



# MINNESOTA SENTENCING GUIDELINES COMMISSION

## Repeat Violent Offenders: Sentenced 2015

Minnesota Sentencing Guidelines Commission (MSGC) monitoring data are offender-based, meaning cases represent offenders rather than individual charges. Offenders sentenced within the same county in a one-month period are generally counted only once, based on their most serious offense.

**Proposal:** Mandatory Minimum of 25 years to serve for repeat violent offenders

### Notes:

- MSGC does not monitor convictions, only offenses that received a pronounced sentence.
- For this analysis, “true prior violent offense” means that the offender had, in eligible criminal history, a violent offense listed below in Analysis, which was sentenced before the current offense was committed. Because MSGC bases “true prior violent offense” on what was listed in criminal history on the worksheet prepared by the probation department, we would not know if an offender had a prior qualifying offense that was decayed (for information on decay factor see section 2.B.1.c of the Guidelines). If an offense has decayed, it means that a period of fifteen years has elapsed since the date of discharge from or expiration of the sentence to the date of the current offense and thus would not be counted in criminal history and would not be included on the worksheet.
- A “departure” is a pronounced sentence other than that recommended in the Guidelines.
  - A “dispositional departure” occurs when the court orders a disposition other than that recommended in the Guidelines. An aggravated dispositional departure occurs when the Guidelines recommend a stayed sentence but the court pronounces a prison sentence. A mitigated dispositional departure occurs when the Guidelines recommend a prison sentence but the court stays the sentence.
  - A “durational departure” occurs when the court orders a sentence with a duration other than the Guidelines’ presumptive fixed duration or range. An aggravated durational departure occurs when the court pronounces a duration that is more than 20% higher than the fixed duration. A mitigated durational departure occurs when the court pronounces a duration that is more than 15% lower than the fixed duration.

### Analysis:

- Sentenced in 2015
- Sentenced for one of the following person offenses, not including attempts and conspiracies:
  - First- through Third-Degree Criminal Sexual Conduct, Minn. Stat. §§ 609.342, 609.343, 609.344
  - Murder under Minn. Stats. §§ 609.185, 609.19, 609.195
  - Manslaughter under Minn. Stat. § 609.20, 609.205
  - First through Third-Degree Assault under Minn. Stats. §§ 609.221, 609.222, 609.223
  - Aggravated and Simple Robbery under Minn. Stat. § 609.245, 609.24
- Two True prior felony offenses
- One True prior qualifying offenses from the list above

In 2015, 1,674 offenders were sentenced for one of the listed offenses. Of the 1,674 offenders sentenced, ~~284~~ **381** (23%) had two true prior felony offenses. Of the 381 with two priors, 160 (10% of the ~~1,798~~ **1,674** sentenced for one of the listed violent offenses) had a prior violent offense on the list above. Table 1 displays the number of offenders who meet the above criteria by the offense they were sentenced for. The 5 offenders sentenced for completed first-degree murder received life sentences without the possibility of release, and therefore are excluded from the following analysis.

**Table 1: Number of Offenders with Two or More True Prior Felonies and Number with True Prior Qualifying Violent Offense:  
By Offense-Sentenced 2015**

Offense	Total Sentenced	2 True Prior Felonies		Prior Violent Offense	
		No	Yes	No	Yes
Murder 1	5	3	2	4	1
	100.0%	60%	40%	80%	20%
Murder 2, Severity Level 11	23	14	9	19	4
	100.0%	61%	39%	83%	17%
Murder 2, Severity Level 10	12	9	3	10	2
	100.0%	75%	25%	83%	17%
Murder 3	7	7	0	7	0
	100.0%	100%	0%	100%	0%
Manslaughter 1, Severity Level 9	6	5	1	5	1
	100.0%	83%	17%	83%	17%
Manslaughter 1, Severity Level 8	1	1	0	1	0
	100%	100%	0%	100%	0%
Manslaughter 2, Severity Level 8	7	7	0	7	0
	100.0%	100.0%	0.0%	100.0%	0.0%
Assault 1	67	53	14	63	4
	100.0%	79%	21%	94%	6%
Assault 2	322	244	78	288	34
	100.0%	76%	24%	89%	11%
Assault 3	402	289	113	352	50
	100.0%	72%	28%	88%	12%
Simple Robbery	133	90	43	118	15
	100.0%	68%	32%	89%	11%
Aggravated Robbery 1	192	144	48	170	22
	100.0%	75%	25%	89%	11%
Aggravated Robbery 2	42	27	15	32	10
	100.0%	64%	36%	76%	24%
Criminal Sexual Conduct 1	116	101	15	112	4
	100.0%	87%	13%	97%	3.0%
Criminal Sexual Conduct 2	147	128	19	141	6
	100.0%	87%	13%	97%	3.0%
Criminal Sexual Conduct 3	192	171	21	185	7
	100.0%	89%	11%	96%	4%
Total	1,674	1,293	381	1,514	160
	100.0%	77%	23%	90%	10%

Table 3 displays the presumptive dispositions and mitigated dispositional departure rates for the 159 offenders with non-life sentences who would qualify for the proposed mandatory sentencing provision. Eighteen had a presumptive stayed disposition (they were recommended a non-prison sentence under the Guidelines). Of the 141 offenders for whom prison was the recommended disposition, 22 (16%) received a non-prison sentence which was a mitigated dispositional departure.

**Table 3: Presumptive Dispositions and Mitigated Dispositional Departure Rates for Qualifying Offenders: Sentenced 2015**

Offense	Total Sentenced	Presumptive Prison Sentence		Mitigated Dispositional Departures	
		No	Yes	None	Mitigated
Murder 2, Severity Level 11	4	0	4	4	0
	100.0%	0.0%	100%	100%	0%
Murder 2, Severity Level 10	2	0	2	2	0
	100.0%	0.0%	100%	100%	0%
Manslaughter 1, Severity Level 9	1	0	1	1	0
	100.0%	0.0%	100%	100%	0%
Assault 1	4	0	4	4	0
	100.0%	0.0%	100%	100%	0%
Assault 2	34	0	34	27	7
	100.0%	0%	100%	79.0%	21%
Assault 3	50	12	38	31	7
	100.0%	24%	76%	82%	18%
Simple Robbery	15	3	12	11	1
	100.0%	20%	80.0%	92%	8%
Aggravated Robbery 1	22	0	22	22	0
	100.0%	0%	100%	100%	0%
Aggravated Robbery 2	10	2	8	4	4
	100.0%	20.0%	80.0%	50%	50%
Criminal Sexual Conduct 1	4	0	4	4	0
	100.0%	0.0%	100.0%	100%	0%
Criminal Sexual Conduct 2	6	1	5	3	2
	100.0%	17%	83%	60.0%	40%
Criminal Sexual Conduct 3	7	0	7	6	1
	100.0%	0.0%	100.0%	86%	14%
Total	159	18	141	119	22
	100.0%	11%	89%	84%	16%

Table 4 displays durational departure rates for offenders who received an executed prison sentence. Of the 120 qualifying offenders who received an executed prison sentence, 31 (26%) received a mitigated durational departure and 13 (11%) received an aggravated durational departure.

**Table 4: Durational Departure Rates for Qualifying Offenders:  
Prison Sentences Only: Sentenced 2015**

Offense	Prison Sentences	Durational Departure		
		None	Aggravated	Mitigated
Murder 2, Severity Level 11	4	2	1	1
	100.0%	50%	25%	25%
Murder 2, Severity Level 10	2	2	0	0
	100.0%	100%	0%	0%
Manslaughter 1, Severity Level 9	1	0	0	1
	100.0%	0%	0%	100%
Assault 1	4	3	0	1
	100.0%	75%	0%	25%
Assault 2	27	19	4	4
	100.0%	70%	15%	15%
Assault 3	31	23	3	5
	100.0%	74%	10%	16%
Simple Robbery	12	8	1	3
	100.0%	67%	8%	25%
Aggravated Robbery 1	22	7	1	14
	100.0%	32%	5%	64%
Aggravated Robbery 2	4	3	1	0
	100.0%	75%	25%	0%
Criminal Sexual Conduct 1	4	3	1	0
	100.0%	75%	25%	0%
Criminal Sexual Conduct 2	3	3	0	0
	100.0%	100%	0%	0%
Criminal Sexual Conduct 3	6	3	1	2
	100.0%	50%	17%	33%
Total	120	76	13	31
	100.0%	63%	11%	26%

Table 4 displays the statutory maximums for the offenses under consideration.

**Table 4: Statutory Maximums for Qualifying Offenses:**

Offense	# of Offenses	Statutory Maximum
Murder 1	1	Life
Murder 2	6	40 years
Murder 3	0	25 years
Manslaughter 1	1	15 years
Manslaughter 2	0	10 years
Assault 1	4	20 years
Assault 2	34	7 or 10 years
Assault 3	50	5 years
Simple Robbery	15	10 years
Aggravated Robbery 1	22	20 years
Aggravated Robbery 2	10	15 years
Criminal Sexual Conduct 1	4	30 years
Criminal Sexual Conduct 2	6	25 years
Criminal Sexual Conduct 3	7	15 years
# with stat max <del>less than</del> <u>greater than or equal to</u> 25 years	17	
# with stat max <del>greater than or equal to</del> <u>less than</u> 25 years	143	
Total	160	

Table 5 displays the estimated prison bed impact if all of the qualifying offenders were mandated to serve a full 25 years before release.

**Table 5: Estimated Bed Impact-Serve 25 years**

Offense	# Offenses	Beds
Murder 2, Severity 11	4	9
Murder 2, Severity 10	2	26
Manslaughter 1	1	17
Assault 1	4	76
Assault 2	34	770
Assault 3	50	1,207
Simple Robbery	15	350
Aggravated Robbery 1	22	452
Aggravated Robbery 2	10	235
Criminal Sexual Conduct 1	4	43
Criminal Sexual Conduct 2	6	121
Criminal Sexual Conduct 3	7	137
Total	159	3,444