the offender's criminal history shall be counted as one person felony for criminal history purposes.

**OAR 253-04-010 BURGLARY I.** (1) A prior Burglary I (ORS 164.225) conviction for an offense committed after the effective date of these rules shall be classified for criminal history:

(a) As a prior person felony if that prior conviction was classified as a Crime Category 9 or 8 offense on the Crime Seriousness Scale (Appendix 2); and

(b) As a prior non-person felony if that prior conviction was classified as a Crime Category 7 offense on the Crime Seriousness Scale (Appendix 2).

(2) A prior Burglary I (ORS 164.225) conviction for an offense committed before the effective date of these rules or any juvenile adjudication for conduct, committed before or after the effective date of these rules, which if committed by an adult would have constituted Burglary I shall be classified:

(a) As a prior person felony [if the sentencing judge finds] if the State proves by a preponderance of the evidence that the criminal conduct would have been classified as a Crime Category 9 or 8 offense on the Crime Seriousness Scale (Appendix 2), however if the State does not meet that burden of proof, then the prior offense shall be classified as a prior non-person felony in crime category 7 (Appendix 2). [; and

(b) As a prior non-person felony if the sentencing judge finds by a preponderance of the evidence that the criminal conduct would have been classified as a Crime Category 7 offense on the Crime Seriousness Scale (Appendix 2).]

**OAR 253-04-011 OUT-OF-STATE ADULT CONVICTIONS AND JUVENILE ADJUDICATIONS.** (1) An out-of-state adult conviction shall be used to classify the offender's criminal history if the elements of the offense would have constituted a felony or Class A misdemeanor under current Oregon law.

(2) Out-of-state juvenile adjudications shall be used to classify the offender's criminal history if the elements of the offense

would have constituted a felony under current Oregon law if committed by an adult.

**OAR 253-04-013 PROOF OF CRIMINAL HISTORY.** (1) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

(2) Except to the extent disputed in accordance with section (3), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof as to an offender's criminal history.

(3) Upon receipt of the criminal history summary prepared for the court[,] **by the district attorney,** the offender shall immediately notify the district attorney and the court with written notice of any error in the proposed criminal history summary. Except to the extent any disputed part is thereafter changed by agreement of the district attorney and the defendant with the approval of the sentencing judge, the state shall have the burden of producing further evidence to satisfy its burden of proof as to any disputed part or parts of the criminal history and the sentencing judge shall allow the state reasonable time to produce such evidence to establish the disputed portion of the criminal history by a preponderance of the evidence.

**OAR 253-05-001 TERM OF IMPRISONMENT.** If an offense is classified in a grid block above the dispositional line, the presumptive sentence shall be a term of imprisonment within the durational range of months stated in the grid block. The sentencing judge should select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

**OAR 253-05-002 TERM OF POST-PRISON COMMUNITY SUPERVISION.** (1) A term of community supervision [shall be imposed] is [as] part of the sentence for any offender who is sentenced to prison. **[as provided by these rules or as a departure.]** This term of community supervision shall be described as post-prison supervision. **Departures on the duration of post-prison supervision shall not be allowed.**

(2) The duration of post-prison supervision shall be determined by the crime seriousness category of the most serious current crime of conviction:

(a) one year for Crime Categories 1-3;

(b) two years for Crime Categories 4-6; and

(c) three years for Crime Categories 7-11, **except for murder which shall be as described in OAR 253-05-004.**

completion of the offender's prison term.

(4) The term of post-prison supervision, when added to the prison term, shall not exceed the statutory maximum indeterminate sentence for the crime of conviction. When the total duration of any sentence (prison incarceration and post-prison supervision) exceeds the statutory maximum indeterminate sentence described in ORS 161.605, the sentencing judge shall first reduce the duration of post-prison supervision to the extent necessary to conform the total sentence length to the statutory maximum.

(5) The durations of post-prison supervision established under section (2) of this rule do not apply to dangerous offender departure sentences, which shall be governed by ORS 144.232.

**OAR 253-05-003 SUPERVISORY RESPONSIBILITY.** When a term of post-prison supervision is imposed as part of a sentence, the offender shall serve the term of supervision in the community under the supervision of the Department of Corrections or a corrections agency designated by the Department.

**OAR 253-05-004 POST-PRISON SUPERVISION FOR MURDER AND AGGRAVATED MURDER.** (1) The term of post-prison supervision for an offender serving a [life] sentence [pursuant to ORS 163.105 or ORS 163.115] for murder or aggravated murder shall be for the remainder of the offender's life, unless the Board finds a shorter term appropriate. In no case shall the term of supervision be less than three years.

(2) The limit on sanctions for post-prison supervision violations provided in OAR 253-11-004(3) shall not apply to offenders on post-prison supervision as provided by this rule.

**OAR 253-05-005 JUDGMENT OF CONVICTION.** Each judgment of conviction [which includes a prison term] for an offense committed on or after the effective date of these rules shall state: the length of incarceration and the length of post-prison supervision. The judgment of conviction shall also expressly provide that if the offender violates the conditions of post-prison supervision, the offender shall be subject to sanctions imposed by the supervisory agent or additional imprisonment imposed by the Board in accordance with these rules.

**OAR 253-05-006 OPTIONAL PROBATIONARY SENTENCES.** (1) If an offense is classified in grid blocks 8-G, 8-H or 8-I, the sentencing judge may impose an optional probationary sentence upon making the following specific findings on the record:

(a) An appropriate treatment program is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism;

(b) The recommended program is available and the offender can be admitted to it within a reasonable period of time; and

(c) The probationary sentence will serve community safety interests by promoting offender reformation.

(2) The sentencing judge shall not impose an optional probationary sentence if:

a. A firearm was used in the commission of the offense; or

b. At the time of the offense, the offender was under correctional supervision status for a prior conviction.

(3) A probationary sentence imposed for an offense classified in grid blocks 8-G, 8-H and 8-I when not authorized by this rule is a departure.

**OAR 253-05-007 PRESUMPTIVE PROBATION SENTENCES.** (1) Except as provided by OAR 253-09-001, if the offense is classified in a grid block below the dispositional line, the presumptive sentence shall be: a) a term of probation which may include custody and conditions of supervision[.] or

b) straight jail subject to the limits in OAR 253-05-013.

(2) Each grid block below the dispositional line of the grid includes two components of a presumptive probationary sentence. The top number in each grid block is the number of [**custody**] sanction units that may be imposed as part of a presumptive probationary sentence. The bottom number in each grid block is the maximum number of [**custody**] sanction units that may be imposed as a jail term.

**OAR 253-05-008 DURATION OF PROBATION.** (1) The presumptive duration of probation shall be determined by the crime seriousness category of the most serious current crime of conviction:

(a) eighteen months for Crime Categories 1-2;

(b) two years for Crime Categories 3-5;

(c) three years for Crime Categories 6-8; and

(d) five years for Crime Categories 9-11.

(2) (a) Subject to [**subsection (b)**] OAR 253-03-001(8) and paragraph (d) of this section, the sentencing judge may without departure impose a duration of bench probation other than the presumptive durations in Section (1) of this rule when necessary to ensure the conditions and purposes of probation are met, or

extend the length of probation [by increments of up to one year] subject to OAR 253-05-008(2)(d) upon finding a violation or violations of the conditions of probation or when necessary to ensure that the conditions of probation are completely satisfied.

(b) Subject to subsection (d) of this section, the sentencing judge may by departure impose a greater term of supervised probation when necessary to ensure that the conditions and purposes of probation are met.

(c) When an offender is convicted of a crime of a sexual nature (including but not limited to ORS 163.305 - 163.465, 163.525, 167.670, 163.673, 163.677, 163.680), or the sentencing judge finds a sex offender treatment program is appropriate, the judge may without departure impose a sentence of probation up to 5 years.

[(b)] (d) A probationary term shall not exceed five years.

(3) The time during which the offender has absconded from supervision and a bench warrant has been issued for the offender's arrest shall not be counted in determining the time served on a sentence of probation.

(4) Nothing in this rule shall preclude the sentencing judge from imposing a period of bench probation as the probationary sentence required or permitted by the sentencing guidelines.

**OAR 253-05-009 NON-PRESUMPTIVE PROBATIONARY SENTENCES.** If the sentencing judge imposes a probationary sentence as a dispositional departure or as an optional probationary sentence, the duration of [community supervision] probation shall be as provided by OAR 253-05-008.

**OAR 253-05-010 MODIFICATION OF PROBATIONARY TERMS.** (1) A sentencing judge may shorten or terminate a probationary sentence or transfer supervision to bench probation upon a finding that supervision is no longer necessary to accomplish the purposes of the imposed sentence.

(2) [Reduction or] [m]Modification of a probationary sentence which results in shortening the term, termination, or transfer to bench probation [as provided by this rule] shall not require a hearing.

**OAR 253-05-011 [CUSTODY] SANCTION UNITS.** (1) When imposing a probationary sentence, the sentencing judge may require that the offender serve a term of custody supervision in a correctional facility or as part of a custody program. The term of custody supervision shall be imposed as a number of [custody] sanction units. Sanction units not used to set an initial term of custody are automatically reserved for use as sanctions for probation

violations or to insure the purposes of probation are being served.

(2) The number of [custody] sanction units that may be imposed as part of a presumptive probationary sentence shall be determined by the grid block classification of the offense:

(a) up to 90 [custody] sanction units for offenses classified in Crime Categories 1 and 2 and grid blocks 3-G, 3-H and 3-I;

(b) up to 120 [custody] sanction units for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I, and 5-G through 5-I; and

(c) up to 180 [custody] sanction units for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I.

(3) If the sentencing judge imposes a probationary sentence as a dispositional departure or as an optional probationary sentence, the sentencing judge may impose up to 180 [custody] sanction units as a part of the sentence. Imposition of more than 180 [custody] sanction units is a departure.

(4) Notwithstanding the limits on sanction units established in sections 2 and 3 of this rule, an additional number of non-jail sanction units may be used to sanction violations of conditions of a probation sentence. There shall be no departure on these additional non-jail sanction units, nor may they be used as jail sanction units pursuant to the findings allowed in OAR 253-05-013(3). These additional non-jail sanction units are:

(a) up to 30 additional non jail sanction units for offenses classified in Crime Seriousness Categories 1 and 2 and grid blocks 3G, 3H and 3I;

(b) up to 60 additional non-jail sanction units for offenses classified in grid blocks 3A through 3F, 4C through 4I, and 5G through 5I; and

(c) up to 90 additional non-jail sanction units for offenses classified in grid blocks 5F, 6F through 6I, 7F through 7I, and offenses in which a sentence of probation was imposed as a departure or pursuant to OAR 253-05-006 (Optional Probation).

OAR 253-05-012 CUSTODIAL SUPERVISION. (1) The [custody] sanction units imposed as part of a probationary sentence shall be used to set a term of custodial supervision in a correctional facility or as part of a custody program. Credit for sanction units shall only be granted for time actually served. Good time credits, work time credits, or early release shall not count towards satisfaction of sanction units.

probationary sentence, the offender shall receive credit for having served those [custody] sanction units as follows:

- (a) **JAIL:** Each day of jail incarceration equals one (1) [custody] sanction unit.
- (b) **RESIDENTIAL CUSTODIAL TREATMENT FACILITY:** Each day of actual confinement in a 24-hour residential custodial treatment facility equals one (1) [custody] sanction unit when the program is satisfactorily completed[.] including up to one year of any required aftercare. Aftercare may continue for more than one year, but custody unit credit shall be granted following satisfactory completion of one year.
- (c) **[RESTITUTION, PROBATION, WORK] RELEASE PROGRAMS [OR COMMUNITY SERVICE]:** Each day of partial confinement [served] in a [community service release, work] release [or similar release] program, in which the offender is confined in a custodial facility when not on release, equals one (1) [custody] sanction unit for each day of partial incarceration.
- (d) **HOUSE ARREST:** Each day of satisfactory compliance with the requirements of house arrest equals one (1) [custody] sanction unit if the offender satisfactorily completes the house arrest.
- (e) **COMMUNITY SERVICE:** [~~Eight hours~~]Sixteen hours of community service under the direct supervision of a supervisor designated by the supervisory authority equals one[~~-third~~ (1/3) custody] sanction unit.

(3)(a) When the sentencing judge orders jail time as part of a probationary sentence, the judge shall sentence the offender directly to the custody of the supervisory authority with jurisdiction over the county jail.

(b) When the sentencing judge recommends a custodial facility or program other than jail, the judge shall sentence the offender directly to the custody of the supervisory authority with jurisdiction over that facility or program. To impose such a sentence, the judge must determine that space is available in that facility or program and that the offender meets the eligibility criteria established for that facility or program by the supervisory authority.

(4) The supervisory authority shall keep a record of all [custody] sanction units served by the offender during the course of the probationary term. When [custody] sanction units are served only upon the [successful] satisfactory completion of a custodial program, the supervisory authority, when appropriate, shall certify that the offender has [successfully] satisfactorily completed a custodial program and the number of [custody] sanction units served by the offender as part of the program.

(5) Where the sentencing judge finds that a custodial rehabilitation program designed to deal with drug or alcohol abuse or sexual behavior is essential to minimize the offender's likelihood of engaging in future criminal conduct, the requirement that the offender [**successfully**] enter and **satisfactorily** complete such a program shall not be limited by the [**custodial**] **sanction** units set forth in OAR 253-05-011 or the provisions of this rule.

**OAR 253-05-013 JAIL AS PART OF PROBATION.** (1) Subject to the provisions of sections (2) and (3) of this rule, the maximum number of [**custody**] **sanction** units that may be used to impose a jail term as part of a probationary sentence shall be as follows:

(a) Up to 30 [**custody**] **sanction** units for offenses classified in Crime Categories 1 and 2 and grid blocks 3-G, 3-H and 3-I;

(b) Up to 60 [**custody**] **sanction** units for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I, and 5-G through 5-I; and

(c) Up to 90 [**custody**] **sanction** units for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I, and if a probation sentence is imposed as a departure from a presumptive prison term or as an optional probation sentence.

[(2) If the sentencing judge imposes a probationary sentence as a dispositional departure from a presumptive prison term or as an optional probationary sentence, the judge may use up to 90 [**custody**] **sanction** units to impose a jail term as part of the probationary sentence.]

[(4)] (2) Within the limitations established by this rule on the use of jail as part of a probation sentence, the sentencing judge may impose:

(a) a jail term of no more than one-third of the jail sanction units described in section 1 of this rule as part of a probation sentence to be served immediately upon sentencing;

(b) one or more jail terms as a sanction for probation violations over the term of probation; or

(c) both (a) and (b) of this section so long as the total length of jail incarceration does not exceed the limits established by this rule on the use of jail as part of a probationary sentence.

(3) The limitations established by this rule on the use of jail as part of a probationary sentence may be exceeded if the sentencing judge, after consulting with the appropriate

supervisory authority, finds on the record that local jail space provided by the county is available for a longer term. Upon making such a finding, the sentencing judge may, without departure, use:

(a) up to the maximum number of jail sanction units described in section 1 of this rule at the time of initial sentencing; and

(b) up to the maximum number of [custody] sanction units described in OAR 253-05-011(2) and (3) [included in the presumptive sentence to impose a jail term as part of a probationary sentence] to impose jail for violations of conditions of the probation sentence.

**OAR 253-05-014 LEVEL OF COMMUNITY SUPERVISION.** (1) The Department or its designees shall use a risk assessment classification system to classify offenders for supervision purposes.

(2) The level of supervision shall be established by the Department or its designees based on the offender-risk classification. The level of supervision may be increased or decreased by the supervisory authority in response to the offender's conduct under supervision and as is necessary to manage the offender in the community.

**OAR 253-05-015 NON-CUSTODY CONDITIONS OF PROBATION.** [(1)] The sentencing judge may impose any additional non-custodial [supervisory]special conditions of probation as [permitted]provided by law.

[(2) The sentencing judge may impose programmatic conditions of probation to meet the unique circumstances of the offender and to minimize the offender's opportunity to participate in criminal conduct.]

**OAR 253-05-016 DEPARTURE PROBATIONARY SENTENCES.** A probationary sentence which exceeds the applicable limitation on the use of custodial supervision as part of a probationary sentence is a departure.

**OAR 253-05-017 RECORD OF [CUSTODY] SANCTION UNITS.** The supervisory authority or the supervisory authority's designee shall keep a record of all [custody] sanction units served by the offender while under the jurisdiction of the supervisory authority. The record shall be maintained in a form that will enable the sentencing judge to determine whether the [custody] sanction units imposed as part of a probationary sentence have been served.

**OAR 253-07-001 PERMISSIBLE PLEA AGREEMENTS.** The sentencing judge shall comply with the rules of this division when accepting a negotiated plea as a plea agreement for any offense committed on or after the effective date of these rules.

**OAR 253-07-002 CRIMINAL HISTORY.** (1) An offender's criminal history classification shall be accurately represented to the sentencing judge in the plea agreement.

(2) If a controversy exists as to the inclusion of a prior conviction or juvenile adjudication in an offender's criminal history or as to the classification of a prior conviction or juvenile adjudication, the district attorney and defense may stipulate to the inclusion, exclusion or classification of the conviction or juvenile adjudication as part of a plea agreement subject to the approval of the sentencing judge.

**OAR 253-07-003 STIPULATED GRID BLOCK.** (1) Subject to the provisions of OAR 253-07-002 and the approval of the sentencing judge, the district attorney and defense may stipulate to the grid block classification within the Sentencing Guidelines Grid which will provide the presumptive sentence for the offender.

(2) If the sentencing judge accepts the stipulated grid block classification and imposes a sentence other than the presumptive sentence for the stipulated grid block, the sentence is a departure.

**OAR 253-07-004 STIPULATED PRESUMPTIVE SENTENCE.** (1) The district attorney and the defense may stipulate to a specific sentence within the presumptive sentence range for the stipulated grid block classification.

(2) If the sentencing judge accepts the plea agreement, the judge shall impose the stipulated sentence.

**OAR 253-07-005 STIPULATED NON-PRESUMPTIVE SENTENCE.** (1) The district attorney and defense may stipulate to a sentence outside the presumptive sentence range for a stipulated grid block classification.

(2) If the parties stipulate to an optional probationary sentence, the sentencing judge may accept the plea agreement after making the findings as required by OAR 253-05-006.

(3) If the parties stipulate to a departure sentence, the sentencing judge may accept the plea agreement if the judge finds on the record substantial and compelling reasons for the departure.

**OAR 253-08-001 DEPARTURE SENTENCES.** Except as provided in OAR 253-05-006, the sentencing judge shall impose the presumptive sentence provided by the guidelines unless the judge finds substantial and compelling reasons to impose a departure. If the sentencing judge departs from the presumptive sentence, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure.

**OAR 253-08-002 DEPARTURE FACTORS.** (1) Subject to the provisions of sections (2) and (3) of this rule, the following nonexclusive list of mitigating and aggravating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(a) Mitigating factors:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The defendant acted under duress or compulsion (not sufficient as a complete defense).

(C) The defendant's mental capacity was diminished (excluding diminished capacity due to voluntary drug or alcohol abuse).

(D) The offense was principally accomplished by another and the defendant exhibited extreme caution or concern for the victim.

(E) The offender played a minor or passive role in the crime.

(F) The offender cooperated with the state with respect to the current crime of conviction or any other criminal conduct by the offender or other person. The offender's refusal to cooperate with the state shall not be considered an aggravating factor.

(G) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(H) The offender's criminal history indicates that the offender lived conviction-free within the community for a significant period of time preceding his or her current crime of conviction.

**(I) The offender is amenable to treatment and an appropriate treatment program is available to which the offender can be admitted within a reasonable period of time; the treatment program is likely to be more effective than the presumptive prison term in reducing**

the risk of offender recidivism; and the probation sentence will serve community safety interests by promoting offender reformation.

(b) Aggravating factors:

(A) Deliberate cruelty to victim.

(B) The offender knew or had reason to know of the victim's particular vulnerability, such as the extreme youth, age, disability or ill health of victim, which increased the harm or threat of harm caused by the criminal conduct.

(C) Threat of or actual violence toward a witness or victim.

(D) Persistent involvement in similar offenses or repetitive assaults. This factor may be cited when consecutive sentences are imposed only if the persistent involvement in similar offenses or repetitive assaults is unrelated to the current offense.

(E) Use of a weapon in the commission of the offense.

(F) The offense involved a violation of public trust or professional responsibility.

(G) The offense involved multiple victims or incidents. This factor may not be cited when it is captured in a consecutive sentence.

(H) The crime was part of an organized criminal operation.

(I) The offense resulted in a permanent injury to the victim.

(J) The degree of harm or loss attributed to the current crime of conviction was significantly greater than typical for such an offense.

(K) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim.

(2) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the Crime Seriousness Scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(3) Any aspect of the current crime of conviction which serves as a necessary element of a statutory mandatory sentence may not be used as an aggravating factor if that aspect is also used to impose the mandatory sentence.

**OAR 253-08-003 DURATION OF DEPARTURES.** (1) When a sentencing judge departs in setting the duration of a [n incarceration] prison term, the judge shall consider the purposes and principles of these guidelines as described in OAR 253-02-001 to impose a sentence which is proportionate to the seriousness of the crime of conviction and the offender's criminal history.

[OAR 253-08-004 DURATIONAL DEPARTURE LIMITATIONS. (1)](2) A durational departure from a presumptive [incarceration] prison term shall not total more than double the maximum duration of the presumptive [incarceration] prison term. In no case may the sentence exceed the statutory maximum indeterminate sentence described in ORS 161.605.

[(2)](3) The limit on durational departures established by section (2) [(1)] of this rule [does not apply to any sentence imposed for a conviction of ORS 163.115 Murder] does not apply to the indeterminate sentence imposed on a dangerous offender under ORS 161.725 and 161.737.

**OAR 253-08-005 DISPOSITIONAL DEPARTURE LIMITATIONS.** (1) When a sentencing judge imposes a prison term as a dispositional departure, the term of incarceration shall be:

(a) up to six months for offenses classified in Crime Categories 1 and 2, or grid blocks 3-G, 3-H and 3-I;

(b) up to twelve months for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I, and 5-G through 5-I; and

(c) up to eighteen months for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I.

(2) When a sentencing judge imposes a prison term as a dispositional departure, the term of post-prison supervision shall be determined by the crime seriousness category of the most serious current crime of conviction as required by OAR 253-05-002.

(3) Any sentence inconsistent with the provisions of this rule shall constitute an additional departure and shall require substantial and compelling reasons independent of the reasons given for the dispositional departure. Such a sentence shall not exceed double the maximum duration set forth in section (1) of this rule.

**ORAR 253-08-006 DEPARTURE LIMITATIONS ON THE USE OF [CUSTODY] SANCTION UNITS.** (1) A departure on the number of [custody] sanction units imposed as part of a [presumptive] probationary sentence shall not total more than double the maximum number of [custody] sanction units permitted as part of the [presumptive] sentence as described in ORAR 253-05-011(2) and (3).

(2) Notwithstanding the provisions of section (1) of this rule, the maximum number of [custody] sanction units that may be used to impose a jail term as part of [the] a probationary sentence shall be limited to the maximum number of [custody] sanction units included in the [presumptive] sentence as provided by ORAR 253-05-011(2) and (3).

**ORAR 253-08-007 DEPARTURE LIMITATIONS IN CONSECUTIVE SENTENCES.**

(1) The court may depart from the [presumptive] limits established by ORAR 253-12-020 for consecutive sentences only if the judge finds substantial and compelling reasons to impose a departure sentence for any individual offense being sentenced consecutively.

(2) Except as provided by section (3) of this rule, the sentencing judge shall comply with the provisions of ORAR 253-08-001 to 253-08-006 when a departure sentence is imposed for an offense sentenced consecutively.

(3) When a departure sentence is imposed for any individual offense sentenced consecutively, the incarceration term of that departure sentence shall not exceed twice the maximum [presumptive] incarceration term that may be imposed for that offense as provided in ORAR 253-12-020(2)(a). This limit on the duration of a departure sentence does not apply to any indeterminate sentence imposed on a dangerous offender under ORS 161.725 and 161.737.

**ORAR 253-09-001 STATUTORILY MANDATED IMPRISONMENT.** (1) If a mandatory prison sentence is required or authorized by statute, the sentence imposed shall be that determinate sentence or the sentence under these rules whichever is longer.

(2) If the provisions of ORS 137.635 [Ballot Measure 4, 1988 General Election], require the imprisonment of an offender for whom the grid provides presumptive probation, the offender shall be imprisoned for a duration determined as follows:

(a) 11-12 months for an offense classified in Grid Block 7-I;

(b) 12-13 months for an offense classified in Grid Block 7-H;

(c) 13-14 months for an offense classified in Grid Block 7-G; and

(d) 14-15 months for an offense classified in Grid Block 7-F.

(3) Notwithstanding subsection (1) of this rule, if it is the first time an offender is subject to the provisions of ORS 161.610(4)(a), the court may impose a lesser sentence in accordance with these rules.

**OAR 253-09-002 OFFENDERS FOUND GUILTY EXCEPT FOR INSANITY.** The rules of the State Sentencing Guidelines Board shall not apply to any offender found guilty except for insanity pursuant to ORS 161.295. The disposition of such an offender shall be as provided by the provisions of ORS 161.295 to 161.403.

**OAR 253-09-003 OTHER SANCTIONS.** In addition to the presumptive or departure sentence, the sentencing judge may impose any restitution, fine, fee or other monetary payment authorized or required by law.

**OAR 253-10-001 REVOCATION OF PROBATION.** The decision to revoke probation is discretionary and may be exercised upon a finding that the offender has violated one or more of the conditions of probation, or that the offender has participated in new criminal activity.

**OAR 253-10-002 REVOCATION SANCTIONS.** (1) For those offenders whose presumptive sentence was probation, the sentence upon revocation shall be a prison term up to a maximum of six months.

(2) For those offenders whose probationary sentence was either a departure from a presumptive prison sentence or a sentence imposed pursuant to OAR 253-05-006, the sentence upon revocation shall be a prison term up to the maximum presumptive prison term which could have been imposed initially.

(3) When imposing a revocation sanction, the sentencing judge shall also set a term of post-prison supervision in accordance with OAR 253-05-002.

(4) No revocation sanction may exceed the limitations established by this rule.

**OAR 253-11-001 CONDITIONS OF POST-PRISON SUPERVISION.** (1) The Department shall prepare a proposed release plan for each offender prior to the offender's release from prison.

(2) The proposed release plan shall be submitted to the Board not less than sixty (60) days prior to the offender's release and shall include:

(a) A description of support services and program opportunities available to the offender;

(b) The recommended conditions of supervision;

(c) The level of supervision which shall be consistent with the offender's risk assessment classification;

(d) Any conditions necessary to assist the reformation of the offender; and

(e) Any other conditions and requirements as may be necessary to promote public safety.

(3) If the proposed release plan is not approved by the Board, the Board shall return the plan to the Department with its recommended modifications. The Department shall submit a revised plan to the Board not less than ten days prior to the offender's release.

(4) If the revised plan is not acceptable to the Board, the Board shall determine the provisions of the final plan prior to the offender's release.

**OAR 253-11-002 RESPONSIBILITY FOR POST-PRISON SUPERVISION.** Upon release from prison, the offender shall be supervised by the Department or the corrections agency designated by the Department.

**OAR 253-11-003 LEVEL OF POST-PRISON SUPERVISION.** During the term of post-prison supervision, the Department or its designee may adjust the level of supervision and recommend to the Board revisions to the conditions of supervision appropriate to the offender's conduct in the community.

**OAR 253-11-004 POST-PRISON SUPERVISION SANCTIONS.** (1) The Department or its designee shall use a continuum of administrative sanctions for violation of the conditions of post-prison supervision. The sanction continuum shall include: adjustments to the level of supervision, modification of or addition to the conditions of community supervision as approved by the Board, and any other appropriate available local sanction.

(2) If the Department or its designee finds that local sanctions are insufficient punishment for any violation of the conditions of post-prison supervision, it may request the Board to return the offender to a state correctional facility.

(3) If requested to return an offender to a state correctional facility, the Board shall hold a hearing to determine whether prison incarceration is appropriate and may impose an appropriate term of incarceration up to ninety (90) days for a technical

violation and up to one hundred and eighty (180) days for conduct constituting a crime. Except as provided in OAR 253-05-004(2), during the full term of post-prison supervision, for violations of the conditions of supervision, an offender may not be required to serve more than: [one hundred and eighty (180) days of incarceration for violations of the conditions of supervision.]

a) six months of incarceration if the term of post-prison supervision is one year;

b) nine months of incarceration if the term of post-prison supervision is two years; or

c) twelve months of incarceration if the term of post-prison supervision is three years or longer.

(4) An offender ordered to serve a term of prison incarceration as a sanction for a post-prison supervision violation is not eligible for earned-credit time or transitional leave.

(5) An offender ordered to serve a term of prison incarceration as a sanction for a post-prison supervision violation shall receive credit for time served in a state or local correctional facility on the supervisory violation prior to the Board's imposition of a prison term sanction.

**OAR 253-12-010 . CONCURRENT AND CONSECUTIVE SENTENCES.** When multiple convictions have been entered against a single defendant, the sentencing judge may impose consecutive or concurrent sentences as provided by ORS 137.122, 137.123 and 137.370.

**OAR 253-12-020 CONSECUTIVE SENTENCES.** (1) When the sentencing judge imposes multiple sentences consecutively, the consecutive sentences shall consist of an incarceration term and a supervision term.

(2) (a) Subject to the provisions of subsection (b) of this section, the presumptive incarceration term of the consecutive sentences is the sum of:

(A) the presumptive incarceration term or the prison term defined in OAR 253-08-005 (1) imposed pursuant to a dispositional departure for the primary offense, as defined in OAR 253-03-001(17); and

(B) up to the maximum incarceration term indicated in the Criminal History I Column for each additional offense imposed consecutively.

(b) The total incarceration term of the consecutive sentences, including the incarceration term for the primary offense, shall not exceed twice the maximum presumptive

incarceration term or the prison term defined in OAR 253-08-005 (1) imposed pursuant to a dispositional departure of the primary sentence except by departure as provided by OAR 253-08-007.

(c) The incarceration term of any probationary sentence is the maximum jail sentence that could be imposed as provided by these rules as part of the [presumptive] probationary sentence for that offense.

[(d) If any sentence includes a prison term, the incarceration term of the consecutive sentences shall be served in prison.]

(3) The supervision term of the consecutive sentences shall be:

(a) The presumptive post-prison supervision term imposed for the primary offense if the sentence for any offense includes a prison term; or

(b) The presumptive probation term of each offense if no sentence includes a prison term. All presumptive probation terms imposed as provided by this subsection shall run concurrently.

(4) Sections (1), (2), and (3) of this rule shall not apply to any sentence imposed on a dangerous offender under ORS 161.725 and 161.737.

#### OAR 253-12-030 SENTENCES IMPOSED CONSECUTIVELY TO A PRIOR REMAINING SENTENCE.

(1) When a sentence is imposed consecutively to a sentence imposed in a prior proceeding, the incarceration term of the new sentence is added to the remaining incarceration term of the prior sentence. If any sentence includes a prison term, the [entire] incarceration term of all sentences shall be served in prison.

(2) When a sentence is imposed consecutively to a sentence imposed in a prior proceeding, the supervision term or terms of the new sentence shall be served concurrently with the prior sentence as follows:

(a) If the supervision term of the new sentence is a term of probationary supervision, the supervision shall begin at the date of sentencing.

(b) If the supervision term of the new sentence is a term of post-prison supervision, the supervision term shall begin upon the completion of the incarceration term of the combined sentences.

OAR 253-12-040 MULTIPLE SUPERVISION TERMS. (1) If the offender has been sentenced to multiple terms of post-prison supervision,

the terms of post-prison supervision shall be served as a single term. The maximum sanction for a post-prison supervision violation in such a case shall be limited as provided by OAR 253-11-004 for a single term of post-prison supervision.

(2) When an offender is serving multiple terms of probationary supervision, the sentencing judge may impose revocation sanctions for supervision violations as provided by OAR 253-10-002 for the violation of each separate term of probationary supervision.

(a) If more than one term of probationary supervision is revoked for a single supervision violation, the sentencing judge shall impose the prison term sanctions concurrently.

(b) If more than one term of probationary supervision is revoked for separate supervision violations, the sentencing judge may impose the prison term sanctions concurrently or consecutively.

**OAR 253-13-001 SENTENCING REPORT.** (1) A sentencing report shall be submitted forthwith to the Oregon Criminal Justice Council by the sentencing court for each sentence imposed for felonies committed on or after November 1, 1989.

(2) The sentencing report shall provide the following offense and offender information:

(a) Offender identification information;

(b) Court processing information;

(c) Offense conviction information for each crime of conviction;

(d) All prior convictions for felonies or Class A misdemeanors and all juvenile adjudications as described in OAR 253-04-006(2);

(e) Whether the offender is eligible for an optional probationary sentence as provided by OAR 253-05-006;

(f) The presumptive sentence for each crime of conviction; and

(g) Any other information needed to identify the presumptive sentence in accordance with these rules.

(3) The sentencing report shall provide the following information about the sentence imposed for each crime of conviction:

(a) a description of the sentence imposed, including:

(A) the prison term of incarceration and the term of post-prison supervision; or

(B) the duration of probation, number of [custody] sanction units, any term of jail incarceration and whether treatment or evaluation was ordered as part of probation;

(b) the total amount of financial obligations associated with the sentences;

(c) if multiple sentences are imposed, whether the sentences are to be served concurrently or consecutively;

(d) whether a statutorily mandatory minimum sentence has been imposed; and

(e) If a departure sentence is imposed, the type of departure (durational or dispositional) and each aggravating or mitigating factor relied upon to impose the departure sentence.

(4) If the offender has been revoked from probation pursuant to OAR 253-10-001, the sentencing report shall provide the following information:

(a) the reasons for revocation;

(b) the revocation sanction imposed; and

(c) whether the incarceration term is to be served concurrently or consecutively with any other sentence.

(5) The staff of the State Sentencing Guidelines Board shall develop the sentencing report form in accordance with the provisions of this rule and shall submit it to the Supreme Court of Oregon for approval prior to distribution for use by trial courts. The form shall display the following statement on its face: The completed form shall be submitted to the Oregon Criminal Justice Council forthwith. ORS 137.010(8).

**OAR 253-13-010 MINIMUM CONTENTS OF PRESENTENCE REPORTS.** Except as provided by section (7), each presentence report prepared for an offender to be sentenced for one or more felonies committed on or after November 1, 1989, shall at a minimum include the following information:

(1) A summary of the factual circumstances of the crime or crimes of conviction and an appropriate classification of each crime of conviction on the Crime Seriousness Scale (Appendix 2). If the crime of conviction is subclassified in Appendix 3 or 4, the presentence report shall state the factual circumstances that justify the proposed subclassification.

(2) A listing of all prior adult felony and Class A misdemeanor convictions and all prior juvenile adjudications and an assessment of the appropriate classification of the criminal history on the Criminal History Scale pursuant to OAR 253-04-006

(3) A proposed grid block classification for each crime of conviction and the presumptive sentence for each crime of conviction.

(a) If the proposed grid block classification is a grid block above the dispositional line, the presentence report shall state the presumptive prison term range and the presumptive duration of post-prison supervision.

(b) If the proposed grid block classification is Grid Block 8-G, 8-H or 8-I, the presentence report shall state whether the offender is eligible for an optional probationary sentence. If the offender is eligible, the presentence report may include a recommendation that an optional probationary sentence be imposed with a further recommendation for the appropriate conditions of probation.

(c) If the proposed grid block classification is a grid block below the dispositional line, the presentence report shall provide the following information:

(A) the presumptive term of probation;

(B) the maximum number of [custody] sanction units that may be imposed and the number of sanction units that may be used to impose jail time as part of the probationary sentence;

(C) a recommendation for the appropriate conditions of probation including both custody and non-custody conditions; and

(D) any other information relevant to the imposition of a presumptive sentence as provided by these rules.

(4) A victim statement as required by ORS 137.530(3) and 144.790(2).

(5) A recommendation as to whether a departure from the guidelines is appropriate. If a recommendation is made, the presentence report shall indicate the aggravating or mitigating factors upon which the departure recommendation is made. Such recommendations shall be consistent with the requirements for departures as defined by OAR 253-08-001 to 253-08-007.

(6) Any additional information as provided upon request of the sentencing judge.

(7) The sentencing judge may waive the requirement for any information necessary to establish the presumptive sentence if that information has been made part of an accepted plea agreement.

**OAR 253-13-011 FORMAT FOR PRESENTENCE REPORTS.** The format for all presentence reports for offenders convicted of a felony committed on or after November 1, 1989, shall be as provided by the Department.

**OAR 253-20-001** As provided by Section 90, Chapter 790, Oregon Laws 1989, the rules of divisions 2 to 13 become effective on November 1, 1989.

- (b) If the proposed grid block classification is Grid Block 4-B, 4-C or 4-D, the presentence report shall state whether the offender is eligible for an optional probationary sentence. If the offender is eligible, the presentence report may include a recommendation that an optional probationary sentence be imposed with a further recommendation for the appropriate conditions of probation.
- (c) If the proposed grid block classification is a grid block below the dispositional line, the presentence report shall provide the following information:
  - (A) The presumptive term of probation;
  - (B) The maximum number of [custody] sentencing units that may be imposed and the number of sanction units that may be used to impose jail time as part of the probationary sentence;
  - (C) A recommendation for the appropriate conditions of probation including both custody and non-custody conditions; and
  - (D) Any other information relevant to the imposition of a presumptive sentence as provided by these rules.
- (4) A victim statement as required by ORS 137.530(2) and 144.790(2).
- (5) A recommendation as to whether a departure from the guidelines is appropriate. If a recommendation is made, the presentence report shall indicate the aggravating or mitigating factors upon which the departure recommendation is made. Such recommendations shall be consistent with the requirements for departure as defined by OAR 253-02-001 to 253-02-007.
- (6) Any additional information as provided upon request of the sentencing judge.
- (7) The sentencing judge may waive the requirement for any information necessary to establish the presumptive sentence if that information has been made part of an accepted plea agreement.

CRIMINAL HISTORY SCALE

CRIME SERIOUSNESS SCALE		CRIMINAL HISTORY SCALE									
		MULTIPLE (3+) FELONY PERSON OFFENDER	REPEAT (2) FELONY PERSON OFFENDER	SINGLE (1) FELONY PERSON W/ FELONY NON-PERSON OFFENDER	SINGLE (1) FELONY PERSON OFFENDER	MULTIPLE (4+) FELONY NON-PERSON OFFENDER	REPEAT (2-3) FELONY NON-PERSON OFFENDER	SIGNIFICANT MINOR CRIMINAL RECORD	MINOR CRIMINAL RECORD	MINOR MISDEMEANOR OR NO CRIMINAL RECORD	
		A	B	C	D	E	F	G	H	I	
▶	MURDER	11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121
▶	MANSLAUGHTER I, ASSAULT I, RAPE I, ARSON I	10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60
▶	RAPE I, ASSAULT I, KIDNAPPING II, ARSON I, BURGLARY I, ROBBERY I	9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36
	MANSLAUGHTER II, SEXUAL ABUSE I, ASSAULT II, RAPE II, USING CHILD IN DISPLAY OF SEXUAL CONDUCT, DRUGS-MINORS, CULT/AMMUN/DEL, COMP, PROSTITUTION, NEG. HOMICIDE	8	41-45	35-40	29-34	27-28	25-26	23-24	21-22	19-20	16-18
	EXTORTION, COERCION, SUPPLYING CONTRABAND, ESCAPE I	7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90
	ROBBERY II, ASSAULT III, RAPE III, BRIBE RECEIVING, INTIMIDATION, PROPERTY CRIMES (more than \$50,000), DRUG POSSESSION	6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90
	ROBBERY III, THEFT BY RECEIVING, TRAFFICKING, STOLEN VEHICLES, PROPERTY CRIMES (\$10,000-\$49,999)	5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60
	FTA I, CUSTODIAL INTERFERENCE II, PROPERTY CRIMES (\$5,000-\$9,999), DRUGS-CULT/AMMUN/DEL	4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60
▶	ABANDON CHILD, ABUSE OF CORPSE, CRIMINAL NONSUPPORT, PROPERTY CRIMES (\$1,000-\$4,999)	3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30
▶	DEALING CHILD PORNOGRAPHY, VIOLATION OF WILDLIFE LAWS, WELFARE FRAUD, PROPERTY CRIMES (less than \$1,000)	2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30
▶	ALTERING FIREARM ID, HABITUAL OFFENDER VIOLATION, BIGAMY, PARAMILITARY ACTIVITY, DRUGS-POSSESSION	1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30

- In white blocks, numbers are presumptive prison sentences expressed as a range of months.
- In gray blocks, upper number is the maximum number of custody units which may be imposed; lower number is the maximum number of jail days which may be imposed.

## CRIME SERIOUSNESS SCALE

This appendix represents the complete Crime Seriousness Scale of the grid. When an offense has been subcategorized it will appear in two or more crime categories. An abbreviated description of the subcategorization factors is included in this appendix for each subcategory of the offense as it appears on the Crime Seriousness Scale. Appendices 3 and 4 should be consulted for a complete description of offense subcategories.

### CRIME CATEGORY 11

#### FELONY CLASSIFICATION

ORS 163.115 MURDER (U)

### CRIME CATEGORY 10

#### FELONY CLASSIFICATION

ORS 163.118 MANSLAUGHTER I (A)  
ORS 163.375 RAPE I \* (A)  
(If aggravated by factors listed below; otherwise CC 9.)  
ORS 163.405 SODOMY I \* (A)  
(If aggravated by factors listed below; otherwise CC 9.)  
ORS 163.411 SEXUAL PENETRATION I \* (A)  
(If aggravated by factors listed below; otherwise CC 9.)  
ORS 163.185 ASSAULT I (A)  
(If victim did not substantially contribute to the  
commission of the offense by precipitating the attack;  
otherwise CC 9.)  
ORS 163.235 KIDNAPPING I (A)  
ORS 164.325 ARSON I (A)  
(If offense represented [**serious threat to life**] threat of  
serious physical injury; otherwise CC 9, 8 or 7.)  
ORS 163.095 Aggravated Murder (Attempt or Solicit)

\* Rape I, Sodomy I and Sexual Penetration with Foreign Object I shall be ranked at Crime Category 10 if one or more of the following factors were included in the commission of the offense:

- a.) the offender used or threatened to use a weapon;
- b.) the offender caused or threatened to cause serious physical injury;
- c.) the victim was under the age of twelve; or
- d.) the victim was incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

FELONY  
CLASSIFICATION

- ORS 163.375 RAPE I (A)  
(If not categorized at CC 10.)
- ORS 163.405 SODOMY I (A)  
(If not categorized at CC 10.)
- ORS 163.411 SEXUAL PENETRATION I (A)  
(If not categorized at CC 10.)
- ORS 163.185 ASSAULT I (A)  
(If victim(s) substantially contributed to the commission of the offense by precipitating attack; otherwise CC 10.)
- ORS 164.325 ARSON I (A)  
(If offense did not represent a [serious threat to human life] threat of serious physical injury (CC 10) and the economic loss is greater than \$50,000; otherwise CC 8 or 7.)
- ORS 164.225 BURGLARY I (A)  
(If offender was armed with a deadly weapon, or caused, [or] threatened or attempted physical injury; otherwise CC 8 or 7.)
- ORS 164.415 ROBBERY I (A)
- ORS 163.225 KIDNAPPING II (B)

**FELONY  
CLASSIFICATION**

- ORS 163.125 MANSLAUGHTER II (B)
- ORS 163.145 NEGLIGENT HOMICIDE (C)
- ORS 163.670 USING CHILD IN  
DISPLAY OF SEXUAL CONDUCT (A)
- ORS 163.673 DEALING DEPICTIONS OF  
CHILD SEXUAL CONDUCT (B)
- (If part of organized operation; otherwise CC 2.)
- ORS 163.677 TRANSPORTING CHILD  
PORNOGRAPHY (B)
- (If part of organized operation; otherwise CC 2.)
- ORS 163.732 STALKING (C)
- ORS 163.747 VIOLATE OFFICER (C)  
STALKING ORDER
- ORS 163.750 VIOLATE COURT (C)  
STALKING ORDER
- ORS 167.017 COMPELLING PROSTITUTION (B)
- ORS 167.012 PROMOTING PROSTITUTION (C)
- ORS 164.325 ARSON I (A)
- (If the offense did not represent a [serious threat to human life] threat of serious physical injury (CC 10) and economic loss is \$25,000 or more but less than \$50,000; otherwise CC 9 or CC 7.)
- ORS 164.225 BURGLARY I (A)
- (If offender did not cause, [or] threaten or attempt physical injury and was not armed with a deadly weapon (CC 9) but the offense was committed while the dwelling was occupied; otherwise CC 7.)
- ORS 163.42[5]7 SEXUAL ABUSE I (B)
- ORS 163.175 ASSAULT II (B)
- ORS 163.365 RAPE II (B)
- ORS 163.395 SODOMY II (B)
- ORS 163.408 SEXUAL PENETRATION II (B)
- ORS 164.877(3) TREE SPIKING-INJURY (B)
- AGGRAVATED DRUG OFFENSES (See, Appendix 4.)
- ORS 166.275 INMATE POSSESSION OF WEAPON (A)  
(if firearm, otherwise CC 7)
- ORS 167.262 USE MINOR DRUG OFFENSE (A)  
(CC 4 if minor less than 3 yrs. younger than offender)

FELONY  
CLASSIFICATION

- ORS 164.325 ARSON I (A)  
(If the offense cannot be ranked at CC 8, 9 or 10.)
- ORS 164.225 BURGLARY I (A)  
(If the offense cannot be ranked at CC 8 or 9.)
- ORS 163.535 ABANDON CHILD (C)  
(If child is placed in immediate physical danger; otherwise CC 3.)
- ORS 163.425 SEX ABUSE II (C)**
- ORS 163.275 COERCION (C)  
(If threat of physical injury; otherwise CC 6.)
- ORS 164.075 THEFT BY EXTORTION (B)  
(If threat of physical injury; otherwise CC 2, 3, 4, 5 or 6.)
- ORS 162.165 ESCAPE I (B)
- ORS 166.275 INMATE IN POSSESSION OF WEAPON (if firearm CC 8) (A)
- ORS 166.429 FURNISHING FIREARM IN FURTHERANCE OF FELONY (B)
- ORS 163.205 CRIMINAL MISTREATMENT I (C)
- ORS 162.185 SUPPLYING CONTRABAND (C)  
(If the contraband includes one or more firearms; otherwise CC 4, 5 or 6.)

**FELONY  
CLASSIFICATION**

ORS 164.405	ROBBERY II	(B)
ORS 163.165	ASSAULT III	(C)
ORS 163.385	SODOMY III	(C)
ORS 163.355	RAPE III	(C)
ORS 162.025	BRIBE RECEIVING	(B)
ORS 166.165	INTIMIDATION I	(C)
ORS 163.275	COERCION	(C)
	(No threat of physical injury; otherwise CC 7.)	
ORS 162.015	BRIBERY	(B)
<b><u>ORS 162.117 PUBLIC INVESTMENT FRAUD</u></b>		<b>(B)</b>
ORS 162.265	BRIBING A WITNESS	(C)
ORS 162.325	HINDERING PROSECUTION	(C)
ORS 166.270	EX-CON IN POSSESSION OF FIREARM	(C)
<b><u>ORS 166.370(1) and (3)(a) INTENT POSS. FIREARM OR DANG. WEAP. IN PUBLIC BUILDING; DISCHARGE FIREARM IN SCHOOL</u></b>		<b>(C)</b>
ORS 166.410	ILLEGAL MANUFACTURE, IMPORTATION OR TRANSFER OF FIREARMS	(B)
ORS 166.272	UNLAWFUL POSSESSION OF FIREARM	(B)
<b><u>ORS 166.420 REGISTRATION OF HANDGUN TRANSFERS</u></b>		<b>(C)</b>
ORS 166.382	POSSESSION OF DESTRUCTIVE DEVICE	(C)
ORS 166.384	UNLAWFUL MANUFACTURE OF DESTRUCTIVE DEVICE	(C)
ORS 163.257	CUSTODIAL INTERFERENCE I	(C)
ORS 162.185	SUPPLYING CONTRABAND	(C)
	(The contraband involves a dangerous weapon (not a firearm-- CC 7); otherwise CC 4 or 5.)	
ORS 162.155	ESCAPE II	(C)
ORS 164.057	AGGRAVATED THEFT	(B)
	(Economic loss was greater than \$50,000; otherwise CC 5.)	
ORS 819.310	TRAFFICKING IN STOLEN VEHICLES	(C)
	(If part of an organized operation or if <b>[economic loss]</b> <b><u>value of property taken from one or more victims</u></b> was greater than \$50,000; otherwise CC 5.)	
ORS 166.220	UNLAWFUL USE OF WEAPON	(C)
ORS 811.705	HIT & RUN VEHICLE (INJURY)	(C)
ORS 166.015	RIOT	(C)
ORS 163.525	INCEST	(C)
	(If one of the participants is under the age of 18; otherwise CC 1.)	
ORS 164.315	ARSON II *	(C)
ORS 164.215	BURGLARY II *	(C)
ORS 164.055	THEFT I *	(C)
ORS 164.085	THEFT BY DECEPTION *	(C)

ORS 163.125	THEFT OF SERVICES *	(C)
ORS 164.075	THEFT BY EXTORTION *	(B)
ORS 165.055(3)	(A) CREDIT CARD FRAUD *	(C)
ORS 165.013	FORGERY I *	(C)
ORS 165.022	CRIMINAL POSSESSION FORGED INSTRUMENT I *	(C)
ORS 164.065	THEFT OF LOST/MISLAID PROPERTY *	(C)
ORS 164.140(4)	POSSESSION OF RENTED PROPERTY *	(C)
ORS 165.065	NEGOTIATING BAD CHECKS *	(C)
ORS 164.377(3)	COMPUTER CRIME *	(C)
CHAPTER 59.	BLUE SKY LAWS * & SECURITIES LAWS	(C)
ORS 164.365	CRIMINAL MISCHIEF I *	(C)
ORS 164.365(1)	(e) CRIMINAL MISCHIEF I-POLICE ANIMAL *	(C)
ORS 819.300	POSSESSION OF STOLEN VEHICLE *	(C)
ORS 164.135	UNAUTHORIZED USE OF VEHICLE *	(C)
ORS 162.275	BRIBE RECEIVING BY WITNESS	(C)
ORS 162.285	TAMPERING W/ WITNESS	(C)
ORS 162.065	PERJURY	(C)
ORS 164.877(1)	TREE-SPIKING	(C)
MAJOR DRUG OFFENSES	(See, Appendix 4.)	
<u>ORS 164.377</u>	<u>COMPUTER FRAUD (LOTTERY) *</u>	<u>(C)</u>
<u>ORS 165.074</u>	<u>UNLAWFUL CREDIT CARD *</u>	<u>(C)</u>
<u>ORS 164.869</u>	<u>UNLAWFUL RECORD LIVE PERFORMANCE *</u>	<u>(C)</u>
<u>ORS 164.868</u>	<u>UNLAWFUL LABEL SOUND RECORDING *</u>	<u>(C)</u>
<u>ORS 164.872</u>	<u>UNLAWFUL LABEL VIDEOTAPE *</u>	<u>(C)</u>
<u>ORS 167.388</u>	<u>INTERFERE LIVESTOCK PRODUCTION *</u>	<u>(C)</u>

\* Property offenses marked with an asterisk shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

ORS 164.395	ROBBERY III	(C)
ORS 164.057	AGGRAVATED THEFT	(B)
	(If not categorized at CC 6.)	
ORS 819.310	TRAFFICKING IN STOLEN VEHICLES	(C)
	(If not categorized at CC 6.)	
ORS 164.095	THEFT BY RECEIVING	(C)
	(If part of an organized operation; otherwise CC 3.)	
ORS 162.185	SUPPLYING CONTRABAND	(C)
	(If contraband includes a controlled substance but no firearms (CC 7) or dangerous weapons (CC 6); otherwise CC 4.)	
ORS 164.315	ARSON II *	(C)
ORS 164.215	BURGLARY II *	(C)
ORS 164.055	THEFT I *	(C)
ORS 164.085	THEFT BY DECEPTION *	(C)
ORS 163.125	THEFT OF SERVICES *	(C)
ORS 164.075	THEFT BY EXTORTION *	(B)
ORS 165.055(3)(A)	CREDIT CARD FRAUD *	(C)
ORS 165.013	FORGERY I *	(C)
ORS 165.022	CRIMINAL POSSESSION FORGED INSTRUMENT I *	(C)
ORS 164.065	THEFT OF LOST/MISLAID PROPERTY *	(C)
ORS 164.140(4)	POSSESSION OF RENTED PROPERTY *	(C)
ORS 165.065	NEGOTIATING BAD CHECKS *	(C)
ORS 164.377(3)	COMPUTER CRIME *	(C)
CHAPTER 59.	BLUE SKY LAWS * & SECURITIES LAWS	(C)
ORS 164.365	CRIMINAL MISCHIEF I *	(C)
ORS 164.365(1)(e)	CRIMINAL MISCHIEF I-POLICE ANIMAL *	(C)
ORS 164.135	UNAUTHORIZED USE OF VEHICLE *	(C)
ORS 819.300	POSSESSION OF STOLEN VEHICLE *	(C)
<u>ORS 164.377</u>	<u>COMPUTER FRAUD (LOTTERY) *</u>	<u>(C)</u>
<u>ORS 165.074</u>	<u>UNLAWFUL CREDIT CARD *</u>	<u>(C)</u>
<u>ORS 166.087</u>	<u>ABUSE OF CORPSE I</u>	<u>(B)</u>
<u>ORS 164.869</u>	<u>UNLAWFUL RECORD LIVE PERFORMANCE *</u>	<u>(C)</u>
<u>ORS 164.868</u>	<u>UNLAWFUL LABEL SOUND RECORDING *</u>	<u>(C)</u>
<u>ORS 164.872</u>	<u>UNLAWFUL LABEL VIDEOTAPE *</u>	<u>(C)</u>
<u>ORS 167.388</u>	<u>INTERFERE LIVESTOCK PRODUCTION *</u>	<u>(C)</u>

\* Property offenses marked with an asterisk shall be ranked at Crime Category 5 if the value of the property stolen was \$10,000 but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

ORS 162.205	FTA I	(C)
ORS 165.032	CRIMINAL POSSESSION OF FORGERY DEVICE	(C)
ORS 162.185	SUPPLYING CONTRABAND	(C)
	(If offense cannot be ranked at CC 5, 6 or 7.)	
ORS 163.245	CUSTODIAL INTERFERENCE II	(C)
ORS 164.315	ARSON II *	(C)
ORS 164.215	BURGLARY II *	(C)
ORS 164.055	THEFT I *	(C)
ORS 164.085	THEFT BY DECEPTION *	(C)
ORS 163.125	THEFT OF SERVICES *	(C)
ORS 164.075	THEFT BY EXTORTION *	(B)
ORS 165.055(3)(A)	CREDIT CARD FRAUD *	(C)
ORS 165.013	FORGERY I *	(C)
ORS 165.022	CRIMINAL POSSESSION FORGED INSTRUMENT I *	(C)
ORS 164.065	THEFT OF LOST/MISLAID PROPERTY *	(C)
ORS 164.140(4)	POSSESSION OF RENTED PROPERTY *	(C)
ORS 165.065	NEGOTIATING BAD CHECKS *	(C)
ORS 164.377(3)	COMPUTER CRIME *	(C)
CHAPTER 59.	BLUE SKY LAWS * & SECURITIES LAWS	(C)
ORS 164.365	CRIMINAL MISCHIEF I *	(C)
	(EXCEPT ORS 164.365(1)(e))	
ORS 164.365(1)(e)	CRIMINAL MISCHIEF I-POLICE ANIMAL	(C)
	(If the offense cannot be ranked at Crime Category 6	
ORS 164.135	UNAUTHORIZED USE OF VEHICLE *	(C)
ORS 819.300	POSSESSION OF STOLEN VEHICLE *	(C)
DRUG OFFENSES	(See, Appendix 4.)	
<u>ORS 181.519</u>	<u>F/REG. SEX OFFENDER</u>	<u>(C)</u>
<u>ORS 163.547</u>	<u>CHILD NEGLECT I</u>	<u>(B)</u>
<u>ORS 167.262</u>	<u>USE MINOR DRUG OFFENSE</u>	<u>(A)</u>
	( CC 8 if minor 3 or more yrs. older than offender)	
<u>ORS 164.377</u>	<u>COMPUTER FRAUD (LOTTERY) *</u>	<u>(C)</u>
<u>ORS 165.074</u>	<u>UNLAWFUL CREDIT CARD *</u>	<u>(C)</u>
<u>ORS 166.087</u>	<u>ABUSE OF CORPSE I</u>	<u>(B)</u>
<u>ORS 164.869</u>	<u>UNLAWFUL RECORD LIVE PERFORMANCE *</u>	<u>(C)</u>
<u>ORS 164.868</u>	<u>UNLAWFUL LABEL SOUND RECORDING *</u>	<u>(C)</u>
<u>ORS 164.872</u>	<u>UNLAWFUL LABEL VIDEOTAPE *</u>	<u>(C)</u>
<u>ORS 167.388</u>	<u>INTERFERE LIVESTOCK PRODUCTION *</u>	<u>(C)</u>



<u>ORS 162.365(b) CRIMINAL IMPERSONATION</u>	
<u>OF PEACE OFFICER</u>	<u>(C)</u>
ORS 163.535 ABANDON CHILD	(C)
(If not ranked at CC 7.)	
ORS 164.095 THEFT BY RECEIVING	(C)
(If not ranked at CC 5.)	
ORS 165.070 POSSESSION OF	
FAKE COMMUNICATIONS DEVICE	(C)
<u>[ORS 811.175 DWS</u>	<u>(C) ]</u>
ORS 163.555 CRIMINAL NONSUPPORT	(C)
ORS 167.137 PROMOTING GAMBLING I	(C)
ORS 167.062(4) PROMOTING LIVE	
SEX SHOW	(C)
ORS 166.085 ABUSE OF CORPSE <u>II</u>	(C)
ORS 167.137 POSSESSION OF	
GAMBLING RECORDS I	(C)
ORS 164.315 ARSON II *	(C)
ORS 164.215 BURGLARY II *	(C)
ORS 164.055 THEFT I *	(C)
ORS 164.085 THEFT BY DECEPTION *	(C)
ORS 163.125 THEFT OF SERVICES *	(C)
ORS 164.075 THEFT BY EXTORTION *	(B)
ORS 165.055(3)(A) CREDIT CARD FRAUD *	(C)
ORS 165.013 FORGERY I *	(C)
ORS 165.022 CRIMINAL POSSESSION	
FORGED INSTRUMENT I *	(C)
ORS 164.065 THEFT OF LOST/MISLAID	
PROPERTY *	(C)
ORS 164.140(4) POSSESSION OF	
RENTED PROPERTY *	(C)
ORS 165.065 NEGOTIATING	
BAD CHECKS *	(C)
ORS 164.377(3) COMPUTER CRIME *	(C)
CHAPTER 59. BLUE SKY LAWS *	(C)
& SECURITIES LAWS	
ORS 164.365 CRIMINAL MISCHIEF I *	(C)
(EXCEPT ORS 164.365(1)(e))	
ORS 164.135 UNAUTHORIZED USE	
OF VEHICLE *	(C)
ORS 819.300 POSSESSION OF	
STOLEN VEHICLE *	(C)
<u>ORS 162.305(2)(b) TAMPER LOTTERY</u>	
<u>RECORDS</u>	<u>(C)</u>
<u>ORS 162.367 FALSE LAW ENFORCEMENT ID</u>	<u>(C)</u>
<u>ORS 164.377 COMPUTER FRAUD (LOTTERY) *</u>	<u>(C)</u>
<u>ORS 165.074 UNLAWFUL CREDIT CARD *</u>	<u>(C)</u>
<u>ORS 166.087 ABUSE OF CORPSE I</u>	<u>(B)</u>
<u>ORS 164.869 UNLAWFUL RECORD LIVE</u>	
<u>PERFORMANCE *</u>	<u>(C)</u>
<u>ORS 164.868 UNLAWFUL LABEL SOUND</u>	
<u>RECORDING *</u>	<u>(C)</u>

\* Property offenses marked with an asterisk shall be ranked at Crime Category 3 if either of the following factors was included in the commission of the offense:

- a.) the value of the property stolen or destroyed was \$1,000 or more but less than \$5,000; or
- b.) the property stolen was a vehicle valued at [less] more than \$1,000 but less than \$10,000 and used primarily for personal rather than commercial transportation.

ORS 163.680 VIEWING CHILD'S SEXUAL CONDUCT	(C)
ORS 163.673 DEALING DEPICTIONS OF CHILD SEXUAL CONDUCT	(B)
ORS 163.677 TRANSPORTING CHILD PORNOGRAPHY (If not ranked at CC 8.)	(B)
ORS 496.992(3) VIOLATION OF WILDLIFE LAWS	(C)
ORS 411.630 OBTAINING PUBLIC ASSISTANCE UNLAWFULLY	(C)
ORS 411.840 OBTAIN/USE FOOD STAMPS UNLAWFULLY	(C)
ORS 165.090 RECEIVING SPORTS BRIBE	(C)
ORS 165.085 SPORTS BRIBERY	(C)
ORS 164.315 ARSON II *	(C)
ORS 164.215 BURGLARY II *	(C)
ORS 164.055 THEFT I *	(C)
ORS 164.085 THEFT BY DECEPTION *	(C)
ORS 163.125 THEFT OF SERVICES *	(C)
ORS 164.075 THEFT BY EXTORTION *	(B)
ORS 165.055(3)(A) CREDIT CARD FRAUD *	(C)
ORS 165.013 FORGERY I *	(C)
ORS 165.022 CRIMINAL POSSESSION FORGED INSTRUMENT I *	(C)
ORS 164.065 THEFT OF LOST/MISLAID PROPERTY *	(C)
ORS 164.140(4) POSSESSION OF RENTED PROPERTY *	(C)
ORS 165.065 NEGOTIATING BAD CHECKS *	(C)
ORS 164.377(3) COMPUTER CRIME *	(C)
CHAPTER 59. BLUE SKY LAWS * & SECURITIES LAWS	(C)
ORS 164.365 CRIMINAL MISCHIEF I * (EXCEPT ORS 164.365(1)(e))	(C)
ORS 164.135 UNAUTHORIZED USE OF VEHICLE *	(C)
ORS 819.300 POSSESSION OF STOLEN VEHICLE *	(C)
<u>ORS 163.672 POSSESS CHILD PORN</u>	<u>(C)</u>
<u>ORS 167.164 POSSESS GRAY MACHINE</u>	<u>(C)</u>
<u>ORS 164.377 COMPUTER FRAUD (LOTTERY) *</u>	<u>(C)</u>
<u>ORS 165.074 UNLAWFUL CREDIT CARD *</u>	<u>(C)</u>
<u>ORS 166.087 ABUSE OF CORPSE I</u>	<u>(B)</u>
<u>ORS 164.869 UNLAWFUL RECORD LIVE PERFORMANCE *</u>	<u>(C)</u>
<u>ORS 164.868 UNLAWFUL LABEL SOUND RECORDING *</u>	<u>(C)</u>

ORS 164.872 UNLAWFUL LABEL VIDEOTAPE \* (C)  
ORS 167.388 INTERFERE LIVESTOCK  
PRODUCTION \* (C)

\* Property offenses marked with an asterisk shall be ranked at Crime Category 2 if the value of the property stolen or destroyed was less than \$1,000.

(A)	CHILD SEXUAL CONDUCT
(B)	ORS 167.677
(C)	TRANSPORTING CHILD PORNOGRAPHY
	(If not ranked as CC 8.)
	ORS 166.992(1) VIOLATION OF
(C)	WILDLIFE LAWS
	ORS 411.430 OBTAINING
(C)	PUBLIC ASSISTANCE
	UNLAWFULLY
	ORS 411.949 OBTAINING
(C)	FOOD STAMPS UNLAWFULLY
	ORS 155.090 RECEIVING
(C)	BROWNS SERIES
(C)	ORS 152.085 STAMPS SERIES
(C)	ORS 164.315 ARSON II *
(C)	ORS 164.325 BURGLARY II *
(C)	ORS 164.025 THEFT I *
(C)	ORS 164.085 THEFT BY DECEPTION *
(C)	ORS 161.125 THEFT OF SERVICES *
(B)	ORS 164.075 THEFT BY EXTORTION *
(C)	ORS 163.052(A) CREDIT CARD FRAUD *
(C)	ORS 162.075 FORGERY I *
	ORS 162.025 CRIMINAL POSSESSION
(C)	FORGED INSTRUMENT I *
	ORS 164.065 THEFT OF INSTRUMENTS
(C)	PROPERTY *
	ORS 164.166(4) POSSESSION OF
(C)	RENTED PROPERTY *
	ORS 158.065 NEGOTIATING
(C)	BAD CHECKS *
(C)	ORS 164.377(1) COMPUTER CRIME *
(C)	CHAPTER 50, BLUE SKY LAWS *
	SECURITIES LAWS
(C)	ORS 164.365 CRIMINAL MISCHIEF I *
	(EXCEPT ORS 164.365(1)(e))
	ORS 164.135 UNAUTHORIZED USE
(C)	OF VEHICLE *
	ORS 219.300 POSSESSION OF
(C)	STOLEN VEHICLE *
(C)	ORS 162.615 PASSING CHILD TOXIN
(C)	ORS 162.165 PASSING AWAY MACHINE
(C)	ORS 162.175 COMPUTER TRAFFIC (HACKING) *
(C)	ORS 162.015 UNLAWFUL CREDIT CARD *
(B)	ORS 166.045 ABUSE OF CREDIT *
(C)	ORS 164.865 UNLAWFUL RECORD LIVE
(C)	INTERPOLATION *
(C)	ORS 164.865 UNLAWFUL LABEL BOUND
(C)	REPRODUCTION *

**FELONY  
CLASSIFICATION**

ORS 166.450	ALTERING FIREARM ID.	(C)
ORS 475.993(2)(a)	FAILURE TO MAINTAIN RECORDS/CONTROLLED SUBSTANCES	(C)
ORS 822.605	FALSE SWEARING VEHICLE BUSINESS	(C)
ORS 803.230	FORGE/ALTER VEHICLE TITLE/REG.	(C)
ORS 167.212	TAMPERING W/ DRUG RECORDS	(C)
ORS 803.080	UNLAWFULLY PUBLISHING CERTIFICATE OF TITLE	(C)
ORS 811.185	VIOLATING HABITUAL OFFENDER ORDER	(C)
ORS 163.515	BIGAMY	(C)
ORS 166.660	UNLAWFUL PARAMILITARY ACTIVITY	(C)
ORS 163.525	INCEST	(C)
(If the incestuous relationship is between adults; otherwise CC 6.)		
<u>ORS 163.651</u>	<u>THROW OBJECT OFF OVERPASS</u>	<u>(C)</u>
DRUG POSSESSION/PERSONAL USE		(See, Appendix 4.)
<u>ORS 468.???</u>	<u>SUPPLY FALSE INFO TO AGENCY (ENVIRONMENTAL)</u>	<u>(C)</u>
<u>ORS 811.175</u>	<u>DWS</u>	<u>(C)</u>

## OFFENSE SUBCATEGORIES

The offenses in this appendix have been divided into different subcategories for the Crime Seriousness Scale of the grid. The statutory definition of each offense in this appendix captures a wide spectrum of criminal conduct. The following offense subcategories have been identified to classify the most common forms of these statutory offenses. Consequently, each subcategory includes a unique set of offense-specific characteristics that represents a different degree of crime seriousness for sentencing purposes.

The subcategorized offenses in alphabetical order are:

### ABANDONMENT OF A CHILD (ORS 163.535)

#### CRIME CATEGORY 7

Abandonment of a Child shall be ranked at Crime Category 7 if the child victim was placed in immediate danger as a consequence of the offender's criminal conduct.

#### CRIME CATEGORY 3

Abandonment of a Child shall be ranked at Crime Category 3, if it cannot be ranked at Crime Category 7.

### AGGRAVATED THEFT (ORS 164.057)

#### CRIME CATEGORY 6

Aggravated Theft shall be ranked at Crime Category 6 if the amount of loss caused by the criminal conduct was more than \$50,000.

#### CRIME CATEGORY 5

Aggravated Theft shall be ranked at Crime Category 5 if it cannot be ranked at Crime Category 6.

CRIME CATEGORY 10

Arson I shall be ranked at Crime Category 10 if the commission of the offense represented a [serious threat to human life] threat of serious physical injury.

CRIME CATEGORY 9

Arson I shall be ranked at Crime Category 9 if it cannot be ranked at Crime Category 10, and the amount of damage caused by the criminal conduct was \$50,000 or more. [, and the building was unoccupied.]

CRIME CATEGORY 8

Arson I shall be ranked at Crime Category 8 if it cannot be ranked at Crime Category 10, and the amount of damage caused by the criminal conduct was \$25,000 or more but less than \$50,000. [, and the building was unoccupied.]

CRIME CATEGORY 7

Arson I shall be ranked at Crime Category 7 if it cannot be ranked at Crime Category 8, 9 or 10.

## ASSAULT I (ORS 163.185)

CRIME CATEGORY 10

Assault I shall be ranked at Crime Category 10 if the victim(s) did not substantially contribute to the commission of the offense by precipitating the attack.

CRIME CATEGORY 9

Assault I shall be ranked at Crime Category 9 if the victim(s) substantially contributed to the commission of the offense by precipitating the attack.

CRIME CATEGORY 9

Burglary I shall be ranked at Crime Category 9 if any of the following factors were included in the commission of the offense

- a.) the offender was armed with a deadly weapon; or
- b.) the offender caused or threatened physical injury to the victim.

CRIME CATEGORY 8

Burglary I shall be ranked at Crime Category 8 if

- a.) the offender did not cause or threaten physical injury to the victim and did not possess a deadly weapon (CC 9); but
- b.) the offense was committed in an occupied dwelling.

CRIME CATEGORY 7

Burglary I shall be ranked at Crime Category 7 if it cannot be ranked at Crime Category 8 or 9.

COERCION (ORS 163.275)

CRIME CATEGORY 7

Coercion shall be ranked at Crime Category 7 if the offender threatened to cause physical injury to some person (ORS 163.275(1)(a)).

CRIME CATEGORY 6

Coercion shall be ranked at Crime Category 6 if it cannot be ranked at Crime Category 7.

**CRIME CATEGORY 6**

Criminal Mischief I involving a police animal shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more.

**CRIME CATEGORY 5**

Criminal Mischief I involving a police animal shall be ranked at Crime Category 5 if the value of the property stolen or destroyed was \$10,000 or more but less than \$50,000.

**CRIME CATEGORY 4**

Criminal Mischief I involving a police animal shall be ranked at Crime Category 4 if it cannot be ranked at Crime Category 5 or 6.

**DEALING IN DEPICTIONS OF CHILD'S SEXUAL CONDUCT (ORS 163.673)**

**CRIME CATEGORY 8**

Dealing in Depictions of Child's Sexual Conduct shall be ranked at Crime Category 8 if the offender was acting as part of an organized operation to transport or distribute child pornography.

**CRIME CATEGORY 2**

Dealing in Depictions of Child's Sexual Conduct shall be ranked at Crime Category 2 if it cannot be ranked at Crime Category 8.

**DRUG-RELATED OFFENSES (See APPENDIX 4)**

CRIME CATEGORY 6

Incest shall be ranked at Crime Category 6 if one of the participants is less than eighteen years of age and the age differential between the two participants is more than three years.

CRIME CATEGORY 1

Incest I shall be ranked at Crime Category 1 if it cannot be ranked at Crime Category 6.

INMATE POSSESSION OF WEAPON ORS 166.275

CRIME CATEGORY 8

Inmate in possession of a weapon shall be ranked at Crime Category 8 if the weapon was a firearm.

CRIME CATEGORY 7

Inmate in possession of a weapon shall be ranked at Crime Category 7 if it cannot be ranked at Crime Category 8.

PROPERTY OFFENSES

The same offense seriousness subcategories shall be used for the following offenses ("property offenses"):

Arson II (ORS 164.315)  
Blue Sky Laws and  
Securities Laws (ORS Chapter 59)  
Burglary II (ORS 164.215)  
Computer Crime (ORS 164.377)(2)(3)  
Credit Card Fraud (ORS 165.055(3))[(a)](b))  
Criminal Mischief I (ORS 164.365)(EXCEPT ORS 164.365(1))[(e)](f).  
Criminal Possession of Forged Instrument I (ORS 165.022)  
Forgery I (ORS 165.013)  
Negotiating Bad Checks (ORS 165.065)  
Possession of Rented Property [(164.065)] 164.140(4))  
Possession of Stolen Vehicle (ORS 819.300).  
Theft I (ORS 164.055)  
Theft by Deception (ORS 164.085)  
Theft by Extortion (ORS 164.075)(except if threat of physical injury (CC 7))  
Theft of Lost/Mislaid Property ([164.140(4)] 164.065)  
Theft of Services (ORS 164.125)  
Unauthorized Use of Vehicle (ORS 164.135)

Computer Fraud (Section), (ORS 164.074)  
Unlawful Credit Card Factoring (ORS 165.074)  
Unlawful Record Live Performance (ORS 164.869)  
Unlawful Label Sound Recording (ORS 164.868)  
Unlawful Label Videotape (ORS 164.872)  
Interference with Livestock Production (ORS 167.388)

#### CRIME CATEGORY 6

Property offenses shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

#### CRIME CATEGORY 5

Property offenses shall be ranked at Crime Category 5 if the value of the property stolen or destroyed was \$10,000 or more but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

#### CRIME CATEGORY 4

Property offenses shall be ranked at Crime Category 4 if either of the following factors was included in the commission of the offense:

- a.) the value of the property stolen or destroyed was \$5,000 or more but less than \$10,000; or
- b.) the property stolen was a vehicle valued at \$10,000 or more and used primarily for personal rather than commercial transportation.

#### CRIME CATEGORY 3

Property offenses shall be ranked at Crime Category 3 if either of the following factors was included in the commission of the offense:

- a.) the value of the property stolen or destroyed was \$1,000 or more but less than \$5,000; or
- b.) the property stolen was a vehicle valued at [less] more than \$1,000 but less than \$10,000 and used primarily for personal rather than commercial transportation.

## CRIME CATEGORY 2

Property offenses shall be ranked at Crime Category 2 if they cannot be ranked at Crime Category 3, 4, 5, or 6.

### **RAPE I (ORS 163.375)**

## CRIME CATEGORY 10

Rape I shall be ranked at Crime Category 10 if one or more of the following factors was included in the commission of the offense:

- a.) the offender used or threatened to use a weapon;
- b.) the offender caused or threatened to cause serious physical injury;
- c.) the victim was under the age of twelve; or
- d.) the victim was incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

## CRIME CATEGORY 9

Rape I shall be ranked at Crime Category 9 if it cannot be ranked at Crime Category 10.

### **SEXUAL PENETRATION WITH FOREIGN OBJECT (ORS 163.411)**

## CRIME CATEGORY 10

Sexual Penetration with Foreign Object shall be ranked at Crime Category 10 if one or more of the following factors was included in the commission of the offense:

- a.) the offender used or threatened to use a weapon;
- b.) the offender caused or threatened to cause serious physical injury;
- c.) the victim was under the age of twelve; or
- d.) the victim was incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

## CRIME CATEGORY 9

Sexual Penetration with Foreign Object shall be ranked at Crime Category 9 if it cannot be ranked at Crime Category 10.

CRIME CATEGORY 10

Sodomy I shall be ranked at Crime Category 10 if one or more of the following factors was included in the commission of the offense:

- a.) the offender used or threatened to use a weapon;
- b.) the offender caused or threatened to cause serious physical injury;
- c.) the victim was under the age of twelve; or
- d.) the victim was incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

CRIME CATEGORY 9

Sodomy I shall be ranked at Crime Category 9 if it cannot be ranked at Crime Category 10.

**SUPPLYING CONTRABAND (ORS 162.185)**

CRIME CATEGORY 7

Supplying Contraband shall be ranked at Crime Category 7 if the offender supplied a firearm or firearms as contraband.

CRIME CATEGORY 6

Supplying Contraband shall be ranked at Crime Category 6 if it cannot be ranked at Crime Category 7 and the offender supplied one or more dangerous weapons (not including firearms) as contraband.

CRIME CATEGORY 5

Supplying Contraband shall be ranked at Crime Category 5 if it cannot be ranked at either Crime Category 6 or 7 and the offender supplied a controlled substance or substances as contraband.

CRIME CATEGORY 4

Supplying Contraband shall be ranked at Crime Category 4 if it cannot be ranked at Crime Category 5, 6 or 7.

CRIME CATEGORY 7

Theft by Extortion shall be ranked at Crime Category 7 if the offender threatened to cause physical injury to some person (ORS 164.075(1)(a)).

OTHERWISE RATE AS A PROPERTY OFFENSE

Theft by Extortion shall be ranked as a Property Offense in Crime Categories 2, 3, 4, 5 or 6 as may be appropriate if it cannot be ranked at Crime Category 7.

THEFT BY RECEIVING (ORS 164.095)

CRIME CATEGORY 5

Theft by Receiving shall be ranked at Crime Category 5 if the offender was acting as part of an organized fencing operation.

CRIME CATEGORY 3

Theft by Receiving shall be ranked at Crime Category 3 if it cannot be ranked at Crime Category 5.

TRAFFICKING IN STOLEN VEHICLES (ORS 819.310)

CRIME CATEGORY 6

Trafficking in Stolen Vehicles shall be ranked at Crime Category 6 if one or both of the following factors were included in the commission of the offense:

- a.) the offender was acting as part of an organized operation; or
- b.) the value of the property taken from one or more victims [amounted to more] was greater than \$50,000.

CRIME CATEGORY 5

Trafficking in Stolen Vehicles shall be ranked at Crime Category 5 if it cannot be ranked at Crime Category 6.

CRIME CATEGORY 8

Transporting Child Pornography into State shall be ranked at Crime Category 8 if the offender was acting as part of an organized operation to transport or distribute child pornography.

CRIME CATEGORY 2

Transporting Child Pornography into State shall be ranked at Crime Category 2 if it cannot be ranked at Crime Category 8.

APPENDIX 4

OFFENSE SUBCATEGORIES  
FOR  
DRUG-RELATED OFFENSES

The following crime seriousness subclassifications have been identified for drug-related offenses.

CRIME CATEGORY 8 -- AGGRAVATED DRUG OFFENSES

ORS 475.999 Delivery of a Controlled Substance within  
1,000 feet of School

ORS 475.995 Distribution to Minors

Distribution to Minors shall be classified in Crime Category 8 if the offender is more than three years older than the person receiving the drugs. If the offender is less than three years older than the person receiving the drugs, the Distribution to Minors shall be ranked according to the subcategories identified for ORS 475.992.

ORS 167.262 Use Minor Drug Offense

Using a minor in a drug offense shall be ranked in Crime Category 8 unless the minor is less than three (3) years younger than the offender, in which case the offense will be ranked in Crime Category 4.

**ORS 475.992 Manufacture [ /Cultivation]**

Manufacture [or Cultivation] of Controlled Substances shall be ranked at Crime Category 8 if the production occurs as part of a drug [cultivation,] manufacture or delivery scheme or network.

**ORS 475.992 Delivery**

The Delivery of Controlled Substances shall be classified in Crime Category 8 if the delivery occurs as part of a drug [cultivation,] manufacture or delivery scheme or network.

**CRIME CATEGORY 6 -- MAJOR DRUG OFFENSES**

**ORS 475.992(4) Possession**

Possession of Controlled Substances shall be classified in Crime Category 6 if the possession occurs as part of a drug [cultivation,] manufacture or delivery scheme or network.

**CRIME CATEGORY 4 -- DRUG OFFENSES**

**ORS 475.992 Manufacture[ /Cultivation] and Delivery**

All other Manufacture[, Cultivation] or Delivery of controlled substances shall be ranked at Crime Category 4 if they cannot be ranked at Crime Category 8.

**ORS 167.262 Use Minor Drug Offense**

Using a minor in a drug offense shall be ranked at Crime Category 4 if the minor is less than three (3) years younger than the offender. In all other cases this offense shall be ranked in Crime Category 8.

**CRIME CATEGORY 1 -- DRUG POSSESSION FOR PERSONAL USE**

**ORS 475.992(4) Possession**

Possession of a Controlled Substance shall be ranked at Crime Category 1 if it cannot be ranked at Crime Category 6.