

## Boston Municipal Court and District Court Sentencing Best Practice Principles

Few, perhaps no, judicial responsibilities are more difficult and significant than sentencing. “The task is usually undertaken by trial judges who seek with diligence and professionalism to take account of the human existence of the offender and the just demands of a wronged society.” *Commonwealth v. Rodriguez*, 461 Mass. 256, 259 (2012), citing *Graham v. Florida*, 560 U.S. 48, 77 (2010).

Each judge is called to fulfill his or her commission and oath to advance the fair administration of justice by considering the relevant facts and applicable law of each case. The principles outlined herein<sup>1</sup> are intended to assist judges in formulating dispositions that address the legally recognized purposes of sentencing and to build judicial knowledge of evidence-based sentencing practices. The essential judicial exercise of discretion in sentencing remains a matter of each judge’s assessment of the various needs of public safety, retribution, deterrence, and rehabilitation. That assessment, however, now may be informed by a wide array of evidence-based sentencing alternatives available to the judge. The statements that follow below provide a set of general principles a judge may consider in the formulation of a criminal sentence. This is not an exhaustive list, but instead these principles are meant to assist the judge in the assessment of each case on an individual basis.<sup>2</sup> Nothing contained herein is intended to impinge upon judicial independence and discretion.

1. A judge should impose a criminal disposition consistent with the recognized purposes of criminal sentencing. Those purposes include deterrence, public safety, retribution, and rehabilitation.
2. In applying those principles to a sentencing decision, the judge should:
  - a. Impose a sentence that is proportionate to the gravity of the offense or offenses, the harm done to the victims, and the culpability of the offenders;
  - b. When reasonably feasible, impose a sentence that seeks to achieve offender rehabilitation, general deterrence, incapacitation of dangerous offenders,

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<sup>1</sup> The District Court and Boston Municipal Court Sentencing Best Practice Principles are based on the Superior Court Sentencing Best Practice Principles, with modifications specific to District and Boston Municipal sentencing considerations.

<sup>2</sup> It is recognized that all of the principles herein may not be applicable to specialty courts or HOPE/MORR sessions.

restoration of crime victims and communities, and reintegration of offenders into the law-abiding community, provided these goals are pursued within the boundaries of proportionality in section (1) above and;

- c. Render a sentence that is no more severe than necessary to achieve the applicable purposes of section (a) and (b) above.
3. In formulating a criminal disposition a judge may consider the following factors and sources of information: the facts and circumstances of the crime of conviction, the defendant's prior criminal record, victim impact statements, the defendant's background, personal circumstances, the sentencing arguments and memoranda, if any, and any relevant and permissible information requested by the court, or provided by probation or the parties, prior to sentencing.
4. In circumstances deemed appropriate by the judge and consistent with applicable legal authority, the judge may state in open court, or in writing, the reasons for imposing a particular sentence.
5. Conditions of probation should be tailored to address the particular characteristics of the defendant and the crime, while providing for the protection of the public and any victim. Each condition must be reasonably related to legitimate probationary goals. Judges may consider whether imposing numerous conditions may increase rather than decrease the likelihood of recidivism.
6. The duration of probation should be tailored to address the particular characteristics of the defendant and the circumstances of the crime.
7. At the time of sentencing, a judge may incorporate a written provision, as part of the sentence, informing the defendant / probationer that, after a period of successful compliance, the court may consider, after a hearing, a request from the parties or probation for early termination of probation or vacating certain conditions of probation as an incentive. Nothing in this principle is intended to abrogate the legal authority governing the revision or revocation of a sentence pursuant to Mass. R. Crim. P. 29.
8. The judge should impose all statutorily mandated assessments, but may waive such assessments, consistent with statutory authority. Consistent with the prevailing law, a

judge may impose community service as an alternative to statutorily mandated assessments.

9. Disposition, following a finding of violation of probation, shall be imposed in accordance with the Dist./Mun. Cts. R. Prob. Viol. P. rules and consistent with the applicable aforementioned principles.