

1. THE SENTENCING COMMISSION

Q. What year was the commission established? Has the commission essentially retained its original form or has it changed substantially or been abolished?

The Sentencing and Accountability Commission (known as “SENTAC”), was established in 1984.¹ The Commission has remained largely the same since then.

Q. Membership: who appoints them, for what terms, with what required qualifications?

The Commission has 11 members, who are each appointed for 4-year terms. Membership of the Commission is determined by statute as follows:

- (1) Four members of the judiciary appointed by the Chief Justice;
- (2) The Attorney General or designee;
- (3) The Public Defender or designee;
- (4) The Commissioner of Corrections or designee;
- (5) Four other members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices; two to be appointed by the Governor, one by the President Pro Tempore of the Senate and one by the Speaker of the House.

The Chief Justice designates one of the members of the judiciary serving on the Commission to serve as Chairperson of the Commission.²

Q. Is the commission an independent agency, or is it located in or hosted by some other state agency?

The Commission is an independent commission established by the Delaware legislature.³ It is currently located within and staffed by Delaware’s Criminal Justice Council, an independent body which, while lacking a defined statutory purpose or mandate, works to make the criminal justice system fair, efficient, and accountable.⁴

Q. How many staff does the commission have? Are they dedicated to the commission, or shared with another agency?

The Commission has one staff member, employed by Delaware’s Criminal Justice Council. The staff member has other duties outside of the Commission.⁵

Q. What is the commission’s current statutory mandate?

The Commission’s primary mandate is the development of the sentencing guidelines. In so doing, the Commission must “establish a system which emphasizes accountability of the offender to the criminal justice system and accountability of the criminal justice system to the public.” The guidelines created must

¹ 1984 Del. Laws ch. 402, § 1.

² Del. Code Ann. tit. 11, § 6580 (2019).

³ *Id.*

⁴ See Criminal Justice Council, *About the Council*, <https://cjc.delaware.gov/about-cjc-council/> (last visited Aug. 14, 2019).

⁵ E-mail from Ronald Keen, Criminal Justice Coordinator, Del. Criminal Justice Council, to Adam Barkl, Research Assistant, Robina Institute (June 3, 2015, 10:33 CST).

be “consistent with the overall goals of ensuring certainty and consistency of punishment commensurate with the seriousness of the offense and with due regard for resource availability and cost.”⁶ Additionally, the Commission must consider the following specific goals in this order:

1. Incapacitation of the violence-prone offender;
2. Restoration of the victim as nearly as possible to the victim’s pre-offense status; and
3. Rehabilitation of the offender.⁷

Q. Do statutes and/or guidelines identify management of prison and jail resources as a goal?

Yes. The Commission’s statutory mandate requires that it construct the guidelines “with due regard for resource availability and cost.”⁸

Q. Are sentencing practices studied by means of annual or other regular data sets? If so, are those data sets made available to outside researchers?

Yes. The Commission does not compile its own data; however, the Delaware Statistical Analysis Center does so, and reports are available through that agency.⁹ The Center lists as one of its key objectives “provid[ing] statistical and analytical services upon request.”¹⁰

2. THE GUIDELINES

Q. When were the guidelines first implemented?

The guidelines have been in place since 1987.¹¹

Q. In recent years, have they been modified at least once a year?

Yes. Since the Delaware Truth in Sentencing Act in 1989, the sentencing guidelines embodied in the “Benchbook” are revised annually to reflect legislative changes.¹²

Q. Do the commission’s recommended initial or modified guidelines require affirmative legislative approval, or do they take effect subject to legislative override?

The statute establishing the Delaware Sentencing Accountability Commission required that the initial guidelines be submitted to the Supreme Court and adopted by court rule.¹³ The Supreme Court instead

⁶ Del. Code Ann. tit. 11 § 6580(c) (2019).

⁷ Del. Code Ann. tit. 11 § 6580(c) (2019).

⁸ Del. Code Ann. tit. 11 § 6580(c) (2019).

⁹ E-mail from Ronald Keen, Criminal Justice Coordinator, Del. Criminal Justice Council, to Adam Barkl, Research Assistant, Robina Institute (June 3, 2015, 10:33 CST).

¹⁰ See Criminal Justice Council, *Statistical Analysis Center*, <https://sac.delaware.gov/about/> (last visited Aug. 14, 2019).

¹¹ Del. Sentencing Accountability Comm’n, *The Delaware Sentencing Accountability (SENTAC)*, <https://cjc.delaware.gov/sentac/> (last visited Aug. 14, 2019).

¹² *Id.*

¹³ Del. Code Ann. tit. 11, § 6581(a) (2019).

adopted the guidelines by Administrative Directive, declaring that they were voluntary and nonbinding.¹⁴ Modifications to the guidelines do not require legislative approval.¹⁵

Q. Do the sentencing guidelines only apply to felonies, or are some misdemeanors and other lesser offenses also covered? Are some felonies excluded (e.g., those subject to life and/or death penalty)?

The guidelines apply to both misdemeanors and felonies, including felonies that are subject to life and/or the death penalty, which is presently ruled unconstitutional in Delaware.¹⁶

Q. Is a grid used? Are there multiple grids? How many severity levels does the grid contain?

There are no grids. Instead, the Delaware system uses statutory crime classifications to group crimes into categories. Felonies are arranged into Classes A through G, with Class A representing the more serious offenses, and Class G representing less serious offenses. Each felony class is further distinguished between violent and non-violent offenses (e.g., Class B Felony Violent vs. Class B Felony Nonviolent), except Class A felonies, which have all been designated as Violent. Misdemeanors are divided into five general categories based upon crime type (e.g., property, drugs).¹⁷

The Benchbook provides charts for each category of crime (e.g., Class B Felony (Violent)). Each chart identifies the statutory range for the crime classification, the presumptive sentence, and statutory information concerning probation or suspension of sentence. The chart then lists the crimes in that category, followed by category-specific, recommended sentence enhancements based upon the offender's prior criminal history. Each chart also contains supplemental notations related to specific crimes or categories of crime.¹⁸

Q. How is the presumptive sentence determined?

The Delaware system uses statutory classifications of crimes to group crimes into categories, and assigns a presumptive sentence to each category. The presumptive sentence identifies both the appropriate level of supervision and duration of the sentence. Level of supervision refers to the disposition, with Level I indicating a fine or administrative supervision and Level V indicating commitment to the Department of Correction for incarceration.¹⁹ "The presumptive sentencing range for a first conviction generally represents 25% of the statutory maximum."²⁰ A crime in a higher category will have a more severe presumptive sentence than a crime in a lower category. Each crime category also identifies enhanced sentencing ranges that may be imposed based upon criminal history as well as any offense-specific statutory sentencing mandates.²¹ In addition, the court may impose a sentence outside of the standard sentence range if it finds that there are substantial and compelling reasons to do so.²²

¹⁴ Del. Sup. Ct., Christie, C.J., Admin. Dir. No. 76 (Sept. 15, 1987).

¹⁵ E-mail from Ronald Keen, Criminal Justice Coordinator, Del. Criminal Justice Council, to Adam Barkl, Research Assistant, Robina Institute (June 3, 2015, 10:33 CST).

¹⁶ See, e.g., Del. Sentencing Accountability Comm'n Benchbook (2019) (covering the death penalty at 35, and misdemeanors at 83-98).

¹⁷ Del. Sentencing Accountability Comm'n Benchbook 2-3, 22-23 (2019).

¹⁸ See *id.* at 34-121.

¹⁹ Del. Sentencing Accountability Comm'n Benchbook 25 (2019). The guidelines have five levels of supervision: Level I, unsupervised (fine or administrative supervision only); Level II, field supervision; Level III, intensive supervision (with options such as community service or day reporting); Level IV, quasi-incarceration or partial confinement (house arrest, electronic monitoring, a halfway house, etc.); Level V, incarceration or full confinement at a Department of Correction facility.

²⁰ Del. Sentencing Accountability Comm'n Benchbook 23 (2019).

²¹ See, e.g., Del. Sentencing Accountability Comm'n Benchbook 34-37 (2019) (Class A Felony (Violent)).

²² *Id.* at 132.

Q. Is the choice among types of sentences regulated by a “disposition” or other prison in/out line? Are “out” sentences accompanied by suspended execution of prison or suspended imposition of sentence? By definitive preclusion or prison for those cases?

For each crime category, the Delaware sentencing guidelines recommend an appropriate supervision level. The different levels “refer to the perceived risk and the resultant control to be exercised over the individual.”²³ Level 1 is Unsupervised, and refers to fines or administrative supervision. Level II is Field Supervision, which may involve 1-50 hours of supervision per month and occasional office visits. Level III is Intensive Supervision, which involves daily supervision and limited officer caseloads. Level IV is Quasi-Incarceration or Partial Confinement, which may involve house arrest or electronic monitoring, and several hours of probation officer contact per day. Level V is Incarceration or Full Confinement to the Department of Correction.²⁴

An offender “flows down” levels as they complete part of their sentence without violations, and can also flow back up for violations of their sentence.²⁵ For offenses other than Class A felonies, the court can suspend imposition or execution of the sentence, or suspend a portion of the sentence.²⁶

Q. Are there border boxes or other categories permitting multiple sentence types?

No. Since the guidelines are not grid-based, there are no border boxes. Crimes are divided into categories based upon their serious and whether they are violent or non-violent in nature. Each category carries a presumptive sentence of either incarceration, or one of four other levels of supervision.²⁷ Only Class D nonviolent felonies (e.g., theft, certain types of fraud, possession or purchase of a firearm or ammunition by an unauthorized person) carry a presumptive sentence that could be either of two different levels of supervision.²⁸

Q. Are the guidelines purely advisory, or are they legally binding?

The guidelines are purely advisory.

3. DEPARTURES AND SIMILAR ADJUSTMENTS TO GENERALLY-RECOMMENDED SENTENCES

Q. What is the overall/general standard for departure?

“The standard sentence range is presumed to be appropriate for the typical criminal case.” But the court can impose a sentence outside of this range if it finds there are “substantial and compelling reasons

²³ Del. Sentencing Accountability Comm’n Benchbook 29 (2019).

²⁴ *Id.* at 25.

²⁵ *Sentencing Trends and Correctional Treatment in Delaware*, The Sentencing Accountability Comm’n of Del. 10 (2002), <https://cjc.delaware.gov/wp-content/uploads/sites/61/2017/06/sent-trends-min.pdf/>.

²⁶ Del. Code Ann. tit. 11, § 4204 (c)(7) (2019).

²⁷ Delaware’s guidelines have five levels of supervision: Level I, unsupervised (fine or administrative supervision only); Level II, field supervision; Level III, intensive supervision (with options such as community service or day reporting); Level IV, quasi-incarceration or partial confinement (house arrest, electronic monitoring, a halfway house, etc.); Level V, incarceration or full confinement at a Department of Correction facility. See Del. Sentencing Accountability Comm’n Benchbook 25 (2019).

²⁸ Del. Sentencing Accountability Comm’n Benchbook 58 (2019).

justifying an exceptional sentence.”²⁹ If a judge does choose to depart from the guidelines, the Delaware Supreme Court has mandated that a departing “judge shall set forth with particularity the reasons for the deviation using the forms provided by the Commission.”³⁰ There is no set standard as to how much a judge may depart from the presumptive standard, but, regarding mitigating and aggravating factors, the 2019 Commission Benchbook states that “the ‘up to 25%’ increase/decrease guide should be utilized whenever suitable.”³¹

Q. Are there lists of aggravating and mitigating circumstances permitting departure? If so, are such lists non-exclusive? Is there a list of prohibited factors?

Yes. The Benchbook provides non-exclusive lists of aggravating and mitigating factors. There is no list of prohibited factors, but a judge may not use a factor already incorporated as an element of the criminal offense as an aggravating or mitigating grounds for departure.³²

Q. Do the guidelines expressly address mitigations based on a guilty plea, acceptance of responsibility, and/or providing assistance to law enforcement?

Yes. In recognition of the cost benefit of resolving a case early in the criminal process, the guidelines sentence is reduced “by 25% when a defendant pleads guilty to the offense and resolves the matter 30 days prior to the scheduled trial.”³³ This lower recommended sentence is denoted as the “Acceptance of Responsibility” within the guidelines; it is not available for every category of offense.³⁴ Additionally, Delaware law allows the Attorney General to move a sentencing court to modify, reduce, or suspend a sentence for an offender who has provided “substantial assistance in the identification, arrest or prosecution of any other person for a crime or offense,” anywhere in the U.S.³⁵

Q. Are there limits on the degree of durational (length-of-custody) departure?

Although the guidelines do not specify a maximum or minimum departure for mitigating or aggravating circumstances, they do recommend not exceeding a 25% increase or decrease when suitable.³⁶

Q. Are there limits on the availability of dispositional departure (executed-prison vs. stayed sentence)?

Yes. There are statutory minima for certain categories of crimes that require a period of imprisonment that may not be suspended, thereby limiting the court’s ability to impose a mitigated disposition (probation instead of prison).³⁷ When the court makes a decision, based upon aggravating factors, to impose a sentence of incarceration for a nonviolent felony offense, “the sentence should be UP TO, but NOT IN

²⁹ Del. Sentencing Accountability Comm’n Benchbook 132 (2019).

³⁰ Del. Sup. Ct., Christie, C.J., Admin. Dir. No. 76 (Sept. 15, 1987).

³¹ Del. Sentencing Accountability Comm’n Benchbook 23 (2019).

³² Del. Sentencing Accountability Comm’n Benchbook 132-136 (2019).

³³ Del. Sentencing Accountability Comm’n Benchbook 31 (2019). The reduction does not apply to a *Robinson* plea, wherein the defendant offers a plea of guilty without direct and personal admission of the conduct constituting the offense or a *nolo contendere* plea, where the defendant pleads guilty without admitting the essential facts constituting the offense. *Id.*; see *Robinson v. State*, 291 A.2d 279 (Del. 1972); Del. Super. Ct. Crim. R. 11(b).

³⁴ Del. Sentencing Accountability Comm’n Benchbook 2 (2019).

³⁵ Del. Code Ann. tit. 11, § 4220(a) (2019).

³⁶ Del. Sentencing Accountability Comm’n Benchbook 23 (2019).

³⁷ Del. Code Ann. tit. 11, § 4205 (b), (d) (2019).

EXCESS of, 25% of the statutory maximum.” When a similar decision is made for a misdemeanor, the sentence should not exceed the recommended maximum noted in the guidelines.³⁸

4. PRISON RELEASE DISCRETION

Q. Does the jurisdiction utilize parole release discretion or has it been abolished for all or most offenders?

Parole release discretion was abolished under Delaware’s Truth in Sentencing Act of 1989.³⁹

Q. Does the state have a “truth in sentencing” law, limiting the extent of early release?

Delaware adopted its “truth in sentencing” (“TIS”) law in 1990. Prior to TIS, “Good Time” credits and a parole system meant that an inmate could serve as little as 30% of a sentence, eroding fairness in sentencing.⁴⁰ TIS standardized the percentage of time served so that a minimum of 75% of the sentence must be served prior to release.⁴¹

Q. Do recommended and imposed sentences under the guidelines set the minimum time to serve in prison, the maximum, both the minimum and maximum, a target/recommended/expected prison duration, or some other combination of these parameters?

The presumptive sentences in the guidelines either provide a range (e.g., “2–5 yrs.”), or the maximum sentence that should be given (e.g., “Up to 30 months @ Level V”). If the court pronounces a sentence of incarceration, the sentence it pronounces will be the maximum sentence.⁴² If the presumptive sentence is any level other than V, it is a non-prison sentence. The guidelines policy is for a presumptive sentence, absent any aggravating or mitigating factors, to be 25% of the statutory maximum for a first conviction.⁴³

Q. Is the period of post-prison supervision independent of any unserved prison term?

If the court orders a sentence of incarceration at Level V for more than a year, it must impose a six-month period of post-prison supervision to facilitate the offender’s transition back to society.⁴⁴ When an offender is released from incarceration for any reason with a portion of an unserved sentence, it will be to another, lower supervision level. The court or statute determines what level that will be. If no level is specified, release will be to Level II by default.⁴⁵

³⁸ Del. Sentencing Accountability Comm’n Benchbook 29 (2019).

³⁹ *Frequently Asked Questions*, State of Delaware Board of Parole, <https://boardofparole.delaware.gov/frequently-asked-questions/> (last visited Aug. 14, 2019).

⁴⁰ *Sentencing Trends and Correctional Treatment in Delaware*, The Sentencing Accountability Comm’n of Del. 8 (2002), <https://cjc.delaware.gov/wp-content/uploads/sites/61/2017/06/sent-trends-min.pdf/>.

⁴¹ Del. Sentencing Accountability Comm’n Benchbook 27 (2019).

⁴² Del. Code Ann. tit. 11, § 4204(f) (2019).

⁴³ Del. Sentencing Accountability Comm’n Benchbook 23 (2019).

⁴⁴ Del. Code Ann. tit. 11, § 4204(l) (2019).

⁴⁵ Del. Sentencing Accountability Comm’n Benchbook 29 (2019).

Q. What good-time credits do prisoners earn? Is program participation considered?

An offender sentenced to any level of supervision can receive “Good Time” credit to reduce their sentence. Inmates sentenced to a DOC facility can receive Good Time for good behavior without any violations of discipline. Inmates can earn 2 to 3 days of Good Time per month, but no more than 36 days per year.⁴⁶

Program participation is considered. In addition to good behavior, Good Time credit can be awarded for participation or completion of recidivism reduction programs, such as educational, rehabilitation, or work programs. Total Good Time credits (good behavior and program participation) can reach up to 160 days in one year.⁴⁷

An offender serving a sentence on probation can also receive earned compliance credit for sentence reduction, up to 30 days of credit for 30 days of compliance (not to exceed ½ of the probation period). Sentences for certain offenses do not allow for probation reduction compliance credits (e.g., sexual offenses defined by § 761; violent felonies defined by § 4201(c)).⁴⁸

A court sentencing an offender to Level V or otherwise can often specify that all or part of a sentence be served without benefit of Good Time credit, or any other form of reduction or diminution of sentence.⁴⁹

Q. Are prisoners subject to exceptional, “second-look” releasing mechanisms?

No, there do not appear to be any exceptional or second look releasing mechanisms.

5. RELATIONSHIP TO CRIMINAL LAWS

Q. Did the guidelines replace some or all previous statutory maxima?

No, the guidelines operate within the bounds of the previously defined statutory maximum penalties.⁵⁰

Q. Are guidelines built on top of (i.e., equal to or more severe than) any remaining mandatory minima, or are they set independently and over-ridden whenever a mandatory applies?

The guidelines cannot exceed or conflict with ranges adopted by the General Assembly or Delaware Constitution.⁵¹ They do not set presumptive sentences more severe than statutory maxima, or less than statutory minima.

Q. Are some “mandatory” minima subject to case-specific “departure” or other exception?

There is no mechanism for a judge to depart from a statutory mandatory minimum.

⁴⁶ Del. Code Ann. tit. 11, § 4381(c) (2019).

⁴⁷ Del. Code Ann. tit. 11, § 4381(d), (e) (2019).

⁴⁸ Del. Code Ann. tit. 11, § 4383 (2019).

⁴⁹ Del. Code Ann. tit. 11, § 4204(k) (2019).

⁵⁰ Del. Code Ann. tit. 11, § 6581(a) (2019).

⁵¹ Del. Code Ann. tit. 11, § 6581(a) (2019).

6. CRIMINAL HISTORY SCORING

Q. What are the major components of the criminal history score?

The state's guidelines are not based on a grid, thus criminal history enhancements operate differently than in most grid jurisdictions. The guidelines do not compute a criminal history score, but instead certain criminal history indicators trigger increased presumptive ranges. For example, a Class B Nonviolent felony carries a presumptive range of "2-5 yrs. @ Level 5", but with one prior violent felony carries a sentence of "Up to 10 yrs. at Level 5", and with two or more prior violent felonies carries a sentence of "Up to 25 yrs. at Level 5."⁵² In addition, some crime categories provide increased ranges for conviction "[w]hile on release or pending trial or sentencing",⁵³ which would be considered custody status in other jurisdictions. And other crime categories increase the range for having a "repetitive criminal history," defined as having previously been convicted at least twice of a similar offense.⁵⁴

Only offenses adjudicated when an offender was 14 or older are accounted for in the criminal history.⁵⁵ When two prior convictions were the result of the same criminal incident, only one of them is considered for criminal history purposes.⁵⁶

Q. Does the jurisdiction utilize "decay"/washout rules, that is, do old convictions count less or drop out? Which older convictions decay, when, and how?

Yes. A prior criminal conviction will be "washed" if 10 years have passed conviction-free since the final release from prison or termination of a sentence exclusively at Levels I to IV. Felony A and B crimes must always be considered in sentencing.⁵⁷

Q. Do the Guidelines include any other significant limitations on how criminal history can be used (e.g., limits on eligibility for high-history categories; adjustments for older offenders)?

Yes. When an offender faces multiple charges, only the "lead", or most serious charge carries an enhanced penalty linked to prior criminal history. Sentences for other charges must be based on zero criminal history.⁵⁸ Only offenses adjudicated when an offender was 14 or older are accounted for in the criminal history.⁵⁹

7. MULTIPLE CURRENT OFFENSES

Q. Are consecutive sentences limited? If so, how (e.g. prohibited, permissive, or mandatory in certain cases; limits on total duration; use of a multiple-counts enhancement formula)?

No. Until recently, Delaware was the only state to require judges to impose consecutive sentences. A bill passed in July 2014 restored judicial discretion in issuing consecutive or concurrent sentences.⁶⁰ There are

⁵² Del. Sentencing Accountability Comm'n Benchbook 45 (2019).

⁵³ See, e.g., Del. Sentencing Accountability Comm'n Benchbook 35 (2019).

⁵⁴ Del. Sentencing Accountability Comm'n Benchbook 28-29 (2019).

⁵⁵ Del. Sentencing Accountability Comm'n Benchbook 27 (2019).

⁵⁶ Del. Sentencing Accountability Comm'n Benchbook 28 (2019).

⁵⁷ Del. Sentencing Accountability Comm'n Benchbook 27 (2019).

⁵⁸ Del. Sentencing Accountability Comm'n Benchbook 28 (2019).

⁵⁹ *Id.* at 27.

⁶⁰ State of Del. News, *Governor Signs Criminal Justice Reforms into Law* (Jul. 9, 2014), <http://news.delaware.gov/2014/07/09/governor-signs-criminal-justice-reforms-into-law/>; see Del. Code Ann. tit 11, § 3901(d) (2019).

several crimes that, by statute, may result in periods of confinement that cannot run concurrently with any other period of confinement (e.g., arson in the first degree; burglary in the first degree).⁶¹

There are notable limits on consecutive sentencing of probationary sentences. Delaware law establishes limits on the total length of the probation sentence, which range from 12 to 24 months, depending on the offense. The probationer cannot generally serve a probation term or suspension of sentence that exceeds those limits, and any term in excess of the limits will be deemed to be concurrent. There are a few exceptions in the law for certain crime types (e.g., sex offenses) and in certain situations (e.g., the crime was committed while the offender was already on probation, or the court makes a finding that a longer sentence will serve public safety), and in these cases, the total probation term is limited to the maximum period of commitment or one year, whichever is greater.⁶²

Q. In consecutive sentencing, how is the offender's criminal history taken into account?

When sentencing for multiple offenses, only the "lead" or most serious crime will be affected by criminal history. The guideline sentences for all other offenses will be calculated based on zero criminal history.⁶³

8. ENFORCEMENT MECHANISMS (LOCATION ON THE "ADVISORY"-TO-"MANDATORY" CONTINUUM)

Q. Are recommended sentences enforced by prosecution and defense sentence appeals?

The Delaware Supreme Court, in implementing the guidelines, made them purely advisory: "no party to a criminal case has any legal or constitutional right to appeal to any court a statutorily authorized sentence which does not conform to the sentencing standards."⁶⁴

Q. Are other enforcement methods used (e.g., required reasons for departure; published judge-specific departure rates; narrow permitted sentencing alternatives and/or ranges)?

A judge who finds a sentencing standard inappropriate because of aggravating or mitigating or other factors, "shall set forth with particularity the reasons for the deviation using the forms provided by the Commission."⁶⁵ The guidelines specify that when an exceptional sentence is decreed, the governing factors for the departure must be recorded and identified on the sentencing worksheet.⁶⁶

Q. Are some deviations from the guidelines not deemed departures?

No. Any deviation from the advisory presumptive range is considered a departure.⁶⁷

⁶¹ Del. Sentencing Accountability Comm'n Benchbook 31-32 (2019); see Del. Code Ann. tit. 11, § 3901(d) (2019).

⁶² Del. Sentencing Accountability Comm'n Benchbook 25-26 (2019).

⁶³ Del. Sentencing Accountability Comm'n Benchbook at 28 (2019).

⁶⁴ Del. Sup. Ct., Christie, C.J., Admin. Dir. No. 76 (Sept. 15, 1987).

⁶⁵ *Id.* For case law affirming that guideline sentence departure is not grounds for appellate review, see *Mayes v. State*, 604 A.2d 839, 845 (Del. 1992) (citing *Gaines v. State*, 571 A.2d 765, 766 (Del. 1990) (citing *Ward v. State*, 567 A.2d 1296 (Del. 1989))).

⁶⁶ Del. Sentencing Accountability Comm'n Benchbook 132 (2019).

⁶⁷ Del. Sentencing Accountability Comm'n Benchbook 132 (2019).

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Q. Do some deviations require especially strong justification? Or minimal justification?

No. Departures are at a judge's discretion.