





# Massachusetts Police Institute

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AN OVERVIEW OF SENTENCING

NCJRS

AND

JUN 12 1980

PAROLE IN MASSACHUSETTS

ACQUISITIONS

Many police chiefs, as well as many lawyers and judges, are relatively unfamiliar with the area of criminal sentencing and parole. This discussion will attempt to provide you with a general background of criminal sentencing in the district and superior courts and the effect that parole has on those sentences.

Sentences to the State Prison

A judge who sentences a defendant to the state prison may not set a definite term of imprisonment such as 5 or 10 years. Rather, he must set a minimum and a maximum term of imprisonment. The minimum term must not be less than 2½ years, and the maximum must not be longer than the longest term fixed by law for the punishment of the crime of which the defendant has been convicted. The only exceptions to this minimum-maximum rule are for life sentences and for "habitual criminal" sentences.

Sentences to MCI Concord

Any male who has not previously been convicted for a felony more than three times and who is convicted of a crime punishable by imprisonment in any correctional institution, including jails and houses of correction, may be sentenced to MCI Concord for an indefinite term. As opposed to state prison sentences, the judge, in sentencing a defendant to MCI Concord, does not set a minimum-maximum term. He does, however, set a maximum term if the sentence is to exceed 2½ years.

If the defendant is convicted of a felony, he cannot be held longer than 2½ years unless sentenced for a longer term. If the defendant is convicted of larceny of property of a value not exceeding one hundred dollars, he cannot be held

longer than 2 years. For the conviction of any other offense, the defendant cannot be held for more than the maximum term fixed by law.

#### Sentences to MCI Framingham

Any female convicted of a crime which is punishable by imprisonment may be sentenced to MCI Framingham. The judge will not prescribe the limit of the sentence unless it is to be for more than 2½ years.

If a female is convicted for any felony, except adultery and lewd and lascivious cohabitation, she cannot be imprisoned for more than 2½ years unless she is sentenced for a longer term. If she is convicted of larceny of property of a value not exceeding one hundred dollars, or of adultery or lewd and lascivious cohabitation, she may not be held for more than 2 years. For the conviction of any other offense, she cannot be held for more than the maximum term fixed by law.

#### Habitual Criminals

There are special sentencing provisions for habitual criminals. Habitual criminals are defined as persons who have previously been convicted of two or more felonies in Massachusetts, or one in Massachusetts and one in another state, and have been sentenced and committed on each conviction for a term of not less than three years. An habitual criminal must be sentenced to the maximum term allowed by statute for the crime of which he is convicted.

#### Sexually Dangerous and Drug Dependent Persons

There are also special statutory procedures for dealing with drug dependent or sexually dangerous offenders. In general, a defendant found to be sexually dangerous may be sentenced to the treatment center at Bridgewater for a period from one day to life.

A defendant with drug use history may request an examination for drug dependency. If he is found to be drug dependent, the court may, in its discretion, assign him to a drug treatment facility. If he is so assigned, his prosecution is stayed. Upon successful completion of the drug treatment program, the charges against the defendant are dismissed.

#### Parole from Jails and Houses of Correction

If a defendant is sentenced by a district court to less than twelve months in a jail or house of correction then he may be paroled by the County Commissioners or, in Suffolk

County, by the Penal Institutions Commissioner for Boston, upon the recommendation of the probation officer and the sentencing court. If the sentence is not more than six months then he may be paroled at any time. If the sentence is more than six months but less than twelve months then he may be paroled after serving one half his sentence. Any sentence of four months or more may be shortened by deductions for good conduct. Any sentence of thirty days or more may be reduced by blood donations.

If a defendant is sentenced by a district court to a jail or house of correction for one year or more or to several sentences that, in the aggregate, are more than one year, or if he is sentenced to a jail or house of correction for any term by a superior court then he is under the jurisdiction of the Parole Board. The rules of the Parole Board provide that an inmate is eligible for parole when he has served one half of his sentence minus any deductions.

#### Parole from State Correctional Institutions

The Parole Board has jurisdiction for the issuance of parole permits to prisoners in the correctional institutions of the Commonwealth or transferred therefrom to jails or houses of correction. The rules of the Parole Board regarding MCI Concord and MCI Framingham inmates are: For individuals committed for a term of less than six years, eligibility for parole is six months if there are no prior commitments, and one year if there are prior commitments. For an individual committed for a term of more than six years and less than twelve years, eligibility is one year if no prior commitments, and eighteen months if there are prior commitments. For each sentence increment of six years, parole eligibility is correspondingly set ahead six months.

If a defendant is sentenced to a state prison then he is eligible for parole after serving a third of his minimum sentence, but this cannot be less than one year. Defendants sentenced as habitual criminals are eligible for parole within sixty days of serving one half of their maximum sentence. Persons convicted of committing a new crime while on parole, or of certain crimes of violence (see Appendix A) are not eligible for parole until serving two years or two thirds of their minimum sentence, whichever is longer. Defendants who are sentenced to life sentences may be eligible for parole after serving 15 years with the consent of a majority of the Parole Board. There is no parole for defendants convicted of first degree murder, or defendants sentenced to Bridgewater.

#### Work Release and Furlough

Prisoners in state institutions, except those convicted of certain specified crimes, may be permitted to leave the

prison on work release within 18 months of their parole eligibility date. There is also a provision for work release in county jails and houses of correction. In addition, an inmate may be temporarily released on furlough for up to fourteen days per year, but not more than seven days at one time.

#### Reduction of Sentences

There are four ways in which a sentence of imprisonment may be reduced. First, a sentence may be reduced by the number of days spent in confinement while awaiting trial. Second, a sentence of thirty days or more can be reduced by five days, from the minimum sentence, for each pint of blood donated by the inmate. Third, a sentence can be reduced by good conduct, deductions coming from the maximum term. (see Appendix B) Finally, a sentence can be reduced by two and a half days for each month for good conduct while engaged in certain work and educational programs.

APPENDIX A

Crimes involving sex or violence for which two thirds of the minimum sentence must be served.

A. The following sections of Chapter 265:

- s. 13 Manslaughter
- s. 13B Indecent Assault and Battery on child under 14
- s. 14 Mayhem
- s. 15 Assault with Intent to Murder
- s. 15A Assault and Battery by Means of a Dangerous Weapon
- s. 15B Assault with a Dangerous Weapon
- s. 16 Attempt to Commit Murder
- s. 17 Armed with Dangerous Weapon, Assault to Rob, With Intent to Kill or Maim
- s. 18 Assault with Intent to Rob, Being Armed
- s. 18A Armed with Dangerous Weapon Entering Dwelling House and Assault
- s. 19 Robbery, Not Being Armed
- s. 20 Assault with Intent to Rob, Not Armed
- s. 21 Confining or Putting in Fear
- s. 22 Rape
- s. 22A Rape of Female under 16 by Force or Against Her Will
- s. 23 Carnal Abuse
- s. 24 Assault with Intent to Commit Rape
- s. 24B Assault of Child Under 16 with Intent to Commit Rape

APPENDIX A (Cont'd.)

s. 25 Attempt to Extort Money by Threat

s. 26 Kidnapping

B. The following sections of Chapter 272:

s. 17 Incest

s. 35 Unnatural and Lascivious Act

s. 35A Unnatural and Lascivious Act with  
Child Under 16

APPENDIX B

GOOD CONDUCT DEDUCTIONS

Maximum Sentence	Deductions - days per month
at least 4 months, less than 1 year	2½
at least 1 year, less than 2 years	5
at least 2 years, less than 3 years	7½
at least 3 years, less than 4 years	10
4 years or more	12½



**END**