

DRUG CASE?
P.L. § 220, 221
1/13/05

NO

SEX CASE?
P.L. § 60.13
(Article 130,
230.26, 255.26,
255.27 or felony
conspiracy or
attempt of those)
4/13/07

NO

**Client a
PREDICATE?**
(convicted of
FELONY w/in past
10 yrs excluding
jail/prison time)?
P.L. § 70.06

YES

Is THIS case
VIOLENT?

YES

Is PRIOR felony VIOLENT?

YES

LIST of VFOs (P.L. § 70.02)

DETERMINE SENTENCE – 6 month increments; Release date 5/7 of Max (if qualify for Merit Time), then PRS (P.L. § 70.70)

	E Min/Max	D Min/Max	C Min/Max	B (& School)	A-II Min/Max	A-I Min/Max
1 st Offense	1* / 1 ½	1* / 2 ½	1* / 5 ½	1* / 9 (Willard)	3 / 10 (life prob)	8 / 20
NV Pred	1.5**/ 2	1.5**/ 4	1.5**/ 8	2 / 12 (life prob)	6 / 14 (life prob)	12 / 24
Viol Pred	2***/ 2.5	2.5***/ 4.5	3.5***/ 9	6***/ 15	8 / 17	15 / 30

* 1st offense E - B (Except Sale to Child) = Prob, CD, Split, Definite, YO, SHOCK, or Diversion; ** E - C NV Pred = Prob, CD, Split, Definite, SHOCK (also B NV pred) or Willard; *** E - C Viol Pred = Diversion w/DA consent (C.P.L. §216.00(1)) & limited SHOCK (no prior upstate); CASAT ok for all offenses (E - C A-I & preds). Note: No YO & straight CD; must include jail or CS (P.L. § 60.02(2))

PRS – Negotiable (P.L. § 70.45(2)(a)-(d))

1 st Offense	1	1	1-2	1-2	5	5
Pred	1/2	1/2	1.5/3	1.5/3	5	5

DETERMINE SENTENCE – 6 month increments; Release date 6/7 of Max, then PRS (P.L. § 70.80)

	E Min/Max	D Min/Max	C Min/Max	B Min/Max	A-II (Predatory Sex Assault Offenses)
1 st Offense	1.5* / 4	2* / 7	3.5 / 15	5 / 25	Indet. 10 - life
NV Pred	2 / 4	3 / 7	5 / 15	8 / 25	Indet. 10 - life
Viol Pred	2.5 / 4	4 / 7	6 / 15	9 / 25	Indet. 10 - life

* Prob (10 years, P.L. § 65.00(3)(a)(iii)) for felony "sexual assault" = Art. 130, 263, §§ 255.25, 255.26, 255.27 or Attempt/Conspiracy to commit any (P.L. §65.00), Split or Definite Sentence on 1st Offense E or D felony only.

PRS – Negotiable (P.L. § 70.45(2-a))

1 st Offense	3 / 10	3 / 10	5 / 15	5 / 15
Pred	5 / 15	5 / 15	7 / 15	10 / 25

Registration (Corr Law § 168) Conviction (or Attempt): Article 130 offense (130.52 & 130.55 only if cw < 18 or Client has prior sex offense), 230.34, 250.50, 255.25, 255.26, 255.27, Article 263, 135.05, 125.10, 135.20, 135.25 where cw < 17 & Client ≠ parent, 230.04 where cw < 17, 230.05, 230.06, 230.30(2), 230.32, 230.33, 235.22

INDETERMINATE SENTENCE – Min 1/3 of Max; PE at Min, CR 2/3 of Max then Parole (P.L. § 70.00)

	E	D	C	B
Min	1* - 3	1* - 3	1* - 3	1* - 3
Max	1.33 - 4	2.33 - 7	5 - 15	8.33 - 25

* Prob, CD, Split (max 6 mo. P.L. § 60.01(d)) or Definite on E, D, or C felony. CD on felony = 3 yrs (P.L. § 65.10(3)(a)); Prob = 5 yrs (P.L. § 65.00(3)(a)(i))

Willard Property Crimes CPL § 410.91(5) = Diversion Eligible: 140.20, 145.05, 145.10, 155.30 (1), (2), (3), (4), (5), (6), (8), (9) & (10), 155.35, 165.06, 165.45 (1), (2), (3), (5) & (6), 165.50, 170.10, 170.25, 170.60, or attempts of above.

DETERMINE SENTENCE – 6 month increments; Min 6/7 of Max then PRS (P.L. § 70.02)

	E Min/Max	D Min/Max	C Min/Max	B Min/Max
	1.5* / 4	2* / 7	3.5 / 15	5 / 25

* Prob, CD, Split Sentence or Definite on E, D felony w/mitigation (P.L. § 70.02(4)(a)&(b), § 70.80(4)(c)). Note: Aslt 2 req. jail, but can be 1 day.

PRS – Negotiable (P.L. § 70.45(2)(e) & (f))

	1.5/ 3	1.5/ 3	2.5/ 5	2.5/ 5
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INDETERMINATE SENTENCE – Min ½ of Max; PE at Min, CR 2/3 Max then Parole (P.L. § 70.06(3))

	E	D	C	B
Min	1.5-3	2-4	3-6	4.5-9
Max	2-4	3.5-7	7.5-15	12.5-25

Prison Required except Willard Property Crimes C.P.L. § 410.91(5) = Willard & Diversion Eligible (if Viol. Pred, DA consent required for Diversion)

DETERMINE SENTENCE – 6 month increments; Min 6/7 of Max then PRS (P.L. § 70.06(6))

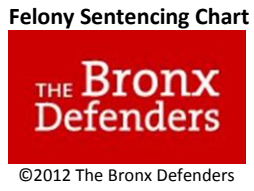
	E Min/Max	D Min/Max	C Min/Max	B
	2 / 4	3 / 7	5 / 15	8 / 25

Prison Required; PRS = 5 Years not negotiable (even if NV Pred) (P.L. § 70.45(2))

DETERMINE SENTENCE – 6 month increments; Min 6/7 of Max then PRS (P.L. § 70.04)

	E Min/Max	D Min/Max	C Min/Max	B Min/Max
	3 / 4	5 / 7	7 / 15	10 / 25

Prison Required; PRS = 5 Years not negotiable (even if NV Pred) (P.L. § 70.45(2))



"B": 110/125.25, 110/135.25, 110/150.20, 125.20, 125.22, 130.35, 130.50, 130.70, 130.75, 120.10, 135.20, 140.30, 150.15, 160.15, 255.27, 265.04, 265.09, 265.13, 120.11, 120.07, 215.17, 490.35, 490.40, 490.47
"C": attempt to commit any B viol, 125.11, 125.21, 130.67, 120.08, 120.06, 121.13, 140.25, 160.10, 265.03, 265.08, 265.12, 265.14, 490.15, 490.30, 490.37
"D": 110 any C viol, 120.02, 120.05, 120.18, 120.60, 121.12, 130.30, 130.45, 130.65, 130.80, 130.66, 130.90, 265.02(5)(6)(7)&(8), 265.11, 215.16, 490.10, 490.20, 240.60, 240.62, 240.63, 405.18
"E": 110/265.09(5)(6)(7)&(8) as lesser offense (thus not as SCI b/c not as a lesser), 130.53, 130.65-a, 240.55, 240.61 (Note: 110/120.05 Attempted Assault 2 in a non violent felony)

MANDATORY (P.L. § 70.08): 2 prior violent felony convictions (need not go upstate or get jail sentence) where each sentence imposed prior to commission of next offense & both w/in 10 yrs of present (excluding jail/prison time) Johnson, 196 A.D.2d 408 (1st Dept. 1993); E: 3/25, D: 12/25, C: 16/25, B: 20/25; **DISCRETIONARY (P.L. § 70.10):** 2 prior upstate sentences w/sent > 1 yr (Min 15-life; Max 25-life); **YO (CPL § 720.10):** <19, no prior YO adj or JD on designated felony (Family Court Act/P.L. § 30.00); Adjudication is on date of sentencing, so can get YO on 2 felonies if sequence done properly (CPL § 720.10(2)(c); Cezil Z., 57 N.Y.2d (1982)), Sent (P.L. § 60.02) = Prob, Split, Def, or Indet. Prison w/Min 1 -3; Max 1.33-4; **JO (P.L. § 70.05):** YO elig. if no JD on desig. fel; no E/D desig. Felonies exist; C Min/Max = 1-3 / 2.33-7; B Min/Max = 1-3 / 3.33-10; **V.T.L Offenses & Predicate Status:** prior felony (any), present V.T.L. felony ≠ pred; but prior V.T.L. felony, present P.L. felony = pred.