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Minnesota Sentencing Guidelines Commission  
658 Cedar Street, Suite G-58  
St. Paul, Minnesota 55155

Dear Commission Members:

Our research team has supported the Commission's comprehensive review by examining trends in presumptive prison recommendations, assessing the performance of the criminal history score (CHS), and testing options to better align sentencing policy with public safety and proportionality. As researchers and legal scholars with deep expertise in sentencing, recidivism, and guidelines design we have produced peer-reviewed studies and statewide assessments in these areas. With that context, we write to endorse the Commission's Consensus Policy Package and highlight the research that supports several of the key proposed changes below.

First, shortening the felony look-back ("decay") period from 15 to 10 years reflects what desistance research has found for decades: after roughly seven to ten crime-free years (offense-specific), a person's risk of new arrest converges toward that of same-aged people with no record.<sup>5</sup>

<sup>6</sup> Very old convictions add little predictive value. In addition, prolonged look-back periods primarily affect older defendants with decades-old convictions — a group that, consistent with the age-crime curve, tends to be lower risk.<sup>14</sup> Minnesota-specific analyses also show that growth in criminal history points, rather than offense severity, has been a central driver of the long-run increase in presumptive prison recommendations.<sup>2</sup> As our state's felony defendants have gotten older - reflecting statewide aging and cohort shifts in criminal involvement – they arrive with more

prior felonies, which mechanically pushes the CHS upward.<sup>2</sup> Calibrating look-back periods to better reflect a person’s current risk would help keep CHS growth in check without sacrificing the predictive value of prior record.

For the same reason, shortening the misdemeanor/gross-misdemeanor decay period to seven years is consistent with the research. After sustained time crime-free, older low-level priors contribute little additional information to a person’s risk of reoffending.<sup>5 6</sup> In sum, these policy changes serve the state by reducing incarceration and supervision costs for those who pose the least risk to public safety, thereby reserving prison beds for those who have committed more serious and more recent offenses.

Second, the proposal to add a narrowly defined “true first-offender” mitigating factor—limited to people with no prior criminal convictions or stays of adjudication of any kind—also tracks with the evidence. National and Minnesota studies show that individuals with no significant prior criminal justice contact reoffend at markedly lower rates than otherwise similarly situated defendants - including those with the same CHS. Reserving a sentencing mitigator for a clearly defined first-time offender group aligns sentences with risk and helps the lowest-risk defendants avoid harsh penalties that can derail jobs, housing, and family stability.<sup>3 7 8</sup>

Third, eliminating juvenile-adjudication points from the criminal history score is supported by developmental science and by the evaluation of our state’s CHS. Most justice-involved youth desist as they mature<sup>10</sup>, and juvenile records have limited value for predicting adult behavior.<sup>9</sup> An evaluation of Minnesota’s CHS found that counting juvenile convictions did not improve recidivism prediction and increased racial disparity in incarceration.<sup>3</sup> In short, this change prevents old juvenile records—which don’t predict adult reoffending—from pushing someone into prison or into a harsher, out-of-proportion sentence. Under the proposed change, extended jurisdiction juvenile (EJJ) and adult certified convictions would still add a point to the CHS, thus preserving the most serious cases.

Fourth, converting custody status from a CHS component to a durational (rather than dispositional) modifier is likewise evidence-consistent. A large body of research finds that, for otherwise similar people, incarceration generally does not reduce reoffending more than community sanctions.<sup>11 12</sup> Analysis also found that the Minnesota custody-status point added minimal predictive power while increasing the share of cases recommended to prison and contributing to racial disparity in incarceration.<sup>3</sup> This policy change would prevent custody status

from automatically pushing persons across the dispositional line and into prison, while still responding to the breach of supervision with a proportionate increase in sentence length.

Finally, the proposed clarification that CHS serves both public safety and sentencing proportionality - rather than repunishing old crimes - is in line with contemporary guidance and the empirical evidence on the primary usefulness of prior record. Prior convictions are informative of recidivism risk,<sup>13 3</sup> and modern sentencing principles recognize a limited, time-diminishing role for prior record in blameworthiness so that criminal history supports, rather than overwhelms, proportionality in sentencing.<sup>14</sup>

We hope this summary is helpful as you prepare for your final vote. We appreciate the Commission's careful work, and we're available to answer questions or provide any additional analysis you may need.

Respectfully submitted,



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