

DEPARTURE SENTENCES

AGGRAVATING FACTORS: OAR 213-008-0002(1)(b)

1) Deliberate cruelty; 2) Vulnerable victim; 3) Threat of actual violence
4) Persistent involvement unrelated to current crime; 5) Use of a
weapon 6) Violation of public trust or professional responsibility; 7)
Multiple victims or incidents - unrelated to current crime; 8) Organized
criminal operation; 9) Permanent injury to the victim; 10) Harm or loss
significantly greater than typical; 11) Motivated entirely or in part by
the race, color, national origin or sexual orientation of the victim.

MITIGATING FACTORS: OAR 213-008-0002(1)(a)

1) Victim was an aggressor or participant in criminal conduct; 2)
Defendant acted under duress or compulsion; 3) Diminished mental
capacity (excluding drugs or alcohol); 4) Offense principally
accomplished by another and defendant exhibited extreme caution or
concern for victim; 5) Offender played a minor or passive role; 6)
Offender cooperated with the state; 7) Degree of harm or loss
attributed to the current crime of conviction was significantly less than
typical; 8) Offender conviction free for a significant period of time; 9)
Same as optional probation criteria.

Repeat Property Offenders – ORS 137.717*

	Offenses	Criteria
19	Burglary in the First Degree USE EITHER "A" OR "B"	A: Prior Burglary I, Robbery I, Robbery 2 B: 4 or more from bottom box.
13	UUMV, Poss Stolen Mot Veh, Trafficking Stolen Mot Veh USE EITHER "B" or "C"	C: Prior UUMV, Robbery 2, Robbery 1, Poss Stolen Vehicle, Traf. Stolen Vehicle
13	Theft I, Aggravated Theft I, Burglary II, Crim. Mischief I USE EITHER "B" or "D"	D: Prior UUMV, Burglary I, Robbery 2, Robbery 1, Poss Stolen Motor Vehicle, Trafficking Stolen Motor Vehicle
13	Identity Theft USE "E"	E: Prior ID Theft, Forg I, Poss Forg Inst I, FUCC (felony), Computer Crime OR four priors for Forg II, Poss Forg Inst II, FUCC (misdo)
Theft I; Theft II; Agg Theft I; UUMV; Burglary I; Burglary II; Criminal Mischief; Poss Stolen Vehicle; Trafficking Stolen Vehicles * After July 1, 2003, ORS 137.717 changes significantly. See statute.		

OPTIONAL PROBATION OAR 213-005-0006

If person is classified in GB 8 G,H or I the court may impose optional probation upon making following specific findings on the record: 1) An appropriate treatment program is likely to be more effective than presumptive prison term in reducing the risk of offender recidivism; 2) The recommended treatment program is available and the offender can be admitted to it within a reasonable period of time; and 3) The probationary sentence will serve community safety interests by promoting offender reformation.

This option is not available if: 1) A firearm was used in the commission of the offense; or 2) if the offender was under supervision for a felony, or juvenile felony adjudication; or 3) for UMCS/meth (substantial quantity).

DETERMINATE SENTENCES ORS 137.635-7

If a person is convicted of Murder, Manslaughter I, Assault I, Kidnapping I, Rape I, Sodomy I, Unlawful Sexual Penetration I, Burglary I, Arson I, or Robbery I, and has been convicted of any one of the above named crimes, then the defendant must receive a determinate sentence to the Department of Corrections, the length of which the court must set, and the defendant is not eligible for probation. Gridblock numbers for CS7 Crimes (Burglary I) are as follows: 7I (11-12), 7H (12-13), 7G (13-14), 7F (14-15).

(Note: Judge must indicate that sentence is a 137.635 sentence in the sentence order)

CRIME CATEGORIES

(CS=CRIME SERIOUSNESS)

Abandonment of Child: CS7 if child placed in immediate danger by defendant's conduct; otherwise CS3. **Aggravated Theft I:** CS6 if value of property if \$50,000+; otherwise CS5. **Arson I:** CS10 if offense represented threat of serious physical injury; CS9 w/\$50,000+ and no threat of serious physical injury; CS8 if \$25K+ and no threat of serious physical injury; otherwise C7. **Assault I:** CS10 if victim did not substantially contribute to the commission of offense by precipitating the crime; otherwise CS9. **Burglary:** CS9 if armed with deadly weapon; or caused/threatened/attempted serious physical injury to victim; CS8 if dwelling occupied; otherwise CS7. **Buying or Selling Custody of a Minor:** CS8 if conduct likely to endanger the health or welfare of child; otherwise CS5. **Cause Another to Ingest C.S.:** With intent to commit/facilitate crime of violence CS9; otherwise CS8. **Coercion:** CS7 if defendant threatened physical injury; otherwise CS6. **Distribute C.S. to Minor:** If offender more than 3 years older CS8; otherwise per drug chart. **Hit & run:** If death or serious injury CS8; otherwise CS6. **Incest:** If one of participants is less than 18 CS6; otherwise CS1. **Inmate Possess Weapon:** CS8 if firearm; otherwise CS7. **Possess Body Armor (166.643):** Violent person crime CS6; otherwise CS4. **Rape /Sodomy I /Sexual Penetration I:** CS10 if any of the following: 1) offender used or threatened use of weapon; 2) offender caused/threatened serious physical injury; 3) victim under 12; 4) victim incapable of consent because of mental defect, incapacitation, physical helplessness; otherwise CS 9. **Stalking:** 1st conviction = A misdo; 2nd conviction CS8. **Supplying Contraband:** CS7 if firearm; CS6 if dangerous weapon; CS5 if controlled substance; otherwise CS4. **Theft By Extortion:** CS7 if defendant threatened physical injury; otherwise property crime. **Trafficking In Stolen Vehicles:** CS6 if any of the following: a) organized operation; or b) value of property \$50,000+; otherwise CS5. **Tree Spiking:** CS8 if spiking results in serious physical injury to someone; otherwise CS 6. **Unlaw. Administ. of C.S.:** Schedule I or II CS9; schedule III CS8; schedule IV, CS5. **Use Minor Drug Offense:** CS8 if offender more than 3 years older than minor; otherwise CS4.

Property Offenses – Crime Seriousness

	Pers use motor veh	Other property crimes
6		\$50,000+; CM I of police animal
5		\$10,000+; organized theft by rec.
4	\$10,000+	\$5,000+
3	\$1,000+	\$1000+; All other theft by rec.
2		less than \$1,000

Controlled Substances Substantial Quantities 475.996(1)(a)

COCAINE/METH - 10 gr; MARIJUANA - 150 gr; HASHISH - 100 gr
HEROIN - 5 gr; PSILOCYCN/PSILOCYBIN - 60 gr; LSD - 200 units

Commercial Drug Offense Factors 475.996(1)(b)

ANY THREE OR MORE OF THE FOLLOWING:

- a) for consideration
- b) possession \$300+ cash
- c) weapon use/or ex-con in poss
- d) packaging materials
- e) drug records
- f) 3 gr. heroin, 8 gr. cocaine/meth/hash, 110 gr. marijuana, 10 gr. psilocybin/psilocyn, 20 units LSD
- g) stolen property
- h) modification of structure
- i) manufacturing paraphernalia
- j) public lands for UMCS
- k) dangerous security

UPCS/UDCS/UMCS – Crime Seriousness

8	UDCS/UMCS substantial quantity UMCS/UDCS/UPCS commercial drug offense
6	UDCS cocaine, meth, heroin, ecstasy for consid UPCS precursor, sub. w/intent to manufacture UPCS substantial quantity
4	All other UMCS/UDCS
1	All other UPCS

Sentencing grid available from Lane County District Attorney's Office,
125 E. 8th Avenue, Eugene, OR 97401 (541) 682-4261

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Grid date: June, 2002