

# Minnesota Sentencing Guidelines Commission

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## Statement of Purpose and Principles November 9, 2017

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**Issue:** The Minnesota Sentencing Guidelines and Commentary sets out a statement of purpose and principles in Guidelines § 1.A. (*See* Reference 2.) The statement was contained in the Commission’s first Report to the Legislature in 1980. Since then, it has remained largely unchanged. (*See* Reference 3.)

**Guidelines Considerations:** In 1989, the Commission’s enabling statute was amended to include a requirement that the Commission’s primary consideration in establishing and modifying the Guidelines be public safety. Minn. Laws 1989, Ch. 290, Art. 2, § 7. Other pertinent changes were made in 1996 and 1997. (*See* Reference 1.)

**Procedural Considerations:** Although a change to the Guidelines’ statement of purpose and principles would not be required for inclusion in the Commission’s annual Report to the Legislature, the Commission’s historical practice has been to inform the Legislature of intended changes to the Guidelines in advance, even if not strictly required. The Commission’s procedural rules do require a public hearing before final adoption, but this hearing need not occur before the January publication of the Report to the Legislature. The public hearing could, for example, occur in July. ([Minn. Stat. § 244.09, subd. 11](#); [Minn. R. chap. 3000](#).)

### **Question for the Commission to Discuss:**

- Does the Commission wish to change its Statement of Purpose and Principles to incorporate changes made to Minn. Stat. § 244.09, subd. 5?

### **References:**

1. Minn. Stat. § 244.09, subd. 5 (excerpt, with historical changes).
2. Minn. Sentencing Guidelines § 1.A, Statement of Purpose and Principles.
3. Historical changes to Minn. Sentencing Guidelines § 1.A.
4. Suggested Change to Statement of Purpose and Principles.

**Reference 1: Minn. Stat. § 244.09, subd. 5 (excerpt, with historical changes).**

The following is an excerpt of subdivision 5 of Minn. Stat. § 244.09. The underlined words were added after the statute's 1978 enactment (example). The stricken words have been deleted since the statute's 1978 enactment (~~example~~). The changes highlighted in yellow were made by [1989 Minn. Laws ch. 290](#); the changes highlighted in blue were made by [1996 Minn. Laws ch. 408](#); and the changes highlighted in green were made by [1997 Minn. Laws ch. 96](#).

Subd. 5. **Promulgation of Sentencing Guidelines.** The commission shall on or before January 1, 1980, promulgate ~~s~~Sentencing ~~g~~Guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. ...

\* \* \*

Although the Sentencing Guidelines are advisory to the district court, the court shall follow the procedures of the guidelines when it pronounces sentence in a proceeding to which the guidelines apply by operation of statute. Sentencing pursuant to the Sentencing Guidelines is not a right that accrues to a person convicted of a felony; it is a procedure based on state public policy to maintain uniformity, proportionality, rationality, and predictability in sentencing.

In establishing and modifying the ~~s~~Sentencing ~~g~~Guidelines, the primary consideration of the commission shall ~~take into substantial consideration~~ be public safety. The commission shall also consider current sentencing and release practices ~~and;~~ correctional resources, including but not limited to the capacities of local and state correctional facilities; and the long-term negative impact of the crime on the community.

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## **Reference 2: Minn. Sentencing Guidelines § 1.A, Statement of Purpose and Principles.**

The following is the Minnesota Sentencing Guidelines' current "Statement of Purpose and Principles." Historical revisions to this statement are detailed in Reference 3, below.

### **A. Statement of Purpose and Principles**

The purpose of the Sentencing Guidelines is to establish rational and consistent sentencing standards that reduce sentencing disparity and ensure that the sanctions imposed for felony convictions are proportional to the severity of the conviction offense and the offender's criminal history. Equity in sentencing requires that: (a) convicted felons with similar relevant sentencing criteria should receive similar sanctions; and (b) convicted felons with relevant sentencing criteria substantially different from a typical case should receive different sanctions.

The Sentencing Guidelines embody the following principles:

1. Sentencing should be neutral with respect to the race, gender, social, or economic status of convicted felons.
2. The severity of the sanction should increase in direct proportion to an increase in offense severity or the convicted felon's criminal history, or both. This promotes a rational and consistent sentencing policy.
3. Commitment to the Commissioner of Corrections is the most severe sanction that can be imposed for a felony conviction, but it is not the only significant sanction available to the court.
4. Because state and local correctional facility capacity is finite, confinement should be imposed only for offenders who are convicted of more serious offenses or who have longer criminal histories. To ensure such usage of finite resources, sanctions used in sentencing convicted felons should be the least restrictive necessary to achieve the purposes of the sentence.
5. Although the Sentencing Guidelines are advisory to the court, the presumptive sentences are deemed appropriate for the felonies covered by them. Therefore, departures from the presumptive sentences established in the Sentencing Guidelines should be made only when substantial and compelling circumstances can be identified and articulated.

### Reference 3: Historical changes to Minn. Sentencing Guidelines § 1.A.

The “Statement of Purpose and Principles” found in § I of the Sentencing Guidelines did not change between 1980 and 2011. In 2012, as part of a larger rewrite of the Guidelines,\* the section was renumbered as § 1.A. and rewritten. In 2012, the stricken words (~~example~~) were removed, and the underlined words (example) were added, as shown:

#### A. Statement of Purpose and Principles

The purpose of the ~~s~~Sentencing ~~g~~Guidelines is to establish rational and consistent sentencing standards ~~which that~~ reduce sentencing disparity and ensure that the sanctions following conviction of a ~~imposed for~~ felony convictions are proportional to the severity of the conviction offense ~~of conviction~~ and the ~~extent of the~~ offender’s criminal history. Equity in sentencing requires ~~(a)~~ that: ~~(a)~~ convicted felons with similar ~~with respect to~~ relevant sentencing criteria ~~ought to~~ should receive similar sanctions; and (b) ~~that~~ convicted felons with relevant sentencing criteria substantially different from a typical case ~~with respect to relevant criteria~~ ~~ought to~~ should receive different sanctions.

The ~~s~~Sentencing ~~g~~Guidelines embody the following principles:

1. Sentencing should be neutral with respect to the race, gender, social, or economic status of convicted felons.
2. ~~While commitment to the Commissioner of Corrections is the most severe sanction that can follow conviction of a felony, it is not the only significant sanction available to the sentencing judge. Development of a rational and consistent sentencing policy requires that~~ The severity of the sanctions should increase in direct proportion to an increase in the offense severity of criminal offenses and the severity of criminal histories of convicted felons or the convicted felon’s criminal history, or both. This promotes a rational and consistent sentencing policy.
3. Commitment to the Commissioner of Corrections is the most severe sanction that can be imposed for a felony conviction, but it is not the only significant sanction available to the court.
- 3.4. ~~Because the capacities of state and local correctional facilities are~~ facility capacity is finite, use of incarcerative sanctions ~~confinement~~ should be ~~limited to those~~ imposed only for offenders who are convicted of more serious offenses or those who have longer criminal

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\* The 2012 Guidelines Revision Project was intended to be “ ‘primarily stylistic ... rather than substantively rewriting the Guidelines.’ ” *State v. Kirby*, 899 N.W.2d 485, 494 (Minn. 2017) (*quoting* Minn. Sentencing Guidelines Comm’n, *Guidelines Revision Project: Adopted Modifications* 16 (Apr. 2012)).

histories. To ensure such usage of finite resources, sanctions used in sentencing convicted felons should be the least restrictive necessary to achieve the purposes of the sentence.

4. ~~While~~ 5. Although the ~~s~~Sentencing ~~g~~Guidelines are advisory to the ~~sentencing judge~~ court, the presumptive sentences are deemed appropriate for the felonies covered by them. Therefore, departures from the presumptive sentences established in the ~~Sentencing~~ ~~g~~Guidelines should be made only when substantial and compelling circumstances ~~exist~~ can be identified and articulated.

## Reference 4: Suggested Change to Statement of Purpose and Principles.

The following are changes to Minnesota Sentencing Guidelines § 2.A., “Statement of Purpose and Principles,” as originally suggested by the Chair, with further edits made in light of discussion at the October 12, 2017, meeting. The Chair’s suggested deletions are marked in red and stricken (~~example~~) and suggested additions are underlined (example).

### A. Statement of Purpose and Principles

The purpose of the Sentencing Guidelines is to establish rational and consistent sentencing standards that promote public safety, reduce sentencing disparity, and ensure that the sanctions imposed for felony convictions are proportional to the severity of the conviction offense and the offender’s criminal history. ~~Equity in sentencing requires that: (a) convicted felons with similar relevant sentencing criteria should receive similar sanctions; and (b) convicted felons with relevant sentencing criteria substantially different from a typical case should receive different sanctions.~~

The Sentencing Guidelines shall embody the following principles:

1. In establishing and modifying the Sentencing Guidelines, the Commission’s primary consideration shall be public safety. This shall include consideration of the long-term negative impact of the crime on the community. Minn. Stat. § 244.09, subd. 5.
- ~~1.2.~~ Sentencing should be neutral with respect to the race, gender, social, or economic status of convicted felons.
- ~~2.3.~~ The severity of the sanction should increase in direct proportion to an increase in offense severity or the convicted felon’s criminal history, or both. This promotes a rational and consistent sentencing policy.
- ~~3.4.~~ Commitment to the Commissioner of Corrections is the most severe sanction that can be imposed for a felony conviction, but it is not the only significant sanction available to the court.
- ~~4.5.~~ Because state and local correctional facility capacity is finite, confinement should be imposed only for offenders who are convicted of more serious offenses or who have longer criminal histories. To ensure such usage of finite resources, sanctions used in sentencing convicted felons should be the least restrictive necessary to achieve the purposes of the sentence.
- ~~5.6.~~ Although the Sentencing Guidelines are advisory to the court, the presumptive sentences are deemed appropriate for the felonies covered by them. Therefore, departures from the presumptive

sentences established in the Sentencing Guidelines should be made only when substantial and compelling circumstances can be identified and articulated.