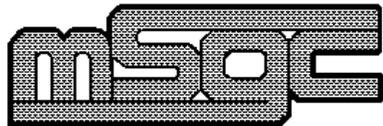


Minnesota Sentencing Guidelines Commission



REPORT TO THE LEGISLATURE

January, 2001

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MINNESOTA SENTENCING GUIDELINES COMMISSION

University National Bank Building

200 University Avenue West

Suite 205

St. Paul, Minnesota 55103

Voice: (651) 296-0144

FAX: (651) 297-5757

MN Relay Service TTY: 1-800-627-3529 (ask for 651/296-0144)

Website: www.msgc.state.mn.us

Email: sentencing.guidelines@state.mn.us

Members

Sheryl Ramstad Hvass, Chair and Commissioner of Corrections

Russell A. Anderson, Justice, Minnesota Supreme Court

Mary T. Howard, Citizen Representative

Roger M. Klaphake, Judge, Court of Appeals

Robert Knickerbocker, Probation Officer Representative, Anoka County

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Defender

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Edward S. Wilson, District Court Judge, Second Judicial District

Kristine Zajac, Citizen Representative

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Susan Carter, Research Analysis Specialist, Senior

Cheryl DeWolfe, Office and Administrative Specialist

Jodi Ehlenz, Administrator

Jill Payne, Research Analyst Intermediate

Stephen Schele, Employee Development Specialist II

Scott VanCleave, Research Analyst

Anne Wall, Research Analysis Specialist

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Background Information

Minnesota adopted a sentencing guidelines system effective May 1, 1980. The guidelines were created to ensure uniform and determinate sentencing. The goals of the guidelines are: (1) To enhance public safety; (2) To promote uniformity in sentencing so that offenders who are convicted of similar types of crimes and have similar types of criminal records are similarly sentenced; (3) To establish proportionality in sentencing by emphasizing a "just deserts" philosophy. Offenders who are convicted of serious violent offenses, even with no prior record, those who have repeat violent records, and those who have more extensive nonviolent criminal records are recommended the most severe penalties under the guidelines; (4) To provide truth and certainty in sentencing; and (5) To enable the Legislature to coordinate sentencing practices with correctional resources.

A sentencing guidelines system provides the legislature and the state with a structure for determining and maintaining rational sentencing policy. Through the development of the sentencing guidelines, the legislature determines the goals and purposes of the sentencing system. Guidelines represent the general goals of the criminal justice system and indicate specific appropriate sentences based on the offender's conviction offense and criminal record.

Judges may depart from the presumptive guideline sentence if the circumstances of the case are substantial and compelling. The judge must state the reasons for departure and either the prosecution or the defense may appeal the pronounced sentence. While the law provides for offenders to serve a term of imprisonment equal to two-thirds of their total sentence and a supervised release period equal to up to one-third of their total sentence if there are no disciplinary infractions, the sentence length is fixed. There is no mechanism for "early release due to crowding" that other states have been forced to accept because of disproportionate and overly lengthy sentences.

Judges pronounce sentences and are accountable for sentencing decisions. Prosecutors also play an important role in sentencing. The offense that a prosecutor charges directly affects the recommended guideline sentence if a conviction is obtained.

The Minnesota Sentencing Guidelines Commission is responsible for maintaining the sentencing guidelines. There are 11 members on the Commission who represent the criminal justice system and citizens of the State of Minnesota. The Commission meets monthly and all meetings are open to the public. The Minnesota Sentencing Guidelines and Commentary, meeting agendas, meeting minutes and many of the Commission's documents are available on the Commission's web site (www.msgc.state.mn.us) or upon request. The email address is: sentencing.guidelines@state.mn.us.

A constant flow of information is gathered on sentencing practices and made available to the Commission, the legislature, and others interested in the system. The Commission modifies the guidelines, when needed, to take care of problem areas and legislative changes. This report outlines the work of the Commission in 2000.

Guidelines Modifications – Effective August 1, 2000

Guidelines Modifications – Effective August 1, 2000

**Adopted Modifications to Rank the Severity of New or Amended Crimes
Passed by the 2000 Legislature**

1. The Commission adopted severity level rankings for the following crimes in Section V. **OFFENSE SEVERITY REFERENCE TABLE** as follows:

Severity Level IV

Malicious Punishment of A Child (2nd or subsequent violation) - 609.377, subd. 3

Severity Level III

Insurance Tax - 2971.90, subd. 1 & 2

Possession or Sale of Stolen or Counterfeit Check - 609.528, subd. 3 (4)

Severity Level II

Possession or Sale of Stolen or Counterfeit Check - 609.528, subd. 3 (3)

2. The Commission adopted the proposal to add the following offense to the *Theft Offense List*. Offenses with monetary values of \$2,500 or less are ranked at Severity Level II and offenses with monetary values over \$2,500 are ranked at Severity Level III.

Non-payment for Improvement (Proceeds of Payments; Acts Constituting Theft)
- 514.02, subd. 1

3. 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 2000 Legislature:

Anhydrous ammonia (tamper/theft/transport) - 18D.331, subd. 5

Lawful gambling fraud - 609.763

Gambling acts (cheating, certain devices prohibited; counterfeit chips; manufacture, sale, modification of devices; instruction) - 609.76, subd. 3, 4, 5, 6 & 7

4. The Commission adopted the proposal to add the following crime to the *Misdemeanor and Gross Misdemeanor Offense List* after considering the changes made by the 2000 Legislature:

Violation of an Order for Protection or Domestic Abuse No Contact Order
518B.01; subd. 14 & 22

5. **The Commission considered the changes made by the 2000 Legislature to the following crimes 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, unless otherwise noted above:**

- a. **Offenses Requiring no technical changes to statutory citations:**

Assault in the Fifth Degree; Domestic Assault; Escape; Fleeing a Peace Officer; Harassment/Stalking; Letter, telegram or Package/Opening/Harassment; Attempt/Conspiracy to commit Murder in the First Degree; Solicitation, Inducement and Promotion of Prostitution; Solicitation of Children to Engage in Sexual Conduct; Violation of Harassment Restraining Order.

- b. **Offenses requiring technical changes only in statutory citations:**

Assault in the Fourth Degree; Malicious Punishment of a Child (bodily harm, substantial bodily harm and great bodily harm); Sports Bookmaking.

- c. **Offenses affected by changes to the statute of limitations -- no changes to statutory citation:**

Any crime resulting in the death of the victim, Kidnapping, and Criminal Sexual Conduct in the First through Third Degree.

6. **The Commission considered the changes made by the 2000 Legislature to the following crimes and adopted the proposal to continue to list them on the unranked offense list in section II.A.03 of the commentary:**

Motor Vehicle Excise Tax; Racketeering; Registration of Predatory Offenders

Other Adopted Modifications

1. **The Commission adopted the proposal to add the following language to the Sentencing Guidelines and Commentary to address legislative amendments to *Minnesota Statute* § 609.342, subd. 2 creating a presumptive sentence of at least 144 months for Criminal Sexual Conduct in the First Degree. The new version of the Sentencing Guidelines Grid is attached. The Commission also agreed to examine the implications of this new policy on the proportionality of sentences already in place for other sex offenses and other person crimes.**

- a. **Modifications to II.C. Presumptive Sentence:**

C. Presumptive Sentence: The offense of conviction determines

Pursuant to M.S. § 609.342, subdivision 2, the presumptive sentence for a conviction of Criminal Sexual Conduct in the First Degree is an executed sentence of at least 144 months. Sentencing a person in a manner other than that described in M.S. § 609.342, subdivision 2 is a departure. The presumptive duration for an attempt or conspiracy to commit Criminal Sexual Conduct in the First Degree is one-half of the time listed in the appropriate cell of the Sentencing Guidelines Grid, or any mandatory minimum, whichever is longer. . .

II.C.08. When an offender has been convicted of M.S. § 609.342, the presumptive duration is that found in the appropriate cell of the Sentencing Guidelines Grid, any applicable mandatory minimum sentence, or the minimum presumptive sentence pursuant to M.S. § 609.342, subdivision 2, whichever is longer. According to M.S. § 609.342, subd. 2, the presumptive sentence for a conviction of Criminal Sexual Conduct in the First Degree is an executed sentence of at least 144 months. The presumptive duration for an attempt or conspiracy to commit Criminal Sexual Conduct in the First Degree is one-half of the time listed in the appropriate cell of the Sentencing Guidelines Grid, or any mandatory minimum, whichever is longer.

b. Modification to II.G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers:

G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers: For persons convicted of attempted offenses or conspiracies

For persons convicted of an attempt or conspiracy to commit Criminal Sexual Conduct in the First Degree (M.S. § 609.342), the presumptive duration is one-half of that found in the appropriate cell of the Sentencing Guidelines Grid or any mandatory minimum, whichever is longer.

c. Modifications to the Offense Severity Reference Table

Severity Level VIII

Criminal Sexual Conduct 1 (sexual penetration) – 609.342 (See II.C. Presumptive Sentence and II.G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers).

Severity Level VII

Criminal Sexual Conduct 1 (sexual contact -- victim under 13) – 609.342 (See II.C. Presumptive Sentence and II.G. Convictions for Attempts, Conspiracies, and Other Sentence Modifiers).

d. Addition of a Footnote to Severity Level VIII on the Sentencing Guidelines Grid:

² 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).

2. The Commission adopted the proposal to add the following aggravating factor to address crimes motivated by bias to the non-exclusive list of factors in Section II.D.2.b. and to amend the associated commentary:

II.D.2.b. Aggravating Factors:

....

(9) The offender intentionally selects the victim or the property against which the offense is committed, in whole or in part, because of the victim's, the property owner's or another's actual or perceived race, color, religion, sex, sexual orientation, disability, age or national origin.

....

II.D.206. The aggravating factor involving bias motivation under section II.D.2.b.(9) cannot be used when a person has been convicted under a statute that elevated the crime to a felony offense because of bias motivation, e.g., Minn. Stat. §§ 609.2231, subd. 4 (fourth-degree assault), 609.595, subd. 1a(a) (criminal damage to property); 609.749, subd. 3(1) (harassment/stalking). The Commission intends that a penalty for a bias-motivated offense be subject to enhancement only once.

Additionally, in determining when domestic violence, sexual assault and sexual abuse cases are motivated by a victim's sex and may be appropriately enhanced, proof must be shown of at least one factor, such as: Offender makes abusive or derogatory references based on gender; offender states hatred for a gender as a class; crime involves excessive violence, including mutilation; or victims are multiple and all of the same gender.

3. The Commission adopted the proposal to make the following change to II.F. Concurrent/ Consecutive Sentences so as to be consistent with changes made to *Minnesota Statute* § 609.035, subd. 6 by the 2000 Legislature. These statutory changes make Criminal Sexual Conduct 1-4 with force or violence crimes for which an offender can be prosecuted and punished in addition to any other crime committed by the defendant as part of the same conduct. It also provides that a judge can impose consecutive sentences in such situations without departing from the sentencing guidelines.

Permissive Consecutive Sentences

Except when consecutive sentences are presumptive, consecutive sentences are permissive (may be given without departure) only in the following cases:

....

A current felony conviction for Fleeing a Peace Officer in a Motor Vehicle as defined in Minn. Stat. § 609.487- or Criminal Sexual Conduct in the First through Fourth Degrees with force or violence as defined in Minn. Stat. § 609.342 through 609.345.

4. **The Commission adopted the proposal to make the following change to II.F. Concurrent/Consecutive Sentences to address the issue of offenses committed while on escape status from an executed sentence:**

Permissive Consecutive Sentences

Except when consecutive sentences are presumptive, consecutive sentences are permissive (may be given without departure) only in the following cases:

.....

5. A current felony conviction for a crime committed while on felony escape from lawful custody, as defined in Minn. Stat. § 609.485, from an executed felony sentence may be sentenced consecutively to the sentence for the escape.

6. A current felony conviction for Fleeing a Peace Officer in a Motor Vehicle

Consecutive sentences are always permissive under the above criteria numbers 5 and 6.

.....

II.F.04.

Sentences for offenses committed while on escape status from an executed sentence which have presumptive dispositions of commitment to the Commissioner of Corrections are presumptive consecutive to the sentence being served by the offender at the time of the escape. In addition, it is permissive to sentence any offense committed while on escape status from an executed sentence consecutive to the escape.

5. **The 2000 Legislature re-codified the DWI statutes. The Commission adopted the proposal to change the statutory references to these offenses in the custody status section (II.B.2) and the misdemeanor/gross misdemeanor point section (II.B.3) of the guidelines to conform to the new statutory citations and language.**
6. **The Commission adopted the proposal to make the following amendments to the guidelines to clarify current policy:**
 - a. **Additional language in II.B.1 Criminal History to clarify the order of sentencing when there are multiple offenses:**

The offender's criminal history index score is computed in the following manner:

1. Subject to the conditions listed below, the offender is assigned a particular weight for every extended jurisdiction juvenile conviction and for every felony conviction for which a felony sentence was stayed or imposed before the current sentencing or for which a stay of imposition of sentence was given before the current sentencing. Multiple offenses are sentenced in the order in which they occurred. For purposes of this section, prior extended jurisdiction juvenile convictions are treated the same as prior felony sentence....

b. Clarification in the Commentary in II.B.101 regarding the inclusion of stays of imposition in the calculation of the felony criminal history.

II.B.101. The basic rule for computing the number of prior felony points in the criminal history score is that the offender is assigned a particular weight for every felony conviction for which a felony sentence was stayed or imposed before the current sentencing or for which a stay of imposition of sentence was given for a felony level offense, no matter what period of probation is pronounced, before the current sentencing.

- c. **The Commission adopted the proposal to make the following changes to the comment in II.A.05 to clarify that judges should, consistent with the Minnesota Supreme Court decision in *State v. Kennard*, specify on the record the reason why a specific severity level was assigned to an unranked offense. The Commission is also proposing to modify this commentary language to clarify that one of the reasons offenses are sometimes placed on the unranked offense list is that the offense can cover a wide range of severity.**

II.A.05. The other offenses were excluded because prosecutions are rarely, if ever, initiated under them or because the underlying conduct included in the offense covers such a wide range of severity. When persons are convicted of offenses excluded from the Offense Severity Reference Table, judges should exercise their discretion by assigning an offense a severity level which they believe to be appropriate. Judges should specify on the record the reasons a particular severity level was assigned. Factors which a judge may consider when assigning a severity level to an unranked offense include but are not limited to: 1) the gravity of the specific conduct underlying the unranked offense; 2) the severity level assigned to any ranked offense whose elements are similar to those of the unranked offense; 3) the conduct of and severity level assigned to other offenders for the same unranked offense; and 4) the severity level assigned to other offenders engaged in similar conduct. If a significant number of future convictions are obtained under one or more of the excluded offenses, the Commission will determine an appropriate severity level, and will add the offense to the Offense Severity Reference Table.

- d. **Modifications to the Unranked Offense List to clarify that both Possession of Pictorial Representations of Minors and Use of Minors in Sexual Performance are on the list:**

~~Prohibiting promotion of minors to engage in obscene works
617.246;617.247~~

Possession of Pictorial Representations of Minors - 617.247

Use of Minors in Sexual Performance Prohibited - 617.246

Adopted Technical Modifications and Corrections
--

1. Correct "point" to "points" in II.B.1:

- a. The weight assigned to each prior felony sentence is determined according to its severity level, as follows:
Severity Level VI - VII = 1 ½ points;

2. Correction to example cited for concurrent and consecutive sentencing in II.F.03. so that the durations listed in the example reflect durations currently in effect.

II.F.03.

If sentenced concurrently, the presumptive duration would be ~~32~~27 months, the term of imprisonment would be ~~24~~18 months and because the sentence runs concurrently with the first offense, the total time to be served would be ~~24~~18 months. If the new offense were sentenced consecutively, the presumptive duration would be 15 months, the term of imprisonment would be 10 months and adding the 10 months to the four months left to serve on the first offense would equal 14 months or ~~7~~4 months less than the time to be served under concurrent sentencing. . . .

**Other Guidelines Modifications – Effective August 1, 2001,
After Review by the 2001 Legislature**

1. 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~~

2. 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

3. 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.

4. 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~~ 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.*

Sentencing Guidelines Electronic Worksheet Project

The sentencing worksheet is a form completed by probation officers that provides information on the application of the sentencing guidelines for individual cases. 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. The Commission successfully developed and is currently piloting this application and will use the remaining F.Y. 2001 funds to make further adjustments and improvements. The worksheets will be submitted directly into a statewide database that will be accessible to practitioners. This new application will reduce the work required for completing and submitting a sentencing worksheet and it will result in 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.

To further the goal of statewide integration of criminal justice data, the worksheet system is directly linked to Minnesota's new Statewide Supervision System. Under a collaborative effort with the Department of Corrections, the sentencing worksheet database resides on the same server as the Statewide Supervision System. 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 Statewide Supervision System.

The Commission is currently engaged in a pilot stage of the project. This agency is using the application to enter the paper worksheets that are currently submitted by U.S. mail. Dakota, Ramsey and St. Louis counties are now using the application to complete and enter worksheets on a limited basis. Aitkin, Sibley and Rice counties are expected to join the pilot shortly. Other counties will be added to the pilot through the end of June, 2001. The Commission will continue to bring on board the remaining counties for full implementation by June, 2002. See the Appendix for additional information, including copies of the screens and the worksheet when it is printed from the new system.

Juvenile Out-of- State Placements

The 2000 Legislature amended Minn. Stat. 260B.199 and Minn. Stat. 160B.201 to require that when courts make certain placements of juveniles at out-of-state facilities rather than at MCF-Red Wing, or make alternative placements when juveniles meet the requirements for mandatory commitment, that the court report information about the placement to the Minnesota Sentencing Guidelines Commission. The Commission, in turn, is required to summarize this information and report to the Legislature by February 15 of each year.

The Commission worked with state court staff and legislative staff to develop a form that would be used to collect this information and completed its development in October. The form and an explanatory memo were recently sent out to judges across the state and are also available to them electronically. A copy of this form and the memo are found in the Appendix.

It would be helpful to get further review of these forms by the 2001 Legislature. It is difficult to know if the forms will actually gather the information that is expected by the Legislature due to some confusion over the specific information required under various circumstances. The Commission could amend these forms if it appears that they do not request the necessary information. The Commission will not be able to report any actual data until next year.

Sentencing Guidelines Subcommittee Work

Drug Policy Subcommittee

The Drug Policy Subcommittee has been meeting over the last year to develop a more effective sentencing policy for drug offenders that focuses on identifying and punishing those offenders who pose a substantial risk to the community more severely and gives discretion to the judge to choose more treatment and supervision oriented sanctions for other offenders. The subcommittee believes it is necessary to consider some change for the following reasons:

- Need to find a better way to protect communities by using the most effective means of reducing the illegal use of drugs.
- Need to increase truth in sentencing, fairness and the integrity of the criminal justice system by implementing a policy that more directly reflects the distinctions among drug offenders that are already being made by practitioners.
 - Evidence of this problem includes high departure rates, survey conducted by the MSGC drug policy subcommittee, anecdotal information gathered through discussions with practitioners.
- Current drug laws are too narrowly defined by focusing almost exclusively on the amount of drug possessed or sold. There are other factors that should be taken into account to ensure that appropriate sanctions, including prison, are imposed on drug offenders.
- Need to more clearly identify drug offenders who pose a substantial threat to the community and ensure harsher penalties such as prison for those offenders. Focus on intermediate sanctions, such as jail and treatment, to hold less serious drug offenders accountable.
- Need to incorporate statutory mandatory minimums more effectively within the guidelines and further refine the distinctions necessary to determine appropriate recommended sentences.
- Flexibility is needed for the courts to pronounce the most appropriate sentence that will best protect the community.

Other important factors supporting change:

- Racial and ethnic minorities are dramatically over-represented in the population of convicted drug offenders and therefore we need to be certain about the appropriateness of our drug sentencing policies.
- The implementation of drug courts in large urban counties such as Hennepin, call for consideration of how drug court philosophy can be integrated into the sentencing guidelines.

The subcommittee is in the early stages of developing ideas and new approaches to drug sentencing guidelines and will be working to seek input from various practitioners and policy-makers. The goal of the process set forth above is to ensure a rational sentencing guidelines grid that is consistent with the reality of sentencing practices and ensures public safety. Any proposals developed and recommended by the subcommittee would need to be approved by the full Commission, followed by a public hearing after which the Commission would vote on whether to adopt any changes. If changes are adopted, they need to be reported to the Legislature for its review before they could go into effect. A list of the Drug Policy Subcommittee members is found in the Appendix.

Non-Imprisonment Sanctions Subcommittee

The Commission was asked by a member of the House of Representatives to consider developing additional sentencing guidelines to address non-imprisonment sanctions, including those offenders convicted of misdemeanors and gross misdemeanors. A particular concern was the problem of chronic offenders who continue to commit misdemeanors or low-level felonies that fall short of a prison sentence (either because it was not recommended under the guidelines or it was not a felony conviction).

The Commission formed a subcommittee and invited other criminal justice professionals to join the group to work on ways to respond to the concerns of chronic offenders and the lack of non-imprisonment guidelines. A list of the members is found in the Appendix. The subcommittee proceeded to ask the following questions:

- Should additional sentencing guidelines in the non-prison area be developed and implemented to further support the important goals and purposes of the sentencing guidelines?
- Would sentencing guidelines for non-imprisonment sanctions help address the problem of the chronic offender who continues to commit misdemeanors, gross misdemeanors and low-level felonies?

The Subcommittee has met several times and has reviewed past efforts and discussed the current situation. They plan to submit a report to the full Commission in early 2001 which will be available to the Legislature.

County Attorney Reports on Criminal Cases Involving Firearms

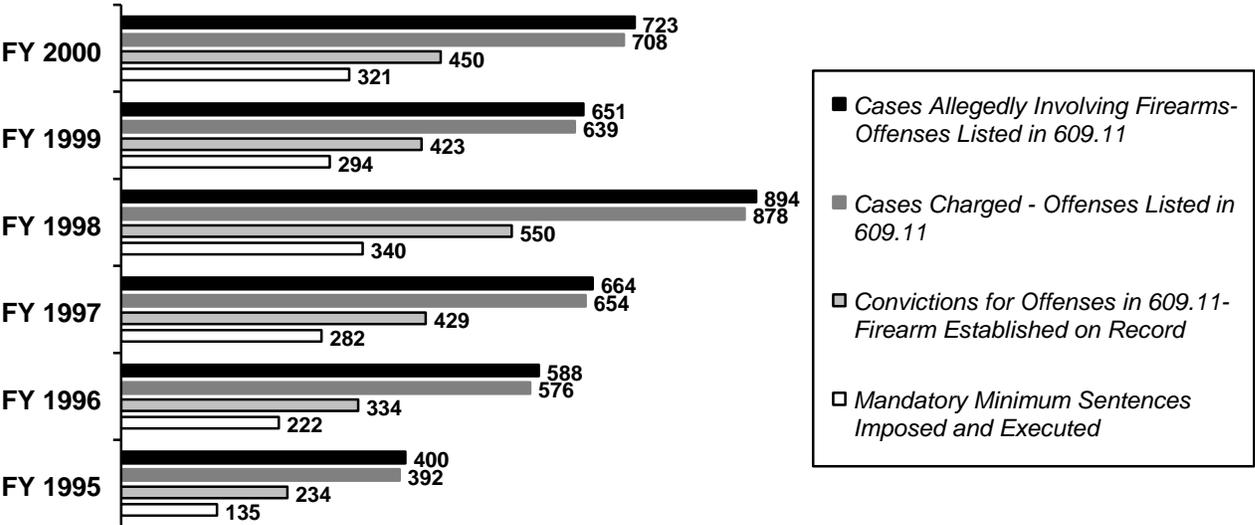
The 1994 Legislature passed a law (M.S. § 609.11, subdivision 10) directing county attorneys to collect and maintain the following information on criminal complaints and prosecutions within the county attorney’s office in which the defendant is alleged to have committed an offense listed in subdivision 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 eighty-five of Minnesota’s eighty-seven counties. The two counties that did not report did file reports last year and together had five cases total. Therefore, the absence of their reports this year should not affect cross year comparisons.

Figure 1 below displays a historical summary of cases since the mandate began. In FY 2000, there were a total of 723 cases in which a defendant allegedly committed an offense listed in subdivision 9 while possessing or using a firearm. This was an 11 percent volume increase from last year. However, the data in FY 1999 showed a dramatic 27 percent volume decrease over the previous year. FY 2000 cases are still down 19 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 2000, prosecutors charged offenders in 98 percent of the cases allegedly involving firearms. This figure has remained constant since the mandate began.

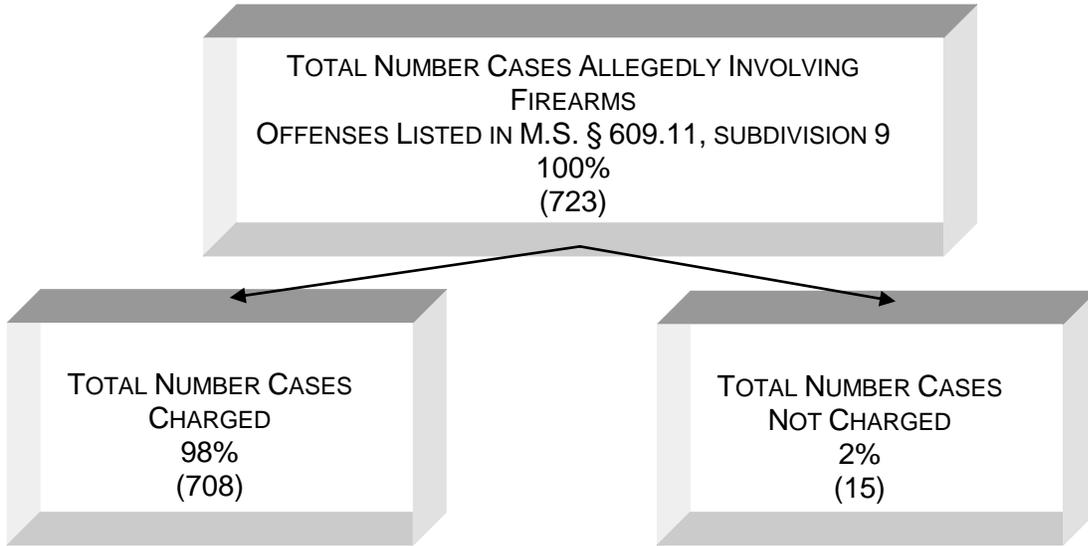
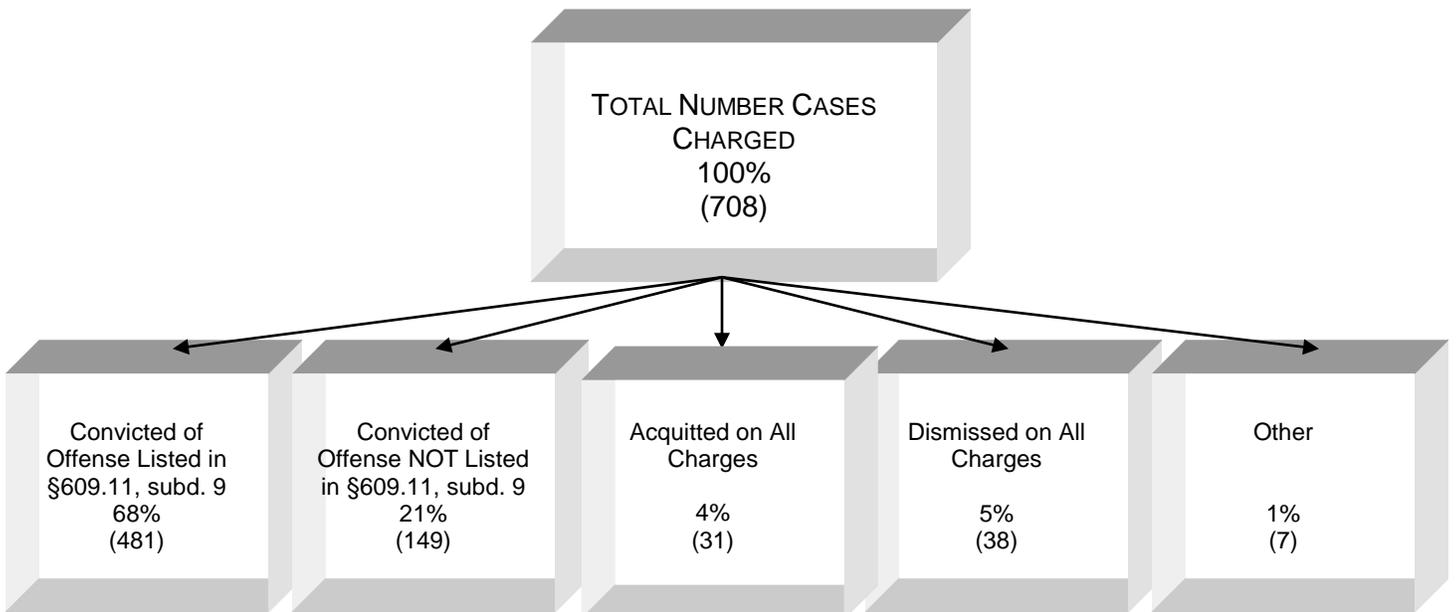


FIGURE 3. Offenses Charged – Case Outcomes

- Among those cases charged, 68 percent were convicted of an offense listed in § 609.11, subdivision 9. This figure is lower than the 70 percent recorded in FY 1999.



**Convictions for Offenses Listed in § 609.11, subdivision 9 -
Firearm Established on the Record**

FIGURE 4.

- *There were 481 convictions for offenses listed in § 609.11, subdivision 9. In 94 percent of the cases, a firearm was established on the record. The same figure was recorded in FY 1999.*

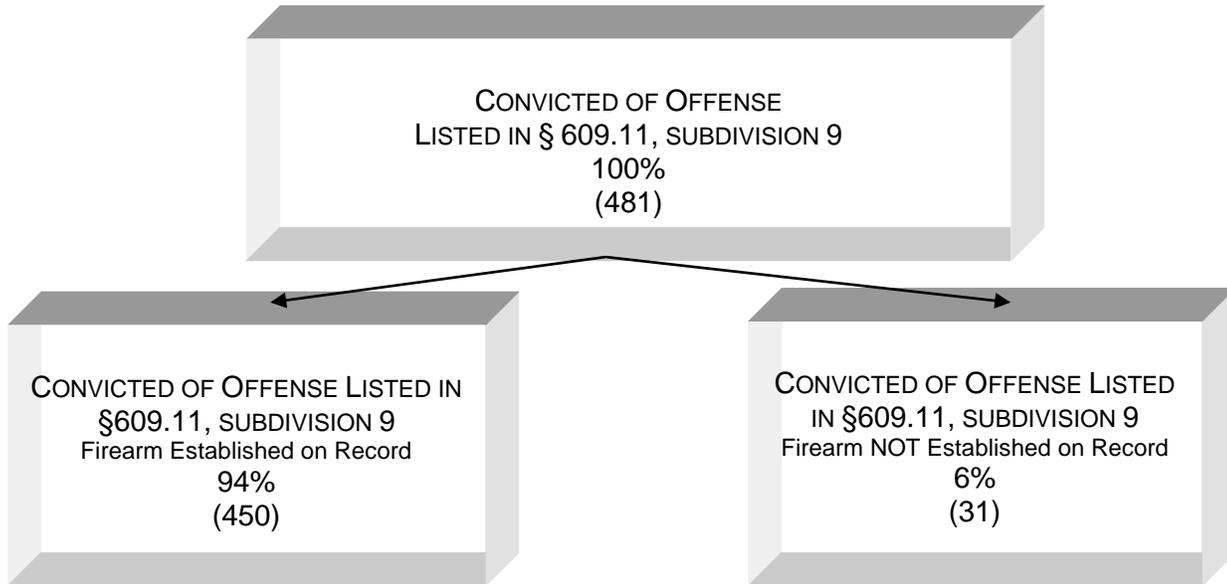
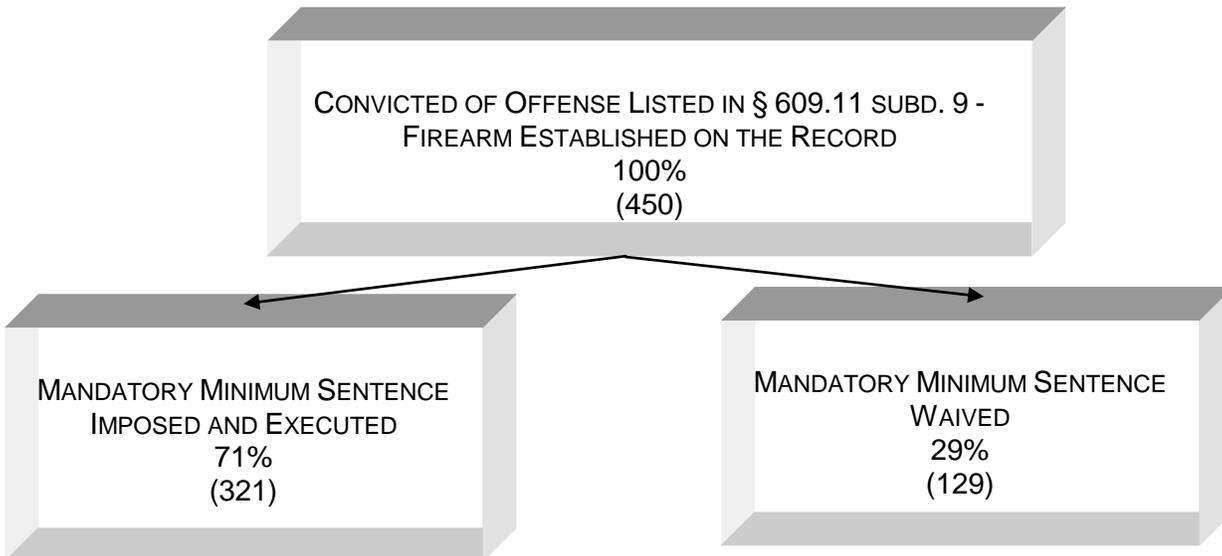


FIGURE 5. Mandatory Minimum Sentences Imposed and Executed

- *A mandatory minimum sentence was imposed and executed in 71 percent of the cases where it was required. This figure increased by one percent from FY 1999.*



Appendix

IV. 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.

SEVERITY LEVEL OF CONVICTION OFFENSE (Common offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by- shootings)	X	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)	IX	150 144-	165 159-	180 174-	195 189-	210 204-	225 219-	240 234-
<i>Criminal Sexual Conduct, 1st Degree</i> ² <i>Assault, 1st Degree</i>	VII I	86 81-91	98 93-103	110 105-	122 117-	134 129-	146 141-	158 153-
<i>Aggravated Robbery 1st Degree</i>	VII	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) & (b)</i>	VI	21	27	33	39 37-41	45 43-47	51 49-53	57 55-59
<i>Residential Burglary</i> <i>Simple Robbery</i>	V	18	23	28	33 31-35	38 36-40	43 41-45	48 46-50
<i>Nonresidential Burglary</i>	IV	12 ¹	15	18	21	24 23-25	27 26-28	30 29-31
<i>Theft Crimes (Over \$2,500)</i>	III	12 ¹	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>	II	12 ¹	12 ¹	13	15	17	19	21 20-22
<i>Sale of Simulated Controlled Substance</i>	I	12 ¹	12 ¹	12 ¹	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**.

¹ One year and one day

² 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 August 1, 2000

Memorandum

To: District Court Judges

From: Debra L. Dailey
Executive Director

Date: November 6, 2000

Subject: New legislative reporting requirements for out of state placement of juveniles and for alternative placements when a juvenile is covered by mandatory commitment provisions

The 2000 Legislature amended Minn. Stat. 260B.199 and Minn. Stat. 160B.201 to require that when courts make certain placements of juveniles at out-of-state facilities rather than at MCF-Red Wing, or make alternative placements when juveniles meet the requirements for mandatory commitment, that the court report information about the placement to the Minnesota Sentencing Guidelines Commission. The commission, in turn, is required to summarize this information and report to the legislature by February 15 of each year.

Our office has worked with state court staff and legislative staff to develop forms to meet these new requirements. The forms, in MS Word Format, are included with this memo. We would very much appreciate your assistance in meeting these new reporting requirements. The forms should be completed whenever an applicable juvenile placement is made. They may be forwarded to the commission offices via U.S. mail, at the address above, or through e-mail (sentencing.guidelines@state.mn.us). A brief summary of the new provisions is included below, as well as the web addresses to access the specific statutory language.

Again, thank you for your assistance in this matter. Please feel free to call our staff (651.296.0144) if you have any questions.

Summary of New Provisions

260B.199 Placement of juvenile offenders at Minnesota correctional facility-Red Wing <http://www.revisor.leg.state.mn.us/stats/260B/199.html>

Minn. Statute 260B.199 was amended to require that before a court orders a delinquency or EJJ disposition, it determine whether the child meets the admission criteria for the MCF-Red Wing, including full consideration of local and regional placements. If the child meets the criteria, the court is to place the child at the facility and may not place the child in an out-of-state facility unless the court finds, on the record, that this best addresses the safety of the child or the community or that the out-of-state facility is closer to the child's home. Courts placing a child in an out-of-state facility are required to provide information pertaining to the placement to the Minnesota Sentencing Guidelines Commission.

260B.201 Mandatory commitment to commissioner of corrections <http://www.revisor.leg.state.mn.us/stats/260B/201.html>

The legislature also amended Minn. Stat. 260B.201 to require that a child be committed to the custody of the commissioner of corrections or placed at the MCF-Red Wing if the child: (1) was previously adjudicated delinquent or convicted as an EJJ for an offense requiring registration under section 243.166; (2) was placed on probation and ordered to complete a sex offender or chemical dependency treatment program; and (3) subsequently failed or refused to successfully complete the program. If initially convicted as an EJJ, the court may execute the child's adult sentence under section 260B.130, subdivision 4. A court may place a child in an out-of-state facility if the court makes a finding on the record that the safety of the child or the community can be best met by placement in an out-of-state facility or that the out-of-state facility is located closer to the child's home. A court ordering an alternative placement is required by the statute to report on the placement and the reasons for not committing the child to the custody of the Commissioner of Corrections.

Juvenile Out-of-State Placement Report (Minn. Stat. 260B.199)

County: _____	Juvenile Court Case #: _____
Judge: _____	
Report Completed By: _____	Contact Phone # or E-Mail: _____

Out-of-State Placement: *Minn. Stat. 260B.199 requires that before a court orders a delinquency or EJJ disposition, it determine whether the child meets the admission criteria for the MCF-Red Wing, including full consideration of local and regional placements. If the child meets the criteria, the court shall place the child at the facility and may not place the child in an out-of-state facility unless the court finds, on the record, that this best addresses the safety of the child or the community or that the out-of-state facility is closer to the child's home. Courts placing a child in an out-of-state facility are required to provide information pertaining to the placement to the Minnesota Sentencing Guidelines Commission.*

A. Name of out-of-state facility where child was placed: _____

Reason for this placement: _____

B. In-state facilities considered: _____

Reason for not choosing an in-state facility:

- | | |
|--|---|
| <input type="checkbox"/> Need for appropriate therapeutic placement | <input type="checkbox"/> Public Safety |
| <input type="checkbox"/> Need for appropriate physical treatment/care | <input type="checkbox"/> No opening in appropriate program |
| <input type="checkbox"/> Need for appropriate mental health treatment/care | <input type="checkbox"/> Out-of-state facility closer to child's home |

Other: _____

C. Red Wing Criteria

Reason(s) why the child did not meet the admissions criteria for the MCF-Red Wing

- Criteria not applicable to this case (e.g., the child is female)
- Does not meet Red Wing commitment criteria as a Serious Offender because:
 - Offense would not be at Severity Level VII through X of the Sentencing Guidelines
 - Offense not included in M.S. 609.11 (mandatory minimum sentences)
 - Firearm was not used
 - Child is not an EJJ
- Does not meet Red Wing commitment criteria as a Chronic Offender because:
 - Child does not have two or more current or previous felony-level offenses.
 - Child has not experienced at least one prior court-ordered placement in a residential program with an expected duration of 90 days or more.
- Does not meet Red Wing commitment criteria as a Sex Offender because:
 - Child did not fail to complete court-ordered treatment.
 - Child is able to complete residential sex offender treatment at a local facility.
 - More appropriate sex offender treatment is available locally.

Reason(s) for not placing at Red Wing if juvenile did meet admissions criteria:

- | | | |
|--|--|---|
| <input type="checkbox"/> Safety of Child | <input type="checkbox"/> Safety of Community | <input type="checkbox"/> Closer to Child's Home |
|--|--|---|

Reasons why safety of the child or the community could not be met at MCF-Red Wing:

Please Forward Report to:

Minnesota Sentencing Guidelines Commission, University National Bank Building, 200 University Avenue West, Suite 205, St. Paul, MN 55103. Phone: (651) 296-0144 Fax: (651) 297-5757 E-mail: sentencing.guidelines@state.mn.us

(Form Revised 10/4/2000)

Mandatory Commitment: Juvenile Alternative Placement Report (Minn. Stat. 260B.201)

County: _____	Juvenile Court Case #: _____
Judge: _____	
Report Completed By: _____	Contact Phone # or E-Mail: _____

Alternative Placement when Commitment/Placement at Red Wing Required: *Minn. Stat. 260B.201 requires that a child be committed to the custody of the commissioner of corrections or placed at the MCF-Red Wing if the child: (1) was previously adjudicated delinquent or convicted as an EJJ for an offense requiring registration under section 243.166; (2) was placed on probation and ordered to complete a sex offender or chemical dependency treatment program; and (3) subsequently failed or refused to successfully complete the program. If initially convicted as an EJJ, the court may execute the child's adult sentence under section 260B.130, subdivision 4. A court may place a child in an out-of-state facility if the court makes a finding on the record that the safety of the child or the community can be best met by placement in an out-of-state facility or that the out-of-state facility is located closer to the child's home. A court ordering an alternative placement is required by the statute to report on the placement and the reasons for not committing the child to the custody of the Commissioner of Corrections.*

A. Alternative Placement Ordered:

B. Reasons for Alternative Placement:

Safety of Child Safety of Community Closer to Child's Home

Reasons why safety of the child or the community could not be met at the MCF-Red Wing:

Please Forward Report to:
Minnesota Sentencing Guidelines Commission
University National Bank Building
200 University Avenue West, Suite 205, St. Paul, MN 55103.
Phone: (651) 296-0144 Fax: (651) 297-5757 E-mail: sentencing.guidelines@state.mn.us

(Form Revised 10/4/2000)

Drug Policy Subcommittee Members

Commission Members

Judge Roger Klaphake, Chair
Minnesota Court of Appeals

Ray Schmitz
Olmsted County Attorney

Scott Swanson
State Public Defender's Office

Commissioner Sheryl Ramstad Hvass
Minnesota Department of Corrections

Other Members

Dan Cain
Re-Entry Services

Derrick Crim
Hazelton

Frederick Goetz
Attorney

Mark Wernick
Attorney

Jeff Shorba
Minnesota Department of Corrections

Judge Michael Jesse
District Court Judge – 7th Judicial District (Mille Lacs County)

Tom Hefflefinger
Best and Flanagan

Non-Imprisonment Sanctions Subcommittee Members

Commission Members

Justice Anderson (Co-Chair)
Minnesota Supreme Court

Judge Edward Wilson (Co-Chair)
District Court Judge – 2nd Judicial District (Ramsey County)

Dr. Mary T. Howard
Citizen Member

Other Members

Mark Carey
Minnesota Department of Corrections

Judge Lynn Olson
District Court Judge – 10th Judicial District (Anoka County)

Mark Sizer
Stearns County Community Corrections

Representative Rich Stanek
Minnesota House of Representatives

Judge Doug Swenson
District Court Judge – 10th Judicial District (Pine County)

Judge Lucy Wieland
District Court Judge – 4th Judicial District (Hennepin County)

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, 1999 to July 1, 2000

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	0	0	0
Benton	5	0	5
Big Stone	0	0	0
Blue Earth	8	3	5
Brown	1	0	1
Carlton	3	0	3
Carver	0	0	0
Cass	14	0	14
Chippewa	4	0	4
Chisago	2	0	2
Clay	5	0	5
Cook	0	0	0
Crow Wing	4	0	4
Dakota	10	0	10
Dodge	2	0	2
Douglas	0	0	0
Faribault	2	0	2
Fillmore	0	0	0
Freeborn	0	0	0
Goodhue	9	0	9
Grant	0	0	0
Hennepin	281	0	281
Houston	4	0	4
Hubbard	2	0	2
Isanti	8	0	8
Itasca	14	0	14

County	Cases Allegedly Involving Firearms - Offenses Listed in § 609.11	Cases Not Charged	Cases Charged
Jackson	0	0	0
Kanabec	0	0	0
Kandiyohi	12	1	11
Kittson	0	0	0
Koochiching	0	0	0
Lac Qui Parle	3	0	3
Lake	0	0	0
Lake of the Woods	0	0	0
LeSueur	1	0	1
Lincoln	1	0	1
Lyon	1	0	1
McLeod	2	0	2
Mahnomen	0	0	0
Marshall	0	0	0
Martin	5	0	5
Meeker	0	0	0
Mille Lacs	4	0	4
Morrison	6	0	6
Mower	5	0	5
Murray	3	0	3
Nicollet	3	0	3
Nobles	1	0	1
Norman	1	0	1
Olmsted	13	0	13
Otter Tail	0	0	0
Pennington	1	0	1
Pine	0	0	0
Pipestone	0	0	0
Polk	8	0	8
Pope	0	0	0
Ramsey	123	0	123
Red Lake	0	0	0
Redwood	3	0	3
Renville	2	0	2
Rice	10	0	10

County	Cases Allegedly Involving Firearms - Offenses Listed in § 609.11	Cases Not Charged	Cases Charged
Rock	0	0	0
Roseau	1	0	1
St. Louis	28	8	20
Scott	5	0	5
Sherburne	10	0	10
Sibley	0	0	0
Stearns	12	0	12
Steele	1	0	1
Stevens	2	0	2
Swift	0	0	0
Todd	0	0	0
Traverse	0	0	0
Wabasha	6	0	6
Wadena	1	0	1
Waseca	4	0	4
Washington	9	0	9
Watsonwan	0	0	0
Wilkin	1	0	1
Winona	4	0	4
Wright	11	3	8
Yellow Medicine	0	0	0
Total	723	15	708

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

Offenses Charged - Case Outcome
Cases Disposed from July 1, 1999 to July 1, 2000

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
Aitkin	4	3	0	1	0	0	0
Anoka	28	19	0	5	0	4	0
Becker	10	9	0	0	0	1	0
Beltrami	0	0	0	0	0	0	0
Benton	5	4	0	1	0	0	0
Big Stone	0	0	0	0	0	0	0
Blue Earth	5	2	0	2	0	1	0
Brown	1	1	0	0	0	0	0
Carlton	3	0	2	1	0	0	0
Carver	0	0	0	0	0	0	0
Cass	14	3	2	6	0	2	1
Chippewa	4	0	4	0	0	0	0
Chisago	2	1	1	0	0	0	0
Clay	5	5	0	0	0	0	0
Cook	0	0	0	0	0	0	0
Crow Wing	4	3	0	1	0	0	0
Dakota	10	10	0	0	0	0	0
Dodge	2	0	0	1	0	0	1
Douglas	0	0	0	0	0	0	0
Faribault	2	1	1	0	0	0	0
Fillmore	0	0	0	0	0	0	0
Freeborn	0	0	0	0	0	0	0
Goodhue	9	1	1	5	1	0	1
Grant	0	0	0	0	0	0	0
Hennepin	281	190	0	73	18	0	0
Houston	4	0	0	2	0	2	0
Hubbard	2	0	1	1	0	0	0
Isanti	8	3	1	3	1	0	0
Itasca	14	4	0	7	0	2	1

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
Jackson	0	0	0	0	0	0	0
Kanabec	0	0	0	0	0	0	0
Kandiyohi	11	9	0	1	0	1	0
Kittson	0	0	0	0	0	0	0
Koochiching	0	0	0	0	0	0	0
Lac Qui Parle	3	0	3	0	0	0	0
Lake	0	0	0	0	0	0	0
Lake of the Woods	0	0	0	0	0	0	0
LeSueur	1	0	1	0	0	0	0
Lincoln	1	0	0	1	0	0	0
Lyon	1	1	0	0	0	0	0
McLeod	2	1	0	1	0	0	0
Mahnomen	0	0	0	0	0	0	0
Marshall	0	0	0	0	0	0	0
Martin	5	1	0	2	0	2	0
Meeker	0	0	0	0	0	0	0
Mille Lacs	4	4	0	0	0	0	0
Morrison	6	3	1	2	0	0	0
Mower	5	2	3	0	0	0	0
Murray	3	2	1	0	0	0	0
Nicollet	3	3	0	0	0	0	0
Nobles	1	1	0	0	0	0	0
Norman	1	0	0	0	0	1	0
Olmsted	13	9	0	0	1	3	0
Otter Tail	0	0	0	0	0	0	0
Pennington	1	1	0	0	0	0	0
Pine	0	0	0	0	0	0	0
Pipestone	0	0	0	0	0	0	0
Polk	8	8	0	0	0	0	0
Pope	0	0	0	0	0	0	0
Ramsey	123	92	0	10	7	14	0
Red Lake	0	0	0	0	0	0	0
Redwood	3	1	0	0	0	2	0
Renville	2	1	0	1	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
Rice	10	5	2	2	1	0	0
Rock	0	0	0	0	0	0	0
Roseau	1	0	0	1	0	0	0
St. Louis	20	13	6	1	0	0	0
Scott	5	3	0	1	0	1	0
Sherburne	10	6	0	4	0	0	0
Sibley	0	0	0	0	0	0	0
Stearns	12	8	0	0	1	3	0
Steele	1	0	0	1	0	0	0
Stevens	2	1	1	0	0	0	0
Swift	0	0	0	0	0	0	0
Todd	0	0	0	0	0	0	0
Traverse	0	0	0	0	0	0	0
Wabasha	6	0	0	6	0	0	0
Wadena	1	0	0	0	0	0	1
Waseca	4	4	0	0	0	0	0
Washington	9	4	0	3	1	1	0
Watonwan	0	0	0	0	0	0	0
Wilkin	1	1	0	0	0	0	0
Winona	4	4	0	0	0	0	0
Wright	8	3	0	3	0	0	2
Yellow Medicine	0	0	0	0	0	0	0
Total	708	450	31	149	31	38	7

County Attorney Report on Criminal Cases Involving Firearms By County

Mandatory Minimum Sentences Imposed and Executed

Cases Disposed from July 1, 1999 to July 1, 2000

County	Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established on Record	Mandatory Minimum Sentence Imposed	Mandatory Minimum Sentence Waived
Aitkin	3	3	0
Anoka	19	7	12
Becker	9	7	2
Beltrami	0	0	0
Benton	4	4	0
Big Stone	0	0	0
Blue Earth	2	2	0
Brown	1	1	0
Carlton	0	0	0
Carver	0	0	0
Cass	3	1	2
Chippewa	0	0	0
Chisago	1	1	0
Clay	5	5	0
Cook	0	0	0
Crow Wing	3	3	0
Dakota	10	7	3
Dodge	0	0	0
Douglas	0	0	0
Faribault	1	1	0
Fillmore	0	0	0
Freeborn	0	0	0
Goodhue	1	1	0
Grant	0	0	0
Hennepin	190	139	51
Houston	0	0	0
Hubbard	0	0	0

County	Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established on Record	Mandatory Minimum Sentence Imposed	Mandatory Minimum Sentence Waived
Isanti	3	3	0
Itasca	4	0	4
Jackson	0	0	0
Kanabec	0	0	0
Kandiyohi	9	5	4
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	0	1
McLeod	1	1	0
Mahnomen	0	0	0
Marshall	0	0	0
Martin	1	1	0
Meeker	0	0	0
Mille Lacs	4	1	3
Morrison	3	3	0
Mower	2	2	0
Murray	2	0	2
Nicollet	3	3	0
Nobles	1	1	0
Norman	0	0	0
Olmsted	9	7	2
Otter Tail	0	0	0
Pennington	1	0	1
Pine	0	0	0
Pipestone	0	0	0

County	Convicted of Offense Listed in § 609.11, Subd. 9 Firearm Established on Record	Mandatory Minimum Sentence Imposed	Mandatory Minimum Sentence Waived
Polk	8	6	2
Pope	0	0	0
Ramsey	92	75	17
Red Lake	0	0	0
Redwood	1	1	0
Renville	1	0	1
Rice	5	4	1
Rock	0	0	0
Roseau	0	0	0
St. Louis	13	8	5
Scott	3	3	0
Sherburne	6	6	0
Sibley	0	0	0
Stearns	8	4	4
Steele	0	0	0
Stevens	1	1	0
Swift	0	0	0
Todd	0	0	0
Traverse	0	0	0
Wabasha	0	0	0
Wadena	0	0	0
Waseca	4	2	2
Washington	4	0	4
Watsonwan	0	0	0
Wilkin	1	1	0
Winona	4	1	3
Wright	3	0	3
Yellow Medicine	0	0	0
Total	450	321	129

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 =

