

DRAFT Meeting Minutes

July 24, 2025

A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on July 24, 2025, in the Afton Room at the Department of Corrections, 1450 Energy Park Drive, Saint Paul, MN 55108; and by telephone and/or electronically.

Present in person were Chair Kelly Lyn Mitchell, Chair and Designee of the Commissioner of Corrections, Vice-Chair Michelle A. Larkin, Minnesota Court of Appeals Judge, and Commissioners Richard Frase, Professor Emeritus, University of Minnesota Law School; Kyra Ladd, Wadena County Attorney, Marlin Meszaros, Director of Housing & Support Services, Partners Behavioral Healthcare; Cathryn Middlebrook, Chief Appellate Public Defender; Gordon L. Moore, III, Minnesota Supreme Court Justice; and Chief Brian Mueller, Stillwater Police Department. Also present in person were MSGC Executive Director Nate Reitz; MSGC staff members Leah Bower, Matthew Hlina, Devonte Roache, and Jill Payne; and members of the public Professor Christopher Uggen, University of Minnesota; Aaron Sojourner, Senior Researcher, W.E. Upjohn Institute for Employment Research; Ethan Ellis, Humphrey School of Public Affairs; and Brad Salberg, MNIT.

Commission members present by telephone and/or electronically were Judge Leonardo Castro, Second Judicial District Court Judge; Amirthini Keefe, Public Member and Executive Director, Domestic Abuse Project; and Tim Morin, Public Member, the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on June 9, 2025. Also present by telephone and/or electronically were staff members Kathleen Madland and Linda McBrayer; and members of the public Dr. Julia Laskorunsky, University of Minnesota; Professor Kevin Reitz, University of Minnesota; Caroline Koerner, MNIT; and Elizabeth Ruhland.

1. Call to Order and Roll Call

Chair Mitchell called the meeting to order at 1:01 p.m.

Director Reitz called the roll. Present were Chair Mitchell, Vice-Chair Larkin, and members Castro, Ladd, Meszaros, Middlebrook, Moore, Morin, and Mueller. Nine members were present. Four members were absent. A quorum was present.

2. Adoption of Draft Meeting Agenda

This was on the agenda as an action item.

Motion by Vice-Chair Larkin and second by Commissioner Middlebrook to approve the draft meeting agenda for July 24, 2025.

Motion carried on a 9–0 roll-call vote.

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

3. Approval of Draft Meeting Minutes from June 5, 2025

This was on the agenda as an action item.

At 1:04 p.m. Commissioner Frase joined the meeting in person and Commissioner Keefe joined the meeting remotely.

Motion by Commissioner Middlebrook and second by Vice-Chair Larkin to approve the draft meeting minutes from June 5, 2025.

Motion carried on a 10–0 roll-call vote.

Voting “Yes” were Chair Mitchell, Vice-Chair Larkin, and members Frase, Keefe, Ladd, Meszaros, Middlebrook, Moore, Morin, and Mueller.

Commissioner Castro abstained from the vote.

At the end of this agenda item, Chair Mitchell welcomed Judge Castro to the Commission. The Commission made introductions.

4. Review of Public Hearing Record

This was on the agenda as a discussion item.

Chair Mitchell called on Director Reitz who made the following record of the public hearing:

On Monday, June 16, 2025, the notice of public hearing was published in the State Register (Volume 49, Number 51) and the contents of the proposed modifications were posted on the Commission’s website. The same day, an e-mail notice of public hearing was sent to persons who have signed up on the Commission’s website to receive informational e-mails. No one was notified by United States mail because there are no longer members of the public on the United States mailing list.

Pursuant to the public hearing notice, the public hearing was held on July 17, 2025, in this room, and by telephone and/or electronically. One person, an MSGC staff member, testified. No other members of the public wished to, or did, testify. After the public hearing, the record remained open for five calendar days, through July 22, to accept written comments. From the beginning of the public hearing notice period through the end of the public comment period, the Commission received one written comment regarding the subject of the public hearing. The complete public hearing record — including a list of those who spoke at the hearing, a link to the video and audio of the hearing, and copies of the written comment — was provided to all Commission members on July 17, was posted in its entirety on the Commission’s web site on July 18, and is included in today’s meeting materials.

Director Reitz said that the Commission appeared to have substantially complied with all public notice and hearing requirements to permit it to take final action on the proposed modifications today.

5. Accept or Reject Proposed Amendments to the Sentencing Guidelines and Commentary

This was on the agenda as an action item.

Chair Mitchell said that the next item on the agenda was the acceptance or rejection of proposed amendments to the Sentencing Guidelines and Commentary and that the proposed amendments received the Commission's preliminary approval, have gone through the public notice-and-hearing process, and were ready for the Commission's final action.

Chair Mitchell said that changes approved would generally take effect August 1, 2025; and that staff will publish the annual edition of the Sentencing Guidelines on that date.

Chair Mitchell began with proposed changes for which there was no public comment, which were: Notice of Public Hearing, part A, relating to two new crimes created in the 2025 legislative session; part B.3, relating to codified minimum sentences for sex trafficking; part B.4, renaming child pornography as "child sexual abuse material"; and two technical corrections in part C. The specified effective date of Part A.1 is January 1, 2026; the remaining specified effective dates are August 1, 2025.

Chair Mitchell entertained a motion.

Motion by Vice-Chair Larkin and second by Commissioner Frase to approve the proposed modifications in parts A, B.3, B.4, and C of the Commission's June 16, 2025, Notice of Public Hearing.

Motion carried unanimously on an 11–0 roll-call vote.

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

Chair Mitchell said that the proposed modifications subject to the motion were approved, and will be published in the August 1, 2025, edition of the Minnesota Sentencing Guidelines.

Chair Mitchell next turned to the proposed changes in part B.1, relating to new criminal penalties for exposing children to fentanyl. Chair Mitchell said that Director Reitz made a public comment in which he now proposed to list the new crime of exposing a child to fentanyl separately from the existing crime of exposing a child or vulnerable adult to methamphetamine or related chemicals, and to list the new crime on the list of offenses eligible for permissive consecutive sentences. Chair Mitchell said that Director Reitz's written comment, which was in the public hearing materials, contained alternative draft language to that found in part B.1 of the public-hearing notice.

Chair Mitchell entertained a motion.

Motion by Commissioner Middlebrook and second by Commissioner Meszaros to adopt Director Reitz's alternative to part B.1., found in his written public comment.

Motion carried unanimously on an 11–0 roll-call vote.

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

Chair Mitchell said that the proposed modifications subject to the motion were approved, and will be published in the August 1, 2025, edition of the Minnesota Sentencing Guidelines.

Chair Mitchell lastly turned to the proposed changes in part B.2, relating to a new consecutive-sentence requirement for assaulting a sheriff or sheriff’s deputy in jail; this requirement is found in Minnesota Statutes section 609.2232, new paragraph (b). Chair Mitchell said that Director Reitz made a public comment in which he advocated limiting the proposed Guidelines language saying that new paragraph (b) always requires an executed sentence, and in which he proposed different language for incorporating the new paragraph (b) in the Guidelines’ consecutive-sentencing policy. Chair Mitchell said that Director Reitz’s written comment, which was in the public hearing materials, contained alternative draft language to that found in part B.2 of the public-hearing notice.

Chair Mitchell entertained a motion.

Motion by Vice-Chair Larkin and second by Commissioner Moore to adopt Director Reitz’s alternative to part B.2., found in his written public comment.

Motion carried unanimously on an 11–0 roll-call vote.

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

Chair Mitchell said that the proposed modifications subject to the motion were approved, and will be published in the August 1, 2025, edition of the Minnesota Sentencing Guidelines.

6. Comprehensive Review Ranking Project Results: Offense Group 3 (Assaults, Protective-Order Violations, and Aggravated Robbery)

This was on the agenda as a discussion item.

Chair Mitchell called on MSGC staff members Leah Bower and Matthew Hlina who presented, “Offense Group 3: Ranking Exercise Feedback,” dated July 24, 2025. Staff explained the process and summarized results from the ranking project survey results explaining that there were 18 offenses in Offense Group 3, which were divided by staff into eight subgroups for this discussion. Staff presented each offense subgroup. After each, Chair Mitchell opened the floor for discussion.

- **Assault 1; Great Bodily Harm (GBH):** Staff explained that this offense is ranked at severity level (SL) 9 and there was general agreement in the surveys to downrank to SL 8; or to rank at a new intermediate SL between SL 8 and SL 9. This was followed by no reranking.

Staff explained that some of the Commissioner’s rationale to downrank was because it was not proportional to other SL 9 offenses; there were other GBH offenses ranked lower; and that the number of prosecutor-agree-upon departures signaled the ranking was too high. Some of the rationale to maintain the existing severity level was because departure rates were below average and the level of harm should not determine the severity level.

There was also a suggestion to make a legislative recommendation for mens rea reform to create a new Assault 1 in which there is intent to assault and commit great bodily harm and it would be ranked higher.

The Commission asked questions and discussed its survey responses. A concern was raised, in general, about the process and whether the same standards for re-ranking were applied to all offenses equally or if there were some inequities being introduced if the Commission looked at, for example, intent with some offenses, but not all.

- **Assault 2; Dangerous Weapon & Dangerous Weapon with Substantial Bodily Harm (SBH):** This offense is currently ranked at SL 6. Staff explained that survey results showed general agreement that Assault 2 – SBH should be up-ranked to SL 7. Some results showed that weapon type matters and some suggested the type of assault mattered i.e., causing fear, attempting to inflict bodily harm, and inflicting bodily harm.

Staff explained that there were multiple comments for legislative recommendations to remove or reconsider mandatory minimums—reserving the mandatory minimum for firearm offenses and for subsequent offenses. Survey results also expressed concerns about racial disparities in sentencing because of the higher incarceration rate for black defendants.

The Commission asked questions and discussed its survey responses. Some discussion focused on the type of harm. There was a comment about victim harm and that, while there is often emphasis on physical harm, psychological or emotional harm may have a lasting impact and that if the Commission ranks one higher, it assumes how types of harm impact victims and such qualitative assessments may further complicate the Guidelines.

- **Assault 3; Pattern of Child Abuse, Victim Under Age 4 and SBH:** Staff explained these three offenses were ranked at SL 4 and surveys showed that there was general agreement to up-rank Assault 3 – SBH to SL 5 because of the harm caused, public safety concerns, and to separate it from Assault 5 and Domestic Abuse/Violations offenses. Staff noted there were very few cases of pattern of child abuse and victim under age 4.

There were suggestions to make recommendations to the Legislature to provide additional resources for families. Staff explained that, generally, departure rates were cited as reasons for not re-ranking, while the statutory maximum, pattern of behavior, and seriousness of the offense were provided as reasons to increase the severity.

The Commission asked questions and discussed their results. A question was asked about why the grid does not include the statutory maximums at the far right of the grid (highest criminal history score). It was explained that, besides the Sex Offender Grid, the statutory maximum was reserved for an atypical case.

- **Assault 4; Peace Officers, Firefighters/EMS, Corrections/Prosecutors/Judges/Probation, Treatment Facility Personnel, and Assault with Bias:** These offenses are ranked at SL 1 and surveys showed interest in up-ranking to SL 2 or SL 3 for public safety officials and treatment providers because of the seriousness of the offense, threat to public safety, and importance of protecting

public safety officials and providers. There was an interest in making a recommendation to the Legislature to increase the statutory maximums.

Some surveys reflected an interest in maintaining SL 1 because of the low departure rates, the low statutory maximums, and the infrequent prosecution in some instances. There were also comments that bodily fluid offenses were a less serious form of Assault 4, especially spitting.

There was also a suggestion to have the Legislature define “demonstrable bodily harm.”

The Commission discussed results including making a recommendation to the Legislature to increase the statutory maximum for all Assault 4 offenses in order for the Commission to then increase severity levels and not have the durations on the grid exceed the statutory maximums.

There was a comment that an argument could be made to recommend a mandatory minimum. There was also discussion about bodily fluid cases being as serious and an example case in which the victim required lengthy medical treatment.

There was clarification that a first-time assault motivated by bias was a gross misdemeanor and a subsequent was a felony with a one year and one day statutory maximum (a sentence that is two days longer than the gross misdemeanor.). It was noted that there have been no cases in nine years of felony assault motivated by bias.

Through its discussion, the Commission discussed supporting up-ranking all Assault 4 offenses to SL 3 and making a recommendation to the Legislature to increase the statutory maximum for each – recommending that the two-year statutory maximums move to three years; and the three-year statutory maximum move to four years.

Concern was raised about the rationality, in general, for ranking assault offenses at the same severity with offenses like gambling taxes and possession of burglary tools which are SL 3.

- **Assault 5:** Staff explained that it was ranked at SL 4. Survey results showed general agreement to maintain the current severity level; however, some concerns about Assault 5 and Assault 3 ranked at the same severity level. There were two comments suggesting a legislative recommendation to make distinctions between fear, attempted bodily harm, and inflicting bodily harm.

The Commission discussed look-back periods, number of previous offenses to qualify, and who the victims are in these cases noting that they are not domestic partners.

A comment was made that some assailants cause physical harm because they know the result will be the same regardless of fear, attempted bodily harm, or inflicting bodily harm.

A comment was made that, according to a Hennepin County prosecutor, it takes seven charges for a person to receive jail time on a domestic-related crime.

- **Domestic Assault and Domestic Assault by Strangulation:** Staff explained that these offenses are ranked at SL 4. Results showed interest in up-ranking Domestic Assault by Strangulation to SL 5.

The Commission discussed the personal nature of Domestic Assault by Strangulation, the lethality, and the number of convictions before prison is recommended. There was general agreement to up-

rank to SL 5. There was discussion about making a recommendation to the Legislature to increase the statutory maximum.

- **Protective Order Violations – Violate Domestic Abuse No Contact Order (DANCO), Violate Order for Protection (OFP), and Harassment Restraining Order (HRO):** Staff said results showed a split between maintaining the severity level and downranking; and that there were proportionality concerns between Assault 3 and protective order violations. There was also a suggestion to make a recommendation to the Legislature to mandate case-management services. For example, a family shares one car and the violation is a result of the necessity to exchange the car.

The Commission discussed the offense and their proactive nature in that the court makes findings about harm and risk, and it only becomes a crime if someone violates the order. Comments were made that it would not serve communities to downrank these offenses.

It was noted that some victims appreciated it when they were not required to initiate allegations. Another comment was made that it would be a step backwards to downrank because it would appear to not take victims' concerns seriously.

There was a question about whether the number of DANCO cases involving dangerous weapons under Minn. Stat. § 629.75, subd. 2(d)(2), could be determined.

Director Reitz reported that violation of DANCOs is the most common SL 4 offense and that three percent of Minnesota's prison population was a result of DANCO violations.

- **Aggravated Robbery 1:** Staff said this offense was currently ranked at SL 8, and that most results were to maintain the current ranking. Some suggestions were making a recommendation to the Legislature to eliminate the mandatory minimum for first offenses, creating a criminal history 0 "border box" on the grid in which prison would be discretionary, and ranking differently depending on the type of robbery.

There was a brief discussion that this offense includes a wide range of behavior, and it seems appropriately ranked.

7. August 13 Meeting Preview

This was on the agenda as a discussion item.

Chair Mitchell explained that the meeting would be from 10:00 a.m. to 4:00 p.m. and would be the first opportunity for the Commission to review a proposed package of changes from the Comprehensive Review Steering Committee. Chair Mitchell's requested in-person attendance and would only make exceptions for emergencies; lunch will be provided.

Chair Mitchell said there would be presentations by Management Analysis & Development (MAD), and University of Minnesota researchers. Chair Mitchell explained that there would be no decisions made at the August meeting.

The timeline was reviewed in which a final decision would need to be made by the Commission's November 6 meeting to move a proposal to public hearing at its December 18 meeting to include in the Commission's Report to the Legislature by January 15, 2026.

Director Reitz briefly explained the Commission’s “First-Reading” rule in which a motion cannot be voted on unless members were told at least seven days in advance and the proposal was discussed in one of the last two Commission meetings.

8. Executive Director’s Report (Discussion)

This was on the agenda as a discussion item.

Chair Mitchell called on Director Reitz who reminded the Commission that the National Association of Sentencing Commission (NASC) annual conference will be held August 11 and 12 in Madison, Wisconsin.

9. Public Input

There were no members of the public present either in person or remotely who wished to speak.

10. Adjournment

Chair Mitchell adjourned the meeting at 3:07 p.m., without objection.