



Repeat Property Offenders In Oregon: 2001 & 2002

Office of Economic Analysis

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Introduction

The Oregon Legislative Assembly passed a Repeat Property Offender (RPO) law in 1996 (ORS 137.717). The RPO law increases sentences for offenders convicted of specified property crimes who have a specified criminal history of property crimes. The RPO law was passed during the 1996 Special Legislative Session and took effect July 1, 1997. For qualifying offenders, the presumptive sentence is 13 or 19 months in prison.

The Legislature adopted two major changes to the RPO law. The 1999 Legislative Assembly created the crime of Identity Theft (ORS 165.800) and added it to the list of offenses for which an offender could receive a RPO sentence. The 2001 Legislative Assembly added Forgery I to the list and simplified the criminal history formula. That change took effect on July 1, 2003. Appendix A shows the full text of the law.

This paper identifies some demographic and criminal history characteristics of repeat property offenders (RPOs) sentenced in 2001 and 2002. RPOs are compared to other property offenders (OPOs) sentenced in the same years. These years were chosen because they fully incorporate the identity theft law, and they predate the addition of Forgery I.

Report Highlights

- About 902 felons were sentenced under the Repeat Property Offender (RPO) statute in 2001 and 2002. Data limitations make it difficult to identify *all* RPOs.
- RPOs were more likely to be male, be from urban counties, and be slightly older than other property offenders (OPOs).
- RPOs were more likely than OPOs to have multiple counts of conviction and multiple court cases (including charges in multiple counties).
- More than 90 percent of RPOs received a state prison sentence. Most would not have received a prison sentence under other Oregon sentencing laws.
- RPOs generally had a more serious and more extensive criminal history than OPOs.
- Auto theft was the most common RPO primary offense (34%), followed by Theft I (21%) and Identity Theft (17%).
- About half of female RPOs were convicted of identity theft as the primary offense. Women comprised nearly half off all offenders whose primary offense was identity theft.
- In a random sample of property offenders, 58 percent of RPOs and 48 percent of OPOs had recent drug involvement documented in their court case history.

RPO, Oregon's Sentencing Guidelines, and Local Control

Oregon enacted sentencing guidelines in 1989. The guidelines rank crimes in seriousness from CS 1 to 11 and criminal history from CH A to I (A being the most serious). A presumptive sentence range corresponds to each combination of crime seriousness and criminal history, or gridblock.¹ The Court may *depart* from the presumptive sentence and impose a greater or lesser sentence if there are aggravating or mitigating facts.²

The original RPO law was passed along with ORS 137.124, which enacted a system called Local Control. Local Control took effect January 1, 1997 and was a major change to felony supervision. Prior to 1997, convicted felons with any prison sentence went to state prison regardless of the sentence length. Under Local Control, felons sentenced to more than 12 months go to state prison, and those sentenced to 12 or fewer months serve in county facilities.

RPO crimes other than Burglary I range from CS 2 to CS 6.³ Most repeat property offenders are in CH categories E and F (multiple non-person felony convictions). Under Local Control, none of these ten gridblocks (2F-6E) would carry a presumptive state prison sentence. This meant that the bulk of responsibility for repeat property offenders would fall to local authorities. The consensus in 1996 was that

public safety would be better served if these offenders were sentenced to state prison.

Defining RPOs

Oregon law requires Felony Guidelines Sentencing Reports (FGSRs) to be submitted to the Oregon Criminal Justice Commission (OCJC). The reports identify the felony crime(s) of conviction, the sentence imposed, and the offender's criminal history. The reports are the basis for OCJC's felony sentencing data base. FGSRs have collected information on the RPO law since 1997. A box is checked if the offender was sentenced under ORS 137.717. If the box is blank, but the crime of conviction, sentence, and CH indicate RPO, the case is marked as *possible* by OCJC staff.

The Office of Economic Analysis (OEA) receives files of felony intake and release data from the Department of Corrections (DOC). The files cover prison, probation, and Local Control. They include a flag that identifies RPOs by virtue of the current offenses and criminal history.⁴ If the DOC flags a case as a *possible* RPO, the sentence ranges from 13 to 19 months, and there are not other more serious convictions (e.g. assault) OEA considers the case to be *probable* RPO.

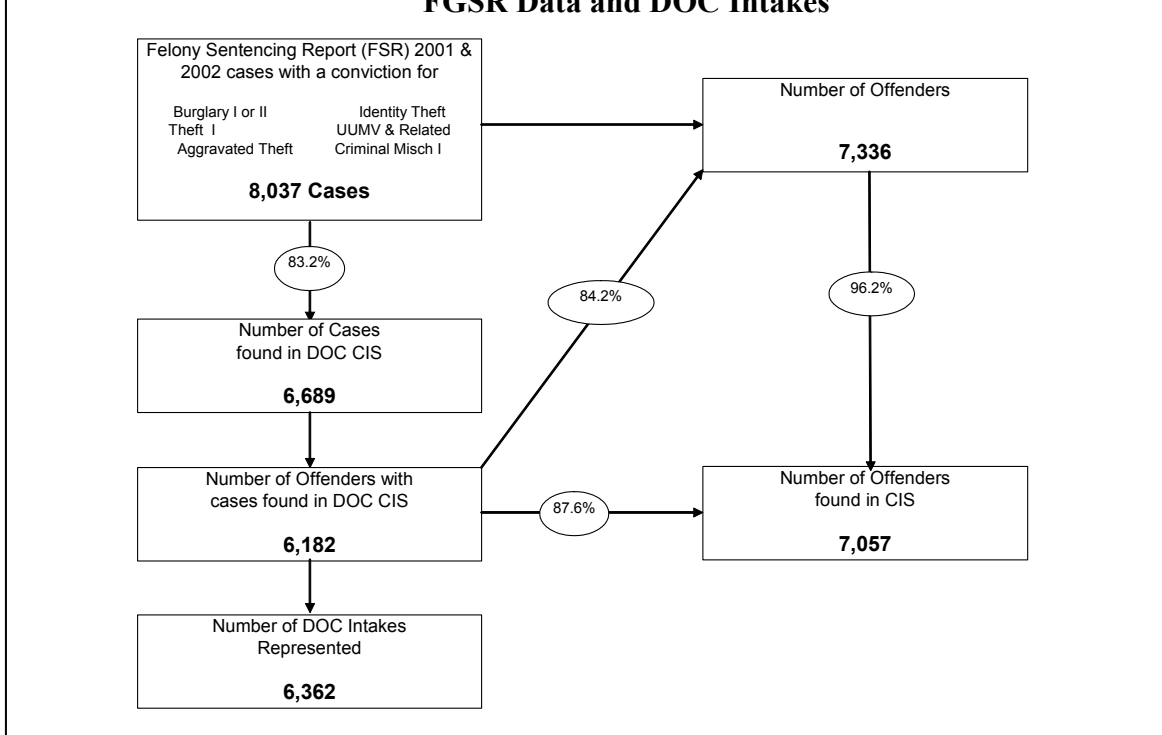
1 The Grid and criminal history definitions appear in Appendix B. See Oregon Criminal Justice Commission's website for more information on Sentencing Guidelines: <http://www.ocjc.state.or.us/SG.htm>

2 Upward departures have recently come into question as a result of the U.S. Supreme Court's decision in *Blakely v. Washington*.

3 Burglary I is ranked at CS 7 to CS 9.

4 There is no definitive RPO flag in the Corrections Information System (CIS) per se; the flag is created by DOC for OEA's use in corrections forecasting. Criminal history data in CIS is limited to Oregon convictions for felonies and some Class A misdemeanors.

**Figure 1:
FGSR Data and DOC Intakes**



If the sentence is longer than 19 months, the case is researched on the Oregon Judicial Information Network (OJIN) records for further information.⁵

For purposes of this study, we defined RPOs as follows:

- FGSR RPO flag = Yes/possible
- or
- OEA/DOC indicates a probable RPO and FGSR flag does not equal *No*.

⁵ Many cases with longer sentences are not RPO even though they fit the criteria. It is common for these cases to involve a Burglary I conviction and sentencing under ORS 137.635.

Identifying RPOs

OEA obtained a computer file from OCJC covering 8,037 cases sentenced in 2001 and 2002. These cases include at least one conviction for a RPO offense. They covered 7,336 offenders (some offenders were sentenced more than once in the two-year period).

OEA matched the offenders to DOC Corrections Information System (CIS) data. First, we attempted to match the offenders using the state identification (SID) number. In cases where there was no match, we used name and date of birth. If both of these methods failed, we searched the CIS system for the offender's name.⁶ Overall, we were

⁶ The CIS system allows manual look-up by name. Sometimes the name under which the offender was convicted was listed as an alias in the CIS system.

able to match 7,057 of the 7,336 offenders (96.2 percent).⁷

The next step was to find the DOC intake associated with the felony conviction. The FGSR data contained case numbers, but our DOC data did not. Initially, we matched the cases with intakes by comparing the FGSR year of conviction and sentence type with DOC data. For example, if an offender was convicted in 2001 and received a prison sentence, we looked for prison intakes in 2001 or 2002. We used this general comparison of year and disposition for a preliminary match. We provided DOC with the preliminary list of intakes and asked for a list of all court cases associated with each intake.⁸ We compared the list with the FGSR case numbers. We were able to match 6,689 of the 8,037 cases to intakes (83.2 percent).⁹

The 6,689 cases pertain to 6,182 offenders. This represents 87.6 percent of the 7,057 offenders located in CIS, and 84.2 percent of the 7,336 offenders identified by OCJC. The 6,182 offenders represent 6,362 felony intakes, as some of the offenders were admitted multiple times during the two

⁷ Some common reasons for the lack of a CIS record: the offender served the sentence in another state; the offender received a local jail sentence; the offender received special misdemeanor treatment for the felony conviction (ORS 161.705).

⁸ DOC considers cases to be associated with an intake if the disposition occurs one month before to four months after the intake.

⁹ The most common reason for inability to match case with intake: the case was added to an existing sentence. For example, the offender was already in prison and the case resulted in a concurrent probation sentence. Another example: the offender was already on probation and the case was added to the existing probation sentence. In these examples, the case did not result in or cause an intake.

years. Figure 1 shows the relationship between FGSR case data and DOC intake data.

Table 1: RPO Intakes Identified by Source and Guidelines Grid Area

Flag Source	Presumptive Prison Gridblock?			Percent of Total
	Yes	No	Total	
FGSR	8	123	131	14.5%
DOC	31	170	201	22.3%
BOTH	39	531	570	63.2%
Total	78	824	902	100.0%

Source: FGSR and CIS

Table 1 shows that 902 intakes were identified as RPOs. In 63 percent of intakes, the FGSR and DOC data agreed. In 14.5 percent of intakes the FGSR data were flagged as RPO and the CIS data were not. In 22 percent of intakes the CIS data indicated RPO and the FGSR data did not. In the former situation, the CIS criminal history data may have been incomplete. In the latter situation, the FGSR flag may have been inadvertently left blank. Most intakes (824/902 or 91.4 percent) were not in a presumptive prison block on the sentencing guidelines grid.

Analysis of RPOs

Table 2 shows the 6,362 RPO and OPO intakes according to year and disposition. The number of RPO intakes grew by 14.3 percent in 2002, while OPO intakes grew by 1.6 percent. More than 90 percent of RPOs received a prison sentence, compared to 23 percent of OPOs.

Table 3 shows that RPOs were more likely to be male, be slightly older, and be from urban counties than were OPOs. Nearly 86 percent of RPOs were male, compared to 74.5 percent of OPOs. RPO offenders were

nearly 2 ½ years older, on average, than OPOs. Oregon’s four most populous counties contributed 78.7 percent of RPO intakes compared to 56.4 percent of OPO intakes.¹⁰

Table 2: Felony Intakes Associated with Property Crime Convictions 2001 and 2002

Year	RPO		OPO	
	No.	Pct Change	No.	Pct Change
2001	421		2708	
2002	481	14.3%	2752	1.6%
Total	902		5460	
Disposition	RPO		OPO	
	No.	Percent	No.	Percent
Prison	823	91.2%	1239	22.7%
Probation	58	6.4%	3934	72.1%
LC	21	2.3%	287	5.3%
Total	902	100.0%	5460	100.0%

Source: FGSR and CIS

Table 3: Demographics of Property Offenders

	RPO		OPO	
	No.	Pct	No.	Pct
Female	128	14.2%	1395	25.5%
Male	774	85.8%	4065	74.5%
Avg. Age	31.9		29.5	
From 4 Most Populous Counties	78.7%		56.4%	

Source: FGSR

The FGSR asks respondents to list the most serious, or *primary*, offense first. Table 4 compares the primary offense between RPOs and OPOs. Burglary I is the second most common primary offense for OPOs, yet it is relatively infrequent among RPOs.

¹⁰ Multnomah, Clackamas, Marion, and Lane counties (Washington County did not submit FGSRs).

Under Oregon’s sentencing guidelines, Burglary I can be classified as crime seriousness 7 to 9. All but 4 of the 27 gridblocks associated with CS 7-9 carry a presumptive prison sentence.¹¹ In many cases, the sentencing guidelines may establish a longer prison sentence for Burglary I than the RPO law.

Table 4: Primary Offense

RPO		OPO	
Auto Theft	307	Theft I	1612
Theft I	192	Burglary I	1033
ID Theft	154	Auto Theft	912
Burglary II	81	ID Theft	505
Burglary I	81	Burglary II	485
Misc.	87	Criminal Mischief I	188
		Agg Theft I	188
		Poss. Contr. Sub	95
		Misc	442
Total	902	Total	5460

Source: FGSR

Women and Identity Theft

Nearly half of all female RPOs were convicted of Identity Theft as the primary offense. Women comprised nearly half of all offenders whose primary offense was Identity Theft. Few felony crimes involve such a high percentage of women. Other examples are aggravated theft, forgery, child neglect, tampering with drug records, and unlawfully obtaining welfare.

RPOs tended to have been convicted on more counts than did OPOs. Table 5 is based on the number of counts associated with a given case. Nearly half of RPOs were convicted of multiple counts compared to just over one-third of OPOs.

¹¹ See sentencing guidelines grid, appendix B.

Table 5: Number of Counts

	RPO		OPO	
	Number	Pct	Number	Pct
One	456	50.6%	3569	65.4%
Two or more	446	49.4%	1891	34.6%
Total	902	100.0%	5460	100.0%

Source: FGSR

A similar pattern exists in the number of cases and counties associated with an intake. Thirteen percent of RPO intakes involved multiple cases, and 7.2 percent involved multiple cases and multiple counties. This compares to 3.8 percent and 1.4 percent, respectively, among OPO intakes.

RPOs had more extensive criminal histories than OPOs. Table 6 shows offenders' criminal history as reported on the Criminal History Worksheet section of the FGSR. Offenders in category E, the mid-point on the grid, have four or more adult non-person felonies (primarily drug or property crimes). Nearly three-quarters of RPOs had *at least* this criminal history (CH A-E). In contrast, just over one-quarter of OPOs were in CH A-E.

Table 6: Criminal History of Offenders at Sentencing

	Criminal History Category	RPO		OPO	
		Number	Cumulative Percent	Number	Cumulative Percent
↑ more priors ↓ fewer	A	40	4.4%	118	2.2%
	B	72	12.4%	213	6.1%
	C	160	30.2%	415	13.7%
	D	11	31.4%	163	16.6%
	E	374	72.8%	551	26.7%
	F	135	87.8%	513	36.1%
	G	69	95.5%	738	49.7%
	H	12	96.8%	809	64.5%
	I	16	98.6%	1884	99.0%
	Unknown	13	100.0%	56	100.0%
	Total	902		5460	

Source: FGSR

Table 7: Felony Intake History

Prior Intakes	RPO		OPO	
	All intakes	Prison	All intakes	Prison
No	119	460	3787	4915
Yes	783	442	1673	545
Total	902	902	5460	5460
Pct Priors	86.8%	49.0%	30.6%	10.0%

Source: CIS

Table 7 compares Oregon felony intake history.¹² Among RPOs, 86.8 percent had been under felony correctional supervision in Oregon at least once before the current intake, and nearly half had at least one prior Oregon prison sentence. Among OPOs, fewer than one-third had been under supervision in Oregon, and just 10 percent had a prior Oregon prison intake.

Drug Involvement

Discussion of property offenders, especially identity thieves, often involves questions or statements about their drug involvement, particularly with methamphetamine.

To get an idea of drug involvement among felony property offenders statewide, we selected a random sample of 200 of the 6,362 intakes analyzed for this report. We researched the offenders' criminal case history on the Oregon Judicial Information Network (OJIN) and noted any documented drug involvement from 1999 through September 2004.¹³ Table 8 shows that 58 percent of RPOs and 48 percent of OPOs had documented drug history.

¹² Felony intake history covers offenders who were admitted to or released from felony supervision in Oregon from July 1, 1991 through March 1, 2004.

¹³ Drug involvement included a charge or conviction for a drug offense, or a specific condition related to drug abuse or treatment attached to a sentence.

Table 8 – Documented Drug Involvement among Property Offenders 1999-2004.

	Drug-Related Charge or Condition			
	RPO		OPO	
	Number	Pct	Number	Pct
Yes	35	58.3%	67	47.9%
No	25	41.7%	73	52.1%
Total	60	100.0%	140	100.0%

Source: OCJC, OJIN

Unfortunately, on-line court data rarely specify which drug or drugs were involved. More detailed data are needed to quantify the methamphetamine involvement of property offenders.

Limitations

The purpose of this study was to identify a group of RPO offenders and compare their criminal characteristics with other property offenders. **Readers should not conclude that RPOs comprise 14.2 percent (902/6362) of intakes of felony property offenders.** There are several reasons why the count is incomplete:

- It appears that the FGSR RPO box may be inadvertently left blank in a significant number of cases. There are a number of prison intakes in which the inmate qualifies under RPO, had a 13-month sentence, and is in a sentencing guidelines gridblock that would not allow for prison without a departure or a RPO sentence – yet RPO is not indicated in the FGSR. In other cases, RPO is not indicated by the Department of Corrections CIS system, yet the FGSR indicates RPO. This is possibly because the criminal history in CIS is not complete. *So there is likely another group of unidentified RPO offenders for*

whom the FGSR flag was left blank and CIS was not flagged.

- The starting point for this analysis was the FGSR. The FGSR is not completed for every felony conviction. For example, no reports originating from Washington County were found in the OCJC data. There are offenders flagged as RPO in DOC that are not included in this analysis because no FGSR could be matched to them.
- Although we found 96 percent of offenders in both systems, we were only able to match 83 percent the offenders in the OCJC data with a specific DOC intake. DOC's protocol for assigning cases to intakes is somewhat restrictive and may have missed some case/intake associations.

Appendix A: ORS 137.717

137.717 Additional offenses requiring imposition of presumptive sentences. (1) When a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057 or burglary in the first degree under ORS 164.225, the presumptive sentence is 19 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, robbery in the second degree under ORS 164.405 or robbery in the first degree under ORS 164.415; or

(B) Four previous convictions for any combination of the other crimes listed in subsection (2) of this section.

(b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS 164.135, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS 165.013, identity theft under ORS 165.800, possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310; or

(B) Four previous convictions for any combination of the other crimes listed in subsection (2) of this section.

(2) The crimes to which subsection (1) of this section applies are:

- (a) Theft in the second degree under ORS 164.045;
- (b) Theft in the first degree under ORS 164.055;
- (c) Aggravated theft in the first degree under ORS 164.057;
- (d) Unauthorized use of a vehicle under ORS 164.135;
- (e) Burglary in the second degree under ORS 164.215;
- (f) Burglary in the first degree under ORS 164.225;
- (g) Criminal mischief in the second degree under ORS 164.354;
- (h) Criminal mischief in the first degree under ORS 164.365;
- (i) Computer crime under ORS 164.377;
- (j) Forgery in the second degree under ORS 165.007;
- (k) Forgery in the first degree under ORS 165.013;
- (L) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- (m) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- (n) Fraudulent use of a credit card under ORS 165.055;
- (o) Identity theft under ORS 165.800;
- (p) Possession of a stolen vehicle under ORS 819.300; and
- (q) Trafficking in stolen vehicles under ORS 819.310.

(3) The court may impose a sentence other than the sentence provided by subsection (1) of this section if the court imposes:

(a) A longer term of incarceration that is otherwise required or authorized by law; or

(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) of this section.

(4) As used in this section, “previous conviction” includes:

(a) Convictions occurring before, on or after July 1, 2003; and

(b) Convictions entered in any other state or federal court for comparable offenses.

(5)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(6) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079. [1996 c.3 §1; 1999 c.1022 §§2,4,7; 2001 c.784 §1]

Appendix B: Sentencing Guidelines Grid

Criminal History

Crime Seriousness	A	B	C	D	E	F	G	H	I	Prob Term	Max Depart	PPS
11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121	5 Years		3 Years
10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60			
9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36			
8	41-45	35-40	29-34	27-28	25-26	23-24	21-22	19-20	16-18	3 Years	18 Mos.	2 Years
7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90			
6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90			
5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60	2 Years	12 Mos.	1 Year
4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60			
3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30	1½ Years	6 Mos.	1 Year
2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			
1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			

The presumptive grid block for any felony conviction is the intersection where the crime seriousness ranking and the criminal history classification meet. Grid blocks in the lighter area represent the range of presumptive imprisonment and post-prison supervision (PPS). Grid blocks in the darker area are presumptive sentences of probation (Prob. Term) with local custodial sanctions in days (upper number) and maximum jail days without a departure (lower number).

The probation term of 5 years applies to levels 9-11, the term of 3 years applies to levels 6-8, 2 years applies to levels 3-5, and 1 ½ years applies to levels 1-2.

The upward dispositional departure maximum sentence (Max Dispositional Depart) for a presumptive probation sentence shall be:

- (a) Up to six months for offenses classified in Crime Categories 1 and 2, or grid blocks 3-G, 3-H and 3-I;
- (b) Up to twelve months for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I and 5-G through 5-I; and
- (c) Up to eighteen months for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I.

Under certain conditions a probation sentence may be imposed in grid blocks 8-G, 8-H and 8-I without a departure.

Criminal History Categories

A	The criminal history includes three or more person felonies in any combination of adult convictions or juvenile adjudications.
B	The criminal history includes two person felonies in any combination of adult convictions or juvenile adjudications.
C	The criminal history includes one adult conviction or juvenile adjudication for a person felony; and one or more adult conviction or juvenile adjudication for a non-person felony.
D	The criminal history includes one adult conviction or juvenile adjudication for a person felony but no adult conviction or juvenile adjudications for a non-person felony.
E	The criminal history includes four or more adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
F	The criminal history includes two or three adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
G	The criminal history includes four or more adult convictions for Class A misdemeanors; one adult conviction for a non-person felony; or three or more juvenile adjudications for non-person felonies, but no adult conviction or juvenile adjudication for a person felony.
H	The criminal history includes no adult felony conviction or juvenile adjudication for a person felony; no more than two juvenile adjudications for non-person felonies; and no more than three adult convictions for Class A misdemeanors.
I	The criminal history does not include any juvenile adjudication for a felony or any adult conviction for a felony or Class A misdemeanor.

The Office of Economic Analysis (OEA) resides in the Director's Office of the Department of Administrative Services. This report was a cooperative effort between OEA, the Oregon Criminal Justice Commission, and the Oregon Department of Corrections. Questions should be directed to Suzanne Porter, OEA, 503 378-5732 or suzanne.m.porter@state.or.us.

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