

**CRIMINAL PUNISHMENT CODE TASK FORCE – THE EFFECT OF  
THE PROPOSED REMOVAL OF CERTAIN ENHANCEMENT  
MULTIPLIERS**

The document prepared by the scoresheet subcommittee titled “Scoresheet Enhancements and Multipliers” reflects changes that would have to be made to the offense levels for various offenses in order to:

- (i) eliminate certain enhancements and multipliers from the scoresheet, while
- (ii) ensuring that defendants who commit such acts receive approximately the same number of points as they would have scored as a result of those enhancements and multipliers.

**PART IX OF SCORESHEET – ENHANCEMENTS**

The subcommittee proposes in Recommendation 5(a) to remove the *Drug Trafficking*, *Motor Vehicle Theft*, *Domestic Violence in Presence of Related Child*, and *Adult-on-Minor Sex Offenses* enhancements from the scoresheet. The subcommittee has increased offense levels for the offenses to which these enhancements apply to offset failure to apply the enhancements. The subcommittee has done such based on increasing offense levels to 1-16 from the current 1-10.

The subcommittee has analyzed the actual affect the elimination of certain multipliers would have on the total number of points each offense would be assessed on the primary offense section (section I) of the Criminal Punishment Code (CPC) scoresheet when removing certain multipliers. However, the multipliers actually affect the Subtotal sentence points of Sections I through VIII on the CPC scoresheet, not just Section I. This document analyzes the actual affect the elimination of certain multipliers would have on the total number of points on the scoresheet when removing certain multipliers.

The subcommittee has provided a proposed point system for the proposed 1-16 levels under Section I of the Criminal Punishment Code (CPC) Scoresheet. However, the subcommittee has not provided a proposed point system for the proposed 1-16 levels under Section II Additional Offenses(s) or Section IV Prior Record.

Realizing that the proposed 16 level system would require also revamping the current 10 point systems on Sections II and IV to accommodate the proposed 16 level system, this document contains a sample of calculations to show how an individual’s exposure with additional offenses and prior offenses under the current CPC system with the Motor Vehicle Theft multiplier and how that same individual would score with the same additional offenses and prior offenses without the multiplier.

**Motor Vehicle Theft (1.5x point multiplier)**

The subcommittee has recommended that this multiplier be eliminated and the following new offense be enacted:

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**SCENARIO 2: Proposed CPC Code (3/16 and 5/16) removing the Motor Vehicle Theft multiplier and adding a new offense of Fla. Stat. 812.014(2)(c)6 – Grand Theft Auto, 3<sup>rd</sup> degree, three or more prior grand theft auto convictions (at a level 8 out of 16) keeping the same offenses in the additional and prior offense sections:**

**Section I - Primary Offense:**

-2<sup>nd</sup> degree felony on 3/16 chart; 3<sup>rd</sup> degree felony on 5/16 chart; 812.014(2)(c)6 – Grand Theft Auto; Level 8 = 46 points

**Total Section I = 46 points**

**Section II – Additional Offense(s): (used current 1-10 chart for Section II as the subcommittee has not proposed new point system for Section II based on 16 levels)**

-3<sup>rd</sup> degree felony; Level 2 – 817.60(6)(a) – Forgery; Purchase goods, services with false card; 1 count = 1.2 points

-3<sup>rd</sup> degree felony; Level 3 – 838.021(3)(b) – Threatens unlawful harm to public servant; 2 counts x 2.4 = 4.8 points

**Total Section II = 6 points**

**Section IV - Prior Record: (used current 1-10 chart for Section II as the subcommittee has not proposed new point system for Section II based on 16 levels)**

-2<sup>nd</sup> degree felony; Level 8 – 817.568(6) – Fraudulent use of personal identification information of an individual under the age of 18; 3 counts x 19 = 57

-3<sup>rd</sup> degree felony: Level 4 - 812.014(2)(c)6 – Grand Theft Auto: 3 counts x 2.4 points = 7.2 points

-3<sup>rd</sup> degree felony; Level 6 - 784.048(3) – Aggravated stalking; credible threat; 1 count = 9 points

**Total Section V = 73.2**

\*Assume no other points on the scoresheet are assessed for Sections III, V, VI, VII, VIII or IX (motor vehicle theft multiplier eliminated).

**Subtotal Sentence Points = 125.2**

**Total Sentence Points = 125.2**

If total sentence points are greater than 44, which they are, then subtract  $28 = 97.2 \times .75 = 72.9$  lowest permissible prison sentence in months.

**END RESULT OF SCENARIO 2: Proposed CPC Code removing the Motor Vehicle Theft multiplier and adding a new offense of Fla. Stat. 812.014(2)(c)6 – Grand Theft Auto, 3<sup>rd</sup> degree, three or more prior grand theft auto convictions (at a level 8 out of 16) keeping the same offenses in the additional and prior offense sections: 72.9 lowest permissible prison sentence in months up to 5 years' prison for third degree felony.**

Section 921.0024 (1) (b) states, "If applying the multiplier results the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence." This could account for why the multipliers are not assessed on the scoresheets. A maximum of 5 years' prison could be imposed for the primary offense. However, the 3/16 spreadsheet proposes making it a 2<sup>nd</sup> degree felony (15 year statutory maximum) and the 5/16 spreadsheet proposes making it a 3<sup>rd</sup> degree felony (14 year statutory maximum), thereby increasing the statutory maximum on both spreadsheets beyond the 5 year statutory maximum under the current CPC (3/10).

**Law Enforcement Protection Act (1.5x point multiplier)**

The subcommittee proposes in Recommendation 5(b) to retain the *Law Enforcement Officer Protection Act* (including 2.0 and 2.5 multipliers) and *Criminal Gang Offense* enhancements, but apply them only when they are not included as an element of the offense of conviction.

Section 921.0024(1)(b) states, “If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(10) or (11), the subtotal sentence points are multiplied by 1.5.” § 921.0024(1)(b), Fla. Stat. (2020).

Realizing that the 16 level system would require also revamping the point systems on Sections II and IV, this document contains a sample of calculations to show how an individual’s exposure with additional offenses and prior offenses under the current CPC system with the 1.5 Law Enforcement Protection multiplier and how that same individual would score with the same additional offenses and prior offenses without the multiplier.

**SCENARIO 1: Current CPC Code (3/10) – Primary offense is a violation of § 784.07(2)(b) and (3) Battery on a LEO with a firearm or destructive device (3 year mandatory minimum) or semiautomatic firearm and its high-capacity detachable box magazine or machine gun (8 year mandatory minimum), third degree felony, with Law Enforcement Protection 1.5 multiplier**

NOTE: Section 784.07(3) is not a separate substantive offense; it merely sets out the mandatory minimum required when a firearm, destructive device, semiautomatic firearm and its high-capacity detachable box magazine or machine gun is possessed during the commission of a violation of section 784.07(2)(b) battery on a LEO.

**Section I - Primary Offense:**

-3<sup>rd</sup> degree felony; 784.07(2)(b) – Battery on a LEO with firearm, etc. Level 4 = 22 points

**Total Section I = 22 points**

**Section II – Additional Offense(s):**

-3<sup>rd</sup> degree felony; Level 2 – 817.60(6)(a) – Forgery; Purchase goods, services with false card; 1 count = 1.2 points

-3<sup>rd</sup> degree felony; Level 3 – 838.021(3)(b) – Threatens unlawful harm to public servant; 2 counts x 2.4 = 4.8 points

**Total Section II = 6 points**

**Section IV - Prior Record:**

-2<sup>nd</sup> degree felony; Level 8 – 817.568(6) – Fraudulent use of personal identification information of an individual under the age of 18; 3 counts x 19 = 57

-3<sup>rd</sup> degree felony; Level 6 - 784.048(3) – Aggravated stalking; credible threat; 1 count = 9 points

**Total Section V = 66**

\*Assume no other points on the scoresheet are assessed for Sections III, V, VI, VII, or VIII.

Subtotal Sentence Points = 94

**Section IX – Enhancements:**

Law Enforcement Protection 1.5 x 94 subtotal sentence points = 141 enhanced subtotal sentence points

**Total Sentence Points = 141**

If total sentence points are greater than 44, which they are, then subtract 28 =  $113 \times .75 = 84.75$  lowest permissible prison sentence in months.

**END RESULT OF SCENARIO 1: Current CPC Scoresheet (3/10 with the 1.5 Law Enforcement Protection multiplier) – 84.75 lowest permissible prison sentence in months which exceeds the 5 year statutory maximum for a third degree felony. However, § 921.0024(2) states “[i]f the lowest permissible sentence under the code exceeds the statutory maximum sentence as provided in s. 775.082, the sentence required by the code must be imposed.” Therefore, 84.75 months’ prison would be imposed.**

**SCENARIO 2: Proposed CPC Code (3/10 increasing to a level 5, remaining a third degree felony) – Primary offense is a violation of § 784.07(2)(b) and (3) Battery on a LEO with a firearm or destructive device (3 year mandatory minimum) or semiautomatic firearm and its high-capacity detachable box magazine or machine gun (8 year mandatory minimum) with 1.5 Law Enforcement Protection multiplier**

**Section I - Primary Offense:**

-3<sup>rd</sup> degree felony; 784.07(2)(b) – Battery on a LEO with firearm, etc. Level 5 = 28 points

**Total Section I = 28 points**

**Section II – Additional Offense(s):**

-3<sup>rd</sup> degree felony; Level 2 – 817.60(6)(a) – Forgery; Purchase goods, services with false card; 1 count = 1.2 points

-3<sup>rd</sup> degree felony; Level 3 – 838.021(3)(b) – Threatens unlawful harm to public servant; 2 counts x 2.4 = 4.8 points

**Total Section II = 6 points**

**Section IV - Prior Record:**

-2<sup>nd</sup> degree felony; Level 8 – 817.568(6) – Fraudulent use of personal identification information of an individual under the age of 18; 3 counts x 19 = 57

-3<sup>rd</sup> degree felony; Level 6 - 784.048(3) – Aggravated stalking; credible threat; 1 count = 9 points

**Total Section V = 66**

\*Assume no other points on the scoresheet are assessed for Sections III, V, VI, VII, or VIII.

**Subtotal Sentence Points = 100**

**Section IX – Enhancements:**

Law Enforcement Protection 1.5 x 100 subtotal sentence points = 150 enhanced subtotal sentence points

**Total Sentence Points = 150**

If total sentence points are greater than 44, which they are, then subtract  $28 = 122 \times .75 = 91.5$  lowest permissible prison sentence in months.

**END RESULT OF SCENARIO 2: Proposed CPC Scoresheet (3/10 increasing to a level 5, remaining a third degree felony, with the Law Enforcement Protection multiplier) – 91.5 lowest permissible prison sentence in months which exceeds the 5 year statutory maximum for a third degree felony. However, § 921.0024(2) states “[i]f the lowest permissible sentence under the code exceeds the statutory maximum sentence as provided in s. 775.082, the sentence required by the code must be imposed.” Therefore, 91.5 months’ prison would be imposed.**

**SCENARIO 3: Proposed CPC Code (3/10 increasing to a level 5, remaining a third degree felony, without the 1.5 Law Enforcement multiplier) – Primary offense is a violation of § 784.07(2)(b) and (3) Battery on a LEO with a firearm or destructive device (3 year mandatory minimum) or semiautomatic firearm and its high-capacity detachable box magazine or machine gun (8 year mandatory minimum)**

**Section I - Primary Offense:**

-3<sup>rd</sup> degree felony; 784.07(2)(b) – Battery on a LEO with firearm, etc. Level 5 = 28 points

**Total Section I = 28 points**

**Section II – Additional Offense(s):**

-3<sup>rd</sup> degree felony; Level 2 – 817.60(6)(a) – Forgery; Purchase goods, services with false card; 1 count = 1.2 points

-3<sup>rd</sup> degree felony; Level 3 – 838.021(3)(b) – Threatens unlawful harm to public servant; 2 counts x 2.4 = 4.8 points

**Total Section II = 6 points**

**Section IV - Prior Record:**

-2<sup>nd</sup> degree felony; Level 8 – 817.568(6) – Fraudulent use of personal identification information of an individual under the age of 18; 3 counts x 19 = 57

-3<sup>rd</sup> degree felony; Level 6 - 784.048(3) – Aggravated stalking; credible threat; 1 count = 9 points

**Total Section V = 66**

\*Assume no other points on the scoresheet are assessed for Sections III, V, VI, VII, VIII or IX (elimination of 1.5 Law Enforcement Protection multiplier).

**Subtotal Sentence Points = 100**

**Total Sentence Points = 100**

If total sentence points are greater than 44, which they are, then subtract  $28 = 72 \times .75 = 54$  lowest permissible prison sentence in months.

**END RESULT OF SCENARIO 3: Proposed CPC Scoresheet (3/10 increasing to a level 5, remains a third degree felony, and removing the Law Enforcement Protection multiplier) – 54 lowest permissible prison sentence in months.**

**SCENARIO 4: Proposed CPC Code (3/16 – level 6 and 5/16 – level 6)– Primary offense is a violation of § 784.07(2)(b) and (3) Battery on a LEO with a firearm or destructive device (3 year mandatory minimum) or semiautomatic firearm and its high-capacity detachable box magazine or machine gun (8 year mandatory minimum) and removing the Motor Vehicle Theft multiplier and increasing battery on a LEO to a level 6 out of 16, but keeping the same offenses in the additional and prior offense sections:**

**Section I - Primary Offense:**

-3<sup>rd</sup> degree felony on the 3/16 chart with a five year statutory maximum; 3<sup>rd</sup> degree felony on the 5/16 chart with a fourteen year statutory maximum; 784.07(2)(b) – Battery on a LEO with firearm, etc. Level 6 = 28 points

**Total Section I = 28 points**

**Section II – Additional Offense(s) (used current 1-10 chart for Section II as the subcommittee has not proposed new point system for Section II based on 16 levels):**

-3<sup>rd</sup> degree felony; Level 2 – 817.60(6)(a) – Forgery; Purchase goods, services with false card; 1 count = 1.2 points

-3<sup>rd</sup> degree felony; Level 3 – 838.021(3)(b) – Threatens unlawful harm to public servant; 2 counts x 2.4 = 4.8 points

**Total Section II = 6 points**

**Section IV - Prior Record (used current 1-10 chart for Section II as the subcommittee has not proposed new point system for Section IV based on 16 levels):**

-2<sup>nd</sup> degree felony; Level 8 – 817.568(6) – Fraudulent use of personal identification information of an individual under the age of 18; 3 counts x 19 = 57

-3<sup>rd</sup> degree felony; Level 6 - 784.048(3) – Aggravated stalking; credible threat; 1 count = 9 points

**Total Section V = 66**

\*Assume no other points on the scoresheet are assessed for Sections III, V, VI, VII, VIII, or IX (elimination law enforcement protection multiplier).

**Subtotal Sentence Points = 100**

**Total Sentence Points = 100**

If total sentence points are greater than 44, which they are, then subtract  $28 = 72 \times .75 = 54$  lowest permissible prison sentence in months.

**END RESULT OF SCENARIO 4: Current CPC Scoresheet – 54 lowest permissible prison sentence in months up to the five years prison statutory maximum for a third degree felony under the 3/16 chart and up to a fourteen years prison statutory maximum for a third degree felony under the 5/16 chart.**