



MINNESOTA
SENTENCING GUIDELINES
COMMISSION

**Offense Group 6 – Other Offenses Resulting in Death
Ranking Exercise Feedback**

April 9, 2026

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Before we begin...

Explanation of process

- Offense Group 6 was split into two chapters, state of mind and misconduct, for a total of 24 offenses.
- Completed packets were due to MSGC staff by **March 23, 2026**.
- Staff organized Commissioner responses by offense, determined the total number of selections for each ranking idea, and summarized any notes Commissioners provided.

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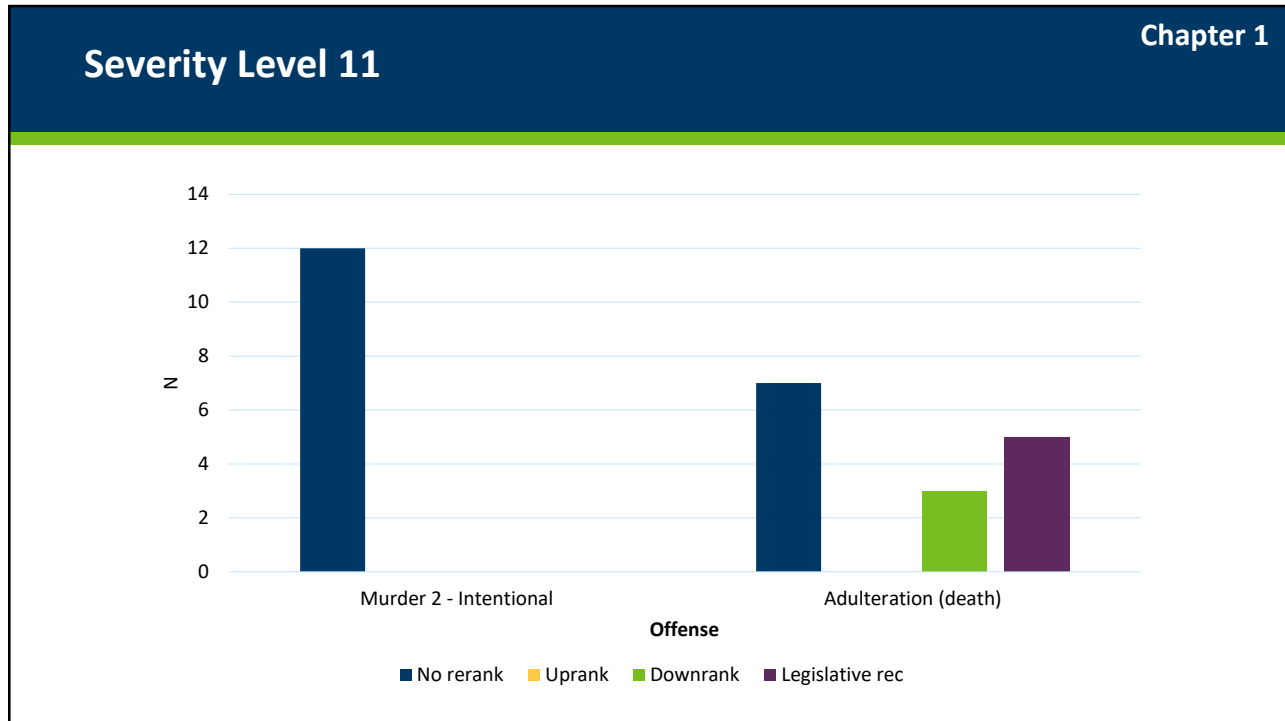
Chapter 1: Defendant's State of Mind

1. Murder 2 – Intentional
2. Adulteration Resulting in Death
3. Murder 3 – Depraved Mind
4. Manslaughter 1 – Heat of Passion
5. Manslaughter 1 – Coercion
6. Manslaughter 2 – Culpable Negligence
7. Manslaughter 2 – Negligent Hunting
8. Manslaughter 2 – Negligent Animal Control

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	SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)	CRIMINAL HISTORY SCORE							
		0	1	2	3	4	5	6 or more	
Murder 2 – Intentional	<i>Murder, 2nd Degree (Intentional; Drive-By-Shootings)</i>	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 ¹	426 363-480 ¹
Adulteration – Death	<i>Murder, 2nd Degree (Unintentional)</i>	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
Murder 3 – Depraved Mind	<i>Murder, 3rd Degree (Depraved Mind)</i>	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
Manslaughter 1 – Heat of Passion	<i>Agg. Robbery, 1st Degree</i>	8	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
Manslaughter 1 – Coercion	<i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	7	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 ^{1,2}
Manslaughter 2 – Culpable Negligence	<i>Felony DWI</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
Manslaughter 2 – Negligent Hunting	<i>Assault, 2nd Degree</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
Manslaughter 2 – Negligent Animal Control	<i>Simple Robbery</i>	4	12	15	18	21	24 21-28	27 23-32	30 26-36
	<i>Nonresidential Burglary</i>	3	12	13	15	17	19 17-22	21 18-25	23 20-27
	<i>Theft Crimes (Over \$5,000)</i>	2	12	12	13	15	17	19	21 18-25
	<i>Theft Crimes (\$5,000 or less)</i>	1	12	12	12	13	15	17	19 17-22
	<i>Check Forgery (\$251-\$2,500)</i>	1	12	12	12	13	15	17	19 17-22
	<i>Assault, 4th Degree</i>	1	12	12	12	13	15	17	19 17-22
	<i>Fleeing a Peace Officer</i>	1	12	12	12	13	15	17	19 17-22

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Severity Level 11 – Some Highlights Chapter 1

Murder 2 – Intentional

- Deemed to be appropriately ranked on the grounds of low departure rates and level of harm.

Adulteration Resulting in Death

- Majority in favor of keeping the current ranking.
- Some interest in downranking due to the state of mind of the defendant, the lack of intent required to commit the offense, and differences in behaviors leading to a charge for this offense.
- Multiple suggestions for legislative recommendation to distinguish between the levels of harm in this offense.

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Current SL 11			
Murder 2 – Intentional			
Reranking option	N	New SL	Notes
Do not rerank	12	–	<ul style="list-style-type: none"> An appropriate ranking for intentional murder without premeditation. Despite the apparent demographic disparities and the reach of the upper range on the Grid to stat maximum of 480 months at both CHS 5 and 6, reranking, adjusting the dispositional line, or a legislative recommendation doesn't seem appropriate for intentionally causing the death of another without premeditation. Low mitigated departure rates. Also no reason to believe ranking is too low – the higher than average aggravated durational departure rate probably reflects plea bargaining down from possibly-proveable premeditate-intent first degree murder. The minimum guidelines time to serve for this offense must remain below the stat minimum for first degree murders that are eligible for parole. Maintaining current level recognizes level of harm. Seems to be fair. This ranking fits as the most serious offense under first-degree murder. Current ranking and use seems appropriate. Would absolutely not lower and there is no higher range. As long as a judge can give the stat max which it appears can happen in this case. The data show the crime is ranked appropriately. District Court judges are not departing dispositionally and very rarely durationally. The sentences at the stat max "or more" were due to consecutive sentences, which are not uncommon with this crime.
Uprank	0	-	
Downrank	0	-	

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Current SL 11			
Adulteration (death)			
Reranking option	N	New SL	Notes
Do not rerank	7	–	<ul style="list-style-type: none"> No data to warrant any changes. Although the described behavior is broad, we don't have enough experience with how it might be used to justify changing the ranking. Hesitant to recommend a reranking without any data justifying it.
Uprank	0		
Downrank	1	8	
	1	10	<ul style="list-style-type: none"> Never seen this crime charged. Having it at the same level as intentional murder does not consider the lower level of mental state required. The intent of this offense is to cause bodily harm, not death. More like felony murder (2nd degree unintentional) than intent murder.
	1	Between 10 and 11	<ul style="list-style-type: none"> If intent was to kill/harm results in death then keep ranking at 11. If intent to harm was aligned with behavior such as pranking resulting in illness, then rank at 10.
Dispositional Line	0		
Legislative	5		<ul style="list-style-type: none"> Distinguish between intent to cause death and intent to cause only illness. The intention of death should need to be established. Separate out the intent to cause death from intent to cause bodily harm or illness. Change stat language to remove GBH/illness. Recommend a bifurcation of the statute to lower the severity level for those that do not intent to cause death or serious bodily injury.

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Current SL 11

Adulteration (death)

Additional Notes

- Persuaded by the reranking considerations regarding the broad sweep of the statute to include both the intent to cause death and the intent to cause only illness. In combination with nonexistent sentences per year and estimated prison beds, this seems like a good candidate for unranking and for a legislative recommendation to amend the statute to distinguish between the two types of intent currently within the ambit of the statute.
- Intent to cause death should need to be established to maintain a severity level 11. Otherwise, manslaughter 2 seems more appropriate where intent isn't established. There should be a charge with intent and one without intent established.
- Given that there are no cases in the past 9 years, perhaps this should be unranked. It would make sense to have the legislature amend the statute to separate the more serious offense of intent to cause death from the intent to cause bodily harm or illness to allow the latter to be ranked at a more appropriate severity level.
- Keep the same ranking even if not used often. Agree with considerations on this, but should look to remedy that through the legislature. Maybe make a separate crime for GBH/Illness.
- Uprank pending legislative amendment distinguishing between adulteration with the intent to cause death and adulteration with intent to cause only illness.

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Severity Level 10

Chapter 1

Offense	No rerank	Uprank	Downrank	Legislative rec
Murder 3 - Depraved Mind	12	0	0	0

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Chapter 1

Severity Level 10 – Some Highlights

Murder 3 – Depraved Mind

- The ranking of this offense was deemed appropriate due to the seriousness of the crime, low departure rates, and proportionality to other offenses ranked at Severity Level 10.

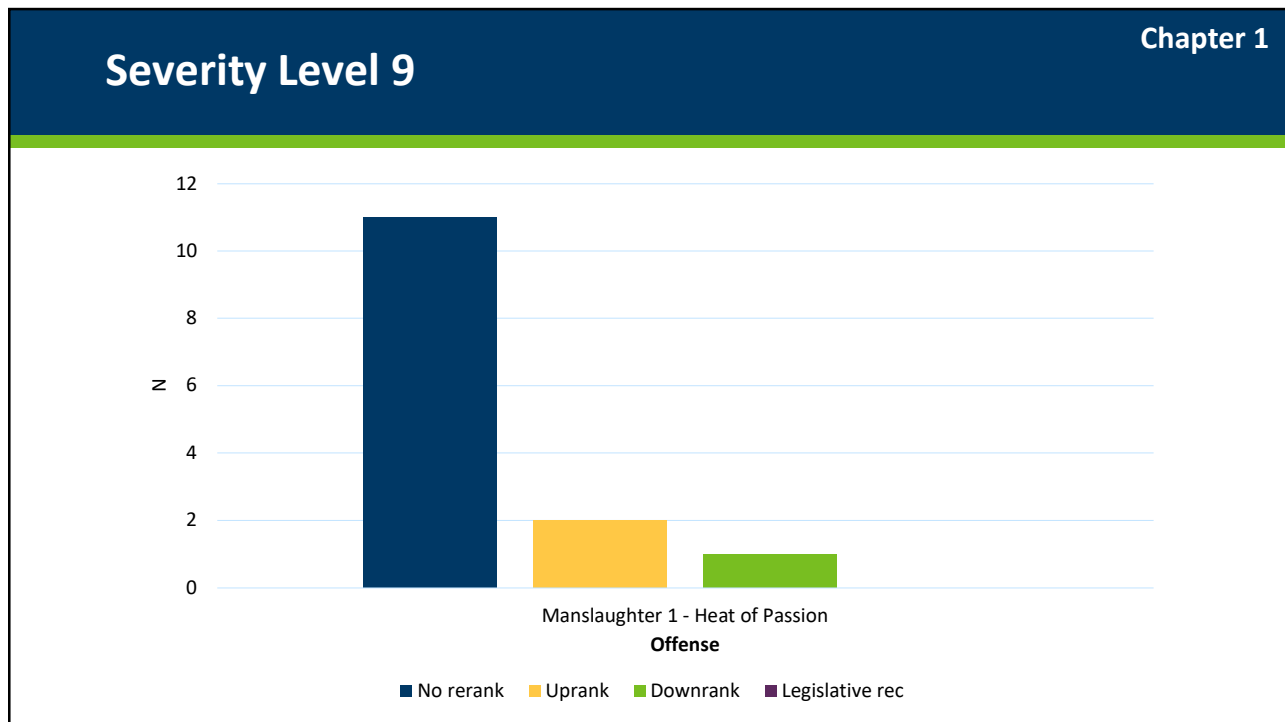
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Murder 3 – Depraved Mind

Current SL 10

Reranking option	N	New SL	Notes
Do not rerank	12	–	<ul style="list-style-type: none"> The law on this offense is not well-settled. Despite apparent demographic disparities, reranking, adjusting the dispositional line, or a legislative recommendation isn't appropriate for causing death by committing an eminently dangerous act highly likely to cause death, while indifferent as to the loss of life that this eminently dangerous activity could cause. This is particularly so given that the high end of the guidelines at CHS 6 does not reach the stat maximum of 300 months. No field signal that ranking is too high -- zero mitigated dispositional departure rate; average mitigated durational departure rate. Also, no grounds to up-rank -- depraved-mind cases must be ranking one level lower than intent-to-kill cases. This seems to be fair. Current severity level appears appropriate given the other offenses in this severity level (2nd degree felony murder and fleeing a peace officer resulting in death). Current ranking and use seems appropriate.
Uprank	0	–	
Downrank	0	–	
Legislative	0	–	

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Chapter 1

Severity Level 9 – Some Highlights

Manslaughter 1 – Heat of Passion

- The majority of responses suggested that this offense was appropriately ranked due its seriousness, the state of mind required, and its low departure rates.
- Upranking recommendations suggested that the offense is similar to Murder 2 – Intentional.
- Downranking was suggested due to the stat max fitting more appropriately at a lower Seveirty Level.

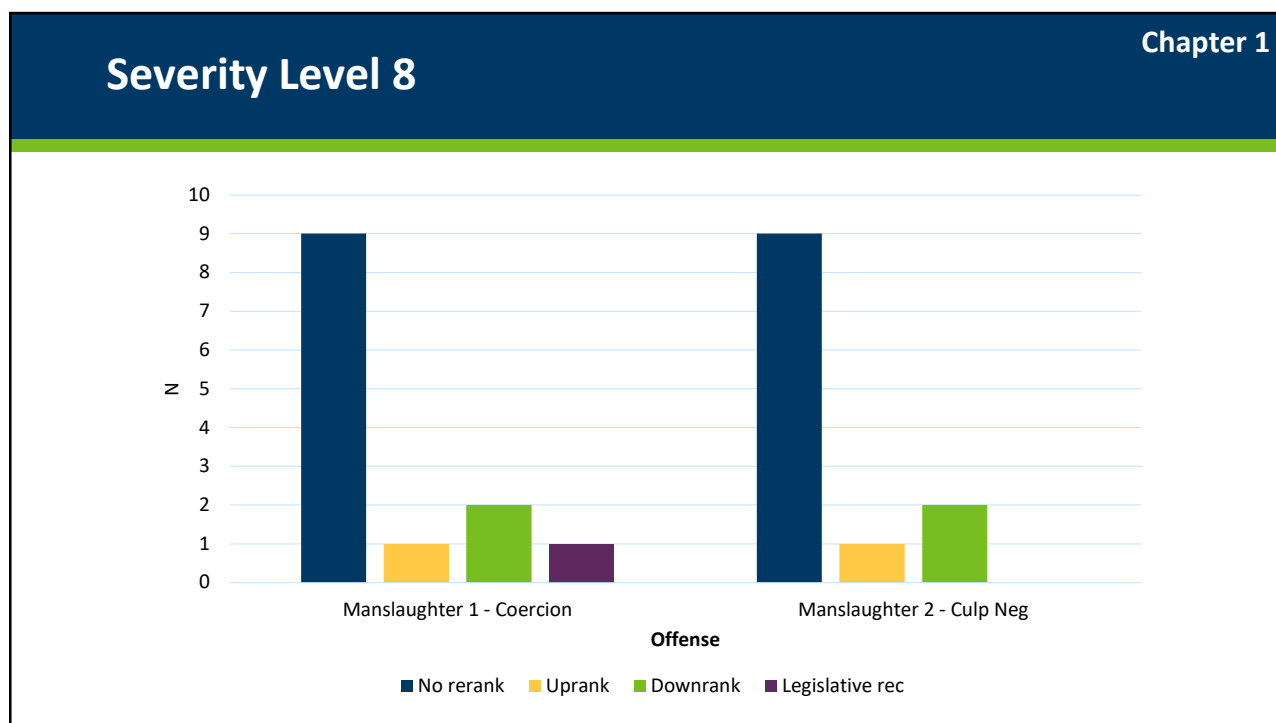
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Manslaughter 1 – Heat of Passion				Current SL 9
Reranking option	N	New SL	Notes	
Do not rerank	11	–	<ul style="list-style-type: none"> Despite apparent demographic disparities and the reach of the upper range on the Grid to close to the stat max of 180 months at CHS 5 and beyond the stat max at CHS 6, reranking, adjusting the dispositional line, or a legislative recommendation doesn't seem appropriate for intentionally causing death in the heat of passion having been provoked by words or acts that would provoke a person of ordinary self-control (crying child excluded). Current ranking and use seems appropriate. Rarely charged and the mental state and actions of the defendant covered by this defense were interpreted and explained in recent Supreme Court decisions (Coleman and Noor, 2021). The factual scenarios covered by this crime are fortunately rare, but cover extremely dangerous behavior that justifies the sentences. Data reveals that this crime is ranked appropriately. 	
Uprank	2	SL10	<ul style="list-style-type: none"> Ranking this offense the same as murder 2 with intent to cause death (severity 11), but partial upranking remains consistent with the statutes. As may be suggested by the relatively high upward durational departure rate (13% vs the all-crimes average of 3%), some of these cases involved wounded pride and other ignoble sentiments which do not provide much excuse for intentionally causing death. Mitigated durational departure is available when partial excuse seems appropriate (and/or likely to be accepted by the jury). 	
Downrank	1	SL 8 or between 8 & 9	<ul style="list-style-type: none"> If looking at stat max, this seems to fit more with a lower severity level. 	
Legislative	0	–		

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Manslaughter 1 – Heat of Passion		Current SL 9
Additional Notes		
<ul style="list-style-type: none"> Surprised to see no departures. Guessing that most of these cases were plead to a lesser offense. Curious about differences in rates of conviction by race. Wondering how folks interpret these behaviors and if/how bias could play a role in what is considered heat of the moment. Sense this is a lesser included offense in some cases and guess that many of these sentences are the product of that factor or possibly plea agreements in multi-defendant case, but without data suggestion that District Court judges are having issues or concerns with sentencing this crime, no need to rerank. 		

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Chapter 1

Severity Level 8 – Some Highlights

The majority of responses for both offenses suggest they are properly ranked.

Manslaughter 1 – Coercion

- Upranking was suggested due to the intentional nature of the offense.
- Downranking was suggested due to the lack of deterrence/increased public safety resulting from a long sentence and the 60 month stat max fitting better at Severity Level 5 or 6.
- There was a legislative recommendation to increase the state max to 10 years/\$20k (coincided with the suggestion for upranking).

Manslaughter 2 – Culpable Negligence

- Interest in upranking due to the the culpability of the offense.
- Interest in downranking due to the lack of public safety and deterrence achieved for offenses involving this state of mind.

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<h1>Manslaughter 1 – Coercion</h1>		Current SL 8	
Reranking option	N	New SL	Notes
Do not rerank	9	–	<ul style="list-style-type: none"> 2 cases in 9 years is not enough data to justify changes. This seems fair. Stat max is quite low, but the current SL fits the seriousness of the offense. Very few cases. Because this offense is used infrequently, we don't have enough experience to justify changing the ranking. Low number of charges and resultant absence of data mitigate against a reranking.
Uprank	1	SL 9	<ul style="list-style-type: none"> Was not aware of this offense ever being charged. Because this is an intentional murder charge with mitigating circumstances, it should be treated similarly to heat of passion manslaughter.
Downrank	1	SL 7	<ul style="list-style-type: none"> It's difficult to envision a situation where a long sentence for this offense would create general deterrence or increase public safety.
	1	Between SL 5 & 6	<ul style="list-style-type: none"> In light of the nature of this offense—intentionally causing death because the actor is coerced by threats that causes the actor reasonably to believe that the act performed is the only means of preventing imminent death to the actor or another—the offense should be reranked. This would affect only a small number of cases and seems warranted because the stat max of 60 months is exceeded at CHS 2 and at CHS 6 the upper end of the range is more than twice the stat max.
Legislative	1	–	<ul style="list-style-type: none"> Increase stat max to 10 years/\$20K

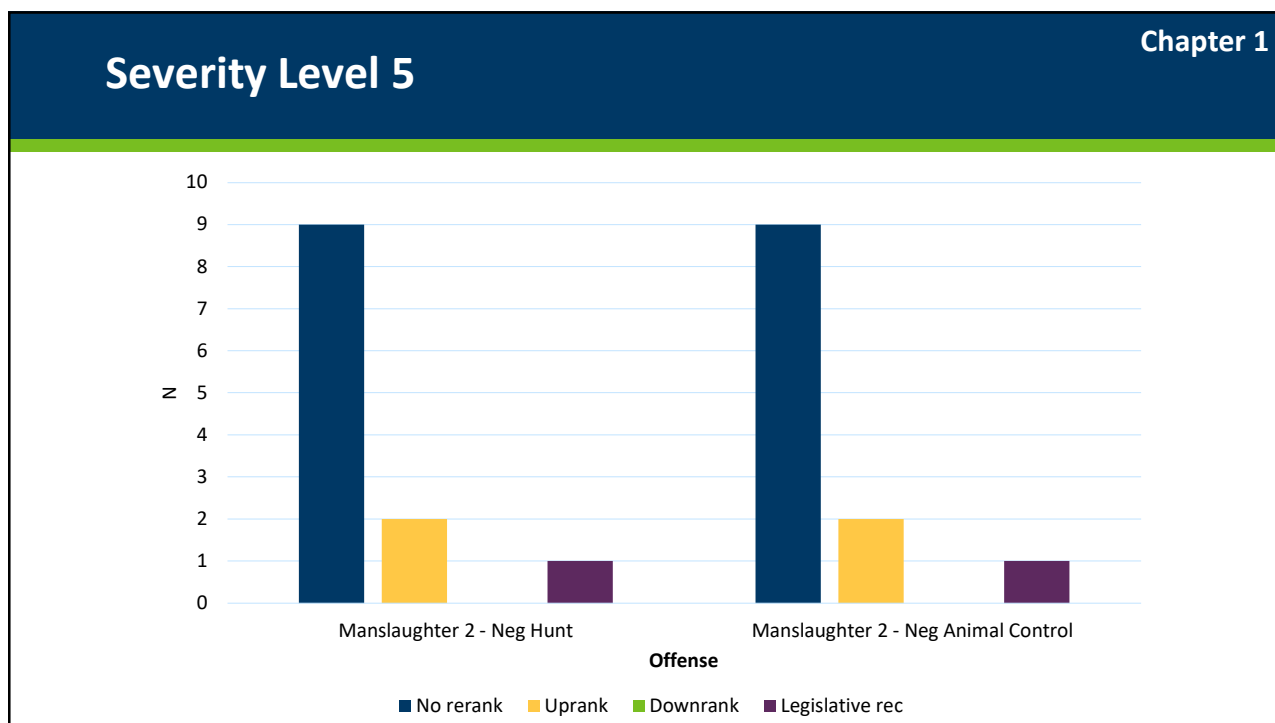
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<h1>Manslaughter 1 – Coercion</h1>		Current SL 8	
Additional Notes			
<ul style="list-style-type: none"> Considered an adjustment of the dispositional line, but don't think that works given the seriousness of the other offenses that are also included in SL 8 and below. SL 5 seems most appropriate because othe range reaches close to the stat max at CHS 5 and 6, but it might be helpful to know the facts of cases that are convicted under this statute to have a better understanding of what conduct falls within the pruvieu of this offense. These cases provide much stronger and more consistent groups for partial excuse than heat-of-passion killings even though both are classified by statute as Manslaughter 1.It should be noted that a threat of "instant" death is a complete excuse, under Minn. Stat. 609.08. The difference between "imminent" and "instant" is not that great. What factors are taken into consideration regarding downward departures (verification of threat, ability to flee or seek help, Duration of immediacy of the threat, relationship between the person making the threats and the "actor", history of previous/current abuse, trafficking or other types of violence/power dynamics between the two people)? Coercion is quickly becoming a commonly used term that encompasses things far beyond the definition of coercion. For victims of domestic violence and other typs of patterned violence/trauma, coercion can be used against victims by harmdoers where the actions of both parties are similar but the intent behind them is different. 			

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Current SL 8			
Manslaughter 2 – Culpable Negligence			
Reranking option	N	New SL	Notes
Do not rerank	9	–	<ul style="list-style-type: none"> Despite the apparent demographic disparities and the reach of the upper range on the Grid to beyond the stat max of 120 at CHS 6, reranking, adjusting the dispositional line, or a legislative recommendation isn't appropriate. Low mitigated departure rates, so no grounds to lower severity. No strong grounds to raise severity—upward durational departure rate is not much about the average for all crimes, and some of these may be plea bargains to avoid assault felony murder or other more serious charges. Given high rate of dispositional departures, curious about how those decisions are made and if there are differences by race. Developmental state of defendants should be a consideration at time of sentencing as well. SL fits with the similar offense of CVH. Some departures but most are prosecutor-agreed, suggesting plea agreements to this offense when more serious charges and consequences are on the table. Seems comparable to CVH-Gross Negligence at SL 8.
Uprank	1	SL between 8 & 9	<ul style="list-style-type: none"> There is a big jump between SL 8 and 9 where more culpable behavior like this could live, maybe starting with a 60 month sentence at CH 0. However, given that there are already dispositional and durational departures, would also be fine leaving it where it is ranked.
Downrank	1	–	<ul style="list-style-type: none"> Public safety and deterrence are not served by particularly long sentences given the lowered mens rea standard.
	1	SL Between 7 and 8	<ul style="list-style-type: none"> For GTZ, 10 dispositional departures. Should be given the opportunity for probation if appropriate.

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Chapter 1

Severity Level 5 – Some Highlights

Manslaughter 2 – Negligent Hunting and Manslaughte 2 – Negligent Animal Control

- The majority of responses suggest both offenses are appropriately ranked.
- Both offenses saw upranking suggestions due to the seriousness of the offenses, knowledge and their stat maximums .
- Manslaughter 2 – Negligent Animal Control also had upranking justifications based in the defendant's knowledge that the animal was dangerous.
- Both offenses had responses suggesting a legislative recommendation to raise the mens rea to gross negligence.
- A suggestion was made to move Manslaughter 2 – Negligent Animal Control to the unranked offense list.

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Manslaughter 2 – Negligent Hunting

Current SL 5

Reranking option	N	New SL	Notes
Do not rerank	9	–	<ul style="list-style-type: none"> • No data to justify a change. • Doesn't appear to be used; no justification for reranking it. • Lack of charges and consequently lack of data regarding this crime suggest that a reranking isn't a pressing issue.
Uprank	1	SL 7	<ul style="list-style-type: none"> • Because this does not require gross negligence, I would not make it a level 8. However, the current level 5 (same as felony DWI) seems too low.
	1	SL 8	<ul style="list-style-type: none"> • To be able to even get to the stat max. There shouldn't be an "I thought that human was a deer" mitigation.
Downrank	0	-	
Legislative	1	–	<ul style="list-style-type: none"> • Raise the mens rea to gross negligence.
Other	1	-	<ul style="list-style-type: none"> • Could be moved to unranked list with no cases.

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Current SL 5

Manslaughter 2 – Negligent Hunting

Additional Notes

- I am persuaded by the reranking considerations regarding ordinary negligence being an unusually low standard for criminal liability. In combination with nonexistent sentences per year and estimated prison beds, this seems like a good candidate for unranking and a legislative recommendation to raise the mens rea to gross negligence. I also note that the high end of the range at CHS 6 is not even half of the statutory maximum of 120 months, which seems to indicate that our ranking is out of step with the legislative intent in terms of the severity of this offense, although it also seems understandable given the low mens rea required for conviction. All of that in my mind weighs in favor of unranking and making a legislative recommendation.
- Ordinary (civil) negligence is almost never recognized as grounds for criminal liability in Minnesota and other states. It's a much lower standard than the "conscious" risk taking required for culpable-negligence Manslaughter-2 (severity 8), and is also a significantly lower standard than criminal (gross) negligence, which should be ranked at severity 6 or 7. In the latter case negligent hunting might be ranked at severity 6. But given the complete lack of guidance from the field (zero cases in 10 years!), that change should be initiated by the Legislature.

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Current SL 5

Manslaughter 2 – Negligent Animal Control

Reranking option	N	New SL	Notes
Do not rerank	9	–	<ul style="list-style-type: none"> No data to justify a change. With an intent element, this SL fits (better than the negligent hunting". Doesn't appear to be used; no justification fo reranking it. Lack of charges for this offense and lack of sentencing data. Definitely wouldn't rerank independently of other second degree manslaughter rankings for consistency.
Uprank	1	SL 6	<ul style="list-style-type: none"> The "knowledge" requirement makes this more serious than negligent hunting and should be ranked higher because of that.
	1	SL 8	<ul style="list-style-type: none"> To meet stat max. Also, many steps taken before an animal is deemed dangerous.
Downrank	0	-	
Legislative	1	–	<ul style="list-style-type: none"> Distinguish between intentional offenses and negligent offenses, and to raise the mens rea for negligent offenses to gross negligence.
Other	2	-	<ul style="list-style-type: none"> Uprank the level when it is an intentional act.

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Current SL 5

Manslaughter 2 – Negligent Animal Control

Additional Notes

- Here we have a negligence and intentional act receiving the same level. Perhaps different levels should be given to negligence and intentional.
- I am persuaded by the reranking considerations regarding ordinary negligence, which was previously noted as being an unusually low standard for criminal liability, as well as the fact that this statute includes both intentional and negligent conduct. In combination with nonexistent sentences per year and estimated prison beds, this also seems like a good candidate for unranking and a legislative recommendation to distinguish between intentional offenses and negligent offenses, and to raise the mens rea for negligent offenses to gross negligence. I again note that the high end of the range at CHS 6 is not even half of the statutory maximum of 120 months, which again seems to indicate that our ranking is out of step with the legislative intent in terms of the severity of this offense, although it also seems understandable given the low mens rea required for conviction. I therefore think unranking and making a legislative recommendation is appropriate.

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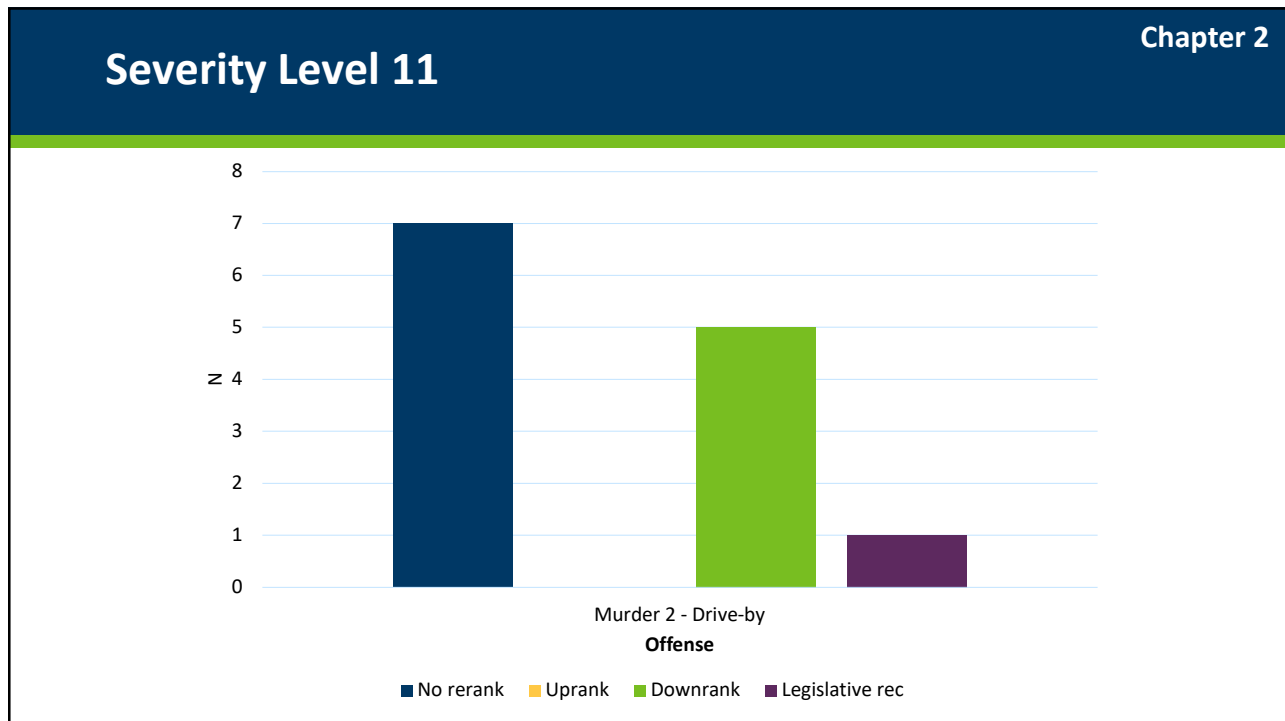
Chapter 2: Misconduct Resulting in Death

1. Murder 2 – Drive-by Shooting	9. Aggravated Witness Tampering 1
2. Murder 2 – Felony Murder	10. Manslaughter 1 – Sch. III/IV/V Drug Sale
3. Murder 2 – Assault Contrary to OFP	11. Manslaughter 2 – Neglect/Endanger Child
4. Manslaughter 1 – Assault/Violent Misdemeanor	12. Riot 1
5. Labor Trafficking - Death	13. Swatting resulting in Death/GBH
6. Murder 3 – Schedule I or II Drug Sale	14. Manslaughter 2 – Spring Gun
7. Criminal Abuse Vulnerable Adult (Death)	15. Duty to Render Aid – Death/GBH
8. Manslaughter 1 – Child Abuse	16. Assaulting Police Horse – Death/GBH

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SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in <i>italics</i>)	CRIMINAL HISTORY SCORE							
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<i>Murder, 2nd Degree (Unintentional)</i> <i>Murder, 3rd Degree (Depraved Mind)</i>	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
<i>Murder, 3rd Degree (Drugs)</i> <i>Assault, 1st Degree (Great Bodily Harm)</i>	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
<i>Agg. Robbery, 1st Degree</i> <i>Burglary, 1st Degree (w/ Weapon or Assault)</i>	8	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
<i>Felony DWI</i> <i>Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 ^{1,2}
<i>Assault, 2nd Degree</i> <i>Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12	12	13	15	17	19	21 18-25
<i>Assault, 4th Degree</i> <i>Fleeing a Peace Officer</i>	1	12	12	12	13	15	17	19 17-22

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Chapter 2

Severity Level 11 – Some Highlights

Murder 2 – Drive-by Shooting

- Saw a split between leaving the offense at current ranking and downranking the offense.
- Reasons to keep the offense ranked as is included seriousness of the offense and the proportionality to other offenses ranked at Severity Level 11, while those interested in downranking pointed to the fact that intent to kill is not inherent in the offense, similar to Murder 2 – Felony Murder.
- A legislative recommendation was made to differentiate between intent (e.g., death and GBH).

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Murder 2 – Drive by Shooting

Current SL11

Reranking option	N	New SL	Notes
Do not rerank	7	–	<ul style="list-style-type: none"> • Despite apparent demographic disparities and the reach of the upper range on the Grid to stat max of 480 months at both CHS 5 and 6, reranking, adjusting the dispositional line, or a legislative recommendation isn't appropriate.. Considered whether reranking this offense SL 10 would be appropriate given that it bears some similarity to Murder 3 – Depraved Mind, but probably not appropriate because the upper end of the range would cap out at 288 (i.e., 112 months less than the statutory maximum of 480) at CHS 6. The conduct is just too reckless, dangerous, and serious to warrant reranking. • Current ranking and use seem appropriate. • This is an appropriate assignment. • Given low number of sentences for this crime and the lack of departures, no pressing need to rerank. • This offense has the intent to harm/kill. No change needed.
Uprank	0	-	
Downrank	4	SL 10	<ul style="list-style-type: none"> • This offense is akin to felony murder and should have the same severity level. • Even though this offense is classified by statute as equivalent to intentional murder, many of these drive-by shootings involve lower proven culpability. If intent to kill can be shown, intentional murder should be charged. Otherwise, drive-by shootings seem no more culpable than felony assault causing death or depraved mind murder (both ranked SL 10). • Downrank because intent was not established. • This offense is more equivalent of felony murder.

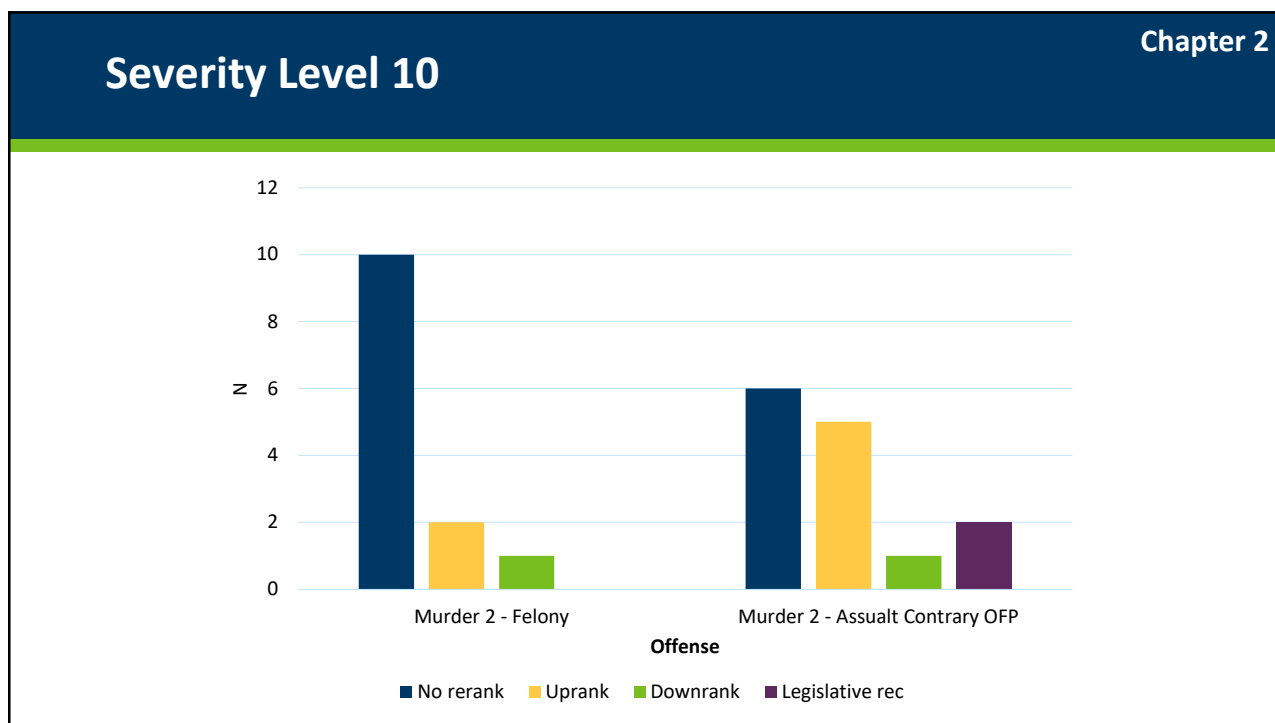
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Murder 2 – Drive by Shooting

Current SL11

Reranking option	N	New SL	Notes
Downrank (cont)	1	SL 8	<ul style="list-style-type: none"> Based on current statutory language requiring only a reckless state of mind, the SL should be no higher than other offenses with a similar mens rea. The difficulty is that most drive by shootings are likely closer to an "intentional" state of mind. But in those cases, one would expect the prosecutire to charge murder or attempted murder.
Legislative	1	–	<ul style="list-style-type: none"> Amend the statute to create different offenses for drive-by shooting where death or serious bodily injury is intended.

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Chapter 2

Severity Level 10 – Some Highlights

The majority of responses for **Murder 2 – Felony Murder** suggested not reranking due to the proportionality of this offense related to those at this Severity Level and surrounding severity levels and to allow for recent related legislative changes including (FMARA) to proceed before reassessing.

- Upranking suggestions were based on the stat max being the same as other Severity Level 11 offenses and the seriousness of the predicate felonies of this offense in conjunction with the seriousness of the harm caused.
- Downranking was suggested to mirror the severity level for the predicate offense given that the defendant did not intend to cause death.

Murder 2 – Assault Contrary to Order for Protection saw a split between not reranking and upranking.

- Those who responded to not rerank did so due to the proportional equivalence of this offense to Murder 2 – Felony Murder, while those interested in upranking suggested so due to the seriousness of the crime, the stat max, and because assault resulting in death with an OFP is ranked as more serious than assault resulting in death without an OFP.
- A low proven culpability was cited as justification for downranking.
- Legislative recommendations were made to create a task force to study crimes related to violations of OFPs.

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Murder 2 – Felony Murder

Current SL 10

Reranking option	N	New SL	Notes
Do not rerank	10	–	<ul style="list-style-type: none"> • Given the recent legislative changes to aiding and abetting felony murder, would not rerank. The level of culpability required for a conviction for aiding and abetting felony murder is significantly higher. • SL fits as a lesser severity level than 2nd degree intentional murder. • There is a low departure rate indicating the appropriate offenses are being charged in this space and that there is broad system agreement with the presumptive sentences. • The harm to the victim and the disregard for the judicial order justify the ranking. • In 2023 and 2024, the legislature significantly revised existing law to require stricter liability standards. The legislature also passed a law (FMARA) which provided an avenue for persons previously convicted of aiding first or second degree felony murder to petition for resentencing if they did not directly cause the death. Recommend allowing the new laws to proceed forward for a few years and see how judges are responding to them.
Uprank	2	SL 11	<ul style="list-style-type: none"> • This offense has a stat max of 40 yrs, the same as the other offenses ranked a sL 11. While unintentional in causing the death of another, it is a result of committing another felony offense or violating a protective order – conduct one knowingly engages in and death results from said conduct. • The predicate felonies are high enough to justify.
Downrank	1	SL 8	<ul style="list-style-type: none"> • This offense should mirror the severity level for the predicate offenses given that the defendant did not intend to cause the death. It's difficult to explain the public safety or general deterrent impact of a longer sentence where the person did not intend the ultimate result of the offense.

36

Current SL 10

Murder 2 – Felony Murder

Additional Notes

- Although it is impossible to assign a severity level to all possible underlying misconduct, it seems like the current SL of 10 is appropriate given that the upper end of the range caps out at 288 (i.e., 112 months less than the statutory maximum of 480) at CHS 6 and that there have been significant percentages of mitigated and aggravated departures (10% and 20%, respectively), presumably to respond to the wide range of potential underlying misconduct. The average sentence length of 204 months falls at the low end of the range at CHS 6, which might suggest that the current ranking is appropriate. Also reluctant to rerank given the recent legislative changes to narrow the scope of aiding and abetting liability under this statute.
- Most of these cases involve provable extreme indifference to human life (essentially: extreme recklessness), which is the culpability required for depraved-mind murder-3. That offense is also ranked at severity 10. However, the felony murder rule can produce very unjust results, allowing murder liability with no proof of murder culpability. A much better charge would be depraved mind murder-3, where actual extreme indifference must be proved (and usually can be). But that charge is not allowed under the Supreme Court's decision in the case of Minneapolis police officer Mohamed Noor, if the offender's high-risk behavior was directed solely at the homicide victim. That decision reached the right result for the wrong reasons -- officer Noor made a bad decision but his sudden, unjustified fear of harm was not extreme indifference to human life. If ordinary recklessness directed at the homicide victim suffices for manslaughter, extreme recklessness should be grounds for murder liability. The Legislature should say this (and cut back the scope of the felony murder law).
- Look at racial disparities.

37

Current SL 10

Murder 2 – Assault Contrary to OFP

Reranking option	N	New SL	Notes
Do not rerank	6	–	<ul style="list-style-type: none"> This should be the same as felony murder. Offense equates with felony murder with the assault plus violating OFP.
Uprank	4	SL 11	<ul style="list-style-type: none"> Despite apparent demographic disparities, should uprank. Causing death while intentionally inflicting/attempting to inflict bodily harm when the perpetrator is restrained by, and the victim protected by, a protective order, is a very serious offense, and the current ranking does not approach the stat max. Disregarding a protective order and causing death while intentionally assaulting the victim warrants a higher severity level. This offense has a stat max of 40 years, the same as the other offenses ranked as SL 11. This offense is the result of committing another felony offenses or violating a protective order – conduct someone knowingly engages in and death results. Alternatively, given only 2 cases in 9 years, leave as currently ranked. The fact that an OFP is in place makes this deserving of an uprank to SL 11. Assault resulting in murder is already SL 9 or 10, this added measure brings it to an 11.
	1	Between SL 10 and 11	<ul style="list-style-type: none"> An extraordinarily serious crime because the defendant has consciously chosen to disregard a court order, imposed to protect a victim of DV and intends to not only violate the OFP but to inflict bodily harm while doing so – unfortunately often involving collateral victims.
Downrank	1	SL 9	<ul style="list-style-type: none"> Only 2 cases in 10 years and both were plea bargained, perhaps on the basis of possibility provable intent to kill. This is a very mixed-bag offense, making any severity ranking quite problematic. Given the low proven culpability, this offense should be lowered one severity level.

38

Murder 2 – Assault Contrary to OFP

Current SL 10

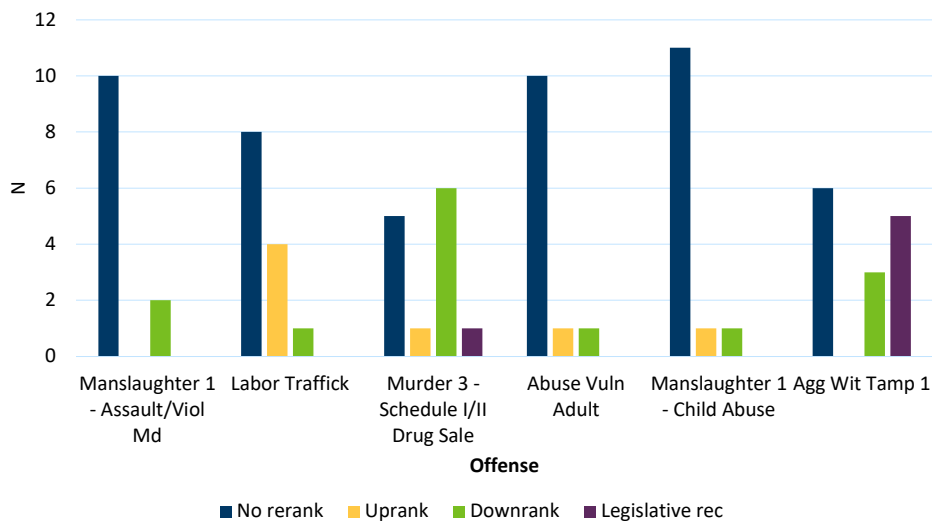
Additional Notes

- Create a separate felony offense – assault in violation of an order for protection with graduated enhancements when GBH occurs. OFP violations are not always seen as risk factors that can lead to a lethality and not always taken seriously by law enforcement/judicial system. This also included OFP violations that do not result in GBH (physically) but are emotionally and psychologically harmful/violent and lead to lethality.
- Create task force to study crimes related to violations of OFPs. The recent Anoka and Koochiching County DV cases demonstrate the problems with protective orders generally, and more needs to be done on this topic.
- Would like further discussion. Murder 2 unintentional murder has the same severity level. Why would a prosecutor want to charge this offense when they would garner the same severity level by charging Murder 2 and have to prove less elements?

39

Severity Level 9

Chapter 2



40

Chapter 2

Severity Level 9 – Some Highlights

Manslaughter 1 – Assault or Violent Misdemeanor, Abuse of Vulnerable Adult resulting in Death, and Manslaughter 1 – Child Abuse

- The majority of responses for these offenses suggested not reranking the offense because of the low number of offenses sentenced, low departure rates, and proportionality of the offense committed to other Severity Level 9 and surrounding Severity Level offenses.
- Upranking responses for AVAD and MS 1 – CA said these offenses are equivalent to felony murder.
- Downranking responses across all offenses said there was no intent to commit murder, only to commit a gross misdemeanor

Labor Trafficking saw significant interest in upranking justified by a deemed proportionality to Murder 2 – Felony Murder, while no reranking was suggested due to the lack of cases sentenced.

Murder 3 – Sch. I/II Drug Sale saw significant interest in downranking due to high departure rates and low culpability of the offense, while no reranking was suggested due to the seriousness of the offenses and stat max.

Aggravated Witness Tampering saw interest in both downranking for instances where death does not occur and providing legislative recommendations to distinguish between levels of harm.

41

Manslaughter 1 – Assault/Violent Misdemeanor

Current SL 9

Reranking option	N	New SL	Notes
Do not rerank	10	–	<ul style="list-style-type: none"> Although it is concerning that 2 cases received the stat max at CHS 0 and CHS 2, the average sentence of 106 months seems to be in the heartland of the guidelines range at CHS3, and the upper range does not reach the stat max until CHS 6. Therefore, reranking does not seem appropriate. SL fits with underlying offense being a misdemeanor. Current ranking seems appropriate. Data does not support reranking; given noted connection to felony murder law, would be advisable to wait until 3-4 years of sentencing data under the new felony murder law can be reviewed.
Uprank	0	-	
Downrank	1	SL 8	<ul style="list-style-type: none"> This is a very mixed-bag offense, making any severity ranking quite problematic. The relatively low mitigated departure rates and high aggravated durational departure rate suggest that many of these cases are bargained down from possibly provable higher charges. If one of those charges is felony murder, the results can be unfair. Given the low proven culpability in these cases, ranking should be no higher than SL 8 (putting these cases at the same severity level as culpable negligence manslaughter). That change may cause defense advocates to seek legislative limits on the felony murder rule, and may cause prosecutors to seek broadening of the scope of depraved-mind murder-3. Both statutory changes could and should be made.
	1	SL 7	<ul style="list-style-type: none"> Would appreciate further discussion. This seems to criminalize virtually accidental deaths caused in the course of the commission of a misdemeanor.

42

Labor Trafficking - Death			Current SL 9
Reranking option	N	New SL	Notes
Do not rerank	8	–	<ul style="list-style-type: none"> No data to justify a change. With no cases, difficult to change current ranking. Fits with other offenses at SL 9. Leave it as is. Recall a lot of disagreement on the initial ranking. No reason to change it this soon. Given the lack of charges and data regarding this crime, no recommendation to rerank at this time.
Uprank	4	SL 10	<ul style="list-style-type: none"> Because the stat max is 300 months, and given that labor trafficking resulting in death could be prosecuted as Murder 2 – Felony Murder if it involved some special danger to human life, which is SL 10. Proximately causing death through labor trafficking conduct is a serious offense that warrants upranking. Labor trafficking is intentional and planned. Should carry the same as Murder 2.
Downrank	1	SL 8	
Legislative	0	–	

43

Murder 3 – Schedule I/II Drug Sale			Current SL 9
Reranking option	N	New SL	Notes
Do not rerank	5	–	<ul style="list-style-type: none"> Considered upranking to SL 10 to bring the upper range at CHS 6 closer to the stat max except for the high percentage of mitigated durational departures and average sentence of 93 months within the range at CHS 2. The sentencing practices of the district court seem to reflect the disconnect between the egregious nature of death resulting from this conduct and the lack of mens rea inherent in this offense.
Uprank	1	SL 10	
Downrank	2	Between SL 8 and 9	<ul style="list-style-type: none"> With a fairly high departure rate for both dispositional and durational departures, a downranking may be appropriate. Many different fact scenarios with this offense. A new severity level may fit the culpability and seriousness better and adjust to fit the sentences being given by the system, which involve high downward departures.
	4	SL 8	<ul style="list-style-type: none"> This offense is similar to culpable negligence and should be ranked as such. Given the absence of any proven murder culpability, this offense should be ranked no higher than culpable negligence manslaughter (SL 8). Given my lived and professional experience, it seems that too much responsibility is placed on lower level drug suppliers who more often than not are also struggling with substance use disorder themselves. I know the chance I was taking each time I ingested or injected street drugs, and yet I still did it, and so do most others. These cases definitionally involve people who did not intend to cause death and often involve defendants who are drug users.
Legislative	1	–	<ul style="list-style-type: none"> If victim specifically asked for the drug/substance, probation should be an option.

44

Current SL 9

Murder 3 – Schedule I/II Drug Sale

Additional Notes

- Supervised a client who was convicted of this. It was proven that the victim called him for percocet multiple times. He only had a previous misdemeanor. He was convicted of Murder 3. 364 days at ACF/probation.

45

Current SL 9

Criminal Abuse Vulnerable Adult (Death)

Reranking option	N	New SL	Notes
Do not rerank	10	–	<ul style="list-style-type: none"> Despite the lack of any sentences or prison beds for this offense, the current SL seems to capture the seriousness of this offense well and results in ranges that are commensurate with both the egregiousness of this conduct and the stat max of 180 months at the high end of the range for CHS 6. The special vulnerability of these victims, and the higher duties of caregivers, justifies this severity ranking even without proof of mental culpability as to causing or risking death. Also, there is no grounds for reranking based on guidance from the field (zero cases in 10 years). No data to justify a change. Vulnerability of the victim justifies the ranking. Given the lack of charges and data, and the seriousness of the conduct this crime is intended to address, do not recommend a reranking.
Uprank	1	SL 10	<ul style="list-style-type: none"> This offense is essentially felony murder and should remain ranked the same.
Downrank	1	SL 8 or Between SL 8 and 9	<ul style="list-style-type: none"> Difficult to re-rank with no cases. It compares to manslaughter 1, but basic offense is a GM and compares to manslaughter 2, culpable negligence or neglect/endanger child.
Legislative	0	–	

46

Current SL 9

Criminal Abuse Vulnerable Adult (Death)

Additional Notes

- Need further discussion on this to understand the goals. The elements seem to come close to manslaughter or even murder.

47

Current SL 9

Manslaughter 1 – Child Abuse

Reranking option	N	New SL	Notes
Do not rerank	11	–	<ul style="list-style-type: none"> • Despite the low number of sentences per year and prison beds for this offense, the current SL seems to capture the seriousness of this offense well and results in ranges that are commensurate with both the egregiousness of this conduct and the stat max of 180 months at the high end of the range for CHS 6. Two cases received the stat max of 180 months at CHS 0 and CHS 3, but given that both cases had more serious counts dismissed, it doesn't seem like those upward durational departures necessarily reflect an issue with the current SL ranking. • The special vulnerability of children and the higher duties of a "parent, legal guardian, or caregiver," justify this severity ranking even without proof of mental culpability as to causing or risking death. • This offense is one severity level above malicious punishment resulting in great bodily harm. Seems appropriate. • Data suggest that District Courts are not struggling with sentences here, and the severity level seems to fit the seriousness of the prescribed conduct.
Uprank	1	SL 10	<ul style="list-style-type: none"> • This is felony murder and should be ranked the same.
Downrank	1	Between SL 8 and 9	<ul style="list-style-type: none"> • Without intent to commit underlying GM offense, a lower severity level fits. Similar to previous offense with vulnerable adult.
Legislative	0	–	

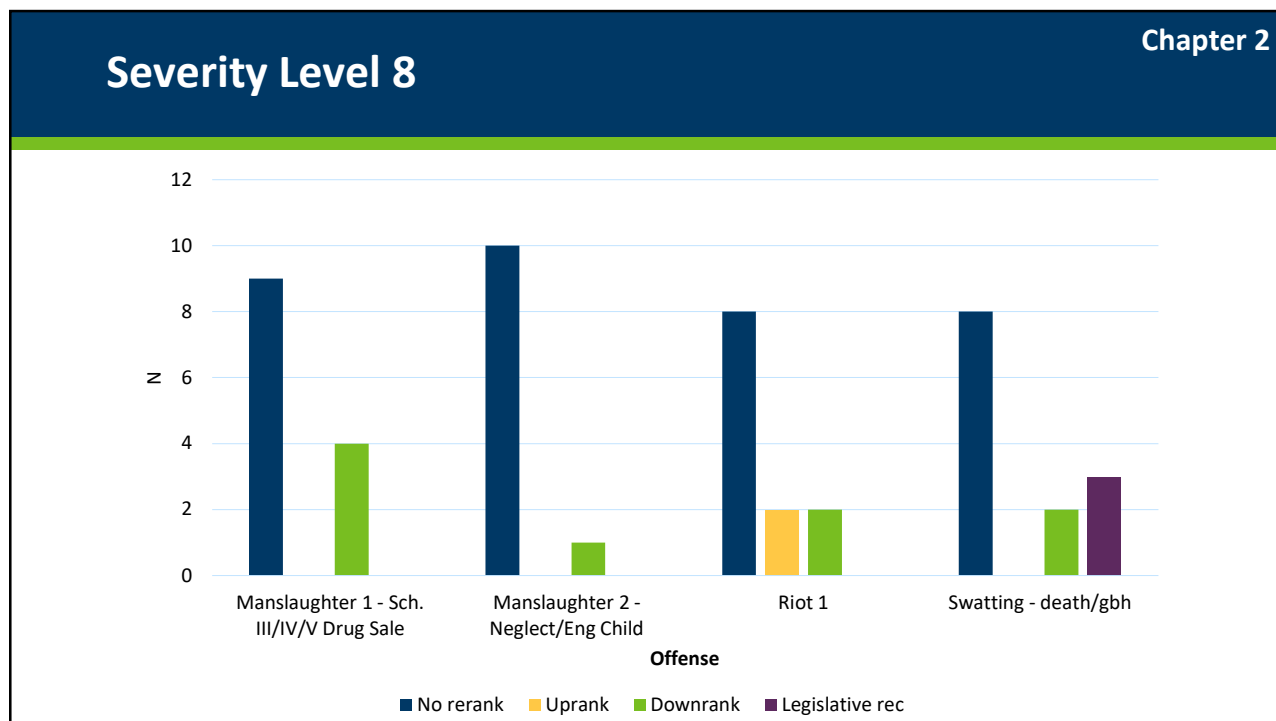
48

Aggravated Witness Tampering 1			Current SL 9
Reranking option	N	New SL	Notes
Do not rerank	6	–	<ul style="list-style-type: none"> No data to justify change. The absence of charges and data related to sentences for this crime. The proscribed conduct here is an attack on the the justice systme – very serious behavior that does not justify any changes in sentencing at this point.
Uprank	0	-	
Downrank	2	Between SL 8 and 9	<ul style="list-style-type: none"> If death results, SL 9 fits; if lesser harm, should be a lower SL, especially if harm is just threats. It might be more appropriate to situate this between SL 8 and 9 so that it is below some offenses resulting in death. But it may also be this high because of the harm to the judicial process.
	1	SL 6	<ul style="list-style-type: none"> This is way over-ranked. It's important to prevent witness tampering, but when there is no bodily harm associated with the offense, it should not be in the same category as 1st degree assault and 3 degree drug murder.
Legislative	5	–	<ul style="list-style-type: none"> Distinguis between range of alternative harms. Make this into several distinct offenses. Too broad and needs to be broken down into levels and then ranked accordingly. Consider different punishments depending on harm. The legislature should break up this statute.

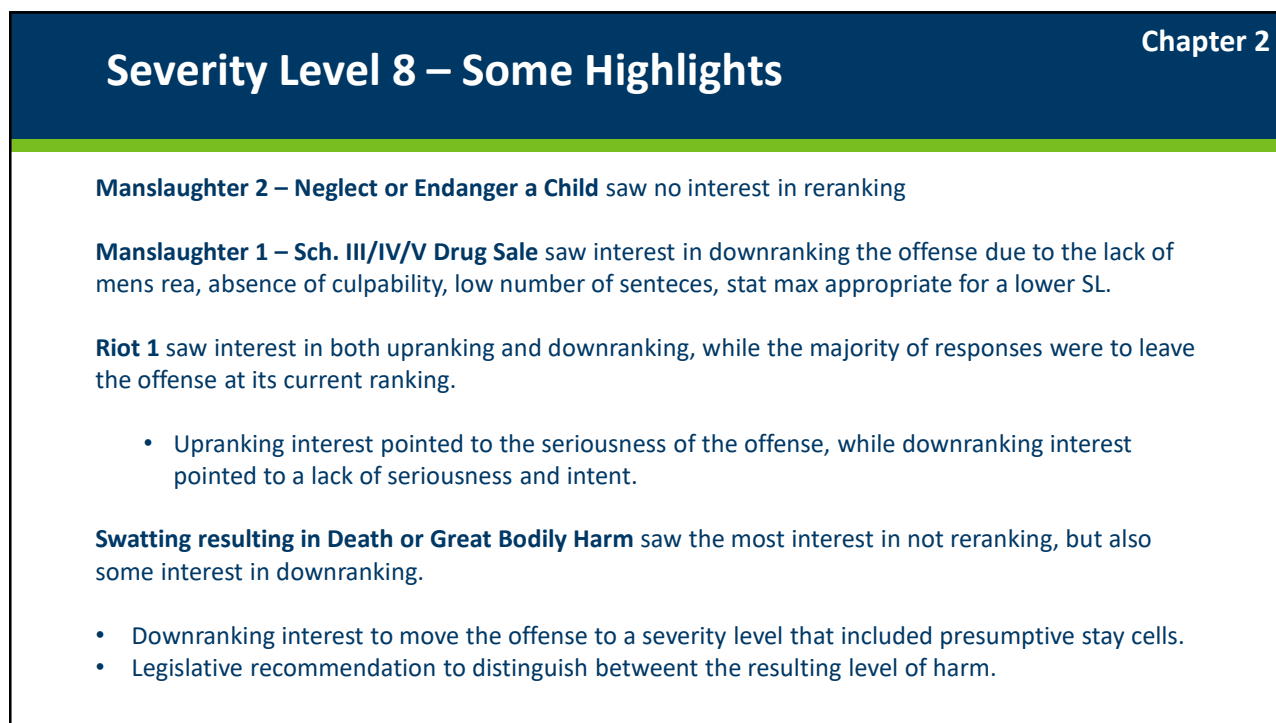
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Aggravated Witness Tampering 1		Current SL 9
Additional Notes		
<ul style="list-style-type: none"> Uprank pending recommended legislative change. Persuaded by the reranking considerations regarding the range of alternative harms (threats of great bodily harm, threats of death, great bodily harm, and death) that it would be appropriate to unrank this offense pending potential legislative change. This is especially proper in light of the lack of any sentences per year and beds for this offense. The high end of the range at CHS 6 being almost five years (51 months) less than the statutory maximum of 240 months is problematic given that the most serious conduct of causing death to another while preventing, dissuading, coercing, retaliating or attempting these actions against a witness, is incredibly serious conduct. It is understandable why that is the case, however, given the broad sweep of the statute. These reasons all seem to support unranking and a legislative recommendation. Given the wide range of conduct covered by this crime (some no involving death), and the absence of field guidance (no cases in 10 years), this offense should be unranked. Would suggest breaking down sentences by death, great bodily harm, and threat and rank those on a gradient with death being 10. 		

50



51



52

Manslaughter 1 – Sch. III/IV/V Drug Sale			Current SL 8
Reranking option	N	New SL	Notes
Do not rerank	9	–	<ul style="list-style-type: none"> Seems appropriate where it is. The lack of data regarding this crime makes it difficult to recommend a reranking.
Uprank	0	-	
Downrank	1	Between SL 5 and 6	<ul style="list-style-type: none"> Suggest downranking in light of the lack of mens rea required for proximity causing the death of another. The low number of sentences and beds, lack of mens rea, and stat max of 60 months all favor downranking. The current SL of 8 exceeds the 60-month stat max at CHS 2.
	3	SL 7	<ul style="list-style-type: none"> Given the absence of any proven culpability as to causing or risking death, and the less dangerous drugs involved, this offense should be ranked lower. Difficult to rerank with only 1 case. With a stat max of 5 years, a lower SL makes sense. This offense does not require the defendant to intend any harm or death. And, it is unclear whether the defendant needs to know that the substance may be lethal (i.e. a person could be found guilty where marijuana was unknowingly laced with fentanyl).
Legislative	0	–	

53

Manslaughter 1 – Sch. III/IV/V Drug Sale		Current SL 8
Additional Notes		
<ul style="list-style-type: none"> Don't fully understand the rationale for differing levels depending on the drug provided. Don't understand how a person received a prison sentence of 92 months that was not a departure even though 92 months is the bottom end of the range at CHS 6 when the stat max for this offense is 60 months. The cited stat max on this offense is incorrect. The stat max is 15 years/\$30K, not 5 years/\$10K. 		

54

Manslaughter 2 – Neglect/Endanger Child			Current SL 8
Reranking option	N	New SL	Notes
Do not rerank	10	–	<ul style="list-style-type: none"> When a death occurs, the SL should not go below 8. This is a serious offense and the current SL seems in line with the prohibited conduct, the manner in which district courts are sentencing these crimes, and the stat max. The special vulnerability of children, and the higher duties of a "parent, legal guardian, or caregiver," justify this severity ranking even without proof of mental culpability as to causing or risking death. But the neglect acts here are less dangerous and culpable than those required for Manslaughter 1 – Child Abuse. SL fits the offense if not murder 1, 2, or 3. Proportional to Manslaughter 1 – Child Abuse. The departures here are mostly prosecutor-driven, and are all in the dispositional category, due to offender characteristics and amenability to treatment/programming.
Uprank	0	–	
Downrank	1	SL 7	<ul style="list-style-type: none"> Opportunity for treatment/rehab in community for no criminal history offender. Significant dispositional departures. Case by case.
Legislative	0	–	
Other	1		<ul style="list-style-type: none"> Would like further discussion on this. Not sure what the goals of reranking would be.

55

Riot 1			Current SL 8
Reranking option	N	New SL	Notes
Do not rerank	8	–	<ul style="list-style-type: none"> This is a serious offense and the current SL seems in line with the prohibited conduct and the manner in which district courts are sentencing these crimes. The SL does seem to be out of step with the stat max of 240 months, but the average sentences of 90 months indicates keeping the SL at 8 is warranted. Although there is no required proof of culpability as to causing or risking death, SL 8 is justified given the statutory limitation here – only the armed rioter can be charged with riot 1. That rioter is arguably inherently displaying culpable negligence, so this crime should be ranked at the same level as culpably negligent manslaughter (SL 8). With such a small number of cases, difficult to rerank. This crime appears to be appropriately ranked; dangerous weapon + intentional acts of force or threats of force + death justifies presumptive prison.
Uprank	1	Between SL 8 and 9	<ul style="list-style-type: none"> This behavior seems more serious than SL 8; an intermediate SL between 8 and 9 could fit better.
	1	SL 10	<ul style="list-style-type: none"> As prevalent as this is of late, the seriousness of this calls for the uprank.
Downrank	1	SL 4	<ul style="list-style-type: none"> This is similar to threats of violence (terror) and should be ranked as such.
	1	SL 7	<ul style="list-style-type: none"> The defendant does not intent SBH or death.
Legislative	0	–	

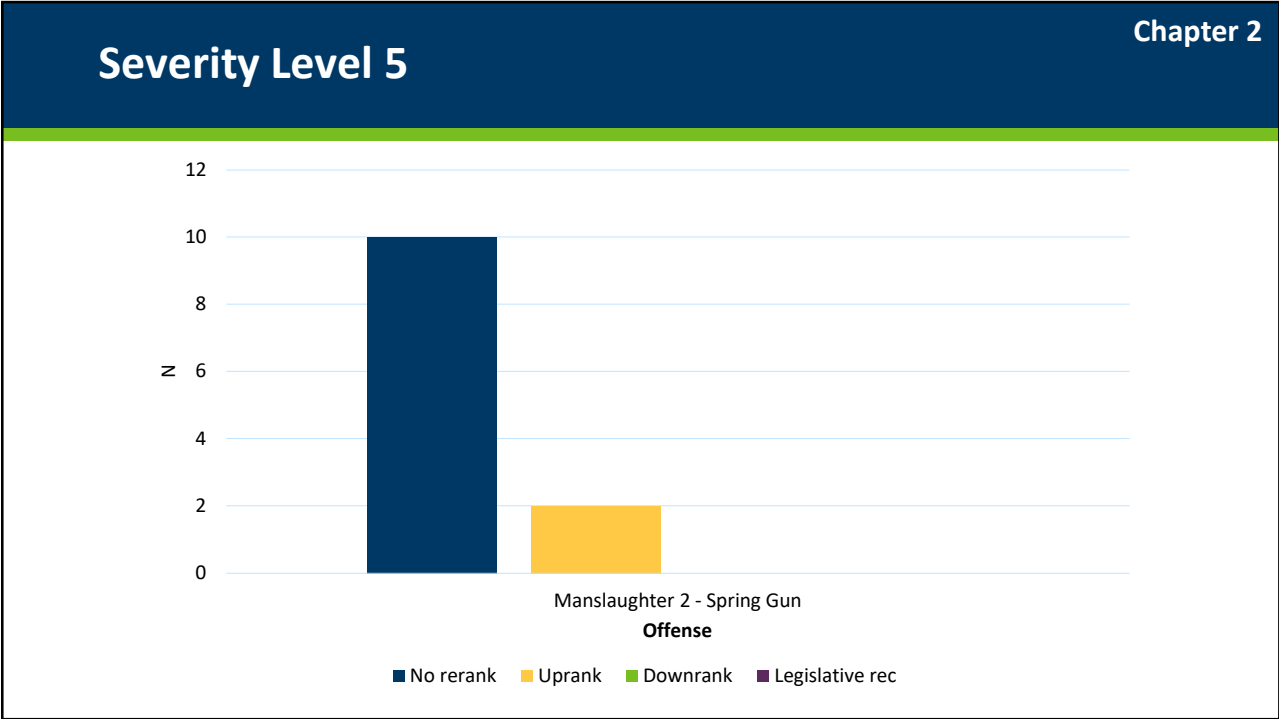
56

Current SL 8			
Swatting resulting in Death/GBH			
Reranking option	N	New SL	Notes
Do not rerank	8	-	<ul style="list-style-type: none"> Similar to culpable negligence. Despite the lack of cases and beds, the current SL of 8 seems in line with the stat max and reflects the seriousness of this offense in a time of increasing incidents of this type of serious conduct. No data to justify a change. It's hard to know where to place this offense without some cases to help devine the typical case. Leave it as is for now. The absence of charges and data makes it difficult to recommend any change in the ranking.
Uprank	0	-	
Downrank	2	SL 7	<ul style="list-style-type: none"> Difficult to re-rank given no cases. Resulting harm should be different for death and GBH. This takes the offense out of the presumtive commit range.
Legislative	3	-	<ul style="list-style-type: none"> Make this into 2 or more distinct offenses. This charge is too broad and needs to be broken into levels and then ranked accordingly. Separate punishment for death and GBH.

57

Current SL 8
Swatting resulting in Death/GBH
Additional Notes
<ul style="list-style-type: none"> Given the wide range of conduct covered by this crime (some not involving death), and the absense of field guidance (no cases in 10 years), this offense should be unranked.

58



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Chapter 2

Severity Level 5 – Some Highlights

- The majority of reranking interest for **Manslaughter 2 – Spring Gun** was to not rerank, although upranking was suggested due to the knowledge of potential harm and to meet the statutory max.

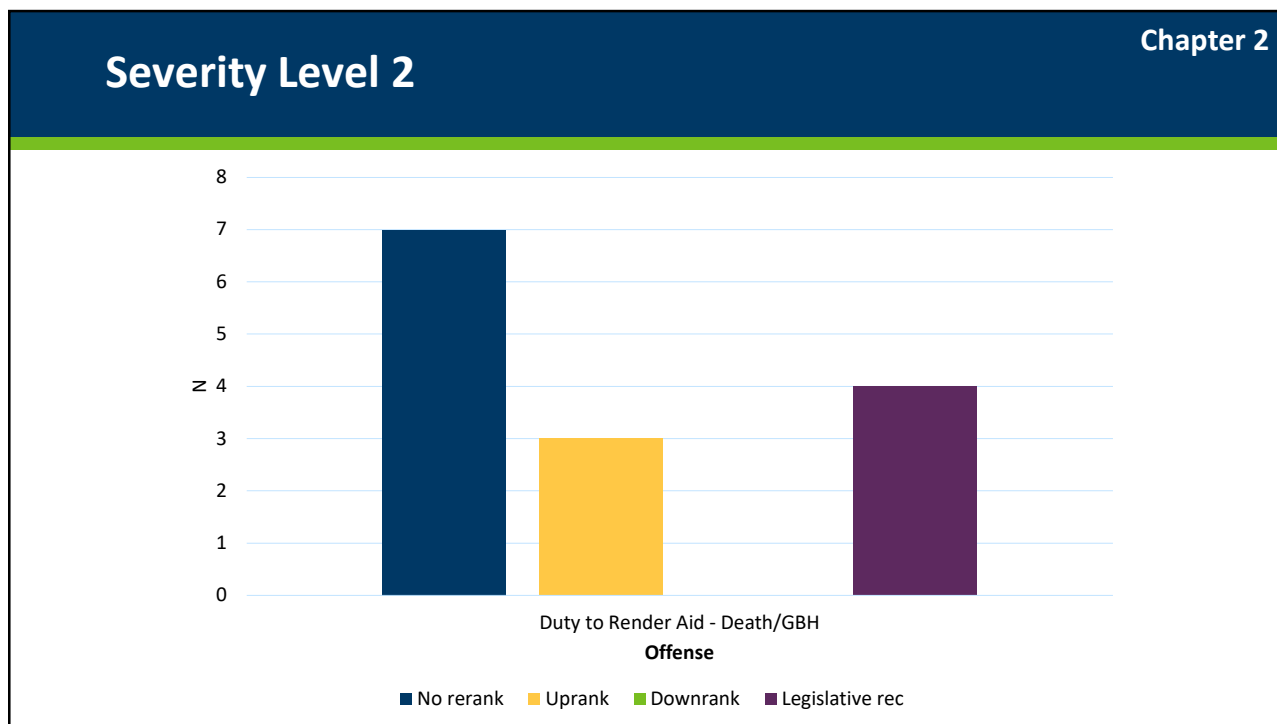
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Manslaughter 2 – Spring Gun				Current SL 5
Reranking option	N	New SL	Notes	
Do not rerank	10	–	<ul style="list-style-type: none"> No data to justify a change No reason to change given the lack of cases. Absence of sentences and limited data regarding charges doesn't seem to warrant reranking at the present time. Would be interested in a discussion about a potential uprank of this offense if there were any cases. Given that no one has been charged with this offense, don't see the need to re-rank it. 	
Uprank	1	SL 7	<ul style="list-style-type: none"> The knowledge of potential harm or death warrants an uprank. 	
	1	SL 8	<ul style="list-style-type: none"> Meet stat max. 	
Downrank	0	–		
Legislative	0	–		

61

Manslaughter 2 – Spring Gun		Current SL 5
Additional Notes		
<ul style="list-style-type: none"> Without any cases/beds, and given that the high end of the range at CHS 6 (57 months) is less than half the stat max of 120 months, this offense might be better off unranked. The offense does seem more serious than Manslaughter 2 – Negligent Hunting and Manslaughter 2 – Negligent Animal Control, because it is fair to assume that the offense would involve purposefully and with death as a reasonably foreseeable outcome setting the spring gun. Makes the current ranking of the offense seem not right. Move to unranked list since no cases. The SL fits with the manslaughter 2 negligent offenses. 		

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Chapter 2

Severity Level 2 – Some Highlights

Significant interest in upranking **Duty to Render Aid – Death or Great Bodily Harm** existed because of the seriousness of the offense.

- Legislative recommendations to increase the stat max were given in conjunction with upranking the offense while distinguishing between the different levels of harm.

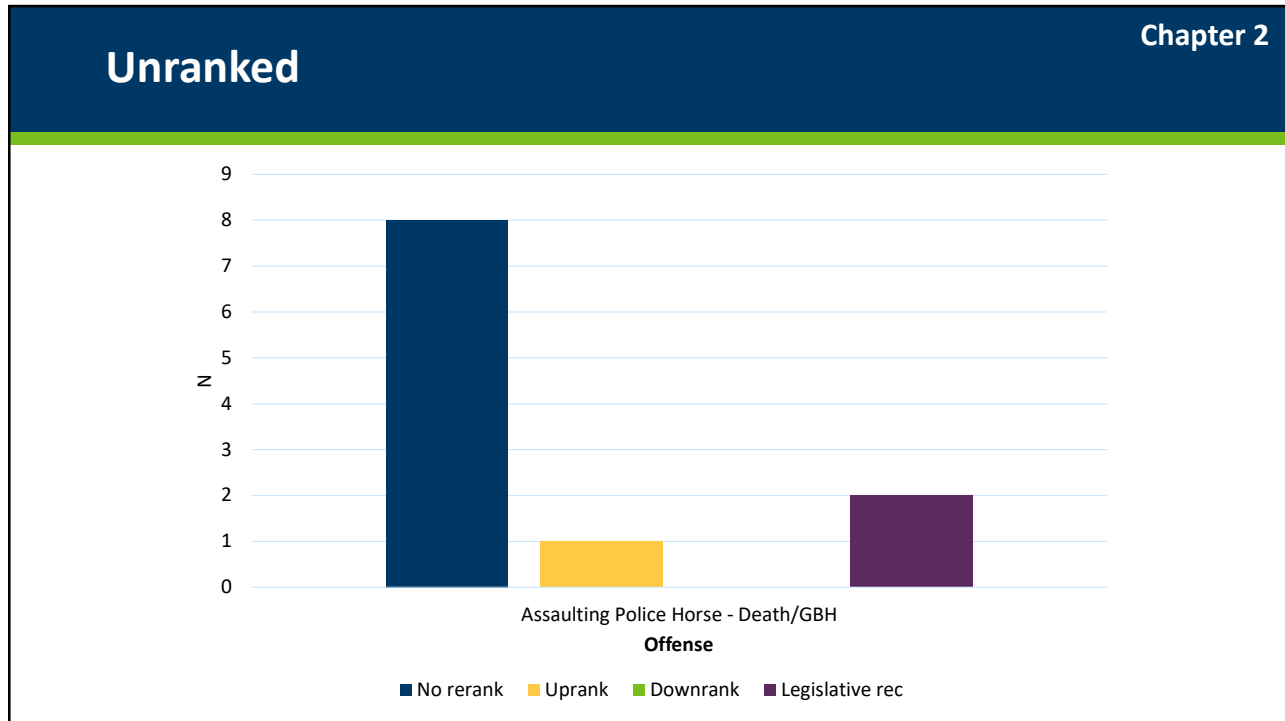
64

Current SL 2			
Duty to Render Aid			
Reranking option	N	New SL	Notes
Do not rerank	7	–	<ul style="list-style-type: none"> One case is not enough data to justify a change. The stat max is oddly low but that may be because of the limited data. Given the stat max of 2 years, SL fits. Hard to know whether there is a justification for changing this when there are virtually no cases.
Uprank	1	SL 3	<ul style="list-style-type: none"> It might make sense to uprank because the stat max penalty is oddly low for a gross misdemeanor resulting in death and upranking would perhaps better reflect the seriousness of the offense without substantially moving the dispositional line and while keeping the high end of the range at CHS 6 close to the stat max.
	2	SL 5	<ul style="list-style-type: none"> Upranking only works if stat max is increased. This feels like a SL 5 offense, like the second degree manslaughter/hunting accident offense. More serious than other SL 2 offenses. The current SL is very low and don't understand why.
Downrank	0	–	
Legislative	4	–	<ul style="list-style-type: none"> Legislature should separate death from bodily harm. Make this 2 or more distinct offenses. This charge is too broad and needs to be broken in to levels. Increase stat max to 4 or 5 years.

65

Current SL 2	
Duty to Render Aid	
Additional Notes	
<ul style="list-style-type: none"> Given the wide range of conduct covered by this crime (some not involving death), and the absence of field guidance (one case in 10 years), this offense should be unranked. Want to know more about the typical case – what were the circumstances of the firearm discharge? 	

66



67

Chapter 2

Unranked – Some Highlights


Assault Police Horse – Death/GBH

- The majority of interest for this offense was to leave this offense as unranked.
- Legislative recommendation made to distinguish between the different levels of harm.

68

Assaulting Police Horse – Death/GBH			Current SL Unranked
Reranking option	N	New SL	Notes
Do not rerank	8	–	<ul style="list-style-type: none"> • Leave unranked due to the range of harm. • This is a serious offense but is rarely prosecuted and covers a wide range of underlying conduct. If it were already ranked, would likely not recommend unranking it. But as it stands, doesn't warrant ranking for the foregoing reasons. • Given the wide range of conduct covered by this crime (some not involving death), and the absence of field guidance (no cases in 10 years), this offense should be unranked. • There is not data and if the Commission is not going to look at all unranked offenses to set benchmarks, it should not willy nilly pick some unranked offenses to rank and leave others unranked. What objective criteria/justification does the Commission rely on to rank some unranked offenses and not others? • With no cases, keep as unranked offense. • Leave unranked because not enough cases to help understand the typical case. • Given newness of charge, shouldn't recommend a reranking but wait to see how the charge plays out.
Uprank	1	SL 6	
Downrank	0	–	
Legislative	2	–	<ul style="list-style-type: none"> • Make this 2 or more distinct offenses. • This charge is too broad and needs to be broken in to levels and then ranked accordingly.

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