

# Minnesota Sentencing Guidelines Commission

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## MEMORANDUM

**To:** Prison Population Taskforce

**From:** Nate Reitz, MSGC Executive Director

**Date:** November 18, 2015

**Re:** Answers to Taskforce questions raised during the October meeting

The purpose of this memorandum is to answer some of the questions raised by Taskforce members during MSGC's October 21, 2015, presentation to the Taskforce.

**Q: What is the racial makeup of the occupants of the prison beds resulting from each policy change described in slide 8?**

A: Table 1: Estimated racial composition of offenders estimated to occupy prison beds as a result of selected policy changes shown in slide 8, MSGC Presentation to Prison Population Taskforce, 10/21/15 (using 2014 sentencing data).

| Policy*                | Est. Total Prison Beds** | White | Black | American Indian | Hispanic | Asian |
|------------------------|--------------------------|-------|-------|-----------------|----------|-------|
| Drug thresholds        | 574                      | 51%   | 25%   | 3%              | 18%      | 3%    |
| 5 yr. felon w/gun      | 403                      | 29%   | 52%   | 10%             | 4%       | 4%    |
| POR mand.              | 234                      | 55%   | 28%   | 9%              | 6%       | 2%    |
| Crim. Sex (leg. mand.) | 200                      | 60%   | 19%   | 5%              | 16%      | 1%    |
| Crim. Sex (MSGC grid)  | 396                      | 46%   | 28%   | 18%             | 7%       | 1%    |
| Felony DWI             | 618***                   | 61%   | 20%   | 11%             | 7%       | 1%    |
| Enhanced misd.         | 411                      | 39%   | 45%   | 10%             | 4%       | 1%    |
| 5-yr. felon w/ammo     | 66****                   | 29%   | 52%   | 10%             | 4%       | 4%    |

\*For a complete description of each policy, refer to slide 8, "Selected Legislative & MSGC Prison Impacts," of the 10/21/15 MSGC presentation to Prison Population Taskforce.

\*\*Except as noted, bed estimates are based on 2/3 of executed sentences pronounced in 2014.

\*\*\*MSGC bed estimate used for racial composition estimate. Actually, 683 beds were occupied by DWI offenders on 7/1/15. The racial composition of that offender population is not known.

\*\*\*\*Projection, based on MSGC assumptions about Minn. behavior based on Mass. data.

**Q: How often does the prosecutor agree with departures from mandatory minimums described in Slide 13?**

A: Table 2: Mitigated departures, by type and by position of prosecutor, from selected mandatory minimums shown in slide 13, MSGC Presentation to Prison Population Taskforce, 10/21/15 (using 2014 sentencing data).

| Mandatory Minimum*                    | No Mitigated Departure | Mitigated Departure Type |            | Mitigated Departures Only: Prosecutor's Position |         |                      |
|---------------------------------------|------------------------|--------------------------|------------|--|---------|----------------------|
|                                       |                        | Dispositional            | Durational | Does Not Object                                  | Objects | No Position Recorded |
| <b>Subsequent Drug</b>                | 79%                    | 21%                      | <1%        | 66%  | 9%      | 25%                  |
| <b>Deadly force vs. police</b>        | 100%                   | 0%                       | 0%         | N/A  | N/A     | N/A                  |
| <b>Prior violence felon poss. gun</b> | 42%                    | 36%                      | 22%        | 49%  | 20%     | 31%                  |
| <b>609.11 offense, firearm</b>        | 54%**                  | 41%                      | 5%         | 58%  | 18%     | 24%                  |
| <b>609.11 offense, other weapon</b>   | 51%                    | 48%                      | 1%         | 70%  | 8%      | 22%                  |
| <b>Crim. Sex 1</b>                    | 67%                    | 26%                      | 7%         | 54%  | 14%     | 32%                  |
| <b>Crim. Sex 2</b>                    | 53%                    | 37%                      | 10%        | 64%  | 14%     | 21%                  |
| <b>Crim. Sex, prior</b>               | 100%                   | 0%                       | 0%         | N/A  | N/A     | N/A                  |
| <b>POR violation</b>                  | 46%                    | 48%                      | 6%         | 65%  | 10%     | 25%                  |

\*For a more complete description of each mandatory minimum, refer to slide 13, "Selected Mandatory Minimums in Practice," of the 10/21/15 MSGC presentation to Prison Population Taskforce.

\*\*Incorrectly displayed as "52%" on slide 13. The incorrect figure did not account for life sentences.

**Q: How many probation revocations are for violent crimes vs. other crime types? How do probation revocation rates vary by judicial district?**

A: These questions are answered, in part, in our report entitled, "Offenders Revoked to Prison: Offenders Sentenced 2001-2012" found on our web site at <http://mn.gov/sentencing-guidelines/reports/>. We plan to update this report with more current data soon.

**Q: What is the estimated racial impact of each of the current legislative drug proposals?**

A: Table 3: Estimated long-term prison beds added or reduced, S.F. 773 and H.F. 2107, 89th Minn. Legislature, as introduced, by estimated race of bed occupant (using 2014 sentencing

data). (S.F. 1382, which has an estimated net long-term prison bed savings of 62 beds, is omitted for brevity.)

| <b>Bill</b>      | <b>Type of change*</b> | <b>Est. prison beds +added/(reduced)</b> | <b>White</b> | <b>Black</b> | <b>Am. Indian</b> | <b>Hispanic</b> | <b>Asian</b> |
|------------------|------------------------|--|--------------|--------------|-------------------|-----------------|--------------|
| <b>S.F. 773</b>  | Thresholds             | (575)                                    | 51%          | 25%          | 3%                | 18%             | 3%           |
|                  | Meth mfg.              | (16)                                     | 88%          |              |                   |                 | 12%          |
|                  | 3rd Degree mand. min.  | (33)                                     | 73%          | 6%           | 9%                | 12%             |              |
|                  | Deferred prosecution   | (103)                                    | 69%          | 16%          | 10%               | 5%              | 1%           |
| <b>H.F. 2107</b> | Thresholds             | (176)                                    | 51%          | 19%          | 2%                | 21%             | 6%           |
|                  | Mand. min. repeal      | (53)                                     | 56%          | 29%          | 4%                | 12%             |              |
|                  | New mand. minimum      | +181                                     | 35%          | 27%          | 0%                | 33%             | 6%           |
|                  | Firearm                | +23                                      | 57%          | 35%          | 9%                |                 |              |

\*For a more complete description of each type of change, refer to the MSGC presentation contained at <http://go.usa.gov/c23gm>.