

Plea Colloquy Supplement for S.B 201 Offenders¹

Prepared by Judge Reginald Routson

Crim. Rule 11 (C)(2)(a) - MAXIMUM PENALTY

SINGLE OFFENSE

- Do you understand that you are pleading guilty to an offense that carries an **indefinite sentence**?
- Do you understand this means you receive both a **minimum and maximum** term?
- Do you understand that at sentencing the Court will select the **minimum term** for the range of penalties for your crime? (F-1 = 3-11) or (F-2=2-8)?
- Do you understand that after the Court picks the minimum sentence, the **maximum term** will automatically be the minimum term plus **50%** of the minimum term?
- **(M)** Do you understand the maximum penalty you could face is **12 years (F-2)/ 16.5 years (F-1)**?

MULTIPLE OFFENSES (all qualifying)

- Do you understand that you are pleading to more than one offense that requires that the Court impose an indefinite sentence?
- Do you understand that you will receive both a **minimum term** for each of those offenses as well as a **maximum term**?

¹ (Qualifying felony offense(s) of the first or second degree occurring on or after March 22, 2019.)

- Do you understand that at sentencing the Court will select a **minimum term** for the range of penalties (**F-1 = 3-11**) or (**F-2 = 2-8**) for each offense?
- Do you understand that the court will also have to decide if those sentences will be imposed **concurrently or consecutively**?
- **(Findings are still required to impose consecutive sentences. See R.C. 2929.14(C)(4))**
 - Do you know what these terms mean?
- Do you understand that this decision will affect the length of your **minimum term** and your **maximum term**?
 - Do you understand that the longest **minimum sentence** you could serve would be____?
- Do you understand that the longest **maximum sentence** you could serve would be____?

MULTIPLE OFFENSES (both qualifying and non-qualifying)

- Do you understand that you are pleading to one or more offenses that require that the Court impose an **indefinite sentence**?
- Do you understand that you are also pleading to____ F-3s;____ F-4's; and ____ F-5s?
- Do you understand that each of these offenses carry **definite sentences** as follows: a maximum of (F-3) **sixty months or thirty-six months**; (F-4) **eighteen months** or (F-5) **twelve months**?
- Do you understand that because one or more of the offenses is an F-1/F-2 the Court must still impose an **indefinite sentence**?

- Do you understand that you will receive both a **minimum term** for each of those offenses as well as a **maximum term**?
- Do you understand that at sentencing the Court will select a **minimum term** for the range of penalties **(F-1 = 3-11)** or **(F-2 = 2-8)** for each offense?
- Do you understand that at sentencing for the other offenses the Court will pick a **definite term** for each from the appropriate range?
- Do you understand that the court will also have to decide if your sentences on each count will be imposed concurrently or consecutively?
- **(Findings are still required to impose consecutive sentences. See R.C. 2929.14(C)(4))**
 - Do you know what these terms mean?
- Do you understand that this decision will affect the length of your **minimum term** and your **maximum term**?
- Do you understand that the longest **minimum sentence** you could serve would be_____?
- Do you understand that the longest **maximum sentence** you could serve would be_____?

Eligibility for Community Control Sentence -Crim.R. 11(C)(2)(a)

- **(M)** Do you understand that you are eligible for a **community control sentence** that could last for up to five years?
- Do you understand that if you receive a community control sentence you will have to abide by all probationary conditions established by the Court?

- Do you understand that if the Court places you on community control a prison term will be “reserved”?
- Do you understand that if the court places you on community control and you violate the rules, break another law, or leave the state without permission, the Court can impose sanctions that are more restrictive, extend your supervision term up to five (5) years or terminate your supervision and send you to prison?

Post-Release Control Consequences- RC 2943.032; RC 2929.141

- Do you understand that you **will** serve a mandatory period of post-release control of (**3 or 5 years**) as part of your sentence after you are released from prison?
- Do you understand that under the authority of the Parole Board you could be returned to prison for up to nine months for each violation of the rules?
- Do you understand that you could be returned to prison for up to 50% of your **stated minimum sentence** for all violations?
- Do you understand that if you are convicted of a new felony while on post-release control, that, in addition to being punished for the new offense, the sentencing Court could terminate your PRC and impose a consecutive prison term of one year or what time remains on your post-release control term, whichever is greater?

ALL OFFENSES-Optional at Plea

- Do you understand that it is possible to earn **good time credit**² of **5 to 15%** against your minimum sentence for good behavior?
- Do you understand that the Court has the right to deny your **good time credit**?
- Do you understand that a hearing will be conducted to make this decision?
- Do you understand that regardless of whether you receive **good time credit**, you will be released when you finish your **minimum term** unless ODRC determines that you must remain in prison for bad conduct?
 - Do you understand that the Court is not involved in this decision?
- Do you understand that if you are not released when your **minimum term** ends, you will serve an additional specified period of time and given a new release date?
- Do you understand that you will be released on that date unless you are again denied release?
- Do you understand that this process could repeat until you are released or finish your **maximum term**?
- Do you understand that you must be released at the end of your **maximum term**?

Criminal R. 11 (F) - Plea negotiations

- The State has read into the record the plea negotiations; did you hear what was said?

² Earned reduction of minimum term pursuant to **R.C. 2967.271**

- Is this the same information your counsel discussed with you before the hearing?
 - What is different?
 - What is missing?
- Do you have any questions about the recommendation?
- Do you understand that the Court does not have to follow the recommendation?
- Do you understand that if the Court elects to follow the recommendation you will serve a **minimum sentence** of ___years and a **maximum** of ___years?
- Do you understand that it is presumed you will be released at the end of your **minimum sentence** unless ODRC keeps you longer for bad behavior in prison?
 - **Note: Make sure that the recordation is mathematically correct. Avoid agreements that place a cap on the total sentence. Make sure that if recommendation call for a reduction or dismissal of a charge or charges, the calculations are correct.**
- Do you understand that even if the State agrees not to oppose any request for **good time credit** that would reduce your **minimum sentence**, the Court can still turn you down?
- Do you understand that this recommendation **does/does not** address the issue of judicial release?
- Do you understand that if you are not release at the end of your **minimum sentence**, all release decisions after that are made by ODRC?

Specifications to Indictment. (Gun Specification Example)

- **(M)** Do you understand that in addition to the underlying offense(s) you are also pleading to a (gun) specification, which requires that you must serve a mandatory prison term of

(select appropriate term)? (R.C. 2941.141- one year; R.C. 2941.145- three years; R.C. 2941.146- six years.)

- **(M)** Do you understand the term imposed for the specification **must** be served prior to and consecutive to any other prison term imposed for all other offenses?
- **(M)** Do you understand that the sentence for the specification is separate from the indefinite sentence and does not affect calculation of your maximum term?

Merger-(if appropriate)

- Do you understand that if any of your offenses “merge” the possible length of your sentence may be reduced?