



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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November 12, 2009

MEMORANDUM

TO: SGC Ad Hoc Committee for Assault of a Child

FROM: Shannon Hinchcliffe, SGC Policy Counsel

RE: Crimes Within Seriousness Level 12 and 13

At the October 9, 2009 SGC meeting members discussed the crime of Assault of a Child first degree. As a result of the discussion, more information was requested about crimes within seriousness level 12 and 13. Attached is a table that which displays sentences for the last ten fiscal years of crimes within levels 12 and 13.

I. RCW 9.94A.515 – Crimes included within each seriousness level (levels 12 and 13).

XIII Malicious explosion 2 (RCW
70.74.280(2))

Malicious placement of an explosive
1 (RCW 70.74.270(1))

XII Assault 1 (RCW 9A.36.011)

Assault of a Child 1 (RCW
9A.36.120)

Malicious placement of an imitation
device 1 (RCW 70.74.272(1)(a))

Rape 1 (RCW 9A.44.040)

Rape of a Child 1 (RCW 9A.44.073)

Trafficking 2 (RCW 9A.40.100(2))

SERIOUSNESS LEVEL XIII

RCW 70.74.280

Malicious explosion of a substance 2— Penalties.

A person who maliciously, by the explosion of gunpowder or any other explosive substance or material, destroy or damage any building, car, airplane, vessel, common carrier, railroad track, or public utility transmission system or structure is guilty of:

(2) Malicious explosion of a substance in the second degree if the offense is committed under circumstances not amounting to malicious explosion of a substance in the first degree and if thereby the life or safety of a human being is endangered. Malicious explosion of a substance in the second degree is a class A felony;

RCW 70.74.270

Malicious placement of an explosive 1 — Penalties.

A person who maliciously places any explosive or improvised device in, upon, under, against, or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, in such manner or under such circumstances as to destroy or injure it if exploded is guilty of:

(1) Malicious placement of an explosive in the first degree if the offense is committed with intent to commit a terrorist act. Malicious placement of an explosive in the first degree is a class A felony.

SERIOUSNESS LEVEL XII

RCW 9A.36.011

Assault in the first degree.

(1) A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm:

(a) Assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death; or

(b) Administers, exposes, or transmits to or causes to be taken by another, poison, the human immunodeficiency virus as defined in chapter 70.24 RCW, or any other destructive or noxious substance; or

(c) Assaults another and inflicts great bodily harm.

(2) Assault in the first degree is a class A felony.

RCW 9A.36.120

Assault of a child in the first degree.

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the first degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the first degree, as defined in RCW 9A.36.011, against the child; or

(b) Intentionally assaults the child and either:

(i) Recklessly inflicts great bodily harm; or

(ii) Causes substantial bodily harm, and the person has previously engaged in a pattern or practice either of (A) assaulting the child which has resulted in bodily harm that is greater than transient physical pain or minor temporary marks, or (B) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the first degree is a class A felony.

RCW 70.74.272

Malicious placement of an imitation device

(1) A person who maliciously places imitation device any in, upon, under, against, or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, with the intent to give the appearance or impression that the imitation device is an explosive or improvised device, is guilty of:

(a) Malicious placement of an imitation device in the first degree if the offense is committed with intent to commit a terrorist act. Malicious placement of an imitation device in the first degree is a class B felony.

RCW 9A.44.040

Rape in the first degree.

(1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

(a) Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or

(b) Kidnaps the victim; or

(c) Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or

(d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a class A felony.

RCW 9A.44.073

Rape of a child in the first degree.

(1) A person is guilty of rape of a child in the first degree when the person has sexual intercourse with another who is less than twelve years old and not married to the perpetrator and the perpetrator is at least twenty-four months older than the victim.

(2) Rape of a child in the first degree is a class A felony.

RCW 9A.40.100 Trafficking

(2)(a) A person is guilty of trafficking in the second degree when such person:

(i) Recruits, harbors, transports, provides, or obtains by any means another person knowing that force, fraud, or coercion as defined in RCW 9A.36.070 will be used to cause the person to engage in forced labor or involuntary servitude; or

(ii) Benefits financially or by receiving anything of value from participation in a venture that has engaged in acts set forth in (a)(i) of this subsection.

(b) Trafficking in the second degree is a class A felony.