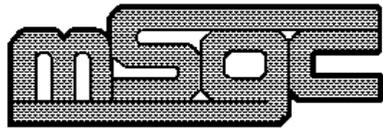


# Minnesota Sentencing Guidelines Commission



REPORT TO THE LEGISLATURE

January 2002

**Minnesota Sentencing Guidelines Commission**  
**REPORT TO THE LEGISLATURE**  
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## I. Summary: Background, Current Commission, and Challenges Ahead

### Background

Minnesota's Sentencing Guidelines system, adopted over 20 years ago, became a model for felony sentencing reform throughout the United States. Compared to the prior, indeterminate sentencing system, the Sentencing Guidelines made several major improvements:

1. Truth In Sentencing/Predictability. All of the participants in the criminal justice system—courts, prosecutors, offenders, and victims—would know, at sentencing, how much time in prison an offender would serve when given a particular sentence. For example, if an offender were sentenced to 60 months in prison, that offender would serve 40 months in prison and would be on supervised release for 20 months.

A highly desirable side effect of the specificity of the sentence was to allow accurate predictability of the future need for prison bed space. For example, if the sentence for a particular offense was increased by 12 months, the guidelines commission staff could, with a fair amount of confidence, predict the long-term prison bed impact of that change. In conjunction with other agencies, the likely fiscal impact of any sentencing change could also be measured.

2. Clear Proportionality/Uniformity. Under this "Just Deserts" model, an offender who committed a more serious crime would receive a longer sentence than one who committed a less serious crime. An offender with a criminal history would receive a longer sentence than an offender who committed the same crime but did not have a criminal history. Similarly, offenders with similar offense and history characteristics would be treated the same across the state.

3. Accurate Data Collection. The new system also allowed the Guidelines Commission to collect accurate data on sentencing practices across the state with respect to actual sentencing practices. For example, data collected by the Commission allows analysis of sentencing trends with respect to particular offenses, specific types of offenders, and geographic variations.

The primary goal of the Sentencing Guidelines has always been the protection of public safety.

### The Current Commission

The Minnesota Sentencing Guidelines Commission is responsible for maintaining the sentencing guidelines. The 11 Commission members represent a variety of participants in the Minnesota criminal justice system.

In the past year, four new members have been appointed to the Commission:

Connie Larson, who was appointed as a citizen representative. Ms. Larson, an articulate and strong spokesperson for citizens interested in criminal justice, became involved and interested in the criminal justice system when her daughter became a homicide victim in 1999.

Kent Wilkening, who was appointed as the law enforcement representative. Sheriff Wilkening, from Nobles County, brings a wealth of law enforcement experience to the commission.

Lorie Gildea, was also appointed as a citizen representative. Ms. Gildea, who practices law at the University of Minnesota, has quickly demonstrated a grasp of the legal and policy issues facing the commission.

Gordon Shumaker, who was appointed as a member of the judiciary. Judge Shumaker brings a wealth of sentencing experience to the commission, having learned the guidelines as a long-time trial judge and, more recently, as Judge at the Minnesota Court of Appeals.

The Commission also has a new Executive Director. Deb Dailey, who lead the 8 member commission staff since the 1980's, left to help the Minnesota Court System integrate its data collection. Scott Swanson, a member of the Guidelines commission since 1999, was picked by the Commission to become the new Executive Director in August, 2001.

### **Challenges Ahead**

Sentencing in Minnesota has, in the past 10 years, become far more complex. Initially, the vast majority of felony sentences imposed in Minnesota were sentences, which were taken from the Sentencing Guidelines Grid.

In recent years, however, the number of sentences imposed, which represent the "normal" grid sentence, has decreased. The number of cases involving a departure from the presumptive sentence has steadily increased; for some types of offenses, the departure rate is near 50%. An increasing number of offenders are sentenced under statutory provisions (such as career offenders and patterned sex offenders) which allow sentencing outside of the Guidelines Grid.

The Minnesota Legislature has mandated particular sentences for some types of offenders (such as certain weapon and sex offenses), and those specific sentences do not fit within the current Sentencing Guidelines Grid. Additionally, the Minnesota Legislature has, through the "conditional release" provisions, increased the period of supervision following most executed sex offender prison sentences; this change, too, has not been integrated into the published Minnesota Sentencing Guidelines document.

The challenge to the Guidelines Commission during the next year is to integrate this variety of changes in sentencing policy and practice into the Minnesota Sentencing Guidelines. The current system, although familiar, has become complicated and confusing for practitioners in the criminal justice system. Often, practitioners are not aware of the variety of sentencing options available to them, and they are not always aware of the consequences of imposing a particular sentence. In the next year, the Guidelines Commission will be focusing on providing a practitioner-friendly Sentencing Guidelines, one which is consistent with the rationale and spirit behind those guidelines, while maintaining a consistent commitment to the values behind our sentencing system.

## II. Guidelines Modifications

This year, changes to the sentencing guidelines had two separate effective dates. One group of changes, which followed the normal Commission routine, became effective August 1, 2001. A second group of changes became effective September 14, 2001, because that was the first date those changes could go into effect following statutory changes during the special legislative session in summer, 2001.

The language of the specific changes is included in the Appendix. A summary of the most significant of those changes follows. Other changes, which are included in the Appendix, involved placing certain offenses on the unranked list of offenses, and correcting technical omissions, are not summarized.

### **Changes Effective August 1, 2001.**

The severity level of the offense Malicious Punishment of a Child (resulting in bodily harm) was raised from severity level I to severity level IV.

An additional custody status point was given to some offenders. Offenders who are initially given probation for a period of years, but are subsequently discharged early from probation (before the time period initially pronounced by the court has run out), will receive a custody status point if the offender commits a new offense during the pronounced original period of probation.

### **Changes Effective September 14, 2001.**

The commission increased the severity level of the offense of Fleeing a Police Officer (Resulting in Death) from severity level VII to severity level IX.

The commission integrated a variety of offenses relating to mistreatment of animals into the existing Guidelines criminal history and severity level provisions. Additionally, the commission altered several provisions to conform to special sentencing provisions for certain repeat offenders.

## III. Felony Driving While Impaired

During the 2001 Special Session, legislation was passed creating Minnesota's first Felony Driving While Impaired offense. That legislation, with a delayed effective date of August 1, 2002, created a felony level offense for a 4<sup>th</sup> impaired driving incident within 10 years.

The Sentencing Guidelines Commission began the process of deciding how to treat this offense shortly after it became law. The Commission decided that the legislation created an offense which required treatment of this offense as a presumptive commitment to prison for 36 months, and created a sentencing proposal based on this presumption. The Commission also decided to accept additional input from the legislature regarding its intent with regard to this offense.

## IV. Sentencing Guidelines Electronic Worksheet System (EWS)

The Sentencing Worksheet is a form completed by probation officers that provides information on the application of the sentencing guidelines for individual cases. As reported last year, the Commission was allocated \$150,000 in the 2000-2001 biennium to develop a web-based application that would be used to complete the sentencing worksheet and replace the current manual process that uses typewritten multi-part forms.

This year the Commission has worked toward full statewide implementation of the system and implementation of electronic access to other criminal justice professionals. Worksheets are submitted directly into a statewide database that is accessible to criminal justice practitioners. This new application has reduced the work required for completing and submitting a sentencing worksheet and the result is more accurate, timely, and complete information.

Other advantages of this new system include:

- Establishes a uniform way to complete, submit, and share sentencing worksheets.
- Ensures more accurate worksheets with immediate edit checks to reduce errors and the ability to provide more immediate review of the worksheets by Commission staff.
- Reduces delivery time of the worksheet to the Commission and other criminal justice practitioners; copies of the worksheet can be shared by email or by directly accessing the database.
- Provides search capabilities to look-up previously submitted sentencing worksheets and links to information in the Statewide Supervision System (S<sup>3</sup>).

To further the goal of statewide integration of criminal justice data, the worksheet system is directly linked to S<sup>3</sup>. Under a collaborative effort with the Department of Corrections, the sentencing worksheet database resides on the same server as S<sup>3</sup>. The same security system is used for both systems and only one log-on process is required. As part of this collaborative effort, the Department of Corrections is responsible for technical maintenance and Commission staff is responsible for user administration and assistance of the S<sup>3</sup>.

As of December 2001, all agencies statewide were contacted regarding the Electronic Worksheet System and 90 percent of all users statewide were trained on the system. Overview and registration information regarding the system is provided on the S<sup>3</sup> and MSGC websites. Although the system is no longer in the pilot phase, Commission staff continues to log user suggestions to help identify necessary changes for future enhancements. See the Appendix for additional information including an implementation status report.

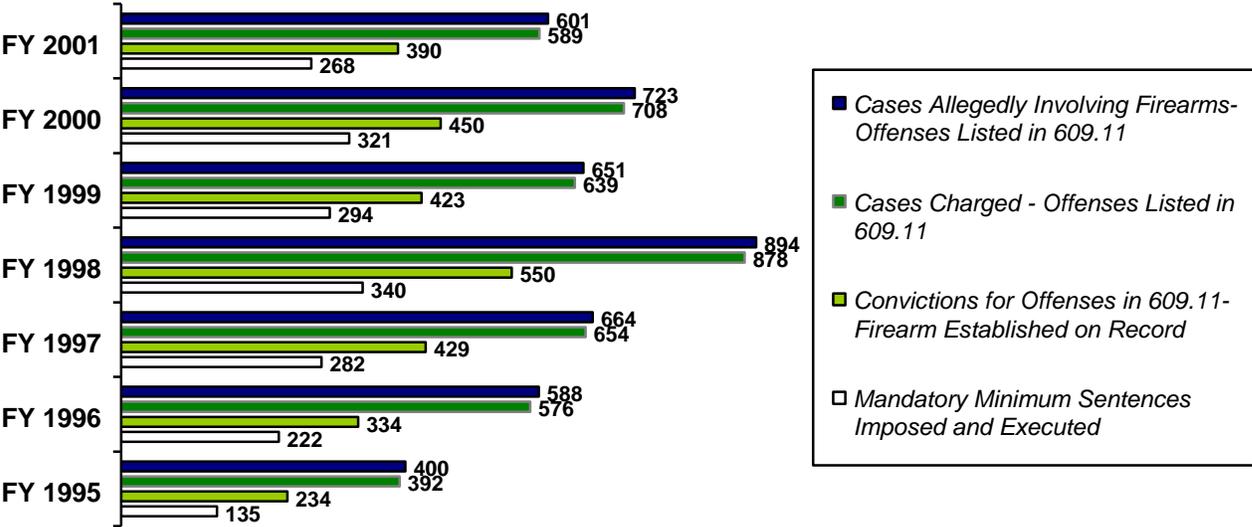
## V. County Attorney Reports on Criminal Cases Involving Firearms

The 1994 Legislature passed a law (M.S. § 609.11, subdivision 10) directing county attorneys to collect and maintain the following information on criminal complaints and prosecutions within the county attorney’s office in which the defendant is alleged to have committed an offense listed in subdivision 9 while possessing or using a firearm: 1) Whether the case was charged or dismissed; 2) Whether the defendant was convicted of the offense or a lesser offense; 3) Whether the mandatory minimum sentence required under this section was imposed and executed or was waived by the prosecutor or court. This information is to be forwarded to the sentencing guidelines commission no later than July 1 of each year, beginning on July 1, 1995. Pursuant to M.S. § 244.09, subdivision 14, the sentencing guidelines commission is required to include in its annual report to the legislature a summary and analysis of the reports received from county attorneys. Memorandums describing the ongoing mandate by the legislature along with forms (See Appendix) on which to report their county’s cases are distributed to Minnesota’s county attorneys. Although commission staff clarifies inconsistencies in the summary data, the information received from the county attorneys is reported directly as provided.

This year the commission received information from all of Minnesota’s eighty-seven counties. Figure 1 below displays a historical summary of cases since the mandate began. In FY 2001, there were a total of 601 cases in which a defendant allegedly committed an offense listed in subdivision 9 while possessing or using a firearm. Case volume was down 17 percent from last year and down 33 percent from FY 1998.

Figures 2 through 5 summarize this year’s statewide information. Tables providing information for individual counties are included in the Appendix.

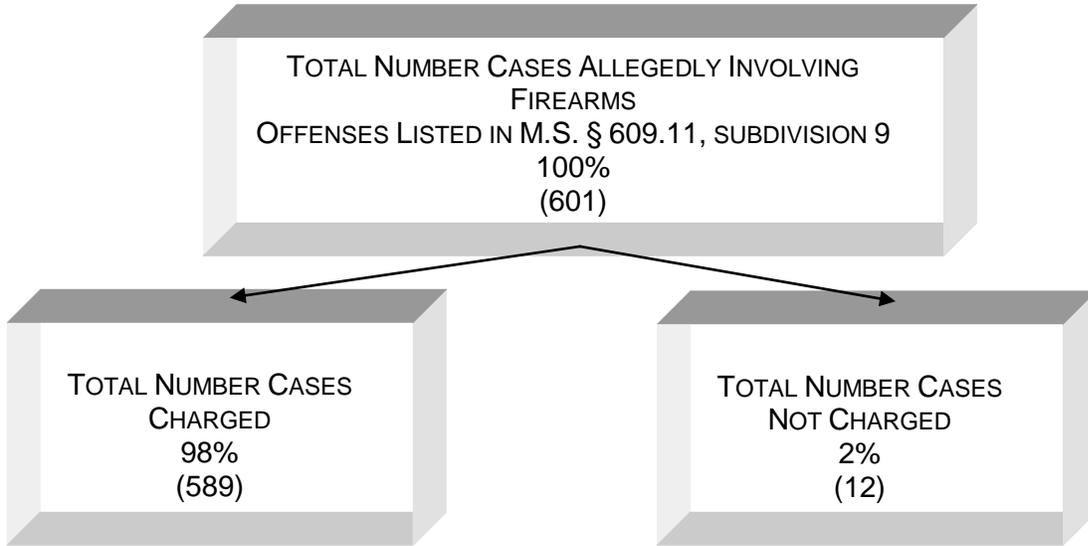
**FIGURE 1. I. Historical Case Summary**



**Total Number Cases Allegedly Involving Firearms  
Offenses Listed in § 609.11, subdivision 9**

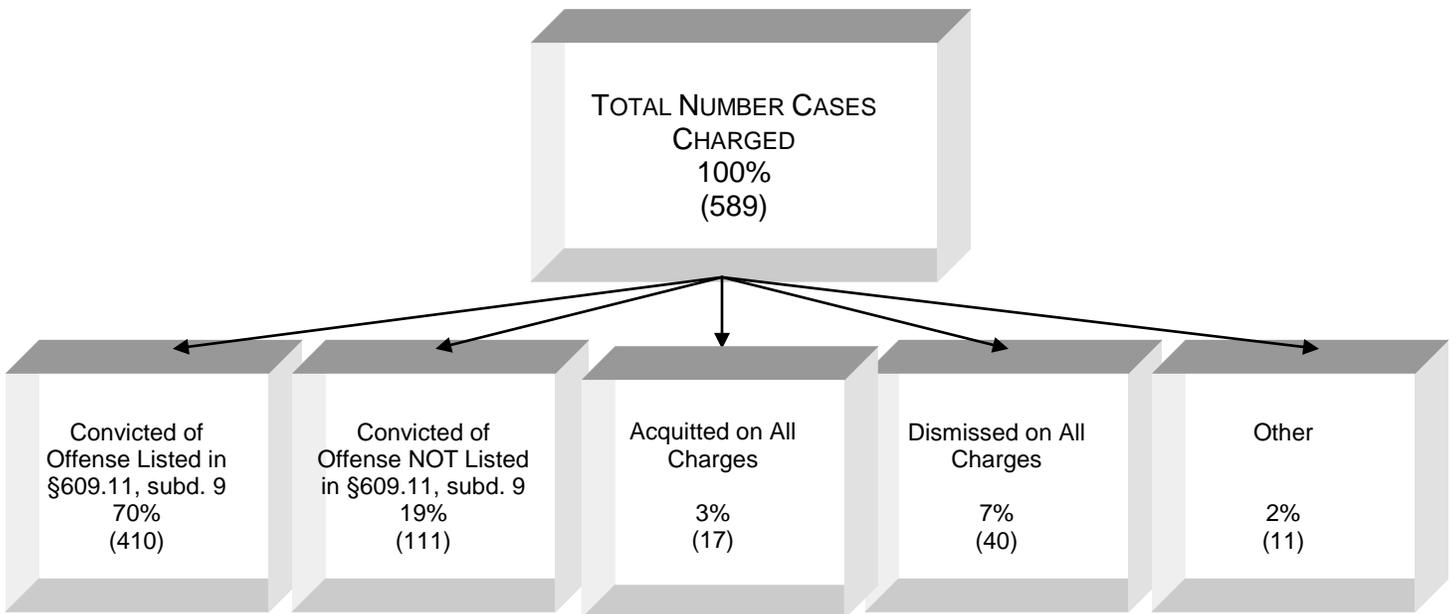
**FIGURE 2.**

- In FY 2001, prosecutors charged offenders in 98 percent of the cases allegedly involving firearms. This figure has remained constant since the mandate began.*



**FIGURE 3. Offenses Charged – Case Outcomes**

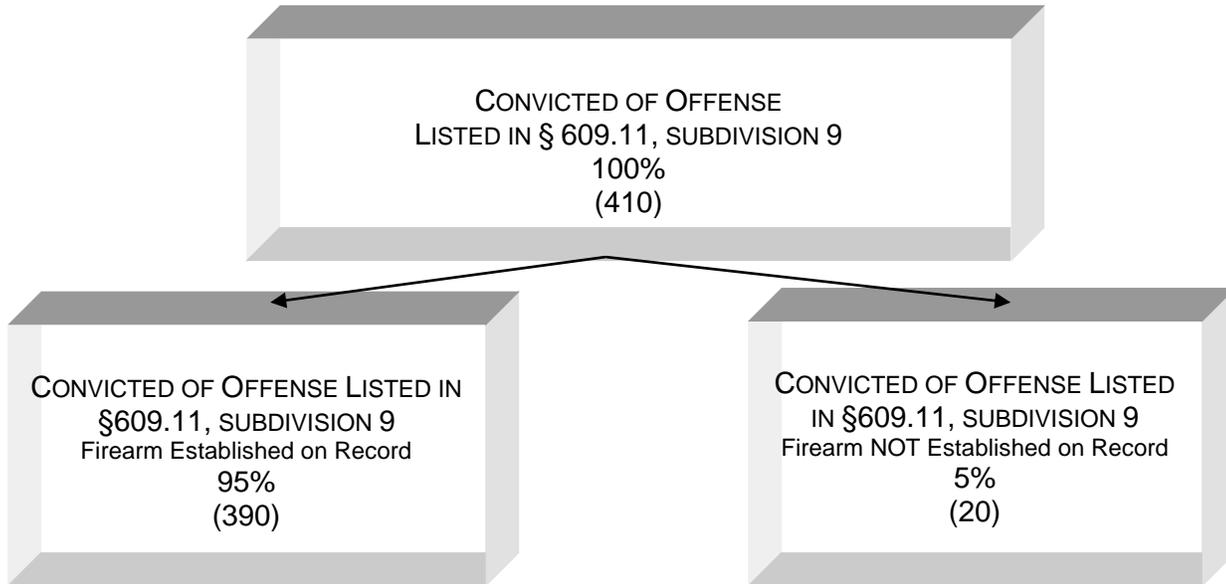
- Among those cases charged, 70 percent were convicted of an offense listed in § 609.11, subdivision 9. This figure is higher than the 68 percent recorded in FY 2000.*



**Convictions for Offenses Listed in § 609.11, subdivision 9 -**

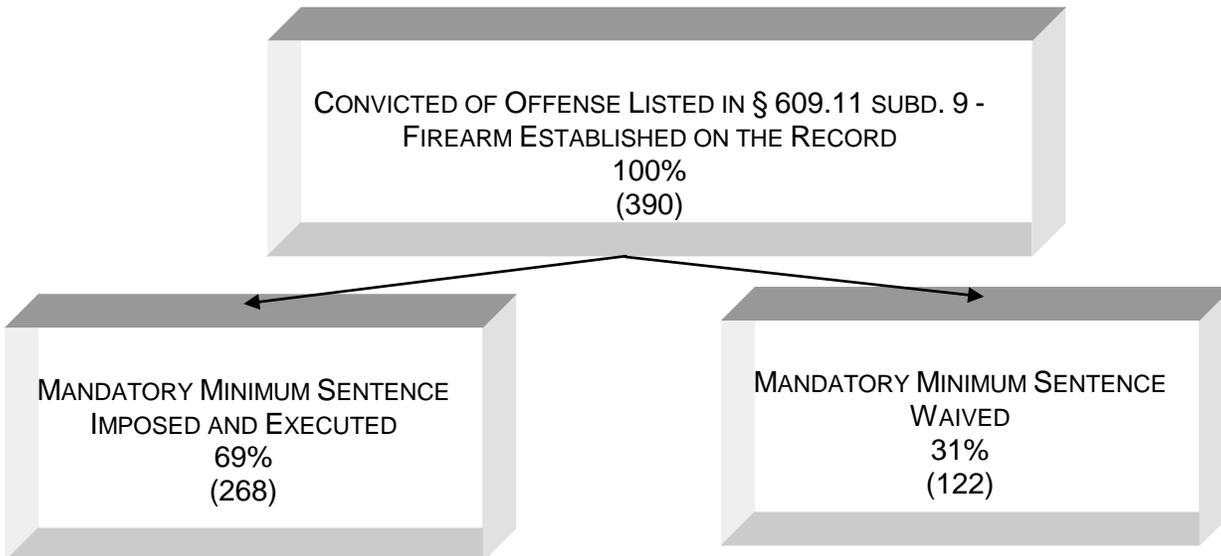
**FIGURE 4. Firearm Established on the Record**

- *There were 410 convictions for offenses listed in § 609.11, subdivision 9. In 95 percent of the cases, a firearm was established on the record. In FY 2000, this figure was 94 percent.*



**FIGURE 5. Mandatory Minimum Sentences Imposed and Executed**

- *A mandatory minimum sentence was imposed and executed in 69 percent of the cases where it was required. This figure was 71 percent in FY 2000.*



## Appendix

# SENTENCING GUIDELINES GRID

## Presumptive Sentence Lengths in Months

Italicized numbers within the grid denote the range within which a judge may sentence without the sentence being deemed a departure. Offenders with nonimprisonment felony sentences are subject to jail time according to law.

### CRIMINAL HISTORY SCORE

SEVERITY LEVEL OF CONVICTION OFFENSE (Common offenses listed in italics)		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by- shootings)	<b>X</b>	306 299-	326 319-	346 339-	366 359-	386 379-	406 399-	426 419-
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	<b>IX</b>	150 144-	165 159-	180 174-	195 189-	210 204-	225 219-	240 234-
<i>Criminal Sexual Conduct, 1st Degree</i> <sup>2</sup> <i>Assault, 1st Degree</i>	<b>VIII</b>	86 81-91	98 93-103	110 105-	122 117-	134 129-	146 141-	158 153-
<i>Aggravated Robbery 1st Degree</i>	<b>VII</b>	48 44-52	58 54-62	68 64-72	78 74-82	88 84-92	98 94-102	108 104-
<i>Criminal Sexual Conduct, 2nd Degree (a) &amp; (b)</i>	<b>VI</b>	21	27	33	39 37-41	45 43-47	51 49-53	57 55-59
<i>Residential Burglary</i> <i>Simple Robbery</i>	<b>V</b>	18	23	28	33 31-35	38 36-40	43 41-45	48 46-50
<i>Nonresidential Burglary</i>	<b>IV</b>	12 <sup>1</sup>	15	18	21	24 23-25	27 26-28	30 29-31
<i>Theft Crimes (Over \$2,500)</i>	<b>III</b>	12 <sup>1</sup>	13	15	17	19 18-20	21 20-22	23 22-24
<i>Theft Crimes (\$2,500 or less)</i> <i>Check Forgery (\$200-\$2,500)</i>	<b>II</b>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 20-22
<i>Sale of Simulated Controlled Substance</i>	<b>I</b>	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 18-20



Presumptive commitment to state imprisonment. First Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence. See section **II.E. Mandatory Sentences** for policy regarding those sentences controlled by law, including minimum periods of supervision for sex offenders released from prison.



Presumptive stayed sentence; at the discretion of the judge, up to a year in jail and/or other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in this section of the grid always carry a presumptive commitment to state prison. These offenses include Third Degree Controlled Substance Crimes when the offender has a prior felony drug conviction, Burglary of an Occupied Dwelling when the offender has a prior felony burglary conviction, second and subsequent Criminal Sexual Conduct offenses and offenses carrying a mandatory minimum prison term due to the use of a dangerous weapon (e.g., Second Degree Assault). See sections **II.C. Presumptive Sentence** and **II.E. Mandatory Sentences**.

<sup>1</sup> One year and one day

<sup>2</sup> Pursuant to M.S. 609.342, subd. 2, the presumptive sentence for Criminal Sexual Conduct in the First Degree is a minimum of 144 months (see **II.C. Presumptive Sentence** and **II.G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers**).

Effective September 14, 2001

## SPECIFIC GUIDELINES MODIFICATIONS

### I. Adopted Modifications - *Effective August 1, 2001*

#### A. Adopted Changes to the Offense Severity Reference Table:

##### Severity Level IV

Malicious Punishment of A Child (bodily harm) 609.377, subd 4

##### Severity Level I

~~Malicious Punishment of A Child (bodily harm) 609.377~~

#### B. The Commission adopted the proposal to place on the unranked offense list the following crimes which were inadvertently unranked:

Issuing a Receipt for Goods One Does Not Have - 227.50

Sale of Membership Camping Contracts - 82A.03; 82A.13; 82A.25

#### C. The Commission adopted the proposal to add Theft of Registered Bicycles (168C.09) to the Theft Offense List. Theft crimes are ranked at Severity Level II if the value is \$2,500 or less and at Severity Level III if the value is over \$2,500. This offense was inadvertently left unranked.

#### D. The Commission adopted the following change to Section II.B of the Guidelines to allow for a custody status point to be given to a person if they commit a new offense within the initial length of stay pronounced by the sentencing judge for the prior offense.

##### 2. ~~The offender is assigned~~ One point is assigned if the offender:

- a. ~~he or she~~ was on probation, parole, supervised release, conditional release, or confined in a jail, workhouse, or prison following ~~conviction~~ of a felony, ~~or~~ gross misdemeanor or an extended jurisdiction juvenile conviction; ~~or~~
- b. was released pending sentencing at the time the felony was committed for which he or she is being sentenced; or
- c. committed the current offense within the period of the initial length of stay pronounced by the sentencing judge for a prior felony, gross misdemeanor or an extended jurisdiction juvenile conviction.

**II.B.201.** *The basic rule assigns offenders one point if they were under some form of criminal justice custody following conviction of a felony or gross misdemeanor when the offense was committed for which they are now being sentenced. Criminal justice custodial status includes: 1) probation (supervised or unsupervised), parole, supervised release, conditional release, or confinement in a jail, workhouse, or prison, or work release, following ~~conviction~~ of a felony, ~~or~~ gross misdemeanor, or an extended jurisdiction juvenile conviction; 2) or release pending sentencing following the entry of a plea of guilty to a felony or gross misdemeanor, or a verdict of guilty by a jury or a finding of guilty by the court of a felony or gross misdemeanor; or 3) if the current offense occurred within the period of the initial length of stay pronounced by the sentencing judge for a felony, gross misdemeanor, or extended jurisdiction juvenile conviction. The Commission believes that the potential for a custody status point should remain for the entire period of the initial length of stay pronounced by the sentencing judge. An*

offender who is discharged early but subsequently is convicted of a new felony within the period of the initial length of stay should still receive the consequence of a custody status point.

## II. Adopted Modifications – Effective September 14, 2001

### A. Ranking of New or Amended Crimes

1. The Commission adopted the proposal to rank the following crimes in Section V. OFFENSE SEVERITY REFERENCE TABLE as follows:

#### Severity Level IX

Fleeing a Peace Officer (resulting in death) – 609.487, subd. 4(a)

#### Severity Level VII

Criminal Sexual Conduct 3 – 609.344, subd. 1(c), (d), (g), (h), (i), (j), (k), ~~(l)~~ & (m)

~~Fleeing a Peace Officer (resulting in death) – 609.487, subd. 4(a)~~

#### Severity Level VI

Criminal Sexual Conduct 4 – 609.345, subd. 1(c), (d), (g), (h), (i), (j), (k), ~~(l)~~ & (m)

#### Severity Level I

Fraudulent Drivers' Licenses and Identification Cards – 609.652

2. The Commission adopted the proposal to add the following crimes to the *Unranked Offense List* in Section II.A.03 of the Commentary after considering the changes made by the Legislature during the 2001 Session and the 2001 Special Session:

Torture or cruelty to pet or companion animal – 343.21, subd. 9(c)(d)(f)(h)

Service animal providing service – 343.21, subd. 9(e)(g)

3. The Commission adopted the proposal to add the following crimes to the *Misdemeanor and Gross Misdemeanor Offense List* after considering the changes made by the Legislature during the 2001 Session and the 2001 Special Session:

Overworking or mistreating animals (second or subsequent torture or cruelty)  
343.21, subd. 9(a)

Torture or cruelty to pet or companion animal (substantial bodily harm)  
343.21, subd. 9(b)

4. The Commission considered the changes made by the Legislature during the 2001 Session and the 2001 Special Session and adopted the proposal to continue the existing severity level rankings in Section V. OFFENSE SEVERITY REFERENCE TABLE and the existing policies regarding inclusion on the Misdemeanor and Gross Misdemeanor Offense List for the following crimes, unless otherwise noted above:

Controlled Substance Crime in the Second Degree; Controlled Substance Crime in the Third Degree; Non-Support of Spouse or Child; Aiding an Offender to Avoid Arrest; Possession of

Shoplifting Gear; Violation of an Order for Protection; Assault in the Fifth Degree; Domestic Assault; Violation of Restraining Order; Harassment/Stalking.

5. **The Commission considered the changes made by the Legislature during the 2001 Session and the 2001 Special Session and adopted the proposal to continue to list the following crimes on the *Unranked Offense List* in Section *II.A.03* of the commentary:**

Dissemination or Possession of Pornographic Work Involving Minors; Aiding an Offender, Accomplice after the Fact.

## **B. Other Adopted Modifications**

1. **The Commission adopted the proposal to add the following departure reasons for “dangerous offenders” and “career offenders” to section II.D.2.b.**

2. Factors that may be used as reasons for departure: The following is a nonexclusive list of factors which may be used as reasons for departure:

....

b. Aggravating Factors:

....

(8) Offender is a "dangerous offender who commits a third violent crime"  
(See Minn. Stat. § 609.1095 subd. 2).

(9) Offender is a "career offender" (See Minn. Stat. § 609.1095 subd. 4).

(8)(10) The offender committed the crime....

(9)(11) The offender intentionally selects the victim....

2. **The Commission adopted the proposal to modify comment language (II.D.204) as it relates to special sentencing provisions for “patterned sex offenders,” “dangerous offenders,” and “career offenders.”**

*II.D.204. ~~A s~~Special sentencing provisions ~~was~~ere established by the legislature under Minn. Stat. § 609.108; 609.1095, subd. 2; and 609.1095, subd. 4, that ~~are~~ is available to judges when sentencing certain sex offenders, “dangerous offenders,” and “career offenders.” The use of one of these ~~is~~ sentencing provisions would constitute a departure under the sentencing guidelines and a judge must provide written reasons that specify ~~the substantial and compelling nature of the circumstances that the requirements of the statute have been met.~~*

3. **The Commission adopted the proposal to modify and clarify language in section II.B Concurrent/Consecutive Sentences that is no longer relevant because of previous modifications.**

**F. Concurrent/Consecutive Sentences:** Generally, ~~When~~ an offender is convicted of multiple current offenses, or when there is a prior felony sentence which has not expired or been discharged, concurrent sentencing is presumptive ~~shall be given in all cases not covered below.~~ In certain ~~There are two~~ situations in which consecutive sentences are presumptive; there are ~~four~~ other situations in which consecutive sentences are permissive. These situations are outlined below. The use of consecutive sentences in any other case constitutes a departure from the guidelines and requires written reasons pursuant to Minn. Stat. § 244.10, subd. 2 and section D of these guidelines.

4. **The Commission adopted the proposal to include Impaired Aircraft Operation under M.S. 360.0752 to DWI related criminal history provisions for Criminal Vehicular Homicide and Injury offenses in section II.B.3.**

3. Subject to the conditions listed below, ...There is the following exception to this policy when the current conviction is for criminal vehicular homicide or injury: previous violations of section 169A.20, 169A.31, 169.121, 169.1211, ~~or~~ 169.129 or 360.0752 are assigned two units each and there is no limit on the total number of misdemeanor points included in the criminal history score due to DWI violations.

***II.B.301.** ...Therefore, prior misdemeanor and gross misdemeanor sentences for violations under 169A.20, 169A.31, 169.121, 169.1211, ~~or~~ 169.129 or 360.0752 shall be used in the computation of the misdemeanor/gross misdemeanor point when the current conviction offense is criminal vehicular homicide or injury....*

***II.B.302.** ...The Commission believes that offenders whose current conviction is for criminal vehicular homicide or injury and who have prior violations under 169A.20, 169A.31, 169.121, 169.1211, ~~or~~ 169.129 or 360.0752 are also more culpable and for these offenders there is no limit to the total number of misdemeanor points included in the criminal history score due to DWI violations....*

**C. Adopted Technical Modifications and Corrections**

1. **Corrections to Offense Severity Reference Table**

<b>III</b>	Tear Gas & Tear Gas Compounds; <u>Electronic incapacitation devices</u> - 624.731, subd. 8
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<b>II</b>	Dishonored Check (over \$500) – 609.535, subd. 2a <u>(a)</u> (1)
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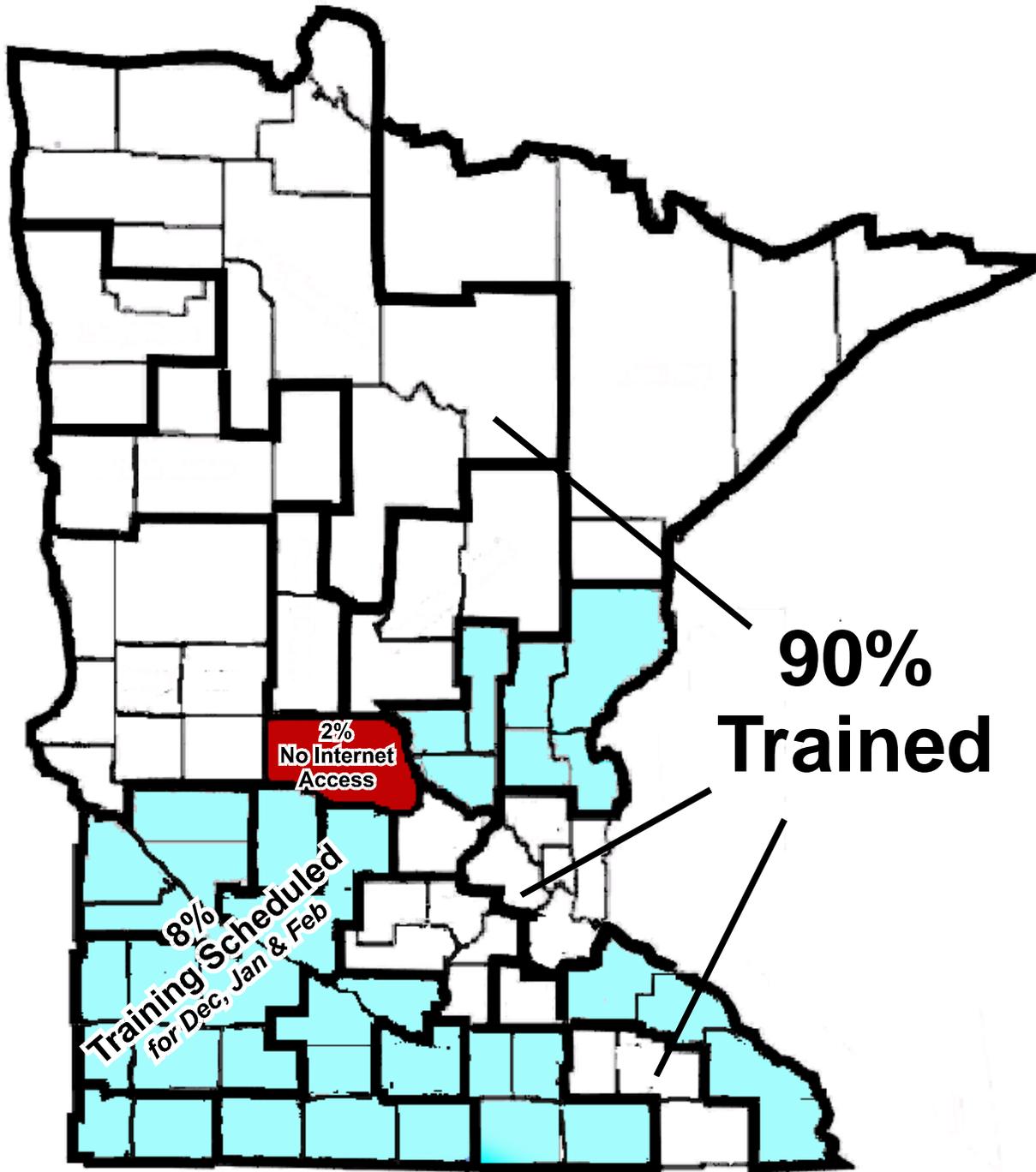
2. **Corrections to Numeric Reference of Felony Statutes Table**

<b>STATUTE</b>	<b>OFFENSE</b>	<b>SEVERITY LEVEL</b>
609.535 subd. 2a <u>(a)</u> (1)	Dishonored Check (over \$500)	2

## Electronic Worksheet System (EWS) Status Report

- ❖ All Sentencing Worksheets statewide since August 2000 are available on the system.
- ❖ Accessible to all agencies on Statewide Supervision System (S<sup>3</sup>) after making special arrangements with the Minnesota Sentencing Guidelines Commission.
- ❖ Agencies currently entering worksheets directly into the system (90%):
  - Anoka County Community Corrections
  - Arrowhead Regional Corrections
    - Carlton, Cook, Koochiching, Lake, St. Louis
  - Central MN Community Corrections
    - Aitkin, Crow Wing, Morrison Counties
  - Dakota County Community Corrections
  - DOC- Carver, Goodhue, LeSueur, McLeod, Scott & Sibley
  - DOC- Beltrami, Cass, Clearwater, Itasca, Kittson, Lake of the Woods, Marshall, Pennington, Roseau
  - DOC - Becker, Clay, Mahnommen, Ottertail
  - DOC – Ottertail, Big Stone, Grant, Traverse, Pope, Stevens, Douglas, Wilkin
  - Dodge/Fillmore/Olmsted Community Corrections
  - Hennepin County Department of Community Corrections
  - Ramsey County Community Corrections
  - Rice County Community Corrections
  - Tri-County Community Corrections –
    - Red Lake/Polk/Norman Counties
  - Todd/Wadena Community Corrections
  - Washington County Department of Court Services
- ❖ Currently scheduled to begin using system in December 2001 (3%):
  - DOC – Chisago, Isanti, Kanabec, Pine, Wright
  - DOC – Benton, Sherburne, Mille Lacs
- ❖ Currently scheduled to begin using system in February 2002 (5%):
  - 6W – Swift, Yellow Medicine, Chippewa, Lac Qui Parle
  - Kandiyohi Community Corrections
  - DOC – Jackson, Brown, Martin, Faribault, Nicollet, and Watonwan
  - Blue Earth Community Corrections
  - DOC Redwood – Lincoln, Lyon, Redwood, Renville, Murray, Pipestone, Cottonwood
  - Rock/Nobles Community Corrections
  - DOC Rochester – Waseca, Steele, Freeborn, Mower, Wabasha, Houston

Electronic Worksheet Implementation Status Map



## County Attorney Reports on Criminal Cases Involving Firearms By County

### Cases Allegedly Involving Firearms - Offenses Listed in § 609.11, Subd. 9 *Cases Disposed from July 1, 2000 to July 1, 2001*

County	Cases Allegedly Involving Firearms - Offenses Listed in § 609.11	Cases Not Charged	Cases Charged
Aitkin	4	0	4
Anoka	28	0	28
Becker	10	0	10
Beltrami	3	0	3
Benton	7	0	7
Big Stone	0	0	0
Blue Earth	0	0	0
Brown	0	0	0
Carlton	2	1	1
Carver	2	0	2
Cass	13	0	13
Chippewa	1	0	1
Chisago	1	0	1
Clay	5	0	5
Clearwater	0	0	0
Cook	0	0	0
Cottonwood	0	0	0
Crow Wing	7	2	5
Dakota	21	0	21
Dodge	3	0	3
Douglas	0	0	0
Faribault	1	0	1
Fillmore	0	0	0
Freeborn	2	0	2
Goodhue	6	0	6
Grant	0	0	0
Hennepin	195	0	195
Houston	0	0	0
Hubbard	0	0	0
Isanti	8	0	8

<b>County</b>	<b>Cases Allegedly Involving Firearms - Offenses Listed in § 609.11</b>	<b>Cases Not Charged</b>	<b>Cases Charged</b>
Itasca	9	1	8
Jackson	1	1	0
Kanabec	4	0	4
Kandiyohi	6	0	6
Kittson	0	0	0
Koochiching	0	0	0
Lac Qui Parle	0	0	0
Lake	0	0	0
Lake of the Woods	1	0	1
LeSueur	2	0	2
Lincoln	0	0	0
Lyon	2	0	2
McLeod	6	0	6
Mahnomen	7	2	5
Marshall	0	0	0
Martin	1	0	1
Meeker	7	0	7
Mille Lacs	3	0	3
Morrison	4	0	4
Mower	9	0	9
Murray	0	0	0
Nicollet	0	0	0
Nobles	0	0	0
Norman	0	0	0
Olmsted	13	0	13
Otter Tail	3	0	3
Pennington	3	0	3
Pine	0	0	0
Pipestone	2	0	2
Polk	3	0	3
Pope	1	0	1
Ramsey	110	0	110
Red Lake	1	0	1
Redwood	2	0	2
Renville	3	0	3

<b>County</b>	<b>Cases Allegedly Involving Firearms - Offenses Listed in § 609.11</b>	<b>Cases Not Charged</b>	<b>Cases Charged</b>
Rice	6	0	6
Rock	0	0	0
Roseau	6	0	6
St. Louis	26	5	21
Scott	3	0	3
Sherburne	6	0	6
Sibley	0	0	0
Stearns	13	0	13
Steele	0	0	0
Stevens	0	0	0
Swift	0	0	0
Todd	2	0	2
Traverse	0	0	0
Wabasha	6	0	6
Wadena	1	0	1
Waseca	1	0	1
Washington	3	0	3
Watsonwan	0	0	0
Wilkin	0	0	0
Winona	2	0	2
Wright	4	0	4
Yellow Medicine	0	0	0
<b>Total</b>	<b>601</b>	<b>12</b>	<b>589</b>

**County Attorney Report on Criminal Cases Involving Firearms  
By County**

**Offenses Charged - Case Outcome**  
*Cases Disposed from July 1, 2000 to July 1, 2001*

<b>County</b>	<b>Total Number of Cases Charged</b>	<b>Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established</b>	<b>Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Not Established</b>	<b>Conviction Offense Not Listed in M.S. §609.11</b>	<b>Acquitted on all Charges</b>	<b>Dismissed on all Charges</b>	<b>Other</b>
Aitkin	4	2	0	1	0	0	1
Anoka	28	13	0	10	0	4	1
Becker	10	5	0	5	0	0	0
Beltrami	3	1	0	2	0	0	0
Benton	7	3	3	1	0	0	0
Big Stone	0	0	0	0	0	0	0
Blue Earth	0	0	0	0	0	0	0
Brown	0	0	0	0	0	0	0
Carlton	1	0	0	1	0	0	0
Carver	2	0	2	0	0	0	0
Cass	13	0	3	8	0	1	1
Chippewa	1	1	0	0	0	0	0
Chisago	1	1	0	0	0	0	0
Clay	5	5	0	0	0	0	0
Clearwater	0	0	0	0	0	0	0
Cook	0	0	0	0	0	0	0
Cottonwood	0	0	0	0	0	0	0
Crow Wing	5	1	0	2	0	2	0
Dakota	21	15	0	3	1	2	0
Dodge	3	0	0	0	0	0	3
Douglas	0	0	0	0	0	0	0
Faribault	1	1	0	0	0	0	0
Fillmore	0	0	0	0	0	0	0
Freeborn	2	0	0	1	0	0	1
Goodhue	6	2	2	1	0	1	0
Grant	0	0	0	0	0	0	0
Hennepin	195	142	0	34	8	11	0
Houston	0	0	0	0	0	0	0
Hubbard	0	0	0	0	0	0	0
Isanti	8	5	1	2	0	0	0

County	Total Number of Cases Charged	Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established	Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Not Established	Conviction Offense Not Listed in M.S. §609.11	Acquitted on all Charges	Dismissed on all Charges	Other
Itasca	8	4	0	4	0	0	0
Jackson	0	0	0	0	0	0	0
Kanabec	4	2	0	2	0	0	0
Kandiyohi	6	4	0	2	0	0	0
Kittson	0	0	0	0	0	0	0
Koochiching	0	0	0	0	0	0	0
Lac Qui Parle	0	0	0	0	0	0	0
Lake	0	0	0	0	0	0	0
Lake of the Woods	1	0	0	1	0	0	0
LeSueur	2	0	0	2	0	0	0
Lincoln	0	0	0	0	0	0	0
Lyon	2	1	0	0	0	1	0
McLeod	6	6	0	0	0	0	0
Mahnomen	5	0	0	5	0	0	0
Marshall	0	0	0	0	0	0	0
Martin	1	1	0	0	0	0	0
Meeker	7	5	0	1	0	0	1
Mille Lacs	3	3	0	0	0	0	0
Morrison	4	2	1	1	0	0	0
Mower	9	7	1	1	0	0	0
Murray	0	0	0	0	0	0	0
Nicollet	0	0	0	0	0	0	0
Nobles	0	0	0	0	0	0	0
Norman	0	0	0	0	0	0	0
Olmsted	13	7	0	1	0	5	0
Otter Tail	3	3	0	0	0	0	0
Pennington	3	1	0	2	0	0	0
Pine	0	0	0	0	0	0	0
Pipestone	2	1	0	1	0	0	0
Polk	3	2	0	1	0	0	0
Pope	1	0	0	0	0	0	1
Ramsey	110	90	0	5	7	8	0
Red Lake	1	0	1	0	0	0	0
Redwood	2	0	2	0	0	0	0

County	Total Number of Cases Charged	Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established	Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Not Established	Conviction Offense Not Listed in M.S. §609.11	Acquitted on all Charges	Dismissed on all Charges	Other
Renville	3	2	0	0	0	0	1
Rice	6	6	0	0	0	0	0
Rock	0	0	0	0	0	0	0
Roseau	6	1	1	3	1	0	0
St. Louis	21	16	0	3	0	2	0
Scott	3	3	0	0	0	0	0
Sherburne	6	5	1	0	0	0	0
Sibley	0	0	0	0	0	0	0
Stearns	13	11	0	1	0	1	0
Steele	0	0	0	0	0	0	0
Stevens	0	0	0	0	0	0	0
Swift	0	0	0	0	0	0	0
Todd	2	1	0	0	0	0	1
Traverse	0	0	0	0	0	0	0
Wabasha	6	6	0	0	0	0	0
Wadena	1	0	0	1	0	0	0
Waseca	1	1	0	0	0	0	0
Washington	3	1	0	0	0	2	0
Watonwan	0	0	0	0	0	0	0
Wilkin	0	0	0	0	0	0	0
Winona	2	1	0	1	0	0	0
Wright	4	0	2	2	0	0	0
Yellow Medicine	0	0	0	0	0	0	0
<b>Total</b>	<b>589</b>	<b>390</b>	<b>20</b>	<b>111</b>	<b>17</b>	<b>40</b>	<b>11</b>

## County Attorney Report on Criminal Cases Involving Firearms By County

### Mandatory Minimum Sentences Imposed and Executed

*Cases Disposed from July 1, 2000 to July 1, 2001*

County	Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established on Record	Mandatory Minimum Sentence Imposed	Mandatory Minimum Sentence Waived
Aitkin	2	2	0
Anoka	13	6	7
Becker	5	2	3
Beltrami	1	0	1
Benton	3	3	0
Big Stone	0	0	0
Blue Earth	0	0	0
Brown	0	0	0
Carlton	0	0	0
Carver	0	0	0
Cass	0	0	0
Chippewa	1	0	1
Chisago	1	1	0
Clay	5	5	0
Clearwater	0	0	0
Cook	0	0	0
Cottonwood	0	0	0
Crow Wing	1	1	0
Dakota	15	11	4
Dodge	0	0	0
Douglas	0	0	0
Faribault	1	0	1
Fillmore	0	0	0
Freeborn	0	0	0
Goodhue	2	0	2
Grant	0	0	0
Hennepin	142	105	37
Houston	0	0	0

<b>County</b>	<b>Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established on Record</b>	<b>Mandatory Minimum Sentence Imposed</b>	<b>Mandatory Minimum Sentence Waived</b>
Hubbard	0	0	0
Isanti	5	4	1
Itasca	4	4	0
Jackson	0	0	0
Kanabec	2	2	0
Kandiyohi	4	1	3
Kittson	0	0	0
Koochiching	0	0	0
Lac Qui Parle	0	0	0
Lake	0	0	0
Lake of the Woods	0	0	0
LeSueur	0	0	0
Lincoln	0	0	0
Lyon	1	1	0
McLeod	6	3	3
Mahnomen	0	0	0
Marshall	0	0	0
Martin	1	0	1
Meeker	5	2	3
Mille Lacs	3	1	2
Morrison	2	1	1
Mower	7	7	0
Murray	0	0	0
Nicollet	0	0	0
Nobles	0	0	0
Norman	0	0	0
Olmsted	7	6	1
Otter Tail	3	3	0
Pennington	1	1	0
Pine	0	0	0
Pipestone	1	0	1

<b>County</b>	<b>Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established on Record</b>	<b>Mandatory Minimum Sentence Imposed</b>	<b>Mandatory Minimum Sentence Waived</b>
Polk	2	0	2
Pope	0	0	0
Ramsey	90	65	25
Red Lake	0	0	0
Redwood	0	0	0
Renville	2	1	1
Rice	6	1	5
Rock	0	0	0
Roseau	1	1	0
St. Louis	16	6	10
Scott	3	3	0
Sherburne	5	5	0
Sibley	0	0	0
Stearns	11	10	1
Steele	0	0	0
Stevens	0	0	0
Swift	0	0	0
Todd	1	1	0
Traverse	0	0	0
Wabasha	6	2	4
Wadena	0	0	0
Waseca	1	0	1
Washington	1	1	0
Watonwan	0	0	0
Wilkin	0	0	0
Winona	1	0	1
Wright	0	0	0
Yellow Medicine	0	0	0
<b>Total</b>	<b>390</b>	<b>268</b>	<b>122</b>

## 609.11 MINIMUM SENTENCES OF IMPRISONMENT

**Subdivision 1. Commitments without minimums.** All commitments to the commissioner of corrections for imprisonment of the defendant are without minimum terms except when the sentence is to life imprisonment as required by law and except as otherwise provided in this chapter.

**Subd. 2.** Repealed, 1978 c 723 art 2 s 5

**Subd. 3.** Repealed, 1981 c 227 s 13

**Subd. 4. Dangerous weapon.** Any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, used, whether by brandishing, displaying, threatening with, or otherwise employing, a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than one year plus one day, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, used a dangerous weapon other than a firearm, shall be committed to the commissioner of corrections for not less than three years nor more than the maximum sentence provided by law.

**Subd. 5. Firearm.** (a) Except as otherwise provided in paragraph (b), any defendant convicted of an offense listed in subdivision 9 in which the defendant or an accomplice, at the time of the offense, had in possession or used, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, shall be committed to the commissioner of corrections for not less than three years, nor more than the maximum sentence provided by law. Any defendant convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of the offense, had in possession or used a firearm shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

(b) Any defendant convicted of violating section 609.165 or 624.713, subdivision 1, clause (b), shall be committed to the commissioner of corrections for not less than five years, nor more than the maximum sentence provided by law.

**Subd. 5a. Drug offenses.** Notwithstanding section 609.035, whenever a defendant is subject to a mandatory minimum sentence for a felony violation of chapter 152 and is also subject to this section, the minimum sentence imposed under this section shall be consecutive to that imposed under chapter 152.

**Subd. 6. No early release.** Any defendant convicted and sentenced as required by this section is not eligible for probation, parole, discharge, or supervised release until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 242.19, 243.05, 244.04, 609.12 and 609.135.

**Subd. 7. Prosecutor shall establish.** Whenever reasonable grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present on the record all evidence tending to establish that fact unless it is otherwise admitted on the record. The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the court on the record at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The court shall determine on the record at the time of sentencing whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

**Subd. 8. Motion by prosecutor.** (a) Except as otherwise provided in paragraph (b), prior to the time of sentencing, the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentences established by this section. The motion shall be accompanied by a statement on the record of the reasons for it. When

presented with the motion, or on its own motion, the court may sentence the defendant without regard to the mandatory minimum sentences established by this section if the court finds substantial and compelling reasons to do so. A sentence imposed under this subdivision is a departure from the sentencing guidelines.

(b) The court may not, on its own motion or the prosecutor's motion, sentence a defendant without regard to the mandatory minimum sentences established by this section if the defendant previously has been convicted of an offense listed in subdivision 9 in which the defendant used or possessed a firearm or other dangerous weapon.

**Subd. 9. Applicable offenses.** The crimes for which mandatory minimum sentences shall be served as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; first-degree or aggravated first-degree witness tampering; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; drive-by shooting under section 609.66, subdivision 1e; harassment and stalking under section 609.749, subdivision 3, clause (3); possession or other unlawful use of a firearm in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (b), a felony violation of chapter 152; or any attempt to commit any of these offenses.

**Subd. 10. Report on criminal cases involving a firearm.** Beginning on July 1, 1994, every county attorney shall collect and maintain the following information on criminal complaints and prosecutions within the county attorney's office in which the defendant is alleged to have committed an offense listed in subdivision 9 while possessing or using a firearm:

- (1) whether the case was charged or dismissed;
- (2) whether the defendant was convicted of the offense or a lesser offense; and
- (3) whether the mandatory minimum sentence required under this section was imposed and executed or was waived by the prosecutor or court.

No later than July 1 of each year, beginning on July 1, 1995, the county attorney shall forward this information to the sentencing guidelines commission upon forms prescribed by the commission.

# Firearms Report Form:

## County Attorney Report on Criminal Cases Involving Firearms

M.S. § 609.11, subdivision 10 requires that no later than July 1 of each year, every county attorney shall forward to the sentencing guidelines commission information on cases in which the defendant is alleged to have committed an offense listed in M.S. § 609.11, subdivision 9. Please report on **adult cases** that were disposed of in the time period indicated. Please **do not include cases that were pending** during this time period. Consult reverse side for an illustration.

County: \_\_\_\_\_

Criminal Complaints Disposed of from July 1, \_\_\_\_\_ to July 1, \_\_\_\_\_.

Completed by: \_\_\_\_\_ Telephone: (\_\_\_\_) \_\_\_\_\_

### I. CHARGING

CASES CHARGED WHERE REPORTING IS REQUIRED
# of cases =

CASES <u>NOT</u> CHARGED WHERE REPORTING IS REQUIRED
# of cases =



**Only cases in this box should be carried down to Table II.**

### III. CASE OUTCOME: *Sum of Table II = total of "CASES CHARGED WHERE REPORTING IS REQUIRED" box above*

CONVICTED OF OFFENSE LISTED IN SUBD. 9; FIREARM ESTABLISHED ON THE RECORD	CONVICTED OF OFFENSE LISTED IN SUBD. 9; FIREARM <u>NOT</u> ESTABLISHED ON THE RECORD	CONVICTED OF OFFENSE NOT LISTED IN SUBD. 9	ACQUITTED ON ALL CHARGES	ALL CHARGES DISMISSED	OTHER
# of cases =	# of cases =	# of cases =	# of cases =	# of cases =	# of cases =



**Only cases in this box should be carried down to Table III.**

### III. SENTENCES FOR CASES REQUIRING MANDATORY MINIMUM UNDER M.S. § 609.11:

*Sum of Table III = Total in "FIREARM ESTABLISHED ON RECORD" box above*

MANDATORY MINIMUM SENTENCE (OR GREATER) IMPOSED AND EXECUTED
# of cases =

MANDATORY MINIMUM SENTENCE WAIVED
# of cases =

