

Draft Meeting Minutes

September 10, 2026

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on September 10, 2026, in the Itasca Training Room at the Department of Corrections, 1450 Energy Park Drive, Saint Paul, MN 55108; and by telephone and/or electronically.

Commission members present in person were Kelly Lyn Mitchell, Chair and Designee of the Commissioner of Corrections; Cathryn Middlebrook, Vice-Chair and Chief Appellate Public Defender; Leonardo Castro, District Court Judge; Keale Ede, Court of Appeals Judge; Richard Frase, Professor Emeritus, University of Minnesota Law School; Kyra Ladd, Wadena County Attorney; Gordon L. Moore, III, Minnesota Supreme Court Justice; and Latonya Reeves, Hennepin County Career Probation Officer. Also present in person were MSGC Executive Director Nate Reitz and MSGC staff members Leah Bower, Matthew Hlina, Jill Payne, and Devonte Roache; and members of the public Professor Kevin Reitz, University of Minnesota Law School, and Mark Garvey, KSTP-TV.

Commission members present by telephone and/or electronically were: Amirthini Keefe, Public Member and Executive Director, Domestic Abuse Project; Chief Brian Mueller, Stillwater Police Department; Marlin Meszaros, Director of Residential Services, FreedomWorks; and Tim Morin, Public Member; and Surya Saxena, Public Member, the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on July 24, 2026. Also present by telephone and/or electronically were staff members Kathleen Madland and Linda McBrayer; and members of the public Julia Laskorunsky, University of Minnesota; Katelyn Lambrecht; Ari McHenry, Impact MN; Ashley Robertson; and Elizabeth Ruhland.

1. Call to Order & Roll Call

Chair Mitchell called the meeting to order at 1:31 p.m.

Director Reitz called the roll. Present were Chair Mitchell, Vice-Chair Middlebrook, and members Castro, Ede, Frase, Ladd, Meszaros, Moore, Morin, Mueller, Reeves, and Saxena. Twelve members were present; one member was absent. A quorum was present.

2. Adoption of Draft Meeting Agenda (Action)

This was on the agenda as an action item.

Motion by Commissioner Reeves and seconded by Vice-Chair Middlebrook to approve the draft meeting agenda for September 10, 2026.

Motion carried unanimously on a 12–0 roll-call vote.

Voting “Yes” were Chair Mitchell, Vice-Chair Middlebrook, and members Castro, Ede, Frase, Ladd, Meszaros, Moore, Morin, Mueller, Reeves, and Saxena.

3. Approval of Draft Meeting Minutes of July 23, 2026 (Action)

This was on the agenda as an action item.

Motion by Commissioner Reeves and seconded by Vice-Chair Middlebrook to approve the draft meeting minutes from July 23, 2026.

Motion carried unanimously on a 12–0 roll-call vote.

Voting “Yes” were Chair Mitchell, Vice-Chair Middlebrook, and members Castro, Ede, Frase, Ladd, Meszaros, Moore, Morin, Mueller, Reeves, and Saxena.

4. Guidelines Restructuring Draft Preview (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell called on Director Reitz who presented the Commission with an overview on the work of the Guidelines Restructuring Committee. Director Reitz emphasized that this presentation was intended for illustrative purposes to provide Commission members with a preview of the restructured guidelines. Among the items in the draft which will be presented at the October will be organizational improvements to the guidelines manual, including the consolidation of modifier rules and the elimination of footnotes to improve clarity; changes in offense names for accuracy, clarity, and transparency for better public understanding; and, policy clarification through the elevation of certain comments directly into the policy section.

5. *State v. Hernandez* (Minn 1981) and Sentencing Multiple Current Offenses (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell introduced Professor Kevin Reitz who presented “The *Hernandez* Rule: Policy Issues and Options” to provide the Commission with a refresher ahead of an expected October proposal presentation by the *Hernandizing* Committee. Professor Reitz stated that Minnesota’s *Hernandizing* rule is an outlier from other states that have a Sentencing Guidelines structure. The *Hernandez* rule has uneven impacts on sentencing, and data indicates that in 2023–24, *Hernandizing* produced 596 cases of lengthened prison term, 289 cases pushed over the disposition line from presumptive probation to prison, and 34 cases where *Hernandez* pushed offenders with no prior record to the maximum criminal history score of 6 or more points. Professor Reitz pointed out that the rule may increase the punitive impact of the Guidelines’ Criminal History Score, leading to higher prison rates, that it may contribute to racial disparities in Minnesota’s prison rates; and that it may distort the purpose of the Guidelines. Possible options for the Commission to consider may include amending the policy to exclude

Hernandizing in multiple-count cases; to make *Hernandizing* discretionary for the court; or limiting the number of priors that can be *Hernandized*.

The Commission asked Professor Reitz questions. Chair Mitchell thanked Professor Reitz for the presentation.

6. Identity Theft over \$35,000 Ranking Review (Discussion)

This was on the agenda as a discussion item.

The Commission took a 10-minute break at 2:54pm. Chair Mitchell called the meeting back to order at 3:04pm.

Chair Mitchell called on Director Reitz who presented the Commission with an overview of Theft Offenses over \$35,000, highlighting the inconsistencies in ranking identity theft crimes. In July, commission members were given a ranking form for Identity Theft, and Director Reitz gave an overview of the notes and feedback from the forms completed by commission members. Feedback included the ranking of Identity Theft Over \$35,000 at a severity level 8 felt too severe after ranking Theft of Public Funds, \$1,000,000+ at a 7; that although the “cascading toll of identity theft is hard to quantify beyond the dollar amount;” the leap in severity levels between 3–7 victims at severity level 3 and 8 victims at severity level 8 may not be proportional; that both Identity Theft and Financial Exploitation of a Vulnerable Adult over \$35,000 have the same statutory maximum, indicating they should be ranked consistently; and the high departure rates may justify a lower ranking to aide in victim restitution.

Commission members then discussed the findings, and the Chair informed members that the item will be brought back as an action item for the October meeting.

7. Legislative Recommendations of the Task Force on Mandatory Minimum Sentences (Discussion)

This was on the agenda as a discussion item.

At 3:25 p.m., Commissioner Keefe joined the meeting remotely.

Chair Mitchell called on Director Reitz who informed the Commission that the presentation was being given under his role as the chair of the now-expired Task Force on Mandatory Minimum Sentences, pointing out that Chair Mitchell was its vice-chair. The presentation included information on the mandate to meet for one year; collect and analyze data related to mandatory minimum sentences; assess whether public safety and equity in sentence is being practiced under laws; and make recommendations to the Legislature, which is the focus of today’s discussion. The recommendations made to the Legislature were all consensus recommendations from a task force comprised of a membership where diverse perspectives were represented, achieving a considerable amount of consensus on the recommendations.

The task force narrowed its scope to examine the three mandatory minimums that comprise 90 percent of mandatory-minimum cases: possession of a firearm after a crime of violence, possessing a firearm or

using another dangerous weapon while committing a listed crime; and failure to register as a predatory offender. Director Reitz discussed the history of each mandatory minimum.

The four consensus recommendations of this Task Force to the Legislature were to 1) move § 609.11's penalty- enhancement scheme into the Sentencing Guidelines; 2) remove nonviolent drug crimes from the firearm-disqualifying "crime of violence" list; 3) eliminate mandatory minimums for first time failures to register as a predatory offender; and 4) allow defendants, not just prosecutors, to request waiver of mandatory minimum sentences. Director Reitz explained each consensus recommendation and the Task Force's rationale behind it.

Chair Mitchell explained to the Commission the process of moving forward with this work, and members discussed the presentation and asked questions. Although this was a discussion item on the agenda, there was no objection to a vote on an endorsement of the task force recommendations.

Motion by Commissioner Reeves and seconded by Commissioner Castro to endorse the four recommendations from the Task Force to the Commission.

Motion carried on a 11–1 roll-call vote.

Voting "Yes" were Chair Mitchell, Vice-Chair Middlebrook, and members Castro, Ede, Frase, Keefe, Ladd, Meszaros, Moore, Reeves, and Saxena.

Voting "No" was member Mueller.

Chair Mitchell asked Commission Mueller if he would be willing to explain his concerns so that members would understand what he would like addressed. After Commissioner Mueller's response, Director Reitz asked Chair Mitchell if a separate vote could be taken on recommendations 1 and 4 to determine if there was unanimity on those items.

Motion by Commissioner Ede and seconded by Commissioner Reeves to endorse recommendations 1 and 4 from the Task Force on Mandatory Minimum Sentences.

Motion carried on a 12-0 roll call vote

Voting "Yes" were Chair Mitchell, Vice-Chair Middlebrook, and members Castro, Ede, Frase, Keefe, Ladd, Meszaros, Moore, Mueller, Reeves, and Saxena.

Before moving to the next agenda item, Chair Mitchell thanked Director Reitz for his leadership in navigating the Task Force to its final report.

8. Executive Director's Report & 2027 Meeting Calendar (Discussion)

Chair Mitchell called on Director Reitz to present his report and the 2027 meeting calendar. Director Reitz told members that the 2026 National Association of Sentencing Commission's annual conference, hosted this year by the New Mexico Sentencing Commission was a success for Commission and staff attendees.

The 2027 meeting calendar was presented to members, and Director Reitz asked members to review the calendar and inform him if there were any issues with the dates. Chair Mitchell then asked about

the public hearing schedule for the remainder of the 2026 calendar. Director Reitz pointed out that a tentative Public Hearing date of December 10, 2026, has been posted on the website.

9. Public Input

Director Reitz asked if there were members of the public who wished to speak.

There were no members of the public in person or online who wished to make a public comment.

10. Adjournment

Chair Mitchell adjourned the meeting at 4:24 p.m., without objection.