

**PALM BEACH COUNTY
SHERIFF'S OFFICE**

RIC L. BRADSHAW, SHERIFF



Work Release Post Orders

I. INTRODUCTION

The information included in this packet is to be used as a guide for training in the Work Release Program. It is a list of the basic tasks, functions and procedures for operating the equipment identified. The Field Training Officer will have the trainee read all material as well as the Corrections Operating Procedures that are relevant to this post. Additionally, the F.T.O. will explain and demonstrate to the trainee the operation of all equipment, to include tasks and proper procedures. The trainee will then demonstrate their proficiency of the assigned tasks. To ensure maximum training in this area, a total of five (5) days is to be scheduled. A Daily Observation Report will be completed by the F.T.O. and reviewed with the trainee on daily basis. Furthermore, a Post Evaluation sheet will be completed by the F.T.O. at the conclusion of training in this area. All forms will be reviewed and signed off by the shift Lieutenant, Sergeant, F.T.O. and trainee.

This information is not all encompassing; therefore, when unlisted situations arise the F.T.O. should demonstrate or explain to the trainee the proper procedure for handling the situation. It is unrealistic to expect that one could possibly prepare for all unusual situations that may occur. To enhance any portion of the training, additional resource material may be utilized providing it falls within the description of the job.

PERFORMANCE EVALUATIONS:

The performance level of a trainee may be evaluated utilizing on-the-spot testing of their knowledge concerning specific pieces of equipment and/or procedures to be taken during critical incidents. All areas indicated on the Daily and Post evaluation forms must include performance evaluations.

The following orders will give the deputy a basic operational knowledge of this post. The information contained herein will attempt to cover the normal or routine functions. These orders are neither designed nor intended to cover all situations and are subject to change. These orders are not to be seen or shown to any inmate.

The following tasks are completed Monday thru Friday by the Work Release Officer:

- 1.) Check with Booking Deputy for inmates that were place on hold for breach of contract.
- 2.) Pick up work release sign out sheet from Booking Desk.
- 3.) Notify G & H Deputy for any inmate on hold, to be sent to program office.

- 4.) Deputy will discuss with inmate and determine weather to give a corrective counsel or remove the inmate from The Work Release program; Documentation will be placed in inmate file.
- 5.) Review request from inmate Records of inmates requesting work release and answer them in writing
- 6.) Check files from inmate Records of inmates requesting to be placed on work release.
- 7.) Request Palms, NCIC-FCIC inquiry from Inmate Booking Tech.

Work Release Backgrounds Check: The following preliminary procedures will be completed when an inmate request work release.

- 1.) Review file of inmate requesting work release. The following charges are not eligible:
 - a. Bombs/Deadly Missiles/Throwing deadly missiles causing bodily harm (F.S.S. 790)
 - b. Burglary with Assault or Battery (F.S.S. 810.02(2)(a))
 - c. Child Abuse/Child Neglect (F.S.S.827)
 - d. Homicide/Vehicular Homicide/Murder (F.S.S. 782)
 - e. Kidnapping/False Imprisonment (F.S.S.787)
 - f. Sexual Battery (F.S.S. 794)
 - g. Any history of violation of federal, state, or local work release or in house arrest/community control programs.
 - h. Arson (F.S.S.806) one (1) guilty during the past fifteen (15) years.
 - i. Drug Trafficking (F.S.S. 893.135) one (1) guilty during the past fifteen- (15) years.
 - j. D.U.I. Manslaughter (F.S.S. 316.193) one (1) guilty during the past fifteen (15) years.
 - k. Escape (F.S.S. 944.40) one (1) guilty during the past fifteen- (15) years.
 - l. Robbery (F.S.S. 812) (1) guilty during the past five (5) years.
 - m. D.W.I. / U.B.A. (F.S.S. 316.93) three guilt's within the past fifteen (15) years.
 - n. Prostitution (F.S.S. 796) three guilt's within the past five (5) years.
 - o. Aggravated Battery (F.S.S. 784) two guilt's within the past ten (10) years.
 - p. Domestic Violence (F.S.S. 741.28) one guilty within the past five (5) years.
 - q. Stalking (F.S.S. 784) one guilty within the past ten (10) years.
 - r. Armed Robbery (F.S.S. 812.13) one guilty in past ten (10) years.
 - s. Aggravated Assault (F.S.S. 784.021) one guilty in past five (5) years.
 - t. An extensive or violent criminal history or facility behavior as determined by the supervisor of the Alternative Custody Section.
 - u. Inmates with active detainees for other agencies are ineligible, except when their sentences are running concurrent/consecutive with local sentences and they are authorized for Work Release by the other jurisdiction.
 - v. Inmates who are known to belong to, or associate with individuals involved with organized crime, subversive groups that advocate violence, or street gangs are ineligible, as determined by PALMS, criminal history or law enforcement intelligence.
- 2.) Work Release Deputy will call G & H down to send inmate for personal interview and explain what paperwork is needed from inmate.
- 3.) If preliminary requirements are met, give inmate copy of Program Agreement, personal history forms, and emergency form to be completed by inmate and returned.
- 4.) After NCIC, Criminal History check, Palms check, and Personal history form are received, the Programs Supervisor will review the complete package at this time, and inmate file signifying to continue or suspend process.

- 5.) If the Program Supervisor decides, upon review of documents, that the inmate does not meet the criteria of the program, a note will be returned to the effected Deputy, so stating. That Deputy will so notify the effected inmate.

Placement on Work Release:

1. If approved the officer will complete the following forms
 - a. Work Release Program Agreement
 - b. Case Files Review Sheet Work Release
 - c. Key Agreement
 - d. Locator Card Contacts
 - e. Equipment Inspection Check Out Sheet (Pro-Tech Equipment)
 - f. Work Release Synopsis
 - g. Work Release Folder Stamp Revised
 - h. Medical clearance form for work release inmates
 - i. Booking card
 - j. Court record (Court Orders / Commitments)
 - k. FCIC/NCIC (Criminal History)
 - l. Employed Verification Letter
 - m. Program entry fees (copy of money order)
 - n. Employee wage verification
 - o. Drivers License, Vehicle Registration and Auto Insurance card
 - p. Victim notification (if Application)
 - q. Application
 - r. Monitoring initializing printout /GPS offender report
 - s. Finance sheet
 - t. Inmate photograph (Front and Side Face)
 - u. Computer generated reading/signed by assigned case deputy
 - v. ID Card for Inmate
 - w. Blue "T" Card

2. After all form are completed the package will be read and signed by inmate; The Deputy will review orally the contents with inmate to assure the inmate understands the rules and regulations.
3. The signed complete package is then given to Work Release Supervisor or designee, for approval.
4. If approved, inmate is given his clothes, and personal items from property are signed for by inmate. Witch is placed in the inmate assigned locker.
5. Inmate information is placed on work release sheet, finance sheet, and face sheet is placed in active file, and "T" card changed in Work Release.
6. Inmate is taken to Job and work release rules are explained to his supervisor and a signature obtained.
7. A random monitoring of inmate will be conducted, at the inmate's place of employment, at Deputy and/or supervisors discretion.

Global Tracking System (MTD) Miniature Tracking Device

1. Inmate or assigned Equipment
 - a. Monitor
 - b. Bracelet
 - c. Base Unit (place in ■ Building)

2. Enrolling inmate into Pro-Tech

- a. demographic screen
- b. Personal Information
- c. Education
- d. Employment
- e. Sentencing
- f. Picture
- g. Rules
- h. Hardware (Add Monitor, Bracelet and Base Unit)

Removal of inmate for violation of rules: When it becomes necessary to remove an inmate from work release, the following procedures will be followed.

1. Remove name from work release log.
2. Remove from Inmate locator file folder.
3. Remove active file and place in completed files.
4. Give inmate change of trustee clothes.
5. Notify Classification and G & H Deputy of inmate removal from program.
6. Work Release Deputy will remove inmate property from locker and return it back to property.
7. Remove inmate from work release Job assignment.
8. Type a report stating the reason why inmate was removing from program. The original to be filed in inmate file, a copy given to unit supervisor.

Escape: (Signal 6): The following procedures will be followed if an inmate fails to return to the Stockade within the schedule time.

1. BOLO Issue (Commo)
2. Place inmate in PALMS (intake Booking Main Jail)
3. Remove name from work release list.
4. Notify G & H Deputy of inmate removal from program.
5. Clear inmate Work Release locker.
6. Remove inmate from work release Job assignment.
7. Type a report the original to be filed in inmate file, a copy given to unit supervisor.
8. Signal 6 Filing Packet with state Attorney Office.

Completion of Work Release Program: The following procedures will be followed when an inmate is time served from this program.

1. Get inmates name from Classification officer
2. Remove name from original work release list
3. Pull file and locator card from card box.



Agency Strategic Plan
1998 - 2003

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Appendix 5:

Statutory Authorities and Bibliography

The following Florida Statutes, Administrative Regulations, Rules and Contracts govern operations of the Florida Department of Corrections:

FLORIDA STATUTES

| | |
|-------------|--|
| 20.315 | Created a Department of Corrections |
| 110.105 | Employment Policy of the State |
| 110.205 | Career Service Exemptions - Exempt position |
| 186.022 | State Agency Functional Plans: Consistency with State Comprehensive Plan |
| 187.201 | State Comprehensive Plan 229.565(3) Educational Evaluation Procedure Education Evaluation |
| 252 | Emergency Management |
| 253.025 | Acquisition of State Lands |
| 273.02 | Record and Inventory of Certain Property |
| 284.50 | Loss Prevention Program; Safety Coordinators; Interagency Advisory Council on Loss Prevention; Employee Recognition Program |
| 364.510 | Distance Learning Network |
| 397.305 | Provide Substance Abuse Treatment |
| 403 | Environmental Control |
| 440.56 | Safety Rules and Provisions; Penalty |
| 442 | Occupational Health and Safety |
| 447.203 (2) | Definitions of "Public Employees" |
| 633.085 | Inspections of State Buildings and Premises: Tests of Fire Safety Equipment; Building Plans to be Approved |
| 775.084 | Violent Career criminals |
| 775.089 | Court Order to Collect and Dispense Restitution |
| 784.07 | Assaults by Prisoners |
| 874.03 | Criminal Street Gang member |
| 794.011 | Sexual Battery |

| | |
|------------|--|
| 921 | Sentence |
| 943.03 | Department of Law Enforcement |
| 944.012 | Legislative Intent |
| 944.012(5) | Authority to Coordinate with Various Agencies |
| 944.023 | Comprehensive Correctional Master Plan |
| 944.26 | Community-Based Facilities and Programs |
| 944.33 | Community Correctional Centers |
| 944.053 | Public Works Projects |
| 944.08 | Commitment to Custody of Department: Venue of Institutions |
| 944.09 | Rules of the Department: Offenders, Probationers and Parolees |
| 944.10 | Department of Corrections to Provide Buildings |
| 944.105 | Contractual Arrangements with Private Entities for Operation and Maintenance of Correctional Facilities and Supervision of Inmates |
| 944.11 | Department to adopt Rules as to Admission of Books |
| 944.1905 | Initial Inmate Classification: Inmate Reclassification |
| 944.291 | Prisoner released by reason of gain-time allowances or attainment of provisional release date |
| 944.704 | Transition Programs |
| 944.705 | Release Orientation Program |
| 944.707 | Post Release Support Services |
| 944.801 | Education for State Prisoners |
| 945.04 | Maximize Use of Inmate Labor |
| 945.091 | Extension of the Limits of Confinement: Restitution by Employed Inmates |
| 945.092 | Limits on Work Release |
| 945.12 | Transfers for Rehabilitative Treatment |
| 945.41 | Legislative Intent of Section 945.40945.49 Corrections Mental Health Act |
| 945.49 | Operation and Administration |
| 945.71-73 | Boot Camps - Training |
| 946 | Inmate Labor and Correctional Work Programs |
| 947.146 | Control Release Authority |
| 948 | Probation and Community Control |
| 948.01 | When Court May Place Defendant on Probation or into Community Control |
| 948.03 | Terms and Conditions of Probation or Community Control |
| 948.50 | Community Corrections Partnership Act |
| 949.07 | Compacts with Other States |
| 949.09 | Short Title: Section 949.07-949.08 Uniform Law for Out-of-State Probation and Parole Supervision |

- 957.03 Correctional Privatization Commission
- 957.04 Contract Requirements
- 957.07 Cost Saving Requirements
- 958.04 Judicial Disposition of Youthful Offenders

DEPARTMENT OF CORRECTIONS ADMINISTRATIVE RULES

- 33-1 Definitions, Responsibilities, Organization and Public Information
- 33-2 Inspections and Investigations
- 33-3 Operation of Institutions
- 33-4 Personnel
- 33-5 Visitors
- 33-6 Reception, Classification, Transfer and Records
- 33-7 Local Transfer, Temporary Release and Discharge Procedures
- 33-8 County and Municipal Detention Facilities
- 33-9 Extension of the Limits of Confinement
- 33-11 Modification of Sentences
- 33-12 Notice of Proceedings and Proposed Rules
- 33-14 Procedures for Contracting for Professional Services
- 33-15 News Media Access Following Issuance of Death Warrants
- 33-19 Health Services
- 33-20 Miscellaneous Provisions
- 33-21 Interstate Cooperation
- 33-22 Inmate Discipline
- 33-23 Corrections Mental Health Facilities
- 33-24 Probation and Parole Services
- 33-25 Staff Development
- 33-26 Staff Housing
- 33-27 Basic Training Program for Youthful Offenders
- 33-29 Inmate Grievance Procedure
- 33-30 Food Services
- 33-31 Utilization of Minority Business Enterprises
- 33-32 Construction and Operation of Private Correctional Facilities
- 33-35 Community Corrections Partnership
- 33-36 Indexing of Final Agency Orders
- 33-37 Substance Abuse Programs

DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURES

DIRECTIVES

- 1.01.02 Inter and Intra Governmental Cooperation
- 2.02.34 Industrial/Fire Safety, Loss, Control and Prevention
- 3.01.01 The Processing of Inmates' Impounded Personal Property
- 2.01.01 Inmate Personal Property
- 3.04.07 Contraband
- 3.04.11 Inmate Package Permits
- 4.07.32 Probation and Restitution Centers

CONTRACTS

Department of Corrections/Department of Labor Employment Security Contractual Agreement for Services, 1985 for Services Under Item 316 of the 1981-89 State of Florida Appropriations Act.

OTHER AGENCY ADMINISTRATIVE RULES

DER Rules 17-2 and 17-712 FAC Biohazardous Waste Disposal
DHRS Rule 10D-104 FAC

OTHER SOURCES REFERRED TO IN THE STRATEGIC PLAN

Americans with Disabilities Act
Criminal Justice Estimating Conference (CJEC) Reports
Department of Community Affairs Directives
Department of Corrections Annual Report 1996-97
Department of Corrections Strategic Information Systems Plan 1990 (Anderson Report)
Department of Corrections Environmental Health Services Manual July 1980
Governor's Commission For Government By The People December 1991
Health Services Bulletin 15.13.01
Health Services Bulletin 15.03.13
Health Services Bulletin 15.03.05
Health Services Bulletin 15.03.24
National Council on Crime & Delinquency: Evaluation of the Florida Community Control Program 1987
National Probation and Parole Association and The President's Commission on Law Enforcement and the Administration of Justice
Parole & Probation Staff Safety Task Force Report
Personnel Procedures Manual, Vol. 3, Chapters 3 & 5
State of Florida, Department of Corrections Strategic Information Systems Plan
State Strategic Plan for Information Resource Management: Fiscal Years 1995-1999

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1. Annual Report 1996-1997, Florida Department of Corrections.
2. "Community Work Squads Earnings and Value Added/Cost Savings Report," Dated June 30, 1997, Program Services, Department of

- Corrections.
3. Correctional Education School; Authority Annual Report FY 1993-94 and Paradox Special Education Database, Department of Corrections.
 4. Correctional Education School Authority, Based On Pre and Post Testing Sample Taken During the Period of July - December 1994.
 5. Correctional Education Status Report, July 1, 1994 - June 1, 1995.
 6. Corrections Yearbook 1994, Criminal Justice Institute, Inc., New York.
 7. Department of Corrections Affirmative Action Plan, FY 1994-95.
 8. Evelyn Gort Career Criminal Act, Chapter 98-152, Laws of Florida.
 9. Florida Administrative Code, Section 33-25.
 10. "Florida's Community Supervision Population Trends," Bureau of Research and Data Analysis, Department of Corrections, 1997.
 11. Governor's Sterling Award Application Manual.
 12. Governor's Sterling Award Manual, 1994
 13. Inmate Escape Report, FY 1996-1997, Bureau of Research and Data Analysis, Department of Corrections.
 14. "Minority Business Enterprise Program Final Report, FY 1993-94," Pinky Douglas-Moore, Bureau of General Services, Department of Corrections.
 15. Recidivism Rates of Inmates Released from Florida's Prisons, June 30, 1997, Department of Corrections.
 16. State Strategic Plan for Information Resource Management: FY 1995-99, Information Resource Commission, State of Florida, January 1994.
 17. "Strategic Planning at the Florida Department of Corrections: An Assessment Four Years into the Program," C. James Juang & Frances S. Berry, PhD, The Florida State University, July 1995.
 18. "Tier Program Outcome Evaluation: A Recommitment Study," Bureau of Planning, Research and Statistics, Department of Corrections.
 19. USA and Florida Department of Corrections Agreement, 5/19/92.

RULES
OF THE
DEPARTMENT OF CORRECTIONS
CHAPTER 33-603
SENTENCE STRUCTURE AND TRANSPORTATION

33-603.101 Use of Committed Name.
(12-12-06)

33-603.201 Transfer of Inmates. (8-28-01)

33-603.401 Gain Time - Definitions. (4-21-96)

33-603.402 Basic Gain Time. (3-24-96)

33-603.409 Cancellation of Administrative Gain Time and Provisional Credits. (4-17-94)

33-603.410 Credit for Time Served Following Apprehension in Another Jurisdiction.
(3-30-95)

33-603.411 Warrants for Retaking Offenders. (1-06-94)

33-603.412 Actual Release Date.
(2-26-80)

33-603.101 Use of Committed Name.

(1)(a) In order to avoid conflicts in mailing and visiting privileges, as well as to assist inmates in making bank and canteen transactions and ensure timely delivery of legal documents, and to provide staff with a consistent means of inmate identification for security and daily institutional operation purposes, each inmate shall be recognized by the department under the name on the initial commitment under which the inmate was received. The committed name shall be obtained from the information or indictment page of the commitment package, not from the uniform commitment to custody cover sheet. For multiple cases imposed on separate dates, the committed name is the name on the information page of the commitment of the earliest imposed case. For multiple cases imposed on the same date, commitments are arranged according to service of the sentences or sequential order as directed by the sentencing court and the committed name is the name on the information page of the first imposed case as so designated. For multiple cases imposed on the same date where the order of sentencing cannot be determined, the cases are arranged numerically and the committed name is the name on the information page of the commitment with the lowest case number. This name shall be the inmate's official identification throughout the continuous incarceration of the inmate on that sentence or combined sentences and must be included on any official document sent or

received by the inmate except as provided in (3) below.

(b) The department shall register any known aliases on the inmate's record and shall also designate on the record which name is the inmate's true or legal name if this information is available. If an inmate's true or legal name is not the committed name, the inmate shall be permitted to use the true or legal name on documents and mail so long as the committed name and DC number appear first, followed by the true or legal name.

(c) Legal Religious Names.

1. Upon request of an inmate to include a legal religious name to the inmate identification card, the warden or facility head shall forward the request and supporting documentation to the Office of the General Counsel for verification that the inmate's name has been legally changed for religious reasons through court order, birth certificate or other legally acceptable documentation. When verification is complete, the Office of the General Counsel shall notify the warden or facility head in writing.

2. The institution or facility shall affix a label to the reverse side of the inmate identification card which bears the following:

This is to certify that the legal religious name of inmate DC# _____ is
[INSERT LEGAL RELIGIOUS NAME]

(Signature) Warden or Facility Head, Name of Facility

3. A legal religious name change does not require that the department alter official records; the inmate's committed name shall be used for all department business.

(d) Nothing in this rule prohibits issuance of an educational or vocational certificate in the inmate's true or legal name providing that the office issuing such certificate provides a photocopy of the certificate to be placed in the inmate's institutional file and such copy also reflects the inmate's committed name and identification number.

(2) Incoming and outgoing mail shall be processed in accordance with rule 33-210.101 and 33-210.102.

(3) An inmate who has litigation pending which was filed under a name other than the official name shall be responsible for notifying the institution or facility mailroom in writing of the name under which litigation is pending. Incoming legal mail addressed to an inmate under a name other than the official committed name shall be forwarded to the inmate if the inmate has notified the mailroom of pending legal actions under this name. If there is no record of such notification by the inmate, the mailroom shall request that the appropriate institutional office check the offender information system for identification of the addressee. If such effort fails to reveal proper identification, the mail shall be returned to the sender with appropriate notations that the addressee could not be identified.

(4) An inmate who desires to have a document or documents notarized under a name other than the official committed name shall advise the notarizing officer in writing at least three working days prior to requesting such notarization. The notice shall specify the name under which the inmate plans to sign. The notary shall review the inmate's record to confirm that the name is a true or legal name or a known alias. If there is no record of the name in the institutional file, or the inmate cannot provide identification or documentation that the name is either his or her true or legal name, or that there is a legal action pending involving the inmate under such name, the officer shall not notarize the signature. Following production of such identification or documentation, the notary shall notarize the document and indicate the manner by which the inmate was identified. If the inmate has obtained a legal religious name change and wishes to have documents notarized under this name, the legal religious name affixed to an inmate identification card shall be sufficient for purposes of provision of notary services unless there is a reason to believe that the information has been forged or altered.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 9-30-93, Formerly 33-6.012, Amended 4-29-02, 5-20-03, 7-7-05, 12-12-06.

33-603.201 Transfer of Inmates.

(1) For the purposes of this rule "transfer" shall mean the reassignment and

movement of inmates from one institutional facility to another. "Transfer" does not include such movement as may be required for the normal operations of the Department such as outside trips sponsored by religious, Jaycee and Alcoholics Anonymous groups and trips by work and maintenance crews. The institutional inmate record and all sub-files must accompany any inmate being routinely transferred between department facilities, except in emergency situations. In emergency situations medical records will be transferred with the inmate except that in emergencies such as the evacuation of a facility, the medical records will be boxed together with all records going to one location and forwarded to the receiving institution(s) with the inmates or as soon as possible. In such emergencies, individual packaging of medical records is waived. The institutional inmate record shall also accompany the inmate unless the inmate's health and welfare would be jeopardized if the transfer were delayed for the amount of time required to obtain the record. Local procedures shall be established to ensure that appropriate facility staff have access to the institutional inmate record during weekends, holidays, and after normal business hours. Such procedures shall ensure that the security of the record is not compromised and that accountability for the record is maintained in the event that access is required other than during normal working hours. Following an emergency transfer, all other sub-files, such as the visiting record, educational record, property record, etc., shall be forwarded by the sending facility within 72 hours following the transfer.

(2) In order to ensure coordination in the operation of the transfer system, ensure the safety of the public, employees and inmates and to maintain proper security practices, a qualified officer must be in charge of each transfer. This rule shall also apply to work release centers except when inmate drivers are involved.

(3) All Department employees transferring inmates shall be certified as Correctional Officers. Transfer officers must also comply with the specific requirements outlined in Chapter 316, Florida Statutes.

(4) The transfer officer shall be responsible for maintaining schedules approved by the Bureau of Sentence Structure and Transportation, supervising and

instructing additional personnel assigned, guarding inmates, maintaining order and discipline and ensuring the secure and safe custody of inmates being transferred.

(5) The transfer vehicle must be maintained in accordance with the guidelines set forth in Chapter 316, Florida Statutes, and be properly fueled, serviced and determined to be mechanically safe to transfer inmates. The vehicle shall be equipped with radio communication.

(6) The vehicle shall be thoroughly searched and all security features inspected prior to boarding any inmates. Continuing checks shall be made periodically by the transfer officer while en route. Vehicle inspection shall be conducted during the time the transfer vehicle is stopped prior to departing on or continuing a trip.

(7) The transfer officer shall ensure that the transfer orders, commitment papers or other documents authorizing transfers are in order prior to the boarding of inmates. Each inmate must be properly identified by the transfer officer prior to assuming or relinquishing supervision and control of the inmate. The transfer officer shall verify the identity of law enforcement agencies and their representatives prior to releasing an inmate into their custody.

(8) The transfer officer shall ensure that all inmates are searched prior to boarding the transfer vehicle. Searches shall be conducted by or under the direct supervision of the transfer officer when assistance is obtained from the institution.

(9) The Chief Health Officer may specify that an inmate who is mentally or physically ill be transferred separately from the general population inmates. In addition, if there is any indication that an inmate who is to be transferred is not in good physical or mental condition, the transfer officer shall secure the advice of the institution physician before beginning the trip. Transfer of an inmate who is ill or injured shall be undertaken based on the advice of the Chief Health Officer on duty. The Chief Health Officer shall determine if medical staff are to accompany the inmate while being transferred. If he does decide that medical staff need to accompany the inmate, he must assign this staff.

(10) In transferring any death row, close management, or disciplinary confinement inmate, or any inmate determined by the Chief of Security to be a high-risk inmate, the

following shall be required:

(a) The inmate shall be restrained with handcuffs, waist chains with a C and S handcuff cover (black box), and leg irons and transferred in a secure caged vehicle. The driver shall be unarmed in order to handle inmates en route if necessary.

(b) The transfer vehicle shall be accompanied by a trailing escort vehicle driven by a well-armed officer. "Well-armed" shall mean possession of a semiautomatic rifle or shotgun.

(c) If several inmates are being transferred, the transfer vehicle shall have a second armed officer in attendance.

(d) Communication between the two vehicles is essential and is required between both vehicles and the home station.

(e) The Chief of Security or shift supervisor is authorized to make individual exceptions to the assignment of a trailing escort vehicle for close management III and disciplinary confinement inmates.

(f) The reception centers shall be authorized to transport close management I, II, and III inmates in the secure caged area within a specially designed secure transfer bus without the necessity of a trailing escort vehicle.

(g) Protective management inmates shall not be routinely transported on reception center transfer buses.

(h) Specific written instructions will be provided from the transportation section of the Bureau of Sentence Structure and Transportation.

(11) The transfer officer shall conduct a head count of inmates prior to departure and maintain continuing checks while en route and upon arrival at the receiving institution.

(12) If more than one officer is assigned to the transfer trip, at least one officer shall remain with the vehicle to provide supervision during stops. When there is only one officer, the vehicle must be parked in such a way that supervision can be provided for the vehicle and all inmates departing the vehicle. If stops occur within the secure confines of an institution and inmates remain on board the vehicle, the vehicle shall be parked so that the institution can provide proper supervision before the transfer officer leaves the vehicle.

(13) Manpower requirements shall vary depending upon the mode of transfer, the

distance to be traveled and the type and number of inmates. Each situation must be thoroughly evaluated by Chief of Security or shift supervisor prior to departure and appropriate personnel assigned. A minimum of one armed correctional officer shall be assigned when there are close custody inmates to transfer except when special approval is received from the Director of Institutions. At all times, there must be at least one officer of the same sex as that of the inmate present during the transferring of medium, close, or maximum custody inmates. There shall be no gender restrictions regarding the transfer of community or minimum custody inmates. Community or minimum custody inmates do not require restraints unless they are being transferred with close custody inmates or pose a security risk; however, there shall be an adequate number of officer escorts to provide appropriate supervision.

(14) Standard restraint equipment for the normal situation will be handcuffs and a restraint chain. Except as specifically outlined below, additional restraints, such as waist chains with a C and S handcuff cover (black box) and leg irons, shall be necessary when transferring death row and close custody inmates, inmates who are extreme escape risks, inmates with serious assaultive tendencies, or any inmate determined by the Chief of Security to be a high security risk. Being legally responsible for the custody of inmates, the transfer officer in charge has the authority to apply restraints to community custody inmates and additional restraints to medium or minimum custody inmates when he or she determines that such is necessary to ensure security.

(a) When inmates are transferred within the state from one secure perimeter to another secure perimeter and a specially designed secure transfer bus is used, inmates may be restrained with leg irons only. Death row, close management, and high-risk inmates will require restraints as noted in (10) above during any transport.

(b) Each medium custody inmate who is not being transferred from one secure perimeter to another secure perimeter in a specially designed secure transfer bus shall be restrained with a minimum of handcuffs. Close custody inmates will require a waist chain with a C and S handcuff cover (black box) and leg irons under these circumstances. The restraints shall be applied prior to

leaving the secure perimeter. The restraints shall not be removed until the inmate is returned to a secure perimeter unless circumstances require their removal, that is, federal appearances or medical visits.

(c) Use of restraint equipment, except for death row inmates, will not be required at Reception Centers for any transport on state property provided that a specially designed secure transfer bus is used; i.e., from a Reception Center Main Unit to a Reception Center annex that is not separated by property not belonging to the Department of Corrections.

(d) During any transport, the level of restraints applied will be commensurate with the highest custody grade being transported.

(e) During prenatal and postpartum periods, female inmates will not be restrained with their hands behind the back nor will leg irons be utilized due to the possibility of a fall. Waist chains with the C&S handcuff cover (black box) will not be worn when there is any danger of causing harm to the inmate or fetus.

(f) Female inmates, when being transferred on the same vehicle as male inmates, shall be physically separated from the male inmates by security screens and other security measures.

(g) All restraint equipment shall be double locked.

(h) An inmate shall not be handcuffed behind his or her back or handcuffed to a stationary object in a moving vehicle.

(i) A reasonable number of stops shall be made in order for inmates to utilize toilet facilities. Proper security shall be provided inmates when utilizing toilet facilities on or off the transfer vehicle.

(15) An Electronic Restraint Belt may be used in cases involving high profile transports outside the secure perimeter of an institution where in the judgment of the security staff the use of the belt is warranted. Prior to usage of the Electronic Restraint Belt, written, signed approval must be obtained from the Office of Institutions, Bureau Chief of Security Operations.

(16) Because the carrying of firearms in the transferring of inmates is extremely hazardous, in those instances where it is advisable for firearms to be carried, such equipment must be kept in a secure place or on the person of an officer who will not

come in direct contact with an inmate during the entire trip. Firearms shall not be carried by any of the escorting officers while in a car, plane or train unless the inmate is securely restrained and positive precautionary measures have been taken that will preclude contact between inmates and the armed officer. Use of firearms shall be in accordance with Rule 33-602.210, F.A.C.

(17) If an inmate escapes while being transferred, the transfer officer shall exhaust all resources immediately available to him in apprehending the inmate and then take immediate action to contact the nearest law enforcement agency. As soon as possible, the transfer officer shall notify his supervisor of the escape and give an oral report of the incident. When the local law enforcement agency no longer requires assistance, the transfer officer shall continue with his duties. Under no circumstances shall supervision of other inmates be relaxed in order to pursue an escaping inmate.

(18) Transfer by Commercial Airlines. Transfers via airlines shall be coordinated by the Bureau of Sentence Structure and Transportation. The Bureau of Sentence Structure and Transportation shall maintain liaison with the airlines and formulate standard operating procedures in accordance with Federal Aviation Agency and airline regulations.

(19) Private Transport Companies. The Department is authorized to contract with private transport companies for the transfer of prisoners both within and beyond the limits of this state.

(a) The transport company shall take the prisoner into custody for the purpose of transferring the prisoner to the proper law enforcement official within or beyond the limits of this state.

(b) The Department shall include, but not be limited to, the following requirements in any contract with a private transport company:

1. Any private transport company transferring an inmate shall be considered an independent contractor and shall be solely liable for the inmate while he is in the custody of that company.

2. The transport company shall maintain adequate liability coverage with respect to the transferring of inmates.

3. Personnel employed with the transport company who are based in Florida

shall meet the minimum standards of a correctional or law enforcement officer in accordance with Chapter 943.13, Florida Statutes. Personnel who are based outside Florida shall meet the minimum standards of a correctional officer or law enforcement officer in the state where the employee is based.

4. Transfer officers who are based in Florida shall comply with the specific requirements contained in Chapter 316, Florida Statutes. Transfer officers who are based outside of Florida shall comply with the legal driving requirements of the state in which they are based.

5. Each transfer vehicle operated by the transport company must be maintained in a condition meeting the specific requirements of Chapter 316, Florida Statutes, and be mechanically safe to transfer inmates. Transfer vehicles used outside the State of Florida must be maintained in a condition meeting the specific requirements of that state.

6. The transport company shall adhere to standards which provide for humane treatment of inmates while in the custody of that company.

7. The transport company shall submit reports to the Department regarding incidents of escape, use of force, abuse, and accidents involving inmates in the custody of the transport company within 24 hours of the incident. Failure to report incidents, falsification of reports, coercing or attempting to coerce others not to report or to falsify reports may result in appropriate criminal penalties and cancellation of the contract.

8. The transport company shall hold a Class "B" license pursuant to Chapter 493, Florida Statutes, and any employee of the company shall hold a Class "D" and Class "G" license pursuant to Chapter 493, Florida Statutes.

9. Correctional administrators will refuse to release death row, close custody, or other high-risk inmates to a private transport company or other law enforcement agencies that do not have an armed officer assigned or who do not provide a secure vehicle for transport. In these situations, the institution will:

a. Refuse to release the inmate and advise the transport company or law enforcement officer to stand by.

b. Contact the Population Management section of the Bureau of Sentence Structure and Transportation during normal working hours.

c. On weekends, holidays, or after normal working hours, contact the Emergency Action Center which will notify appropriate central office staff.

d. Population Management staff will contact the on duty supervisor for the private transport agency or law enforcement agency involved and advise him or her of the specific concern. This will be documented and the results of this contact relayed to the involved institutional staff providing specific directions regarding release.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 7-12-86, Amended 5-21-92, 1-06-94, 2-12-97, 11-8-98, Formerly 33-7.009, Amended 8-28-01.

33-603.401 Gain Time - Definitions.

(1) Basic Gain Time--deductions from sentence determined by length of sentence and awarded in a lump sum upon commitment to the department.

(a) An inmate whose offense occurred prior to July 1, 1978, will have basic gain time deducted in accordance with s. 944.27 F.S. (1977).

(b) An inmate whose offense occurred on or after July 1, 1978, and if eligible by law, will have basic gain time deducted in accordance with s. 944.275, F.S. (1983).

(2) Incentive Gain Time--Gain time that is considered on a monthly basis for all inmates who are eligible and have worked diligently, participated in training, used time constructively or otherwise engaged in positive activities.

(a) Inmates convicted of offenses occurring prior to January 1, 1994 shall be eligible to receive up to 20 days of incentive gain time per month, pursuant to 33-601.101(3), except as provided in 33-601.101(1).

(b) Inmates convicted of offenses occurring on or after January 1, 1994 which fall within level from 8 through 10 of the sentencing guidelines offense severity chart (921.0012 F.S.) shall be eligible to receive up to 20 days of incentive gain time per month, pursuant to 33-601.101(3), except as provided in 33-601.101(1).

(c) Inmates convicted of offenses

committed on or after October 1, 1995 shall be eligible to receive up to 10 days of incentive gain time per month, except as provided in 33-601.101(1).

(d) Inmates sentenced as violent career criminals for offenses committed on or after October 1, 1995 shall be eligible to receive up to 5 days of incentive gain time per month, except as provided in 33-601.101(1).

(3) Enhanced Incentive Gain Time--Gain time that is considered on a monthly basis for all inmates who are eligible and have worked diligently, participated in training, used time constructively or otherwise engaged in positive activities. Inmates convicted of offenses occurring on or after January 1, 1994 which fall within level 1 through 7 of the sentencing guidelines offense severity chart (921.0012 F.S.) are eligible to receive up to 25 days of enhanced incentive gain time per month, pursuant to 33-601.101(3), except as provided in 33-601.101(1).

(4) Meritorious Gain Time--Any inmate who performs an outstanding deed, such as saving a life or assisting in recapturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from his sentence length, may be awarded meritorious gain time.

(5) Performance Ratings for Incentive Gain Time. The following ratings are based on behavioral objectives as set forth in rule 33-601.101(3)(a)1. and 2.

(a) "Unsatisfactory"--The inmate failed to meet a behavioral objective during the month.

(b) "Satisfactory"--The inmate met all behavioral objectives during the month.

(c) "Above Satisfactory"--The inmate met all behavioral objectives during the month and exceeded what is required to comply with one or more of the behavioral objectives.

Specific Authority 944.09, 944.275 FS. Law Implemented 944.09, 944.275 FS. History--New 2-26-80, Amended 1-12-83, 1-31-85, Formerly 33-11.035, Amended 4-17-94, 1-4-95, 3-24-96, 4-21-96, Formerly 33-11.0035.

33-603.402 Basic Gain Time. The Department of Corrections will award deductions from a sentence in the form of basic gain time to encourage satisfactory inmate behavior.

(1) Ineligibility.

(a) No inmate shall be eligible to receive or accumulate basic gain time:

1. For the mandatory minimum portion of a sentence imposed pursuant to s. 775.087(2), F.S. for an offense committed on or after October 1, 1976 involving use or possession of a firearm, machine gun, or destructive device as defined in s. 775.087, F.S.;

2. For the minimum portion of a sentence imposed pursuant to s. 893.13(1)(e), F.S. (1989) for a specified drug-related offense committed on or after June 27, 1989 but prior to January 1, 1994, in, on, or within 1,000 feet of a school;

3. If sentenced as a habitual felony offender or a habitual violent felony offender under s. 775.084 (4), F.S. for an offense which occurred on or after October 1, 1988; or

4. If sentenced under s. 893.13(1)(i) 1, F.S. (1991) for a specified drug-related offense committed prior to January 1, 1994 in, on, or within 200 feet of real properties described in s. 893.13, F.S.;

5. If serving a sentence with no definite term; that is, a life sentence or death sentence.

6. For the period of time remaining in any treatment program placement term imposed under s. 953.11 F.S.

7. If sentenced for any degree of sexual battery specified under s. 794.011 FS for a crime committed on or after October 1, 1992;

8. If serving a sentence for a crime committed on or after January 1, 1994.

(b) An inmate shall not be eligible for basic gain time in an amount which would cause a sentence to expire prior to such inmate having served the minimum or mandatory minimum portion of a sentence imposed pursuant to:

1. S. 775.0823, F.S. for specified crimes committed prior to January 1, 1994 against a law enforcement or correctional officer or other officer defined in s. 943.10 (1), (2), (3), (6), (7), (8), or (9), or any state attorney, or assistant state attorney on or after January 1, 1990, or against a judge or justice of a court described in Article ■ of the State Constitution on or after October 1, 1990;

2. S. 775.0875(1) F.S. for taking a firearm from a law enforcement officer while such officer was lawfully engaged in

law enforcement duties in those instances where the offense was committed prior to January 1, 1994.

(c) An inmate shall not be eligible for basic gain time in an amount which would cause a sentence to expire prior to such inmate having served the period of time for which the court has retained jurisdiction pursuant to s. 947.16(4) F.S.

(2) Eligibility. Except for sentences of life or death, or sentences imposed for offenses committed on or after January 1, 1994, basic gain time credit will be awarded to all other cases unless specifically prohibited by applicable law.

(3) How credited. Basic gain time shall be calculated at the rate specified by law according to the date of offense and shall be based on the length of the sentence imposed. A portion of a month will be prorated on the basis of a 30-day month. Portions of any sentences to be served concurrently shall be treated as a single sentence when determining basic gain time.

(a) For offenses committed prior to July 1, 1978, basic gain time shall be awarded in the amount of 5 days per month for the first and second years of the sentence, 10 days per month for the third and fourth years of the sentence and 15 days per month for all succeeding years of the sentence, pursuant to § 944.27 (1977), F.S.

(b) For offenses committed on or after July 1, 1978, but before January 1, 1994, basic gain time shall be awarded in the amount of 10 days for each month of the sentence imposed, pursuant to s. 944.275, F.S.

(c) In order to establish an initial tentative release date, basic gain time awards are made in a lump sum upon entry into the department's custody. For inmates serving a sentence with a minimum term as described in subparagraph (1)(a) 1. and 2., the lump sum award of basic gain time is limited to that portion of the sentence or sentences which exceeds the minimum term.

Specific Authority 794.011(7), 944.09, 944.275 FS. Law Implemented 794.011(7), 944.09, 944.275 FS. History -- New 2-26-80, Formerly 33-11.045, Amended 1-12-83, 1-31-85, 4-28-87, 12-18-88, 10-14-91, 3-23-93, 4-17-94, 3-24-96, Formerly 33-11.0045.

33-603.409 Cancellation of Administrative Gain Time and Provisional Credits. Effective June 17, 1993, any inmate

serving a sentence or combined sentences where one or more days of administrative gain time or provisional credits have been applied, shall have all such awards cancelled, and release dates of such offenders shall be extended accordingly. Other conditions under which previously awarded administrative gain time or provisional credits shall be cancelled when a release date is reestablished are as follows:

- (1) Upon revocation of any post-release supervision program;
- (2) Upon recapture following escape;
- (3) Upon return from release on bond;
- (4) Upon determination that an inmate's release date was not calculated in accordance with case law or statute.

Specific Authority 944.278 FS. Law Implemented 944.278 FS. History - New 4-17-94, Formerly 33-11.019.

33-603.410 Credit for Time Served Following Apprehension in Another Jurisdiction. An escapee or an absconder from supervised community release or provisional release supervision shall be eligible for credit for time served following apprehension in another jurisdiction as follows:

(1) If the offender is being held solely on the Department of Corrections' warrant, credit will be applied from the date of arrest. However, if the offender refuses to waive extradition, credit will be stopped on the date of such refusal and will not resume until the offender is taken into custody by agents of the department, or the offender subsequently signs a waiver of extradition.

(2) An offender who is arrested and charged with crimes committed in an out-of-state jurisdiction shall not be eligible for credit for time served on the Florida sentence until such additional charges are disposed of and the offender is being held solely on the department's warrant. In such instances, credit shall be allowed from the date of disposition of local charges.

(3) If the offender is bondable on the out-of-state charges, credit may be applied from the date of arrest upon receipt of appropriate documentation that such offenses were bondable.

Specific Authority 944.09, 944.275 FS. Law Implemented 944.09, 944.275 FS. History--New

3-30-95, Formerly 33-3.0106.

33-603.411 Warrants for Retaking Offenders.

(1) When an offender escapes from custody or absconds from a rehabilitative community reentry program prior to satisfaction of the sentence or combined sentences, or if it is determined that an offender was released in error, or if it is subsequently determined that the offender was statutorily ineligible for release, the Secretary of the Department or the secretary's designated representative shall issue a warrant for retaking such offender into custody to serve the remainder of such sentence or combined sentences. The warrant issued shall:

(a) Be in writing and in the name of the Department of Corrections;

(b) Command that law enforcement officials take the offender against whom the warrant is issued into custody and hold him until such time as proper arrangements can be made for the return of the offender to the department;

(c) Specify the name of the offender to be apprehended, the date of escape, date of absconding from supervision, or the date on which the offender was released in error, the date the offender was sentenced to incarceration in the department, the county of sentence, the term of sentence; and

(d) Bear the seal of the Department of Corrections.

(2) An offender who is arrested as provided in subsection (1) above is ineligible for bond, bail, or release on his own recognizance.

(3) The issuance of a warrant pursuant to this rule does not negate or interfere with the right to issuance of a warrant under any other provision of law, nor will it interfere with any charges or court proceeding pending against the individual in any other jurisdiction.

(4) A warrant issued by the Department shall be in effect until the inmate has been returned to the custody of the Department, or until the sentence being served by the inmate is deemed satisfied, whichever occurs first.

(5) The following procedures shall be followed in cases of offenders who were released in error or were subsequently determined to be statutorily ineligible for release:

(a) Within three days of receiving notification that the offender has been taken into custody, excluding the day of notice, weekends and holidays, a correctional probation officer, classification supervisor, or other person designated by the Bureau Chief of Admission and Release for that purpose shall provide the offender with a copy of the affidavit upon which the warrant was issued, a copy of the warrant, a written statement advising the offender that he or she may challenge his return to custody through use of the inmate grievance procedure, and a copy of Form DC1-303, Request for Administrative Remedy or Appeal. In those cases in which the offender is out of state, the time frame for delivery of the warrant package to the offender shall be extended to seven days, excluding the day of notice, holidays and weekends.

(b) An offender who wishes to challenge his or her return to Department of Corrections custody shall file an emergency grievance directly with the Office of the Secretary using the Request for Administrative Remedy or Appeal, Form DC1-303, in accordance with rule 33-103.007(5).

(c) Grievances filed with the Office of the Secretary regarding retaking of an offender into custody shall be responded to in accordance with the time frames set forth in rule 33-103.007 and 33-103.011.

(d) Nothing in this section shall be deemed to constitute a waiver by the Department of Corrections of its authority or jurisdiction to retake offenders into custody under the circumstances set forth in subsection (1) of this rule, nor shall any procedure had under this section which results in or fails to result in retaking be deemed a waiver by the department of its authority or jurisdiction to retake offenders.

Specific Authority 944.405 FS. Law Implemented 944.405 FS. History--New 2-29-88, 1-06-94, Formerly 33-3.0105.

33-603.412 Actual Release Date.

A sentence expires at midnight, but release may be granted at any hour on such release date.

Specific Authority 944.09 FS. Law Implemented 944.09, 944.275 FS. History--New 2-26-80, Formerly 33-11.12, Formerly 33-11.012.

Completing the Scoresheet

1. Date of Sentence

- Record the date the sentence was imposed

2. Scoresheet Preparer

- Indicate the first and last name of the state attorney who prepared the scoresheet.

3. County

- Record the name of the county where the sentence is imposed. In instances of a change of venue, record the county that received the case.

4. Sentencing Judge

- Record the full name of the judge imposing sentence.

5. Name

- Record the offender's legal name used at the time of sentencing. Record the name using the following format: last name, first name, middle initial. Do not record aliases.

6. Date of Birth

- Record the offender's date of birth.

7. DC Number

- Record the six digit number assigned by the Department of Corrections if available.

8. Race

- Check the appropriate box to note the race of the offender. Use the following criteria:

(B) Black - a person having origins in any of the black racial groups of Africa.

(W) White - a person having origins in any of the original peoples of Europe, North Africa or the Middle East.

* (Other) - a person having origins in any of the original peoples of the Far East, southeast Asia, Indian subcontinent, Pacific Islands, or any of the original people of the Americas, including Native Americans or Alaskan natives.

9. Gender

- Check the appropriate box to indicate the gender of the offender.

10. Primary Offense Date

- The date of the "primary offense" pending before the court for sentencing. If the primary offense involves dates of continuing enterprise, record the date the criminal activity commenced.

11. Primary Docket Number

- The felony court case number of the primary offense before the court for sentencing. Only one case number can be utilized as only one count of one case before the court for sentencing shall be classified as the primary offense.

12. Plea or Trial

- Check whether the adjudication of the offenses at conviction was obtained by plea or trial. If convictions were obtained by both plea and trial, enter a check mark in the trial field.

13. Primary Offense

“Primary offense” means the offense at conviction pending before the court for sentencing for which the total sentence points recommend a sanction that is as severe as, or more severe than, the sanction recommended for any other offense committed by the offender and pending before the court at sentencing. Only one count of one offense before the court for sentencing shall be classified as the primary offense. All other offenses, including multiple counts of the same offense scored as the primary offense, are to be listed as additional offenses. The primary may be an offense ranked at a lower severity level than other offenses before the court for sentencing due to the operation of multipliers for drug trafficking, grand theft motor vehicle (with the requisite prior record) violations of the Law Enforcement Protection Act, Street Gang and Domestic Violence. The Felony Degree, Florida Statute, Description and Offense Level shall be recorded in the appropriate field of Section I. The points assigned to the severity level of the offense are entered in the space indicated on the scoresheet.

An offense before the court as a result of a finding of violation of a community sanction is the primary offense if the original charge total sentence points recommend a sanction that is as severe as, or more severe than, the sanction recommended for any other offense committed by the offender and pending before the court at sentencing under any single version of the guidelines, revision of the guidelines or punishment code. This is in accordance with sections 775.082 (8), 921.0021(1), 921.0021(4) and 921.0024(3), Florida Statutes.

Prior Capital Felony Points/Primary Offense

If the offender has one or more prior capital felonies in the offender’s criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense. This is recorded by checking the box in Section I and multiplying the Section I subtotal by 3 (three).

A prior capital felony in the offender’s criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty, or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

14. Additional Offenses

Additional offense means any offense other than the primary offense for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense. The severity level of each additional offense must be known in order to score it. Multiple counts of the same offense can be listed on a single line with the points indicated for that severity level multiplied by the number of counts. The resulting points are recorded in the fields in the right hand column. Misdemeanors are scored at the level “M” regardless of degree. A supplemental page is available for additional offenses if the available lines are not sufficient for all additional offenses.

An offense before the court as a result of a finding of violation of a community sanction is an additional offense if the original charge total sentence points do not recommend a sanction that is as severe as, or more severe than, the sanction recommended for any other offense committed by the offender and pending before the court at

sentencing under any single version of the guidelines, revision of the guidelines or punishment code. This is in accordance with sections 775.082 (8), 921.0021(1), 921.0021(4) and 921.0024(3), Florida Statutes.

**Prior Capital Felony Points /
Additional Offense**

If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the additional offense(s). This is calculated by checking the box in Section II and multiplying the Section II subtotal by 3 (three).

A prior capital felony in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Prior capital felonies shall not be scored in the prior record section.

**15. Attempts, Conspiracies, Solicitations and
Reclassifications**

Criminal attempts, criminal solicitations and criminal conspiracies are generally scored one level below the severity level of the completed offense. Where a criminal attempt, solicitation or conspiracy is separately ranked in section 921.0022, Florida Statutes, the severity level at which the inchoate offense is placed is the basis for scoring. Where the inchoate version of an offense is required to be punished as if the offender had committed the prohibited act, score it at the same level as the completed crime. Conspiracy to commit drug trafficking under section 893.135(5), Florida Statutes, or conspiring

to commit bookmaking under section 849.25(4), Florida Statutes, or attempting, soliciting or conspiring to kill or commit aggravated abuse upon registered horses or cattle 828.125(2), Florida Statutes, are examples of legislative intent to punish the inchoate versions of an offense the same as the completed offense. Unless specifically provided otherwise by statute, attempts, conspiracies, and solicitations must be indicated in the space provided on the Criminal Punishment Code scoresheet and must be scored at one severity level below the completed offense.

Attempts, solicitations, and conspiracies of third-degree felonies located in offense severity levels 1 and 2 must be scored as misdemeanors. Attempts, solicitations, and conspiracies of third-degree felonies located in offense severity levels 3, 4, 5, 6, 7, 8, 9, and 10 must be scored as felonies one offense level beneath the incomplete or inchoate offense.

16. Victim Injury

"Victim injury" is scored for physical injury or death suffered by a person as a direct result of any offense pending before the court for sentencing. Except as otherwise provided by law (section 921.0021(7) (c) (d), Florida Statutes) the sexual penetration and sexual contact points will be scored as follows. Sexual penetration points (80) are scored if an offense pending before the court for sentencing involves sexual penetration. Sexual contact points (40) are scored if an offense pending before the court for sentencing involves sexual contact, but no penetration. If the victim of an offense involving sexual penetration or sexual contact without penetration suffers any physical injury as a direct result of an offense pending before the court for sentencing, that physical injury must be scored separately and in addition to any points scored for the sexual contact or sexual penetration.

Victim injury must be scored for each

victim physically injured and for each offense resulting in physical injury whether there are one or more victims. Multiple assessments of the same level of victim injury may be scored by multiplying the appropriate level of injury by the number of counts scoreable. However, victim injury must not be scored for an offense for which the offender has not been convicted.

If the offense at conviction is a second degree murder, 240 points are to be scored for the death. All other deaths are to receive 120 points as victim injury.

Victim injury resulting from one or more capital offenses before the court for sentencing must not be included upon any scoresheet prepared for non-capital offenses also pending before the court for sentencing. This does not prohibit the scoring of victim injury as a result of the non-capital offense or offenses before the court for sentencing.

17. Prior Record

“Prior record” refers to any conviction for an offense committed by the offender prior to the commission of the primary offense. “Conviction” means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

Prior record includes convictions for offenses committed by the offender as an adult or juvenile, convictions by federal, out of state, military, or foreign courts and convictions for violations of county or municipal ordinances that incorporate by reference a penalty under state law. Federal, out of state, military or foreign convictions are scored at the severity level at which the analogous or parallel Florida crime is located. The elements of an out-of-state offense are to be the sole consideration for determining an analogous crime

Convictions for offenses committed more than 10 years before the date of the commission of the primary offense must not be scored as prior record if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or other sanction, whichever is later, to the date of the commission of the primary offense.

Juvenile dispositions of offenses committed by the offender within 5 years before the date of the commission of the primary offense must be scored as prior record if the offense would have been a crime if committed by an adult. Juvenile dispositions of sexual offenses committed by the offender more than 5 years before the date of the primary offense must be scored as prior record if the offender has not maintained a conviction-free record, either as an adult or as a juvenile, for a period of 5 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of commission of the primary offense.

Entries in criminal histories that show no disposition, disposition unknown, arrest only, or a disposition other than conviction must not be scored. Criminal history records expunged or sealed under section 943.058, Florida Statutes, or other provisions of law, including former sections 893.14 and 901.33, Florida Statutes, must be scored as prior record where the offender whose record has been expunged or sealed is before the court for sentencing.

Any uncertainty in the scoring of the offender’s prior record must be resolved in favor of the offender and disagreement as to the propriety of scoring specific entries in the prior record must be resolved by the sentencing judge.

When unable to determine whether the conviction to be scored as prior record is a felony or a misdemeanor, the conviction must be scored as a

misdemeanor. When the degree of felony is ambiguous or the severity level cannot be determined, the conviction must be scored at severity level 1.

18. Legal Status Violations

“Legal status points” are assessed when an offender:

Escapes from incarceration; flees to avoid prosecution; fails to appear for a criminal proceeding; violates any condition of a supersedeas bond; is incarcerated; is under any form of a pretrial intervention or diversion program; or is under any form of court-imposed or post-prison release community supervision and commits an offense that results in conviction. Legal status violations receive a score of 4 sentence points and are scored when the offense committed while under legal status is before the court for sentencing. Points for a legal status violation must only be assessed once regardless of the existence of more than one form of legal status at the time an offense is committed or the number of offenses committed while under any form of legal status.

19. Violating the Conditions of a Community Sanction

Community sanction violation points occur when the offender is found to have violated one or more conditions of a community sanction. Community sanctions include probation, community control or pretrial intervention or diversion.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing as a primary or additional offense. Six community sanction violation points must be assessed for each violation or if the violation results from a new

felony conviction, 12 community sanction violation points must be assessed. Where there are multiple violations, points may be assessed only for each successive violation that follows a continuation of supervision, or modification or revocation of the community sanction before the court for sentencing and are not to be assessed for violation of several conditions of a single community sanction. Multiple counts of community sanction violations before the sentencing court may not be the basis for multiplying the assessment of community sanction violation points.

20. Prior Serious Felony Points

A single assessment of thirty prior serious felony points is added if the offender has a primary offense or any additional offense ranked in level 8, 9, or 10 (under sections 921.0022 or 921.0023, Florida Statutes) and one or more prior serious felonies. A “prior serious felony” is an offense in the offender’s prior record ranked in level 8, 9, or 10 and for which the offender is serving a sentence of confinement, supervision or other sanction or for which the offender’s date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offenses were committed. Out of state convictions wherein the analogous or parallel Florida offenses are located in offense severity level 8, 9, or 10 must be considered prior serious felonies.

Possession of a Firearm, Semiautomatic Weapon or Machine Gun

Possession of a firearm, semiautomatic firearm, or a machine gun during the commission or attempt to commit a crime will result in additional sentence points. Eighteen sentence points are assessed if the offender is convicted of committing or attempting to commit any felony other than those enumerated in subsection 775.087(2),

Florida Statutes, while having in his or her possession a firearm as defined in subsection 790.001(6), Florida Statutes. Twenty-five sentence points are assessed if the offender is convicted of committing or attempting to commit any felony other than those enumerated in subsection 775.087(3), Florida Statutes, while having in his or her possession a semiautomatic firearm as defined in subsection 775.087(3), Florida Statutes, or a machine gun as defined in subsection 790.001(9), Florida Statutes. Only one assessment of either 18 or 25 points can be made.

Firearm points may not be assessed where the possession of the firearm is necessary in order for the underlying felony to exist. In other words, if the offense is possession of a firearm by a convicted felon or carrying a concealed firearm, the additional points should not be assessed. Also, if the offense is one of those enumerated in section 775.087 (2) or (3), Florida Statutes, firearm points may not be assessed.

21. Subtotal Sentence Points

“Subtotal sentence points” are the sum of the primary offense points, the total additional offense points, the total victim injury points, the total prior record points, any legal status points, community sanction points, prior serious felony points, prior capital felony points and points for possession of a firearm or semiautomatic weapon.

22. Sentencing Enhancements

If the primary offense is drug trafficking under section 893.135, Florida Statutes, ranked in offense severity level 7 or 8, the subtotal sentence points may be multiplied, at the discretion of the sentencing court, by a factor of 1.5.

If the primary offense is a violation of the Law Enforcement Protection Act under subsections 775.0823(2), Florida Statutes, the subtotal

sentence points are multiplied by 2.5. If the primary offense is a violation of subsection 775.0823(3), (4), (5), (6), (7), or (8), Florida Statutes, the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of the Law Enforcement Protection Act under subsection 775.0823(9) or (10), Florida Statutes, or section 784.07(3), Florida Statutes, or section 775.0875(1), Florida Statutes, the subtotal sentence points are multiplied by 1.5.

If the primary offense is grand theft of the third degree of a motor vehicle and the offender’s prior record includes three or more grand thefts of the third degree of a motor vehicle, the subtotal sentence points are multiplied by 1.5.

If the Offender is convicted of the primary offense and committed the offense for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang under section 874.04, Florida Statutes, of the commission of the primary offense, the subtotal sentence points are multiplied by 1.5.

If the primary offense is a crime of domestic violence as defined in section 741.28, Florida Statutes, which was committed in the presence of a child under 16 years of age who is a family household member as defined in section 741.28(2), Florida Statutes, with the victim or perpetrator, the subtotal sentence points are multiplied, at the discretion of the court, by 1.5.

23. Total Sentence Points

“Total sentence points” are the subtotal sentence points or the enhanced subtotal sentence points. Do not add the subtotal sentence points and the enhanced subtotal points to arrive at total sentence points.

The lowest permissible sentence is the minimum sentence that may be imposed by the trial court, absent a valid reason for departure. The lowest permissible sentence is any nonstate

prison sanction in which the total sentence points equals or is less than 44 points, unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate. When the total sentence points exceed 44 points, the lowest permissible sentence in prison months must be calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. The total sentence points must be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing must be the lowest permissible sentence up to and including the statutory maximum, as defined in section 775.082, Florida Statutes, for the primary offense and any additional offenses before the court for sentencing. The sentencing court may impose such sentences concurrently or consecutively. However, any sentence to state prison must exceed 1 year. If the lowest permissible sentence under the Code exceeds the statutory maximum sentence as provided in section 775.082, Florida Statutes, the sentence required by the Code must be imposed. If the total sentence points are greater than or equal to 363, the court may sentence the offender to life imprisonment. The sentence imposed must be entered on the scoresheet.

24. Mandatory Minimum Sentence

For those offenses having a mandatory minimum sentence, a scoresheet must be completed and the lowest permissible sentence under the code calculated. If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the Criminal Punishment Code and any mandatory minimum penalties will apply. Mandatory minimum sentences must be recorded on the scoresheet.

25. Split Sentence

If a split sentence is imposed, the total sanction (incarceration and community control or probation) must not exceed the term provided by general law or the maximum sentence under the Criminal Punishment Code.

26. Revocation of Supervision

Sentences imposed after revocation of probation or community control must be imposed pursuant to the sentencing law applicable at the time of the commission of the original offense.

27. Departures

Any downward departure from the lowest permissible sentence, as calculated according to the total sentence points pursuant to section 921.0024, Florida Statutes, is prohibited unless there are circumstances or factors that reasonably justify the downward departure. Mitigating circumstances or factors that can be considered include, but are not limited to, those listed in subsection 921.0026(2), Florida Statutes, and attached in Appendix D.

If a sentencing judge imposes a sentence that is below the lowest permissible sentence, it is a departure sentence and must be accompanied by a written statement by the sentencing court delineating the reasons for the departure, filed within 7 days after the date of sentencing. A written transcription of orally stated reasons for departure articulated at the time sentence was imposed is sufficient if it is filed by the court within 7 days after the date of sentencing. The sentencing judge may also list the written reasons for departure in the space provided on the Criminal Punishment Code scoresheet.

The written statement delineating the reasons for departure must be made a part of the record. The written statement, if it is a separate document, must accompany the scoresheet required to be provided to the Department of Corrections pursuant to section 921.0024(6), Florida Statutes.

The imposition of a sentence below the lowest permissible sentence is subject to appellate review under Chapter 924, but the extent of the downward departure is not subject to appellate review.

APPENDIX A

Rule 3.704 . The Criminal Punishment Code

(a) **Use.** This rule is to be used in conjunction with the forms located at rule 3.992. This rule implements the 1998 Criminal Punishment Code, in compliance with chapter 921, Florida Statutes. This rule applies to offenses committed on or after October 1, 1998, or as otherwise required by law.

(b) **Purpose and Construction.** The purpose of the 1998 Criminal Punishment Code and the principles it embodies are set out in subsection 921.002(1), Florida Statutes. Existing case law construing the application of sentencing guidelines will continue as precedent unless in conflict with the provisions of this rule or the 1998 Criminal Punishment Code.

(c) **Offense Severity Ranking.**

(1) Felony offenses subject to the 1998 Criminal Punishment Code are listed in a single offense severity ranking chart located in section 921.0022, Florida Statutes. The offense severity ranking chart employs 10 offense levels, ranked from least severe to most severe. Each felony offense is assigned to a level according to the severity of the offense, commensurate with the harm or potential for harm to the community that is caused by the offense, as determined by statute. The numerical statutory reference in the left column of the chart and the felony degree designations in the middle column of the chart determine whether felony offenses are specifically listed in the offense severity ranking chart and the appropriate severity level. The language in the right column is merely descriptive.

(2) Felony offenses not listed in section 921.0022, Florida Statutes, are assigned a severity level in accordance with section 921.0023, Florida Statutes, as follows:

- (A) A felony of the third degree within offense level 1.
- (B) A felony of the second degree within offense level 4.
- (C) A felony of the first degree within offense level 7.
- (D) A felony of the first degree punishable by life within offense level 9.
- (E) A life felony within offense level 10.

An offense does not become unlisted and subject to the provisions of section 921.0023, Florida Statutes, because of a reclassification of the degree of felony under section 775.0845, section 775.087, section 775.0875 or section 794.023, Florida Statutes, or any other law that provides an enhanced penalty for a felony offense.

(d) **General Rules and Definitions.**

- (1) One or more Criminal Punishment Code scoresheets must be prepared for each offender covering

all offenses pending before the court for sentencing, including offenses for which the offender may qualify as an habitual felony offender, an habitual violent felony offender, a violent career criminal or a prison releasee reoffender. The office of the state attorney must prepare the scoresheets and present them to defense counsel for review for accuracy. If sentences are imposed under section 775.084 or section 775.082(9), Florida Statutes, and the Criminal Punishment Code, a scoresheet listing only those offenses sentenced under the Criminal Punishment Code must be filed in addition to any sentencing documents filed under sections 775.084, or 775.082(9), Florida Statutes.

(2) One scoresheet must be prepared for all offenses committed under any single version or revision of the guidelines or Criminal Punishment Code pending before the court for sentencing.

(3) If an offender is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines or Criminal Punishment Code, separate scoresheets must be prepared and used at sentencing. The sentencing court may impose such sentence concurrently or consecutively.

(4) The sentencing judge must review the scoresheet for accuracy and sign it.

(5) Felonies, except capital felonies, with continuing dates of enterprise are to be sentenced under the guidelines or Criminal Punishment Code in effect on the beginning date of the criminal activity.

(6) "Conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

(7) "Primary offense" means the offense at conviction pending before the court for sentencing for which the total sentence points recommend a sanction that is as severe as, or more severe than, the sanction recommended for any other offense committed by the offender and pending before the court at sentencing. Only one count of one offense before the court for sentencing shall be classified as the primary offense.

(8) "Additional offense" means any offense other than the primary offense for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense.

(9) "Victim injury" is scored for physical injury or death suffered by a person as a direct result of any offense pending before the court for sentencing. Except as otherwise provided by law, the sexual penetration and sexual contact points will be scored as follows. Sexual penetration points are scored if an offense pending before the court for sentencing involves sexual penetration. Sexual contact points are scored if an offense pending before the court for sentencing involves sexual contact, but no penetration. If the victim of an offense involving sexual penetration or sexual contact without penetration suffers any physical injury as a direct result of an offense pending before the court for sentencing, that physical injury must be scored in addition to any points scored for the sexual contact or sexual penetration.

Victim injury must be scored for each victim physically injured and for each offense resulting in physical injury whether there are one or more victims. However, victim injury must not be scored for an offense for which the offender has not been convicted.

Victim injury resulting from one or more capital offenses before the court for sentencing must not be included upon any scoresheet prepared for non-capital offenses also pending before the court for sentencing. This

does not prohibit the scoring of victim injury as a result of the non-capital offense or offenses before the court for sentencing.

(10) Unless specifically provided otherwise by statute, attempts, conspiracies, and solicitations must be indicated in the space provided on the Criminal Punishment Code scoresheet and must be scored at one severity level below the completed offense.

Attempts, solicitations, and conspiracies of third-degree felonies located in offense severity levels 1 and 2 must be scored as misdemeanors. Attempts, solicitations, and conspiracies of third-degree felonies located in offense severity levels 3, 4, 5, 6, 7, 8, 9, and 10 must be scored as felonies one offense level beneath the incomplete or inchoate offense.

(11) An increase in offense severity level may result from a reclassification of felony degrees under sections 775.0845, 775.087, 775.0875, or 794.023, Florida Statutes. Any such increase must be indicated in the space provided on the Criminal Punishment Code scoresheet.

(12) A single assessment of thirty prior serious felony points is added if the offender has a primary offense or any additional offense ranked in level 8, 9, or 10 and one or more prior serious felonies. A "prior serious felony" is an offense in the offender's prior record ranked in level 8, 9, or 10 and for which the offender is serving a sentence of confinement, supervision or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offenses were committed. Out of state convictions wherein the analogous or parallel Florida offenses are located in offense severity level 8, 9, or 10 must be considered prior serious felonies.

(13) If the offender has one or more prior capital felonies, points must be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. Out-of-state convictions wherein the analogous or parallel Florida offenses are capital offenses and must be considered capital offenses for purposes of operation of this section.

(14) "Prior record" refers to any conviction for an offense committed by the offender prior to the commission of the primary offense. Prior record includes convictions for offenses committed by the offender as an adult or as a juvenile, convictions by federal, out of state, military, or foreign courts and convictions for violations of county or municipal ordinances that incorporate by reference a penalty under state law. Federal, out of state, military or foreign convictions are scored at the severity level at which the analogous or parallel Florida crime is located.

(A) Convictions for offenses committed more than 10 years before the date of the commission of the primary offense must not be scored as prior record if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or other sanction, whichever is later, to the date of the commission of the primary offense.

(B) Juvenile dispositions of offenses committed by the offender within 5 years before the date of the commission of the primary offense must be scored as prior record if the offense would have been a crime if committed by an adult. Juvenile dispositions of sexual offenses committed by the offender more than 5 years before the date of the primary offense must be scored as prior record if the offender has not maintained a conviction-free record, either as an adult or as a juvenile, for a period of 5 consecutive years

from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of commission of the primary offense.

(C) Entries in criminal histories that show no disposition, disposition unknown, arrest only, or a disposition other than conviction must not be scored. Criminal history records expunged or sealed under section 943.058, Florida Statutes, or other provisions of law, including former sections 893.14 and 901.33, Florida Statutes, must be scored as prior record where the offender whose record has been expunged or sealed is before the court for sentencing.

(D) Any uncertainty in the scoring of the offender's prior record must be resolved in favor of the offender and disagreement as to the propriety of scoring specific entries in the prior record must be resolved by the sentencing judge.

(E) When unable to determine whether the conviction to be scored as prior record is a felony or a misdemeanor, the conviction must be scored as a misdemeanor. When the degree of felony is ambiguous or the severity level cannot be determined, the conviction must be scored at severity level 1.

(15) "Legal status points" are assessed when an offender:

(A) Escapes from incarceration;

(B) Flees to avoid prosecution;

(C) Fails to appear for a criminal proceeding;

(D) Violates any condition of a supersedeas bond;

(E) Is incarcerated;

(F) Is under any form of a pretrial intervention or diversion program; or

(G) Is under any form of court-imposed or post-prison release community supervision and commits an offense that results in conviction. Legal status violations receive a score of 4 sentence points and are scored when the offense committed while under legal status is before the court for sentencing. Points for a legal status violation must only be assessed once regardless of the existence of more than one form of legal status at the time an offense is committed or the number of offenses committed while under any form of legal status.

(16) Community sanction violation points occur when the offender is found to have violated a condition of:

(A) Probation;

(B) Community Control; or

(C) Pretrial intervention or diversion.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six community sanction violation points must be assessed for each violation or if the violation results from a new felony conviction, 12 community sanction violation points must be assessed. Where there are multiple violations, points may be assessed only for each successive violation that follows a continuation of supervision, or modification or revocation of the community sanction before the court for sentencing and are not to be assessed for violation of several conditions of a single community sanction. Multiple counts of community sanction violations before the sentencing court may not be the basis for multiplying the assessment of community sanction violation points.

(17) Possession of a firearm, semiautomatic firearm, or a machine gun during the commission or attempt to commit a crime will result in additional sentence points. Eighteen sentence points are assessed if the offender is convicted of committing or attempting to commit any felony other than those enumerated in subsection 775.087(2), Florida Statutes, while having in his or her possession a firearm as defined in subsection 790.001(6), Florida Statutes. Twenty-five sentence points are assessed if the offender is convicted of committing or attempting to commit any felony other than those enumerated in subsection 775.087(3), Florida Statutes, while having in his or her possession a semiautomatic firearm as defined in subsection 775.087(3), Florida Statutes, or a machine gun as defined in subsection 790.001(9), Florida Statutes. Only one assessment of either 18 or 25 points can be made.

(18) "Subtotal sentence points" are the sum of the primary offense points, the total additional offense points, the total victim injury points, the total prior record points, any legal status points, community sanction points, prior serious felony points, prior capital felony points and points for possession of a firearm or semiautomatic weapon.

(19) If the primary offense is drug trafficking under section 893.135, Florida Statutes, ranked in offense severity level 7 or 8, the subtotal sentence points may be multiplied, at the discretion of the sentencing court, by a factor of 1.5.

(20) If the primary offense is a violation of the Law Enforcement Protection Act under subsections 775.0823(2), Florida Statutes, the subtotal sentence points are multiplied by a factor of 2.5. If the primary offense is a violation of subsection 775.0823(3), (4), (5), (6), (7), or (8), Florida Statutes, the subtotal sentence points are multiplied by a factor of 2.0. If the primary offense is a violation of the Law Enforcement Protection Act under subsection 775.0823(9) or (10) or section 784.07(3), Florida Statutes, or section 775.0875(1), Florida Statutes, the subtotal sentence points are multiplied by a factor of 1.5.

(21) If the primary offense is grand theft of the third degree of a motor vehicle and the offender's prior record includes three or more grand thefts of the third degree of a motor vehicle, the subtotal sentence points are multiplied by 1.5.

(22) If the offender is found to have committed the offense for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang under section 874.04, Florida Statutes, at the time of the commission of the primary offense, the subtotal sentence points are multiplied by 1.5.

(23) If the primary offense is a crime of domestic violence as defined in section 741.28, Florida Statutes, which was committed in the presence of a child under 16 years of age who is a family household member as defined in section 741.28(2), Florida Statutes, with the victim or perpetrator, the subtotal sentence points are multiplied, at the discretion of the court, by 1.5.

(24) "Total sentence points" are the subtotal sentence points or the enhanced subtotal sentence points.

(25) The lowest permissible sentence is the minimum sentence that may be imposed by the trial court, absent a valid reason for departure. The lowest permissible sentence is any nonstate prison sanction in which the total sentence points equals or is less than 44 points, unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate. When the total sentence points exceeds 44 points, the lowest permissible sentence in prison months must be calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. The total sentence points must be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing must be the lowest permissible sentence up to and including the statutory maximum, as defined in section 775.082, Florida Statutes, for the primary offense and any additional offenses before the court for sentencing. The sentencing court may impose such sentences concurrently or consecutively. However, any sentence to state prison must exceed 1 year. If the lowest permissible sentence under the Code exceeds the statutory maximum sentence as provided in section 775.082, Florida Statutes, the sentence required by the Code must be imposed. If the total sentence points are greater than or equal to 363, the court may sentence the offender to life imprisonment. The sentence imposed must be entered on the scoresheet.

(26) For those offenses having a mandatory minimum sentence, a scoresheet must be completed and the lowest permissible sentence under the Code calculated. If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the Criminal Punishment Code and any mandatory minimum penalties apply. Mandatory minimum sentences must be recorded on the scoresheet.

(27) Any downward departure from the lowest permissible sentence, as calculated according to the total sentence points under section 921.0024, Florida Statutes, is prohibited unless there are circumstances or factors that reasonably justify the downward departure. Circumstances or factors that can be considered include, but are not limited to, those listed in subsection 921.0026(2), Florida Statutes.

(A) If a sentencing judge imposes a sentence that is below the lowest permissible sentence, it is a departure sentence and must be accompanied by a written statement by the sentencing court delineating the reasons for the departure, filed within 7 days after the date of sentencing. A written transcription of orally stated reasons for departure articulated at the time sentence was imposed is sufficient if it is filed by the court within 7 days after the date of sentencing. The sentencing judge may also list the written reasons for departure in the space provided on the Criminal Punishment Code scoresheet.

(B) The written statement delineating the reasons for departure must be made a part of the record. The written statement, if it is a separate document, must accompany the scoresheet required to be provided to the Department of Corrections under subsection 921.0024(6), Florida Statutes.

If a split sentence is imposed, the total sanction (incarceration and community control or probation) must not exceed the term provided by general law or the maximum sentence under the Criminal Punishment Code.

(28) Sentences imposed after revocation of probation or community control must be imposed according to the sentencing law applicable at the time of the commission of the original offense.

**APPENDIX B - For Offenses committed under the Criminal Punishment Code (on or after 10-1-98)
 RULE 3.992(a) CRIMINAL PUNISHMENT CODE SCORESHEET**

| | | | |
|-----------------------------|---|---|---|
| 1. DATE OF SENTENCE | 2. PREPARER'S NAME <input type="checkbox"/> DC <input type="checkbox"/> SAO | 3. COUNTY | 4. SENTENCING JUDGE |
| 5. NAME (LAST, FIRST, M.I.) | 6. DOB | 8. RACE <input type="checkbox"/> B <input type="checkbox"/> W <input type="checkbox"/> OTHER | 10. PRIMARY OFF. DATE |
| | 7. DC # | 9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F | 11. PRIMARY DOCKET # |
| | | | 12. PLEA <input type="checkbox"/> TRIAL <input type="checkbox"/> |

I. PRIMARY OFFENSE: If Qualifier, please check A S C R (A=Attempt, S=Solicitation, C=Conspiracy, R=Reclassification)

| FELONY DEGREE | F.S.# | DESCRIPTION | OFFENSE LEVEL | POINTS |
|---|---------------|---------------|---------------|---------------|
| _____ / _____ | _____ / _____ | _____ / _____ | _____ / _____ | _____ / _____ |
| (Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116) | | | | |

Prior capital felony triples Primary Offense points

I. _____

II. ADDITIONAL OFFENSE(S): Supplemental page attached

| DOCKET# | FEL/MM DEGREE | F.S.# | OFFENSE LEVEL | QUALIFY A S C R | COUNTS | POINTS | TOTAL |
|-------------------|---------------|---------------|---------------|---|---------------|---------------|-------|
| _____ / _____ | _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ x _____ | _____ = _____ | |
| DESCRIPTION _____ | | | | | | | |
| _____ / _____ | _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ x _____ | _____ = _____ | |
| DESCRIPTION _____ | | | | | | | |
| _____ / _____ | _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ x _____ | _____ = _____ | |
| DESCRIPTION _____ | | | | | | | |

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

Prior capital felony triples Additional Offense points

Supplemental page points _____

II. _____

III. VICTIM INJURY:

| | Number | Total | | Number | Total |
|-------------------|-------------|---------|-----------------|------------|---------|
| 2nd Degree Murder | 240 x _____ | = _____ | Slight | 4 x _____ | = _____ |
| Death | 120 x _____ | = _____ | Sex Penetration | 80 x _____ | = _____ |
| Severe | 40 x _____ | = _____ | Sex Contact | 40 x _____ | = _____ |
| Moderate | 18 x _____ | = _____ | | | |

III. _____

IV. PRIOR RECORD: Supplemental page attached

| FEL/MM DEGREE | F.S.# | OFFENSE LEVEL | QUALIFY: A S C R | DESCRIPTION | NUMBER | POINTS | TOTAL |
|---------------|---------------|---------------|---|-------------|---------------|---------------|-------|
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ X _____ | _____ = _____ | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ X _____ | _____ = _____ | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ X _____ | _____ = _____ | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ X _____ | _____ = _____ | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ X _____ | _____ = _____ | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ X _____ | _____ = _____ | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ X _____ | _____ = _____ | |

(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

Supplemental page points _____

IV. _____

Page 1 Subtotal: _____

RULE 3.992(b) SUPPLEMENTAL CRIMINAL PUNISHMENT CODE SCORESHEET

| | | |
|-------------------------|----------|------------------|
| NAME (LAST, FIRST, MI.) | DOCKET # | DATE OF SENTENCE |
|-------------------------|----------|------------------|

II. ADDITIONAL OFFENSES(S):

| DOCKET# | FEL/MM DEGREE | F.S# | OFFENSE LEVEL | QUALIFY COUNTS A S C R | POINTS | POINTS |
|-------------------|------------------|---------------|------------------|---|--------|-----------------|
| _____ / _____ | _____ / _____ | _____ / _____ | _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | x _____ = _____ |
| DESCRIPTION _____ | | | | | | |
| _____ / _____ | _____ / _____ | _____ / _____ | _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | x _____ = _____ |
| DESCRIPTION _____ | | | | | | |
| _____ / _____ | _____ / _____ | _____ / _____ | _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | x _____ = _____ |
| DESCRIPTION _____ | | | | | | |
| _____ / _____ | _____ / _____ | _____ / _____ | _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | x _____ = _____ |
| DESCRIPTION _____ | | | | | | |
| _____ / _____ | _____ / _____ | _____ / _____ | _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | x _____ = _____ |
| DESCRIPTION _____ | | | | | | |

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

II. _____

IV. PRIOR RECORD

| FEL/MM DEGREE | F.S.# | OFFENSE LEVEL | QUALIFY: A S C R | DESCRIPTION | NUMBER | POINTS | TOTAL |
|------------------|---------------|------------------|---|-------------|--------|-----------|-------|
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ | X _____ = | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ | X _____ = | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ | X _____ = | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ | X _____ = | |
| _____ / _____ | _____ / _____ | _____ / _____ | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | _____ | _____ | X _____ = | |

(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

IV. _____

REASONS FOR DEPARTURE - MITIGATING CIRCUMSTANCES
(reasons may be checked here or written on the scoresheet)

- Legitimate, uncoerced plea bargain.
- The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.
- The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.
- The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction, or for a physical disability, and the defendant is amenable to treatment.
- The need for payment of restitution to the victim outweighs the need for a prison sentence.
- The victim was an initiator, willing participant, aggressor, or provoker of the incident.
- The defendant acted under extreme duress or under the domination of another person.
- Before the identity of the defendant was determined, the victim was substantially compensated.
- The defendant cooperated with the State to resolve the current offense or any other offense.
- The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.
- At the time of the offense the defendant was too young to appreciate the consequences of the offense.
- The defendant is to be sentenced as a youthful offender.

Pursuant to 921.0026(3) the defendant's substance abuse or addiction does not justify a downward departure from the lowest permissible sentence.

APPENDIX C
Offense Severity Ranking Chart
Florida Criminal Punishment Code
Section 921.0022, Florida Statutes

Felony offenses subject to the 1998 Criminal Punishment Code are listed in a single offense severity ranking chart located at section 921.0022, Florida Statutes. The offense severity ranking chart employs 10 offense levels, ranked from least severe to most severe. Each felony offense is assigned to a level according to the severity of the offense, commensurate with the harm or potential for harm to the community that is caused by the offense, as determined by statute. The numerical statutory reference in the left column of the chart and the felony degree designations in the middle column of the chart determine whether felony offenses are specifically listed in the offense severity ranking chart and the appropriate severity level. The language in the right column is merely descriptive.

Felony offenses not listed in section 921.0022, Florida Statutes, are assigned a severity level in accordance with section 921.0023, Florida Statutes, as follows:

- (A) A felony of the third degree within offense level 1.
- (B) A felony of the second degree within offense level 4.
- (C) A felony of the first degree within offense level 7.
- (D) A felony of the first degree punishable by life within offense level 9.
- (E) A life felony within offense level 10.

An offense does not become unlisted and subject to the provisions of section 921.0023, Florida Statutes, because of a reclassification of the degree of felony pursuant to section 775.0845, section 775.087, section 775.0875 or section 794.023, Florida Statutes, or any other law that provides an enhanced penalty for a felony offense.

**OFFENSE SEVERITY RANKING CHART
AS OF JULY 1, 2006**

| Florida Statute | Felony Degree | Description |
|------------------------|----------------------|--|
| <u>784.021(1)(a)</u> | 3rd | Aggravated assault; deadly weapon without intent to kill. |
| <u>784.021(1)(b)</u> | 3rd | Aggravated assault; intent to commit felony. |
| <u>784.041</u> | 3rd | Felony battery. |
| <u>784.048(3)</u> | 3rd | Aggravated stalking; credible threat. |
| <u>784.048(5)</u> | 3rd | Aggravated stalking of person under 16. |
| <u>784.07(2)(c)</u> | 2nd | Aggravated assault on law enforcement officer. |
| <u>784.074(1)(b)</u> | 2nd | Aggravated assault on sexually violent predators facility staff. |
| <u>784.08(2)(b)</u> | 2nd | Aggravated assault on a person 65 years of age or older. |
| <u>784.081(2)</u> | 2nd | Aggravated assault on specified official or employee. |
| <u>784.082(2)</u> | 2nd | Aggravated assault by detained person on visitor or other detainee. |
| <u>784.083(2)</u> | 2nd | Aggravated assault on code inspector. |
| <u>787.02(2)</u> | 3rd | False imprisonment; restraining with purpose other than those in s. <u>787.01</u> . |
| <u>790.115(2)(d)</u> | 2nd | Discharging firearm or weapon on school property. |
| <u>790.161(2)</u> | 2nd | Make, possess, or throw destructive device with intent to do bodily harm or damage property. |
| <u>790.164(1)</u> | 2nd | False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property. |
| <u>790.19</u> | 2nd | Shooting or throwing deadly missiles into dwellings, vessels, or vehicles. |
| <u>794.011(8)(a)</u> | 3rd | Solicitation of minor to participate in sexual activity by custodial adult. |
| <u>794.05(1)</u> | 2nd | Unlawful sexual activity with specified minor. |
| <u>800.04(5)(d)</u> | 3rd | Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years. |
| <u>800.04(6)(b)</u> | 2nd | Lewd or lascivious conduct; offender 18 years of age or older. |
| <u>806.031(2)</u> | 2nd | Arson resulting in great bodily harm to firefighter or any other person. |
| <u>810.02(3)(c)</u> | 2nd | Burglary of occupied structure; unarmed; no assault or battery. |
| <u>812.014(2)(b)1.</u> | 2nd | Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree. |
| <u>812.015(9)</u> | 2nd | Retail theft; property stolen \$300 or more; second or subsequent conviction. |

**OFFENSE SEVERITY RANKING CHART
AS OF JULY 1, 2006**

| Florida Statute | Felony Degree | Description |
|-----------------------------|----------------------|---|
| <u>812.13(2)(c)</u> | 2nd | Robbery, no firearm or other weapon (strong-arm robbery). |
| <u>817.034(4)(a)1.</u> | 1st | Communications fraud, value greater than \$50,000. |
| <u>817.4821(5)</u> | 2nd | Possess cloning paraphernalia with intent to create cloned cellular telephones. |
| <u>825.102(1)</u> | 3rd | Abuse of an elderly person or disabled adult. |
| <u>825.102(3)(c)</u> | 3rd | Neglect of an elderly person or disabled adult. |
| <u>825.1025(3)</u> | 3rd | Lewd or lascivious molestation of an elderly person or disabled adult. |
| <u>825.103(2)(c)</u> | 3rd | Exploiting an elderly person or disabled adult and property is valued at less than \$20,000. |
| <u>827.03(1)</u> | 3rd | Abuse of a child. |
| <u>827.03(3)(c)</u> | 3rd | Neglect of a child. |
| <u>827.071(2) & (3)</u> | 2nd | Use or induce a child in a sexual performance, or promote or direct such performance. |
| <u>836.05</u> | 2nd | Threats; extortion. |
| <u>836.10</u> | 2nd | Written threats to kill or do bodily injury. |
| <u>843.12</u> | 3rd | Aids or assists person to escape. |
| <u>847.0135(2)</u> | 3rd | Facilitates sexual conduct of or with a minor or the visual depiction of such conduct. |
| <u>914.23</u> | 2nd | Retaliation against a witness, victim, or informant, with bodily injury. |
| <u>944.35(3)(a)2.</u> | 3rd | Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm. |
| <u>944.40</u> | 2nd | Escapes. |
| <u>944.46</u> | 3rd | Harboring, concealing, aiding escaped prisoners. |
| <u>944.47(1)(a)5.</u> | 2nd | Introduction of contraband (firearm, weapon, or explosive) into correctional facility. |
| <u>951.22(1)</u> | 3rd | Intoxicating drug, firearm, or weapon introduced into county facility. |
| | | (g) LEVEL 7 |
| <u>316.027(1)(b)</u> | 1st | Accident involving death, failure to stop; leaving scene. |
| <u>316.193(3)(c)2.</u> | 3 rd | DUI resulting in serious bodily injury. |

**OFFENSE SEVERITY RANKING CHART
AS OF JULY 1, 2006**

| Florida Statute | Felony Degree | Description |
|------------------------|----------------------|--|
| <u>316.1935(3)(b)</u> | 1st | Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated. |
| <u>327.35(3)(c)2.</u> | 3rd | Vessel BUI resulting in serious bodily injury. |
| <u>402.319(2)</u> | 2nd | Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death. |
| <u>409.920(2)</u> | 3rd | Medicaid provider fraud. |
| <u>456.065(2)</u> | 3rd | Practicing a health care profession without a license. |
| <u>456.065(2)</u> | 2nd | Practicing a health care profession without a license which results in serious bodily injury. |
| <u>458.327(1)</u> | 3rd | Practicing medicine without a license. |
| <u>459.013(1)</u> | 3rd | Practicing osteopathic medicine without a license. |
| <u>460.411(1)</u> | 3rd | Practicing chiropractic medicine without a license. |
| <u>461.012(1)</u> | 3rd | Practicing podiatric medicine without a license. |
| <u>462.17</u> | 3rd | Practicing naturopathy without a license. |
| <u>463.015(1)</u> | 3rd | Practicing optometry without a license. |
| <u>464.016(1)</u> | 3rd | Practicing nursing without a license. |
| <u>465.015(2)</u> | 3rd | Practicing pharmacy without a license. |
| <u>466.026(1)</u> | 3rd | Practicing dentistry or dental hygiene without a license. |
| <u>467.201</u> | 3rd | Practicing midwifery without a license. |
| <u>468.366</u> | 3rd | Delivering respiratory care services without a license. |
| <u>483.828(1)</u> | 3rd | Practicing as clinical laboratory personnel without a license. |
| <u>483.901(9)</u> | 3rd | Practicing medical physics without a license. |
| <u>484.013(1)(c)</u> | 3rd | Preparing or dispensing optical devices without a prescription. |
| <u>484.053</u> | 3rd | Dispensing hearing aids without a license. |
| <u>494.0018(2)</u> | 1st | Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims. |
| <u>560.123(8)(b)1.</u> | 3rd | Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter. |

**OFFENSE SEVERITY RANKING CHART
AS OF JULY 1, 2006**

| Florida Statute | Felony Degree | Description |
|------------------------|----------------------|--|
| <u>560.125(5)(a)</u> | 3rd | Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000. |
| <u>655.50(10)(b)1.</u> | 3rd | Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution. |
| <u>775.21(10)(a)</u> | 3rd | Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations. |
| <u>775.21(10)(b)</u> | 3rd | Sexual predator working where children regularly congregate. |
| <u>775.21(10)(g)</u> | 3rd | Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator. |
| <u>782.051(3)</u> | 2nd | Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony. |
| <u>782.07(1)</u> | 2nd | Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter). |
| <u>782.071</u> | 2nd | Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide). |
| <u>782.072</u> | 2nd | Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide). |
| <u>784.045(1)(a)1.</u> | 2nd | Aggravated battery; intentionally causing great bodily harm or disfigurement. |
| <u>784.045(1)(a)2.</u> | 2nd | Aggravated battery; using deadly weapon. |
| <u>784.045(1)(b)</u> | 2nd | Aggravated battery; perpetrator aware victim pregnant. |
| <u>784.048(4)</u> | 3rd | Aggravated stalking; violation of injunction or court order. |
| <u>784.048(7)</u> | 3rd | Aggravated stalking; violation of court order. |
| <u>784.07(2)(d)</u> | 1st | Aggravated battery on law enforcement officer. |
| <u>784.074(1)(a)</u> | 1st | Aggravated battery on sexually violent predators facility staff. |
| <u>784.08(2)(a)</u> | 1st | Aggravated battery on a person 65 years of age or older. |
| <u>784.081(1)</u> | 1st | Aggravated battery on specified official or employee. |
| <u>784.082(1)</u> | 1st | Aggravated battery by detained person on visitor or other detainee. |
| <u>784.083(1)</u> | 1st | Aggravated battery on code inspector. |
| <u>790.07(4)</u> | 1st | Specified weapons violation subsequent to previous conviction of s. <u>790.07(1)</u> or (2). |
| <u>790.16(1)</u> | 1st | Discharge of a machine gun under specified circumstances. |
| <u>790.165(2)</u> | 2nd | Manufacture, sell, possess, or deliver hoax bomb. |
| <u>790.165(3)</u> | 2nd | Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony. |

**OFFENSE SEVERITY RANKING CHART
AS OF JULY 1, 2006**

| Florida Statute | Felony Degree | Description |
|------------------------------------|----------------------|--|
| <u>790.166(3)</u> | 2nd | Possessing, selling, using, or attempting to use a hoax weapon of mass destruction. |
| <u>790.166(4)</u> | 2nd | Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony. |
| <u>796.03</u> | 2nd | Procuring any person under 16 years for prostitution. |
| <u>800.04(5)(c)1.</u> | 2nd | Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years. |
| <u>800.04(5)(c)2.</u> | 2nd | Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older. |
| <u>806.01(2)</u> | 2nd | Maliciously damage structure by fire or explosive. |
| <u>810.02(3)(a)</u> | 2nd | Burglary of occupied dwelling; unarmed; no assault or battery. |
| <u>810.02(3)(b)</u> | 2nd | Burglary of unoccupied dwelling; unarmed; no assault or battery. |
| <u>810.02(3)(d)</u> | 2nd | Burglary of occupied conveyance; unarmed; no assault or battery. |
| <u>812.014(2)(a)1.</u> | 1st | Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft. |
| <u>812.014(2)(b)2.</u> | 2nd | Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree. |
| <u>812.014(2)(b)3.</u> | 2nd | Property stolen, emergency medical equipment; 2nd degree grand theft. |
| <u>812.0145(2)(a)</u> | 1st | Theft from person 65 years of age or older; \$50,000 or more. |
| <u>812.019(2)</u> | 1st | Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property. |
| <u>812.131(2)(a)</u> | 2nd | Robbery by sudden snatching. |
| <u>812.133(2)(b)</u> | 1st | Carjacking; no firearm, deadly weapon, or other weapon. |
| <u>817.234(8)(a)</u> | 2nd | Solicitation of motor vehicle accident victims with intent to defraud. |
| <u>817.234(9)</u> | 2nd | Organizing, planning, or participating in an intentional motor vehicle collision. |
| <u>817.234(11)(c)</u> | 1st | Insurance fraud; property value \$100,000 or more. |
| <u>817.2341(2)(b) & (3)(b)</u> | 1st | Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity. |
| <u>825.102(3)(b)</u> | 2nd | Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement. |
| <u>825.103(2)(b)</u> | 2nd | Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000. |
| <u>827.03(3)(b)</u> | 2nd | Neglect of a child causing great bodily harm, disability, or disfigurement. |

| STATUTE | SECTION | CODE | OFFENSE TYPE | ASI DESCRIPTION | GUIDELINE LEVEL | LEVEL EFFECTIVE (YYYYMM) | FELONY DEGREE |
|----------|-------------|------|------------------------|----------------------------------|-----------------|--------------------------|---------------|
| 443.071 | (1) | 2615 | FRAUD: BUSINESS | FRAUD-TO INCREASE BENEFITS | 1 | 199401 | 3 |
| 812.13 | (2)(B) | 1213 | ROBBERY | ROBB. WPN - NOT DEADLY | 8 | 199401 | 1 |
| 782.04 | (2) | 0914 | HOMICIDE | 2ND DEG MURD, DANGEROUS ACT | 10 | 199401 | P |
| 316.1935 | (3) | 4921 | OBSTRUCTING | FLEE LEO/HISPEED, NO REGARD | 4 | 199810 | 2 |
| 800.04 | (5)(B) | 3622 | SEXUAL BATTERY | L/L MOLEST <12 OFF 18+ | 9 | 199910 | L |
| 893.13 | (1)(A)1 | 9430 | DRUG DEALING | S/M/D METH | 5 | 200010 | 2 |
| 800.04 | (4)(A) | 3640 | SEXUAL BATTERY | L/L BATT. SEX W/ <12-15 | 8 | 199910 | 2 |
| 316.1935 | (4)(A) | 4926 | OBSTRUCTING | AGG. FLEE/ELUDE LEO | 5 | 200407 | 2 |
| 796.07 | (4)(C) | 4008 | PROSTITUTION | PROSTITUTION - 3 RD CONV. | 1 | 200207 | 3 |
| 784.08 | (2)(C) | 1334 | BATTERY | BATTERY UPON PERSON 65/OLDER | 4 | 199510 | 3 |
| 784.048 | (4) | 1342 | ASSAULT | AGG.STALK - VIOL. COURT ORDER | 7 | 199510 | 3 |
| 784.07 | (2)(C) | 1328 | ASSAULT | AGG.ASSLT/L.EO/FIREFGT/EMS/ETC. | 6 | 199401 | 2 |
| 316.193 | (3)(C)2 | 5404 | DRUNK DRIVING: VEHICLE | DUI, CAUSE SERIOUS BODILY INJURY | 7 | 199401 | 3 |
| 893.135 | (1)(C)1a | 9571 | DRUG TRAFFICKING | TRAFF HER., ETC. 4-U/14 GR | 7 | 199401 | 1 |
| 810.02 | (3)(C) | 2210 | BURGLARY | BURGN/ASSLT/OCC.STRUCT. | 6 | 199401 | 2 |
| 914.22 | (1)(A OR F) | 8501 | COURT PROCESS | INTIMIDATE WITNESS | 4 | 199510 | 3 |
| 800.04 | (5)(C)2 | 3624 | SEXUAL BATTERY | L/L MOLEST <12-15 OFF 18+ | 7 | 199910 | 2 |
| 825.103 | (2)(C) | 3832 | ABUSE: ELDER | EXPL ELDER/DISABLD LT \$20K | 6 | 199507 | 3 |
| 893.13 | (2)(A)2 | 9524 | DRUG PURCHASE | MARIJUANA-PUR/POSS W/INT PUR | 1 | 199401 | 3 |
| 794.011 | (5) | 1129 | MAYHEM | SEX BAT/INJURY NOT LIKELY | 8 | 199401 | 2 |
| 784.048 | (3) | 1341 | ASSAULT | AGG. STALK-CREDIBLE THREAT | 6 | 199510 | 3 |
| 800.04 | (6)(B) | 3626 | LEWDNESS | L/L CONDUCT <16 OFF 18+ | 6 | 199910 | 2 |
| 539.001 | (8)(B)8A | 6252 | FRAUD: BUSINESS | FALS INF. TO PWNBRKR<\$300 | 1 | 199801 | 3 |
| 893.13 | (6)(A) | 9532 | DRUG POSSESSION | OPIUM-POSS LESS/10 GRAMS | 3 | 199510 | 3 |
| 893.135 | (1)(K)1A | 9448 | DRUG TRAFFICKING | TRAFF. MDMA, PHEN 10-U/200 GR | 7 | 200010 | 1 |
| 893.13 | (1)(A)2 | 9513 | DRUG DEALING | OTH DRUG-SALE/MANUF/DELIV | 3 | 199401 | 3 |
| 800.04 | | 3601 | LEWDNESS | L/L, INDEC. ASLT CHILD U/16 | 7 | 199401 | 2 |
| 893.13 | (6)(A) | 9447 | DRUG POSSESSION | POSSESS MDMA | 3 | 200010 | 3 |
| 893.13 | (1)(A)1 | 9510 | DRUG DEALING | HEROIN-SALE, MANUF/DELIVER | 5 | 199401 | 2 |
| 316.193 | (3)(C)3 | 8821 | DRUNK DRIVING: VEHICLE | DUI, MANSLAUGHTER | 8 | 199401 | 2 |
| 794.05 | (1) | 1137 | LEWDNESS | ADLT SEX W/16-17 YR OLD | 6 | 199610 | 2 |
| 316.1935 | (4) | 4922 | OBSTRUCTING | AGG.FLEE/ELUDE LEO | 5 | 199810 | 2 |
| 777.03 | (2)(B-C) | 7396 | ACCESSORY | ACCESSORY AFT. FACT-OTHER | 98 | 199510 | 2 |