

## Approved Meeting Minutes

**June 5, 2025**

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A meeting of the Minnesota Sentencing Guidelines Commission (MSGC) was held on June 5, 2025, in the Afton Room at the Department of Corrections headquarters, 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; Amirthini Keefe, Public Member and Executive Director, Domestic Abuse Project; David Knutson, First Judicial District Court Judge; Kyra Ladd, Wadena County Attorney, Cathryn Middlebrook, Chief Appellate Public Defender; 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; MSGC staff members Leah Bower, Devonte Roache, and Jill Payne; and members of the public Professor Kevin Reitz, University of Minnesota; Professor Christopher Uggen, University of Minnesota; and Caroline Koerner, MNIT.

A Commission member was present by telephone and/or electronically; namely, Surya Saxena, Public Member, the notice required by Minn. Stat. § 13D.015 having been posted on the MSGC website on May 9, 2025. Also present by telephone and/or electronically was staff member Linda McBrayer; and members of the public Dr. Julia Laskorunsky, University of Minnesota; Ben Johnson, Minn. House Research; and Elizabeth Ruhland.

### 1. Call to Order and Roll Call

Chair Mitchell called the meeting to order at 1:04 p.m.

Director Reitz called the roll. Present were Chair Mitchell, Vice-Chair Larkin, and members Keefe, Knutson, Ladd, Middlebrook, Moore, and Reeves. Eight members were present. Five members were absent. A quorum was present.

### 2. Adoption of Draft Meeting Agenda (Action)

This was on the agenda as an action item.

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

**Motion carried** on an 8–0 roll-call vote.

Voting “Yes” were Chair Mitchell, Vice-Chair Larkin, and members Keefe, Knutson, Ladd, Middlebrook, Moore, and Reeves.

### **3. Approval of Draft Meeting Minutes from May 8, 2025 (Action)**

This was on the agenda as an action item.

**Motion** by Commissioner Reeves and second by Commissioner Knutson to approve the draft meeting minutes from May 8, 2025.

**Motion carried** on an 8–0 roll-call vote.

Voting “Yes” were Chair Mitchell, Vice-Chair Larkin, and members Keefe, Knutson, Ladd, Middlebrook, Moore, and Reeves.

### **4. Sentencing Guidelines Changes Relating to 2025 Regular Session Laws (Action)**

This was on the agenda as an action item.

At 1:09 p.m., Chair Mitchell announced that Commissioner Frase had joined the meeting in person and Commissioner Saxena had joined the meeting remotely.

Chair Mitchell asked the Commission how they would like to proceed with this agenda item; it was decided to vote on parts A and B separately.

Chair Mitchell called on Director Reitz who presented, “Possible Modifications to the Sentencing Guidelines and Commentary,” dated June 2, 2025.

#### **A. Ranking Created or Amended Crimes**

Director Reitz described part A, the newly created and amended crime laws including staff recommendations for amendments to the 2024 Minn. Sentencing Guidelines and Commentary; and the Commission discussed and acted, as follows.

##### **1. New Order for Protection Against Financial Exploitation of a Vulnerable Adult**

Director Reitz described the new felony under Minn. Stat. § 609.2334 (Order for protection against financial exploitation of a vulnerable adult), which is effective January 1, 2026, and the staff recommendations to rank the new offense at severity level (SL) 4, effective January 1, 2026, given that other violations of protection orders and financial exploitation of a vulnerable adult under \$5,000 are ranked at SL 4.

##### **2. New Anti-Kickback Offense – Unauthorized Human Services Renumerations**

Director Reitz described the new anti-kickback felony offenses under Minn. Stat. § 609.542 (Illegal Renumerations) related to federal healthcare programs and the staff recommendation to rank the new anti-kickback offenses similarly to the existing wrongfully obtaining public assistance and medical assistance fraud offenses, effective August 1, 2025:

- At SL 2 (\$5,000 or less), cases with a criminal history score of 6 or more are recommended prison sentences.
- At SL 3 (over \$5,000), cases with a criminal history score of 4 or more are recommended prison sentences.
- At SL 6 (over \$35,000), cases with a criminal history score of 3 or more are recommended prison sentences.

Before Chair Mitchell entertained a motion, the Commission discussed the new offenses and staff recommendations to include whether the new anti-kickback offenses were more like bribery. The Commission discussed that it could adjust its proposal if compelling information was presented at the public hearing.

**Motion** by Vice-Chair Larkin and second by Commissioner Moore to adopt the staff recommendations in part A, subject to a public hearing and final action at a future date.

**Discussion:** The Commission discussed the motion.

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

Voting “Yes” were Chair Mitchell, Vice-Chair Larkin, and members Frase, Keefe, Knutson, Ladd, Middlebrook, Moore, Reeves, and Saxena.

## **B. Other Conforming Changes**

Director Reitz described part B, other conforming changes to the 2024 Minn. Sentencing Guidelines and Commentary; and the Commission discussed and acted, as follows.

### **1. New Fentanyl Exposure Criminal Penalties**

Director Reitz described the new fentanyl exposure amendments under Minn. Stat. § 152.137 (Methamphetamine-Related Crimes Involving Children and Vulnerable Adults), effective August 1, 2025, and the staff recommendations to amend sections 5.A, 5.B, and comment 2.B.108, to retitle the offense to reference the statutory changes to the new fentanyl exposure to children.

### **2. New Consecutive Sentence for Assault on Sheriff or Sheriff’s Deputy in Jail**

Director Reitz described the amendments, effective August 1, 2025, and the staff recommendations to amend sections 2.C, 2.F, and Appendix 1, to make conforming amendments to presumptive sentences and consecutive sentences for assault against a county sheriff or sheriff’s deputy in a local correctional facility under Minn. Stat. § 609.2232, with such sentences presumed to run consecutively to any unexpired portion of the earlier sentence or that may be imposed, following conviction, for any crime or offense for which the person was in custody when the person committed the assault, and make conforming changes so that it is clearer that the disposition for assault on secure treatment facility personnel is always presumptive commitment.

### 3. Codified Minimum Sentences for Sex Trafficking

Director Reitz described the amendments, effective August 1, 2025, and the staff recommendations to amend section 2.G, to codify minimum sentences for sex trafficking under Minn. Stat. § 609.322, by including the statutorily created presumptive sentences in the existing language.

### 4. Renaming Child Pornography as “Child Sexual Abuse Material”

Director Reitz described the amendments, effective August 1, 2025, and the staff recommendations to amend sections 2.E, 4.B, 5.A, 5.B, 6, comment 2.B.105, and Appendix 3, to rename child pornography as “Child Sexual Abuse Material” throughout the existing language.

Before Chair Mitchell entertained a motion, the Commission discussed changing the title in Section 2.C.3.e, to “Offenses Committed While Confined under State or Local Authority,” to better describe the new consecutive sentencing requirements under Minn. Stat. § 609.2232.

**Motion** by Commissioner Knutson and second by Commissioner Middlebrook to adopt the staff recommendations in part B, except to retitle Section 2.C.3.e, “Offenses Committed While Confined under State or Local Authority.”

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

Voting “Yes” were Chair Mitchell, Vice-Chair Larkin, and members Frase, Keefe, Knutson, Ladd, Middlebrook, Moore, Reeves, and Saxena.

## 5. Possible Sentencing Guidelines Technical Modifications (Action)

This was on the agenda as an action item.

Chair Mitchell called on Director Reitz who presented, “Possible Sentencing Guidelines Technical Modifications,” dated May 7, 2025. Director Reitz explained that, as staff is made aware of technical issues in the Sentencing Guidelines, it brings them to the Commission’s attention to consider possible corrective action. This staff paper highlighted two issues and explained corrective actions recommended by staff to: 1) Amend sections 5.A and 5.B, to correct the statutory citation for Use of Deep Fake to Influence an Election under Minn. Stat. § 609.771, after the felony crime was moved to subd. 3(a)(1); and 2) Amend Appendix 3, to add Criminal Vehicular Homicide under Minn. Stat. § 609.2112, subd. 1(a), to the non-exhaustive list that includes offenses in which the presumptive duration exceeds the statutory maximum sentence.

Chair Mitchell entertained a motion.

**Motion** by Commissioner Moore and second by Vice-Chair Larkin to adopt the staff recommendations.

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

Voting “Yes” were Chair Mitchell, Vice-Chair Larkin, and members Frase, Keefe, Knutson, Ladd, Middlebrook, Moore, Reeves, and Saxena.

After the motion, it was noted that the public hearing notice should reflect that, in the change to Appendix 3, the statutory maximum for Criminal Vehicular Homicide should be written as “120” *months* rather than “10” *years*, to be consistent with the table header.

Chair Mitchell explained that the proposals in items 4 and 5 would go to a public hearing (on July 17, 2025), and that the Commission would vote on the proposals one week later (on July 24, 2025).

## **6. Comprehensive Review (Discussion)**

This was on the agenda as a discussion item.

### **A. Ranking Project – Present Offense Group 3 – Assaults, Protective-Order Violations, & Agg. Robbery**

Chair Mitchell called on Director Reitz who presented, “Offenses for Reranking Consideration, Offense Group 3 – Assaults, Protective-Order Violations, and Aggravated Robbery 1,” updated May 22, 2025. Director Reitz said that the document had been updated from the one dated May 1, 2025. The updated document included Domestic Assault by Strangulation under Minn. Stat. § 609.2247. Director Reitz requested that the Commission go through this ranking exercise and have it completed and returned to staff by June 23, 2025.

### **B. Comprehensive Review Practitioner Interviews – Dr. Julia Laskorunsky from the University of Minnesota**

Chair Mitchell called on Dr. Laskorunsky who gave a slide presentation entitled, “Understanding Departure Patterns: Practitioner Perspectives on Assault 2 and Aggravated Robbery,” dated June 5, 2025. Dr. Laskorunsky presented results from informational interviews with prosecutors, defense attorneys, and dispositional advisors from both rural and urban Minnesota about downward departure trends in assault in the second degree and aggravated robbery cases from the perspective of prosecutors, defense attorneys, and dispositional advisors. Dr. Laskorunsky described background and methodology, read quotes, and summarized common themes supporting downward departures and plea agreements. Dr. Laskorunsky said that possible next steps would be to come back and present on criminal vehicular homicide, felony driving while impaired (DWI), and failure to register as a predatory offender.

The Commission discussed the findings and asked questions. The Commission discussed how varied circumstances can be among mandatory minimum weapon cases, a prosecutor’s position in plea agreements, and support from victims in plea agreements. Commissioner Keefe referenced a study from Cook County, Illinois in which a model was used to increase victim cooperation in the prosecution process through victim engagement and participation.

**C. Proposals on Sentencing Purposes (Discussion) – Prof. Kevin Reitz, James Annenberg La Vealand Grant Chair in Criminal Procedure Law, University of Minnesota, Model Penal Code: Sentencing**

Chair Mitchell called on Professor Kevin Reitz. The presentation was a follow-up to a presentation on February 13, 2025, in which the goal was to review how various sentencing guidelines in the United States define public safety, and to bring forward possible amendments to the language Minnesota uses to define public safety in its Guidelines.

Prof. Reitz presented a slide entitled, “Proposed Addition” to the Guidelines’ Statement of Purpose and Principles. The slide was a draft definition for public safety that read: “‘Public safety’ includes a number of means to prevent future crimes and victimizations, including rehabilitation of offenders, general deterrence of prospective offenders, incapacitation of dangerous offenders, reintegration of ex-offenders into the law-abiding community, and reasonable caution in the use of penalties that could hinder offenders’ progress toward rehabilitation or reintegration into the law-abiding community.”

The Commission discussed the draft language, whether it captured the sentiment of the purpose and principles of public safety and proportionality, using a rubric to evaluate public safety, and the difference between a philosophical statement and how public safety is operationalized in practice.

Some members wished to give additional feedback and asked to send re-drafts to Director Reitz. Chair Mitchell agreed and reminded the Commission that a formal proposal to amend the Guidelines would be vetted and reviewed in August.

At 3:30 p.m., Chair Mitchell said there was about 15 minutes more of content to present on the meeting agenda and asked whether the Commission wished to continue. There were no objections.

**7. Announced Closure of Stillwater Prison (Discussion)**

This was on the agenda as a discussion item.

Chair Mitchell presented the Department of Corrections (DOC) phased closure of the Minnesota Correctional Facility (MCF) – Stillwater, saying that the DOC was moving towards a two-phased closure process of the facility due to maintenance and livability concerns. Phase 1 was to reduce operations; and phase 2 was full closure which would begin in July 2027, and reach full closure by June 30, 2029. Chair Mitchell said that more information could be found on the DOC’s website at <https://mn.gov/doc/about/phased-closure-of-mcf-stillwater>.

The Commission discussed the closure and asked questions.

**8. Executive Director’s Report (Discussion)**

This was on the agenda as a discussion item.

Chair Mitchell called on Director Reitz who referenced the staff paper entitled, “Other Laws of Interest to the Commission,” dated May 22, 2025. Director Reitz explained that the staff paper included crime legislation from the 2025 Regular Session that would likely be of interest to the Commission, but did not

require action. Director Reitz highlighted section B which was a special section on the repeal of medical cannabis violations by 2023 Legislature, which described the Commission's actions at that time. Director Reitz explained that the repeal was originally supposed to take effect in March of 2025, but there was a subsequent session law amending the 2023 legislation that changed the effective date for the repeal to after August 1, 2025; therefore, the Medical Cannabis Violations under Minn. Stat. § 152.33, will continue to be listed in the 2025 edition of the Sentencing Guidelines and Commentary.

Director Reitz then reported on important upcoming dates:

- June 12 – Minn. Judicial Council has on its agenda the appointment of the District Court Judge member;
- June 23 – Due date for Offense Group 3;
- June 28 – Deadline for public members to submit per diem and for all members to submit mileage;
- July 17 – Public hearing (quorum optional);
- July 24 – Commission meeting to adopt proposals (quorum required);
- August 11 & 12 – National Association of Sentencing Commission (NASC) annual conference in Madison, Wisconsin; and
- August 13 – All-day Commission meeting.

## **9. Public Input**

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

Director Reitz made note of a written public comment in the meeting materials from John Melina.

## **10. Adjournment**

Before adjournment, Chair Mitchell recognized Commission Knutson who was retiring as a District Court Judge on July 7, 2025, effectively retiring from the Commission. Commissioner Knutson spoke and thanked the Commission saying it had been a privilege to serve. Chair Mitchell and the Commission thanked Commissioner Knutson for his service.

Chair Mitchell adjourned the meeting at 3:49 p.m., without objection.