



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET**

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TO: Judge William Carpenter, Chair
SENTAC

FROM: Jack O'Connell, Director
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SUBJ: Felony C Sentencing Patterns 2004

Attached are analyses that summarize the 2004 Superior Court sentencing patterns for Felony C cases. A Felony C case includes a Superior Court conviction that contains at least one Felony C charge as part of the case. If there is more than one Felony C charge in a case, the most serious charge is used to define it. In 2004, there were a total of 431 Felony C convictions.

Of these, 386 of the Felony C convictions were sentences where both the SENTAC guidelines and Truth-in-Sentencing were applied. The presumptive SENTAC sentence for a Felony C conviction is Level V term up to 30 months. Truth in Sentencing requires that at least 75 percent of the Level V term actually be served. Credit for time served in detention prior to sentencing for charges of conviction is accounted for and recorded as Level V time.

There were also 45 "addiction" sentences. While an "addiction sentence" complies with the Felony C SENTAC Level V presumptive sentencing, it does not require the Truth in Sentencing 75 percent time served. These sentences allow for the suspension of the Level V sentence on successful completion of the Department of Correction's prison treatment or the boot camp program

Of the 431 Felony C convictions, 74.5 percent received at least some Level V time including credit for time served sentences.



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SENTAC Sentencing Patterns Felony C Convictions 2004

Based on the Sentence for the Most Serious Felony C Charge in a Case

SENTAC/Truth in Sentencing Totals							
<u>Level V Prison</u>	<u>Level V Jail</u>	<u>Level V Deferred</u>	<u>Level IV</u>	<u>Level III</u>	<u>Level II</u>	<u>Level I</u>	<u>Totals</u>
75	201	2	43	61	4	0	386

Average Level V Prison Sentence Time for Felony C Convictions = 38.85 Months

Average Level V Jail Sentence Time for Felony C Convictions = 4.17 Months

Average Level V Jail and Prison SENTAC/TIS Sentence Time for Felony C Convictions = 13.6 months

Addiction Sentence Totals							
<u>Level V Prison</u>	<u>Level V Boot Camp</u>	<u>Level V Jail</u>	<u>Level IV</u>	<u>Level III</u>	<u>Level II</u>	<u>Level I</u>	<u>Totals</u>
23	22	0	0	0	0	0	45

Average Level V Prison Addiction Sentence = 75.13 Months

Average Level V Boot Camp Sentence Excluding Indefinite Sentences = 81 Months

Judicial Decision to Incarcerate (JDI Rate) for SENTAC/TIS and Addiction Sentences = 74.5%

**2004 Sentencing for Felony C: Level I Probation to Level V Prison
Most Serious Statute in a Case: By Statute and Level of Sentencing
Sentenced with "Time Served" Counted as Level V**

	Violent Felony C Sentences										Non Violent Felony C Sentences					
Title	11	11	11	11	11	11	11	11	11	11	16	11	11	11		
Section	0531 FC ²	613 FC ³	770 FC	773 FC ⁴	783 FC	803 FC	826 FC ⁵	836 FC	1112AFC	1647510FC	913AFC	841 FC	1458 FC			
SENTAC Levels	Att Fel C	Asslt 1st	Rape 4th	USI 3rd	Kidnap 2nd	Arson 1st	Burg 1st	Carjack 1st	SexSolChild	PWITD Narc	HlthCFraud	Theft>\$100k	RemFirearm	Total	% of Total	
Totals	1	2	52	2	4	4	4	1	6	348	2	4	1	431	100.0%	
Level I														0	0.0%	
Level II					1					3				4	0.9%	
Level III			2			1				58				61	14.2%	
Level IV Other			3		1					36	1			41	9.5%	
Level IV VOP Cent										2				2	0.5%	
Level V Deferred ⁷										2				2	0.5%	
Level V Boot Camp										22				22	5.1%	
Level V Prison Addiction	1		2							20				23	5.3%	
Level V Jail			34	1	2	1		1	4	153	1	3	1	201	46.6%	
Level V Prison		2	11	1		2	4		2	52		1		75	17.4%	
Total Level V	1	2	47	2	2	3	4	1	6	247	1	4	1	321		
% of Total	0.3%	0.6%	14.6%	0.6%	0.6%	0.9%	1.2%	0.3%	1.9%	76.9%	0.3%	1.2%	0.3%			

* Felony C Sentences have a 'Presumptive Sentence' of zero to thirty Months at Level V for a Violent Felony and zero to one Year at Level V for any Non Violent Felony.

¹ Time Served Only in Tables 1 and 2 refer to two Sentences that were suspended for 'Time Served' with no Probation to follow. In Table 2 these two Sentences were counted as Level V Jail.

² This Attempted Felony C Crime was pled from a Robbery 1st charge, but the LIO was not identified more specifically than an Attempted Felony C.

³ These Assault 1st Crimes were pled from Attempted Murder 1st. The Assault 1st Statute changed June 29, 2003 from a Felony C to a Felony B.

⁴ These Unlawful Sexual Intercourse 3rd Crimes occurred before September 8, 1998 when this Statute was retired.

⁵ Burglary 1st has a two year mandatory as of July 2003 when House Bill 210 was enacted.

⁶ Possession With Intent To Deliver a Narcotic has a Minimum Mandatory for "Repeat Offenders" of 3 years except for Heroin which is 5 years as of July 2003 when House Bill 210 was enacted.

⁷ Level V Deferred refers to Sentences where the defendant was Sentenced to Level V with an effective date set later than the Sentence Date with a Review of Sentence scheduled before the effective date.

In both cases the defendants were re-sentenced for VOP's prior the theLevel V Effective Date.

**2004 Sentencing for Felony C: Prison
Most Serious Statute in a Case: By Statute and Time for Level V SENTAC/TIS Sentences
Sentenced with "Time Served" Counted as Level V**

Prison Sentences: Terms Greater than One Year														
Title	11	11	11	11	11	11	11	11	11	11	11	16		
Section	613FC ³	7700FC	7730FC	7830FC	803FC	826FC ¹	836FC	841FC	1112AFC	1458FC	913AFC	4751FC		
Months	Asslt 1st	Rape 4th	USI 3rd	Kidnap 2nd	Arson 1st	Burg 1st	Carjack 1st	Theft>\$100K	Sex Sol Child	Rem Firearm	Health C Fraud	PWITD Narc	Total	% of Total
15.00					1							2	3	4.0%
17.00												1	1	1.3%
18.00		4										11	15	20.0%
20.00		1											1	1.3%
24.00		1				3						6	10	13.3%
30.00		1			1							3	5	6.7%
36.00								1	1			17	19	25.3%
48.00	1	1										2	4	5.3%
60.00		1	1									8	10	13.3%
72.00												1	1	1.3%
84.00	1											1	2	2.7%
96.00						1							1	1.3%
120.00		2							1				3	4.0%
Total	2	11	1	0	2	4	0	1	2	0	0	52	75	100.0%
% of Total	2.7%	14.7%	1.3%	0.0%	2.7%	5.3%	0.0%	1.3%	2.7%	0.0%	0.0%	69.3%	100.0%	

Average Level V Prison Sentence Time for = 38.85 Months

Average Level V Jail and Prison Non-Addiction Sentence Time = 13.6 Months

¹ Burglary 1st has a two year mandatory as of July 2003 when House Bill 210 was enacted.

² Possession With Intent To Deliver a Narcotic has a Minimum Mandatory for "Repeat Offenders" of 3 years except for Heroin which is 5 years as of July 2003 when House Bill 210 was enacted.

³ Assault 1st was retired on June 29, 2003.

**2004 Sentencing for Felony C: Jail
Most Serious Statute in a Case: By Statute and Time for Level V SENTAC/TIS Sentences
Sentenced with "Time Served" Counted as Level V**

Jail Sentences: Up to One Year Level V														
Title	11	11	11	11	11	11	11	11	11	11	11	16		
Section	613 FC	770 FC	773 FC	783 FC	803 FC	826 FC	836 FC	841 FC	1112AFC	1458 FC	913AFC	4751FC		
Months	Asslt 1st	Rape 4th	USI 3rd	Kidnap2nd	Arson 1st	Burg 1st	Carjack1st	Theft>\$100K	SexSolChild	RemFirearm	HealthFraud	PWITD Narc	Total	% of Total
0.0-0.99		10									1	51	62	30.8%
1.0-1.99		4										18	22	10.9%
2.0-2.99		5										13	18	9.0%
3.0-3.99		1										9	10	5.0%
4.0-4.99		1						1	1			9	12	6.0%
5.0-5.99		2										7	9	4.5%
6.0-6.99		2		2					1			27	32	15.9%
7.0-7.99													0	0.0%
8.0-8.99		1											1	0.5%
9.0-9.99		4										3	7	3.5%
10.0-10.99		1										1	2	1.0%
11-11.99												1	1	0.5%
12.00		3	1		1		1	2	2	1		14	25	12.4%
Total	0	34	1	2	1	0	1	3	4	1	1	153	201	100.0%
% of Total	0.0%	16.9%	0.5%	1.0%	0.5%	0.0%	0.5%	1.5%	2.0%	0.5%	0.5%	76.1%	100.0%	

Average Level V Jail Sentence Time = 4.17 Months

Average Level V Non-Addiction Sentence Time = 13.6 Months

2004 Sentencing for Felony C

Most Serious Statute in a Case: By Statute and Time for Level V Addiction and Boot Camp Sentences Sentenced with "Time Served" Counted as Level V: Suspended Upon Successful Program Completion

Prison Addiction Sentence						Boot Camp Addiction Sentence			
Title	11	11	16			Title	16		
Section	531 FC	770 FC	4751 FC			Section	4751 FC		
Months	Att Fel C	Rape 4th	PWITD Narc	Total	% of Total	Months	PWITD Narc	Total	% of Total
18			1	1	4.3%	12	1	1	4.5%
36			1	1	4.3%	18	1	1	4.5%
48			3	3	13.0%	24	4	4	18.2%
60	1		9	10	43.5%	30	3	3	13.6%
66			1	1	4.3%	36	7	7	31.8%
72			2	2	8.7%	42	1	1	4.5%
84			1	1	4.3%	60	2	2	9.1%
96		1		1	4.3%	72	1	1	4.5%
180		1	2	3	13.0%	Indefinite	2	2	9.1%
Total	1	2	20	23	100.0%	Total	22	22	100.0%
% of Total	4.3%	8.7%	87.0%	100.0%		% of Total	100.0%	100.0%	

Average length of sentence that can be suspended upon successful completion of a Judge Approved Program = 75.13 Months
 Level V DOC addiction programs tend to last 9 to 14 months.

Average Length of Sentence that can be suspended upon successful completion of Boot Camp excluding Indefinite = 81 Months
 Boot Camp is a 6 month Level V Program.

2004 Felony C Most Serious Offense Summary

- Statutory Range
 - According to DE Title 11 Section 4205 Felony C Sentences have the following Statutory Range:
 - Prior to June 2003- Up to 10 years at Level V
 - After June 2003 through the present- Up to 15 years at Level V
- Statutory Minimum Mandatory Sentences
 - According to the 2004-2005 Delaware Criminal and Traffic Law Manual there are only two Felony C Statutes with minimum mandatory sentences:
 - DE Title 11 Section 0826 Burglary in the first degree- Subsection (b)(1) A two year minimum mandatory sentence at Level V, or Subsection (b)(2) a four year minimum mandatory sentence if the crime occurs within five years of the date of a previous conviction for Burglary first or second degree or if the conviction is for an offense that was committed within five years of the date of termination of all periods of incarceration or confinement imposed pursuant to a previous conviction for Burglary first or second degree conviction. Any sentence imposed pursuant to subsection (b)(2) shall not be subject to the provisions of DE Title 11 Section 4205 of this title. Sentencing provisions apply to Attempted Burglary in the first degree as well as Burglary in the first degree.
 - DE Title 16 Section 4751 PWITD Narcotics- When referencing DE Title 16 Section 4763 (Repeat Drug Sales) PWITD Narcotics has a Minimum Mandatory of three years and a maximum of five years for Repeat Drug Sale Offenses except for Possession of Heroin, which has a minimum mandatory of five years and a maximum of 10 years for Repeat Drug Sale Offenses.
- SENTAC Presumptive Sentencing Guidelines
 - The Presumptive Sentence for a Violent Felony C is up to 30 Months at Level V (as of 6/2003, statutory maximum is now 15 years at Level V. Prior to 6/2003 the statutory maximum was 10 years at Level V).
 - The Presumptive Sentence for a Non Violent Felony C is up to One Year at Level V.