MINNESOTA
TASK FORCE ON MANDATORY MINIMUM SENTENCES

MEMORANDUM

To: Task Force Members

From: Nate Reitz, Task Force Chair

Date: April 20, 2026

Subject: Sample Policy Language for May Meeting

As discussed at our April 10 meeting, I am now providing more detail about the legislative recommendations I proposed at that meeting. Too much detail may, I fear, give the false impression that this is a finished product, and that the Task Force's only task is to adopt or reject it. On the other hand, the devil is in the details, and I owe you sample policy language for your critical evaluation—and comparison to other ideas that Task Force members may present at the May meeting.

I look forward to seeing your ideas soon!

First Idea: Replace the § 609.11 mandatory minimums with a maximum-penalty increase for committing a listed offense using a firearm

As we discussed at the April meeting, § 609.11 is built on a system of mandatory **minimums**, without regard to offense severity or criminal history. In the context of Minnesota's Sentencing Guidelines system, such a penalty scheme punishes most seriously those with the least criminal history who commit the least serious crimes. This, I argued, is irrational. Such a penalty scheme also fails the two primary standards by which our charter statute asks us to test polices: **equity**—because it is inequitable to systematically punish the least deserving of punishment the most, and vice-versa—and **public safety**—because it redirects limited correctional resources away from those who need it most.[1]

I proposed repealing this mandatory-minimum scheme and replacing it with a system of increased statutory maximums for committing a listed offense while using a firearm. This was inspired by a similar statutory scheme, Minn. Stat. § 609.229, where the Legislature raises the statutory maximum if a crime is committed for the benefit of a gang.[2]

The Sentencing Guidelines Commission would doubtless take this action as a clear signal to modify the Sentencing Guidelines to account for this change.[3] Consistent with its past responses to similar legislative action, the Commission, in cases to which the increased statutory maximum applies, would likely—

- Increase the Guidelines-recommended duration by a certain amount (by 12 months, in the case of crimes for the benefit of a gang),
- Increase the recommended duration by a percentage (by 25 percent, in the case of criminal predatory sexual conduct), or
- Increase each offense's severity ranking (by one severity level, in the case of organized retail theft).

Any of these solutions would be preferable to a mandatory-minimum scheme because all would be based on the Guidelines' presumptive sentence, which, unlike the mandatory-minimum scheme, is rationally tailored to the severity of the offense and the criminal history of the defendant.

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[1] I expect that further equitable and public-safety analysis of any proposal that appears poised to gain the favor of a consensus (or at least a majority) of the Task Force—including racial-impact analysis—will be conducted, time permitting, after the proposal's prospects of eventual success become clear.

[2] In addition to raising the statutory maximum penalty, § 609.229 also requires imprisonment for a year and a day. In its current form, my proposal lacks such a requirement. If such a requirement were grafted onto my proposal, I would guess that the Sentencing Guidelines Commission would likely presume executed prison for all cases to which the statutory maximum increase applies, as it does with the gang modifier. This issue is addressed in decision point 5, on page 4.

[3] I am not a member of the Sentencing Guidelines Commission, and I am not speaking in my capacity as its executive director in making statements such as these. Such statements, are, however, informed by my observations of the Commission's behavior over the years. I would be happy to quantify the Commission's track record in this regard if the Task Force wishes.

The base maximum-penalty increase for committing a listed offense while using a firearm would be five years—but, if the defendant's firearm use was already a crime due to a prior "crime of violence" conviction, the increase would be ten years. The five-year increase would also apply if an accomplice uses a firearm during the commission of the listed offense, but only if the defendant aided the accomplice in the use of the firearm.

One minor, new point: Presently, § 609.11 applies only to weapon possession or use at the time of listed crime. I am proposing to extend the penalty increase to cover firearm use while immediately fleeing from the listed crime as well.

Decision points

The following table reflects various decision points connected with replacing the § 609.11 mandatory minimums with a maximum-penalty increase, together with my decision ("for now"—I am always open to reevaluate my positions on these proposals, particularly if a change in my position would result in Task Force consensus) and my rationale for that decision.

Decision point	My decision (for now)	Rationale
① Repeal the § 609.11 mandatory minimums and replace with a maximum-penalty increase?	Yes	As a signal to the MSGC to incorporate the penalty increase in the Sentencing Guidelines, it would replace a one-size-fits all system with a system that punishes most harshly those who most deserve that punishment
② Limit the penalty increase to **using a firearm** to commit a listed crime, or also include **possessing** a firearm, or using another **dangerous weapon**?	Limit to using a firearm	Many listed offenses already have a general enhancement for possessing or using a dangerous weapon (*e.g.*, assault 2, burglary); the severity of these are already factored into the Guidelines Using (brandishing, displaying, etc.) a firearm, specifically, to commit one of these crimes enhances the risk to public safety well above the bare elements of these crimes, and is worthy of a Sentencing Guidelines distinction[4]

[4] If the Task Force consensus favors including firearm possession, I would advocate for the chapter 152 limitation on firearms possession: "possesses on their person or within immediate reach." Personally possessed firearms are surely more dangerous than firearms constructively possessed, *e.g.*, in a closet or a gun safe. Having said that, including firearms

Decision point	My decision (for now)	Rationale
③ Limit the application of the penalty increase to gun use at the time of the crime?	No	Immediate flight after the crime should also be included
④ Apply the penalty increase to accomplice's use of firearm?	Only if the defendant aided the firearm use	It isn't fair to hold the defendant liable for the accomplice's use of a firearm unless the defendant was somehow responsible for that use
⑤ Include a year-and-a-day mandatory minimum, like the gang penalty increase (see footnote 2)?	No	I don't think this is necessary, given the low severity of some of the listed offenses (*e.g.*, 5th-degree controlled substance crime)
⑥ Apply the penalty increase to possession of a firearm or ammunition after a "crime of violence" conviction?	Only if a firearm (not ammo) was used (not merely possessed)	Ranked at severity level 6, the standard penalties for this offense are generally sufficient Enhanced penalties should be reserved for the most extreme cases: those involving **firearm use**
⑦ Add another penalty increase for using a firearm after a "crime of violence" conviction?	Yes, apply another 5-year increase **if** a prohibited person used a firearm to commit a listed offense	This focuses deterrence better than § 609.11 (no extra penalty for ineligibly committing a listed offense with a gun—it's swallowed up in the 5-year man-min for prohibited firearm possession)

possession would, in my opinion, necessitate treating those chapter 152 crimes that have firearm **possession** as an element (listed on page 9) the same way that the proposal now treats drive-by shooting, which has firearm **use** as an element (see discussion on decision point 8, on page 4). Including firearm possession in this way might also result in unintended consequences; for example, the Commission might downward-adjust the ranking of offenses like ineligible possession of firearms or ammunition due to a prior "crime of violence" conviction, reasoning that, if the penalty increase didn't apply, then the basic offense must have been prohibited ammunition possession or prohibited constructive firearm possession, which the Commission may not consider as serious as prohibited personal firearm possession.

Decision point	My decision (for now)	Rationale
⑧ Should an offense that already has an element of firearm use get the penalty increase?	No, a 5-year increase should apply to such an offense **only** if the firearm use was prohibited due to prior "crime of violence"	If firearm use is an element of the crime (*i.e.*, drive-by shooting), the Commission has considered firearm use already in its ranking To also give a penalty increase for firearm use is unfair double-dipping
⑨ Trust the Sentencing Guidelines Commission to incorporate the penalty increase into the Sentencing Guidelines?	Yes, but require an explanation of any action or inaction	The MSGC has historically been very responsive to legislative signals such as penalty increases, and the public gets to be heard before a proposal is adopted **Backstop:** If the 2028 legislature were dissatisfied with the MSGC's response (or lack thereof), it could simply undo the § 609.11 repeal-and-replacement before it took effect on August 1, 2028
⑩ Time the application of the § 609.11 repeal, the replacement maximum-penalty increase, and the related Guidelines changes to be— • retroactive, • immediate (apply to all convictions not final on 8/1/28), • prospective (apply to all crimes committed on or after 8/1/28), or • mixed?	Prospective	The § 609.11 repeal-and-replacement will benefit some defendants (chiefly those committing low-level offenses with little criminal history) and more severely punish others (chiefly those with more severe offenses and longer criminal histories) The constitution requires prospective application for those receiving more severe punishment—so the changes **must** apply to crimes committed on or after the effective date for some people, at least It would be unmanageable chaos to have different effective dates for different people

Action Step 1: Repeal the mandatory minimums in § 609.11

Sec. X. **REPEALER.**

(a) Minnesota Statutes 2026, section 609.11, subdivisions 4, 5, 5a, 6, 7, 8, and 9, are repealed.

(b) Minnesota Statutes 2026, section 609.11, subdivision 10, is repealed.

EFFECTIVE DATE. Paragraph (a) is effective August 1, 2028, and applies to crimes committed on or after that date. Paragraph (b) is effective August 1, 2030.

Notes: The repeal of § 609.11's mandatory minimums will require conforming amendments in §§ 244.10 & 609.135. The crime list in Minn. Stat. § 609.11, subd. 9, is being transplanted to the new penalty-increase statute (see action step 2). The purpose of delaying the repeal of subd. 10 is to give county attorneys two years to report cases committed before August 1, 2028, and therefore subject to the § 609.11 mandatory minimum, but sentenced after that date. A conforming amendment to § 244.09, subd. 14, will be required.

Action Step 2: Replace them with a maximum-penalty increase for gun use while committing a listed crime

Sec. X. **[609.658] USING A FIREARM TO COMMIT A DESIGNATED CRIME; INCREASED MAXIMUM PENALTY.**

Subdivision 1. **Designated crimes.** As used in this section, "designated crime" means:

(1) murder in the first degree under section 609.185; murder in the second degree under section 609.19; murder in the third degree under section 609.195; manslaughter in the first degree under section 609.20; manslaughter in the second degree under section 609.205; assault in the first degree under section 609.221; assault in the second degree under section 609.222; assault in the third degree under 609.223; simple robbery under section 609.24; aggravated robbery under section 609.245; carjacking under section 609.247; kidnapping under section 609.25; false imprisonment under section 609.255; escape from custody under 609.485; witness tampering in violation of section 609.498, subdivision 1 or 1a; arson in the first degree under section 609.561; arson in the second degree under 609.562; arson in the third degree under 609.563; burglary under section 609.582; harassment under section 609.749, subdivision 3, paragraph (a), clause (3); criminal sexual conduct in the first degree in violation of section 609.342, subdivision 1, or subdivision 1a, clause (a), (b), (c), (d), (e), (f), or (i); criminal sexual conduct in the second degree in violation of section 609.343, subdivision 1, or subdivision 1a, clause (a), (b), (c), (d), (e), (f), or (i); criminal sexual conduct in the third degree in violation of section 609.344, subdivision 1, clause (a), (b), or (c), or clause (d) under the conditions described in section 609.341, subdivision 24, clause (2), item (i), (ii), or (iii); or subdivision 1a,

clause (a), (b), (c), (d), (e), or (h), or clause (i) under the conditions described in section 609.341, subdivision 24, clause (2), item (i), (ii), or (iii); a felony violation of chapter 152; or an attempt to commit any of these offenses;

(2) possession or other unlawful use of a firearm or ammunition in violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (2); or an attempt to commit either of these offenses; or

(3) drive-by shooting under section 609.66, subdivision 1e, or an attempt to commit this offense.

Subd. 2. **Increased penalty for actor's firearm use.** If the actor, either directly or as an accomplice, commits a designated crime, and, at the time of the crime or while immediately fleeing the scene of the crime, the actor personally uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, the statutory maximum penalty for the designated crime is increased by five years if either of the following is true, or by ten years if both of the following are true:

(1) The designated crime is listed in subdivision 1, clause (1) or (2).

(2) The designated crime is listed in subdivision 1, clause (1) or (3), and the actor's use of the firearm violates section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (2).

Subd. 3. **Increased penalty for accomplice's firearm use.** (a) If the actor, either directly or as an accomplice, commits a designated crime listed in subdivision 1, clause (1) or (2), and, at the time of the crime or while immediately fleeing the scene of the crime, an accomplice uses, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm, the statutory maximum penalty for the designated crime is increased by five years if the actor intentionally:

(1) aided the accomplice in using the firearm;

(2) advised, hired, counseled, or conspired with the accomplice to use the firearm; or

(3) otherwise procured the accomplice's use of the firearm.

(b) A penalty increase for a designated crime under subdivision 2 precludes a penalty increase for the same designated crime under this subdivision.

Subd. 4. **Exceptions.** (a) Subdivisions 2 and 3 do not apply to a designated crime with a statutory maximum penalty of less than one year.

(b) Subdivisions 2 and 3 do not apply to a sentence of life imprisonment.

EFFECTIVE DATE. This section is effective August 1, 2028, and applies to crimes committed on or after that date.

Notes: The transplanted § 609.11, subd. 9, crime list is given a name: "designated crime[s]." Because this list is referenced in §§ 588.20, 609.229, 609.495, & 617.91, the cross-references in those sections will need to be updated. Because drive-by shooting necessarily involves the use of a firearm, and is therefore already ranked accordingly by the Commission, it does not get a penalty increase unless the firearm use was unlawful due to a prior "crime of violence" conviction. Subd. 4(a) is necessary because some offenses (false imprisonment, burglary, escape) have gross misdemeanor versions; to avoid confusion as to whether application of § 609.13 can bypass this section, the term "felony" or "gross misdemeanor" is not used.

Action Step 3: Instruct the Sentencing Guidelines Commission

Sec. X. **SENTENCING GUIDELINES MODIFICATION.**

The Sentencing Guidelines Commission must review this act and consider modifying how the Sentencing Guidelines address the use of a firearm in the commission of a designated crime. By January 15, 2028, the Commission must report the results of its review to the legislature, together with its rationale for any proposed modifications or lack thereof. Proposed Sentencing Guidelines modifications related to this act and submitted to the legislature by January 15, 2028, shall take effect as provided in Minnesota Statutes, section 244.09, subdivision 11, except that such modifications shall apply to crimes committed on or after August 1, 2028, unless the legislature by law provides otherwise.

EFFECTIVE DATE. This section is effective the day following final enactment.

Notes: The first sentence is modeled after recent session laws where the Legislature required the Commission to take a closer look at some area of the Sentencing Guidelines. The second sentence requires the Commission to justify its response (or lack thereof) to this act by the following January 15. Practically, the Commission will have about six months to conduct the review and adopt the necessary Guidelines changes, which should be enough time. The third sentence makes an important addition to the statutory Guidelines modifications process found in § 244.09, subd. 11, with: By making the changes "apply to crimes committed on or after" their statutory effective date of August 1, 2028, the legislature abrogates the amelioration doctrine (see State v. Robinette, 964 N.W.2d 143 (Minn. 2021)), which means that the Guidelines changes will be perfectly in sync with the § 609.11 repeal and the new maximum-penalty increase.

Second Idea: Tighten up "crime of violence" list, and create a 10-year, crime-free off-ramp for the "crime of violence" lifetime firearms ban

Although not a mandatory minimum itself, the felony offense of firearm or ammunition possession by someone previously convicted of or adjudicated delinquent for a "crime of violence" is closely related to mandatory minimums. Currently, Minn. Stat. § 609.11, subd. 5(b), calls for five years' imprisonment upon conviction of violating the ban. Even if subd. 5(b) is repealed (as proposed in the recommendations above), the proposal carries this offense forward into the new scheme of increased statutory maximum penalties for firearm use (a five-year increase for using a firearm in violation of the ban, and a five-year increase for using a firearm to commit another listed offense if that firearm use also violated the ban). It is appropriate for a task force on mandatory minimum sentences to make recommendations regarding the elements of a crime so inextricably linked with mandatory minimums—particularly without assurances that the Legislature will adopt the "first idea" recommendations, discussed above.

The first recommendation has to do with the "crime of violence" list in § 624.712, subd. 5. The crimes on the list generally do seem violent … until the end, where all felony violations of chapter 152 (drugs; controlled substances) are included. This definition includes even the most common felony violation of chapter 152, fifth-degree controlled substance crime. Describing such an offense as particularly violent strains credulity.

I had originally proposed deleting from the list all chapter 152 offenses except aggravated first-degree controlled substance crime, which, although not necessarily violent, contains two elements that, in combination, plausibly foster an environment in which violence can thrive. The first element is the possession or sale of 100 or more grams or 500 or more dosage units of cocaine, heroin, fentanyl, or methamphetamine (sale or possession), or another narcotic drug, amphetamine, phencyclidine, or hallucinogen (sale only). The second element is the personal possession or use, by the defendant or an accomplice, of a firearm; or the presence of two aggravating factors. Such aggravating factors can include a prior "violent crime" conviction (excepting, notably, chapter 152 offenses); gang benefit; a multi-county, interstate, or international offense; a multi-transaction offense; a high position in the drug distribution hierarchy; the abuse of a position of trust; sale to a minor or vulnerable adult; an offense in a protected zone; or tangible evidence of a large drug operation.

Upon further reflection, however, I now consider aggravated first-degree controlled substance crime to be both too broad and too narrow for inclusion as a "crime of violence."

- It is too broad because chapter 152 aggravating factors, while appropriate for a finding of increased culpability in a drug offense, are not directly relevant to the question of violence.
- It is too narrow in that it omits several other chapter 152 crimes that require the defendant's, or an accomplice's, personal possession of a firearm (the complete list is §§ 152.021, subd. 1(2)(i), 2(2)(i), & 2b(1); and 152.022, subd. 1(2)(i) & 2(2)(i)).

Rather than retaining all instances of aggravated first-degree controlled substance crime on the "crime of violence" list, I now propose retaining only those drug crimes that have, as an element, the personal possession of a firearm. This does include some instances of aggravated first-degree controlled substance crime, but only if that crime's firearm clause applies.

The second recommendation has to do with the length of the ban: now **lifetime**, which is remarkable given that the ban applies even to juvenile adjudications.[5] Research shows that those convicted of violent offenses who remain arrest-free for eight years after release from incarceration present no greater risk of future offending than members of the general population who have never been arrested.[6] I propose a limit to the lifetime firearms ban: a ten-year, crime-free (as measured by criminal conviction, not arrest) period after the person's most recent criminal conviction or post-conviction incarceration. The ten-year clock would reset upon any criminal conviction or post-conviction incarceration.

The lifetime ban fails both of the Legislature's policy tests. From an equity perspective, a lifetime ban forecloses the possibility of rehabilitation.[7] From a public-safety perspective, a lifetime ban redirects limited public-safety resources toward the ban's enforcement for years, and possibly for decades, after the ban has ceased to protect public safety. On the other hand, lifting the ban after ten crime-free years incentivizes rehabilitation and obedience to the law.

In addition to the ten crime-free years, I've newly added the requirement that the person must be restored to civil rights. This happens automatically upon discharge from sentence,[8] and should have happened to the bulk of people who have been crime-free for ten years after the crime of violence conviction or release from sentence. The requirement is nevertheless important, because it avoids the possibility of a situation where the firearms rights of someone convicted of a felony crime of violence are restored before the firearms rights of someone convicted of a non-violent felony. (It also, to my understanding, avoids a potential conflict with federal law.[9])

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[5] The lifetime ban was established in 2003. Prior to that, the ban lasted until "ten years have elapsed since the person has been restored to civil rights or the sentence or disposition has expired, whichever occurs first, and during that time the person has not been convicted of or adjudicated for any other crime of violence."

[6] Blumstein, Alfred, and Kiminori Nakamura. "Redemption in the Presence of Widespread Criminal Background Checks." *Criminology*, vol. 47, no. 2, 2009, pp. 327–359. The seven-year figure I mentioned in my presentation on April 10 is valid, but less conservative, than the eight-year figure.

[7] A petition process for relief from the lifetime ban is provided in § 609.165, subd. 1d, but, even if the petitioner shows good cause for relief and is released from confinement, the decision to grant relief rests entirely in the judge's discretion. *Averbeck v. State*, 791 N.W.2d 559 (Minn. Ct. App. 2010).

[8] Minn. Stat. § 609.165, subds. 1 & 2.

[9] Cf. 18 U.S.C. § 922(g)(1) (banning from firearm possession someone who has been convicted crime punishable by imprisonment for a term exceeding one year) with 18 U.S.C. § 921(a)(20) (defining "crime punishable by imprisonment for a term exceeding one year"). The latter definition provides, "Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms."

The same ten-year, crime-free period is proposed for an extended jurisdiction juvenile (EJJ) conviction, but not for juvenile adjudications that are not accompanied by EJJ convictions. For those merely adjudicated delinquent—where the underlying juvenile misconduct was not serious enough to pursue an EJJ conviction or an adult-court conviction—a simple ten-year ban is sufficient. From a practical standpoint, a simple ten-year ban for juvenile adjudications avoids some conundrums that would apply to administering a ban that expires ten years after the most recent conviction or release from post-conviction incarceration: What if the person was never "convicted" at all, but merely adjudicated delinquent? And how does the restoration-to-civil-rights requirement work if the person never lost any civil rights to begin with?

Decision points

The following table reflects six decision points connected with tightening up the "crime of violence" list, and creating a ten-year, crime-free off-ramp for the "crime of violence" lifetime firearms ban.

Decision point	My decision (for now)	Rationale
① As a general rule, exclude chapter 152 felony offenses from the § 624.712 "crime of violence" list?	Yes	Without a requirement of firearm use, firearm possession, or any other element of violence, it is a big stretch to call every chapter 152 offense a "crime of violence"
② Add some chapter 152 offenses to the "crime of violence" list?	Yes	Drug crimes that have, as an element, the personal possession of a firearm may fairly be described as "crimes of violence"
③ Apply a ten-year, crime-free firearms & ammo ban to adult and EJJ "crime of violence" convictions?	Yes	Comports with research; incentivizes law-abiding, rehabilitating behavior; focuses limited public-safety resources
④ Also require that the civil rights suspended due to the "crime of violence" conviction be restored before the ban is lifted?	Yes	Although cumbersome in wording, this requirement avoids the logical inconsistency that would result from the rare, but possible, case where a "crime of violence" felony would get firearm rights restored before a nonviolent felon
⑤ Apply a simple 10-year firearms & ammo ban for juvenile "crime of violence" delinquent acts?	Yes	Less serious if juvenile-only; harder to administer "crime-free" periods if no "crime" to begin with

Decision point	My decision (for now)	Rationale
⑥ Repeal the petition process for restoration of firearm rights by someone convicted or adjudicated delinquent for a "crime of violence"?	No, but …	While the repeal of the discretionary petition process to restore gun rights (see footnote 7) is not part of this package, its usefulness does seem diminished with 10-year, crime-free off-ramp

Action Step 1: Tighten up the "crime of violence" list

Sec. X. Minnesota Statutes 2026, section 624.712, subdivision 5, is amended to read:

Subd. 5. **Crime of violence.** "Crime of violence" ~~means: felony convictions of the following offenses: sections~~ means a felony conviction of section 152.021, subdivision 1, clause (2), item (i); subdivision 2, clause (2), item (i); or subdivision 2b, clause (1) (controlled substance crime, or aggravated controlled substance crime, in the first degree); 152.022, subdivision 1, clause (2), item (i); or subdivision 2, clause (2), item (i) (controlled substance crime in the second degree); 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.215 (aiding suicide ~~and~~ or aiding attempted suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.229 (crimes committed for the benefit of a gang); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.247 (carjacking); 609.25 (kidnapping); 609.255 (false imprisonment); 609.322 (solicitation, inducement, ~~and~~ or promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.486 (commission of crime while wearing or possessing a bullet-resistant vest); 609.52 (involving theft of a firearm ~~and~~ or theft involving the theft of a controlled substance, an explosive, or an incendiary device); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582, subdivision 1 or 2 (burglary in the first ~~and~~ or second ~~degrees~~ degree); 609.66, subdivision 1e (drive-by shooting); 609.67 (unlawfully owning, possessing, operating a machine gun or short-barreled shotgun); 609.71 (riot); 609.713 (terroristic threats); 609.749 (harassment); or 609.855, subdivision 5

(shooting at a public transit vehicle or facility); ~~and chapter 152 (drugs, controlled substances) and~~ or an attempt to commit any of these offenses.

EFFECTIVE DATE. This section is effective August 1, 2027, and applies to violations of sections 609.165 and 624.713 committed on or after that date.

Notes: The unusual limited application (to "violations of sections 609.165 and 624.713" rather than to "crimes") is to avoid the confusion the supreme court was required to resolve in Tapia v. Leslie, 950 N.W.2d 59 (Minn. 2020). I infer the need for a conforming change in § 624.713, subd. 1(4); this is shown in action step 2.

Action Step 2: Replace the lifetime ban with a 10-year, crime-free off-ramp

Sec. X. Minnesota Statutes 2026, section 609.165, subdivision 1b, is amended to read:

Subd. 1b. **Violation and penalty.** (a) ~~Any~~ A person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, ~~and who ships, transports, possesses, or receives a firearm or ammunition,~~ commits a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both, if the person ships, transports, possesses, or receives a firearm or ammunition before both of the following are true:

(1) the person's civil rights, suspended by reason of the conviction, have been restored under subdivision 1; and

(2) after the conviction for the crime of violence, there has been a period of ten consecutive years during which the person had no criminal conviction and was not incarcerated because of a conviction.

(b) A conviction and sentencing under this section shall be construed to bar a conviction and sentencing for a violation of section 624.713, subdivision 2.

(c) The criminal penalty in paragraph (a) does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms and ammunition has been restored under subdivision 1d.

EFFECTIVE DATE. This section is effective August 1, 2027, and applies to crimes committed on or after that date.

Sec. X. Minnesota Statutes 2026, section 624.713, subdivision 1, is amended to read:

Subdivision 1. **Ineligible persons.** The following persons shall not be entitled to possess ammunition or a pistol or semiautomatic military-style assault weapon or, except for clause (1), any other firearm:

* * *

(2) except as otherwise provided in clause (9), a person who:

(i) has been ~~convicted of, or adjudicated delinquent or~~ convicted, including as an extended jurisdiction ~~juvenile for~~ juvenile, of committing, in this state or elsewhere, a crime of violence, unless both of the following are true:

(A) the person's civil rights, suspended by reason of the conviction, have been restored under section 609.165, subdivision 1; and

(B) after the conviction for the crime of violence, there has been a period of ten consecutive years during which the person had no criminal conviction and was not incarcerated because of a conviction; or

(ii) has been adjudicated delinquent, but not convicted as an extended jurisdiction juvenile, for committing, in this state or elsewhere, a crime of violence, unless ten years have elapsed since the date of the adjudication. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

* * *

(4) a person who has been convicted in Minnesota or elsewhere of a ~~misdemeanor or gross misdemeanor~~ criminal violation of chapter 152 other than a crime of violence, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other such violation of chapter 152 or a similar law of another state; or a person who is or has ever been committed by a judicial determination for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person's ability to possess a firearm and ammunition has been restored under subdivision 4;

* * *

The ~~lifetime~~ prohibition on possessing, receiving, shipping, or transporting firearms and ammunition for persons convicted or adjudicated delinquent of a crime of violence in clause (2),

applies only to offenders who are discharged from sentence or court supervision for a crime of violence on or after August 1, 1993.

* * *

EFFECTIVE DATE. This section is effective August 1, 2027, and applies to crimes and acts of delinquency committed on or after that date.

Notes: The Legislature, oddly enough, created mirror firearms bans and penalties for "crime of violence" convictions in both §§ 609.165 and 624.713—hence the need to change them both—although § 624.713 is slightly different in that it also refers to juvenile adjudications and EJJ convictions. The lifetime ban is also reflected in the following statutes, which will need conforming amendments: §§ 242.31, 260B.245, 609.165, subd. 1a, and 624.713, subd. 3.

Third Idea: Adopt the 2022 recommendation of the Predatory Offender Statutory Framework Working Group

Among the legislative recommendations of the 2021–2022 Predatory Offender Statutory Framework Working Group was one pertaining to mandatory minimums: To eliminate the mandatory minimum for first failure to register convictions, but maintain it for subsequent offenses. My proposal recommends the adoption of that recommendation.

According to the Working Group's report,[10] "the large majority"[11] of the 25-member working group:

> saw an elimination of the mandatory minimum as a reflection of current practice in many jurisdictions in Minnesota. They cited concerns regarding racial disparities in conviction rates and the need for discretion at sentencing to view the entirety of the circumstances for the failure to register.

The two law-enforcement authors of the minority report gave the following rationale for opposing the repeal of the first-time mandatory minimum:

> From a compliance perspective, our current requirements, and consequences for failure to register are working. During Working Group discussions, the group was advised that the current compliance rate for predatory offenders on the POR is at about 90%. This is a remarkable success rate. The POR, like any other data tool, is only as good as the accuracy of the data it contains. Working Group discussions acknowledged that it would be difficult to determine how the mandatory minimum requirement for failure to register offenses contributes to this remarkable compliance rate. Law enforcement would again urge caution in making changes, absent data, to a system that is working.

[10] Predatory Offender Statutory Framework Working Group, "Report to the Minnesota Legislature," February 1, 2022 (retrieved April 17, 2026, at https://mn.gov/doc/assets/POR%20Working%20Group%20Combined%20Report%20Final_tcm1089-517405.pdf).

[11] But apparently not a "consensus," as this recommendation was listed in the "majority support" section, not the "consensus recommendation" section.

This rationale is somewhat supported by a legislative press release for "Katie's Law,"[12] the 2000 act, named in honor of Katie Poirier, that made predatory offender registration (POR) violations a felony and established the mandatory minimum at issue. According to the press release, approximately 35 percent of sex offenders were then compliant with the registration requirement, and the intent in elevating the crime from a gross misdemeanor to a felony was to increase compliance—the same goal cited by the minority report. The press release did not specifically mention the mandatory minimum, but it would seem that POR compliance has, in fact, improved immensely in the years after the enactment of Katie's Law.

The mandatory minimum was not the only variable that changed, however. First, as mentioned above, Katie's Law elevated a POR violation to a felony, which the legislative author of the press release supposed, perhaps correctly, would be the key to improving compliance. Second, Katie's Law also established Minn. Stat. § 243.166, subd. 6(c), which mandated a restart of the ten-year POR period upon release from incarceration for a new crime.[13] Third, in 2014, the Legislature mandated[14] the five-year extension of the POR period, found in subd. 6(b), for failing to comply with registration requirements.

My responses to the authors of the 2022 minority report both stem from the evidence from the field—in the form of notoriously high rates of mitigated dispositional departures for this offense—that this mandatory minimum lacks the support of judges and, in many of those cases, of prosecutors.[15]

My first response is that, with such high departure rates from the mandatory minimum, it is not obvious whether or how the existing mandatory minimum would necessarily incentivize a reasonable registrant to be compliant. To paraphrase the sentiment of the large majority of the 2022 POR working group, to eliminate this mandatory minimum would simply be to reflect current practice in many of our state's jurisdictions.

My second response is that the other consequences of failing to meet POR requirements—particularly the ignominious likelihood of a new felony conviction and the onerous certainty of extending the POR period by five years—are sufficient explanations for today's high compliance rates. It is not necessary further to suppose that the highly departed-from mandatory minimum has much to do with it.

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[12] State Rep. Larry Nornes, "House Votes Unanimously to Approve Katie's Law," March 20, 2000 (retrieved April 17, 2026, at https://www.house.mn.gov/GOP/goppress/Nornes/0320bnKatieslaw.htm), referring to 2000 Minn. Laws ch. 311.

[13] This is a simplified description of subd. 6(c) because it ignores special rules that apply to periods of supervision and the revocation thereof. Please refer to the statute for details.

[14] 2014 Minn. Laws ch. 259 § 4.

[15] I am not a spokesperson for the judicial branch nor for prosecutors; nor, in this memo, am I speaking for the MSGC. This is simply my personal view of a reasonable interpretation of the departure data in this instance.

Decision points

The following table reflects three decision points connected with eliminating the mandatory minimum for first-time POR violators.

Decision point	My decision (for now)	Rationale
① Eliminate the year-and-a-day mandatory minimum for first-time POR violators?	Yes	Supported by the large majority of the 2022 working group, and by high mitigated departure rates
② Eliminate the two-year mandatory minimum for second-time POR violators?	No	Not supported by the working group
③ Convert the two-year mandatory minimum for second-time POR violators into a year-and-a-day mandatory minimum?	Yes	Supported by the working group

Action Step: Adopt the 2022 recommendation of the Predatory Offender Statutory Framework Working Group

Sec. X. Minnesota Statutes 2026, section 243.166, subdivision 5, is amended to read:

Subd. 5. **Criminal penalty.** (a) A person required to register under this section who was given notice, knows, or reasonably should know of the duty to register and who:

(1) knowingly commits an act or fails to fulfill a requirement that violates any provision of this section; or

(2) intentionally provides false information to a corrections agent, law enforcement authority, or the bureau is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

~~(b) Except as provided in paragraph (c), a person convicted of violating paragraph (a) shall be committed to the custody of the commissioner of corrections for not less than a year and a day, nor more than five years.~~

~~(c)~~ (b) A person convicted of violating paragraph (a), who has previously been convicted of or adjudicated delinquent for violating this section or a similar statute of another state or the

United States, shall be committed to the custody of the commissioner of corrections for not less than ~~two years~~ a year and a day, nor more than five years.

~~(d)~~ (c) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must 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 person without regard to the mandatory minimum sentence if the court finds substantial and compelling reasons to do so. Sentencing a person in the manner described in this paragraph is a departure from the Sentencing Guidelines.

~~(e)~~ (d) A person convicted and sentenced as required by this subdivision is not eligible for probation, parole, discharge, work release, conditional release, or supervised release, until that person has served the full term of imprisonment as provided by law, notwithstanding the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

EFFECTIVE DATE. This section is effective August 1, 2027, and applies to crimes committed on or after that date.

MINNESOTA
TASK FORCE ON MANDATORY MINIMUM SENTENCES

MEMORANDUM

To: Task Force Members
From: Nate Reitz, Task Force Chair
Date: April 29, 2026
Subject: Sample Policy Language for May Meeting – Corrigendum

This document contains two corrections to sample bill language that I provided in my April 20, 2026, memo entitled "Sample Policy Language for May Meeting."

My **first** correction relates to "First Idea – Action Step 2" (on page 6 of the memo), in which I propose bill language for a new Minn. Stat. § 609.658 ("Using a Firearm to Commit a Designated Crime; Increased Maximum Penalty") to replace the mandatory minimums that now exist in § 609.11. That bill language begins with a list of "designated crimes," intended to replicate the existing crime list in § 609.11, subd. 9. I found two errors with that list.

- First, there was an incorrect statutory reference to aggravated first-degree witness tampering.
- Second, clause (3) was intended to list any "designated crimes" that already have, as an element, the use of a firearm (see decision point 8 on page 5 of the memo). I omitted an offense from this list: murder in the second degree while committing drive-by shooting. (The Sentencing Guidelines rank this offense higher than other second-degree felony murders—at severity level 11, the top of the sentencing grid—and thus already account for, it would seem, the element of firearm use.)

I'm also making a new style change: to put offense names in parentheticals, like the "crime of violence" list. The corrected and updated "designated crime" list follows:

Sec. 14. **[609.658] USING A FIREARM TO COMMIT A DESIGNATED CRIME; INCREASED MAXIMUM PENALTY.**

Subdivision 1. **Designated crimes.** As used in this section, "designated crime" means:

(1) a violation of section 609.185 (murder in the first degree); 609.19, subdivision 1, clause (1), or subdivision 2 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.247 (carjacking); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342, subdivision 1 (criminal sexual conduct in

the first degree; adult victim); 609.342, subdivision 1a, clause (a), (b), (c), (d), (e), (f), or (i) (criminal sexual conduct in the first degree; victim under the age of 18); 609.343, subdivision 1 (criminal sexual conduct in the second degree; adult victim); 609.343, subdivision 1a, clause (a), (b), (c), (d), (e), (f), or (i) (criminal sexual conduct in the second degree; victim under the age of 18); 609.344, subdivision 1, clause (a), (b), or (c), or clause (d) under the conditions described in section 609.341, subdivision 24, clause (2), item (i), (ii), or (iii) (criminal sexual conduct in the third degree; adult victim); 609.344, subdivision 1a, clause (a), (b), (c), (d), (e), or (h), or clause (i) under the conditions described in section 609.341, subdivision 24, clause (2), item (i), (ii), or (iii) (criminal sexual conduct in the third degree; victim under the age of 18); 609.485 (escape from custody); 609.498, subdivision 1 or 1b (first-degree or aggravated first-degree witness tampering); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); or 609.749, subdivision 3, paragraph (a), clause (3) (harassment with a dangerous weapon); a felony violation of chapter 152; or an attempt to commit any of these offenses;

(2) a violation of section 609.165, subdivision 1b, or 624.713, subdivision 1, clause (2) (possessing a firearm or ammunition after a crime of violence); or an attempt to commit either of these offenses; or

(3) a violation of section 609.19, subdivision 1, clause (2) (murder in the second degree while committing drive-by shooting), or 609.66, subdivision 1e (drive-by shooting); or an attempt to commit either of these offenses.

My **second** correction relates to "Second Idea – Action Step 1," where I propose significant limits on what drug offenses qualify as a "crime of violence" within the meaning of Minn. Stat. § 624.712, subd. 5. The correction has to do with the "effective date" provision (on page 13 of the memo).

As I explained in the notes, the unusual limited application of the effective date clause (to "violations of sections 609.165 and 624.713" committed on or after the effective date, rather than to "crimes" committed on or after the effective date) was to avoid the confusion the supreme court was required to resolve in *Tapia v. Leslie*, 950 N.W.2d 59 (Minn. 2020). In a nutshell, the alleged ambiguity was whether the word "crimes" in the phrase, "applies to crimes committed on or after [the effective] date," means (1) crimes on the "crime of violence" list, or (2) newly committed crimes for possessing a firearm after having been convicted of a crime on the "crime of violence" list. By limiting the "applies to" language to those specific crimes that use the "crime of violence" definition, I sought to avoid this confusion altogether: The new list that takes effect on August 1, 2028, will immediately affect firearm-possession rights from that date forward.

Unfortunately, I missed two crimes that use the "crime of violence" definition: Minn. Stat. §§ 609.668 (prohibiting possession of explosives and incendiary devices by someone previously convicted of a "crime

of violence") and 624.7141 (establishing a felony for transferring a firearm to an ineligible person who later uses the firearm to commit a "crime of violence").

The corrected "effective date" provision for the changes to the § 624.712 "crime of violence" list follows:

EFFECTIVE DATE. This section is effective August 1, 2027, and applies to violations of Minnesota Statutes, sections 609.165, 609.668, 624.713, and 624.7141, committed on or after that date.