

Attention Commission for the Minnesota Sentencing Guidelines:

To:

Kelly Lyn Mitchell, Chair and Designee of the Commissioner of Corrections;
Leonardo Castro, Second Judicial District Court Judge;
Keala Ede, Minnesota Court of Appeals Judge;
Richard Frase, Professor Emeritus, University of Minnesota Law School;
Amirthini Keefe, Public Member and Executive Director, Domestic Abuse Project;
Kyra Ladd, Wadena County Attorney;
Marlin Meszaros, Treasurer, Against the Odds Recovery and Reentry,
Cathryn Middlebrook, Chief Appellate Public Defender,
Gordon L. Moore, III, Minnesota Supreme Court Justice,
Tim Morin, Public Member,
Chief Brian Mueller, Stillwater Police Department,
Latonya Reeves, Hennepin County Career Probation Officer,
Surya Saxena, Public Member.

"I ask the Commission to include a 'Chronological Fix' in the 2026 Report to the Legislature."

My question to the Commission is simple: Why do the Guidelines use a definition of 'prior' that contradicts our own State Statutes? By adopting the definition from 609.1095, you remove the 'procedural luck' factor and bring the Guidelines into harmony with the law."

The Legislature already defines "prior conviction" correctly in Minn. Stat. § 609.1095, Subd. 1(c): "a conviction that occurred prior to the commission of the subsequent felony" (By citing Minn. Stat. § 609.1095, I am showing the Commission that the "Melina Method" isn't a new idea—it's already the standard the Legislature uses for dangerous offenders.).

The Conflict: The Guidelines currently allow a "prior" to be an offense committed after the current one. This creates a legal contradiction.

"The solution I am proposing isn't a new concept. In fact, it is already the law in Minnesota. Under Statute 609.1095, the Legislature defines a 'prior conviction' as something that happened before the commission of the next crime.

Currently, In the eyes of the law, "uniformity" means following the manual, not necessarily achieving a "fair/uniform" or intuitive result the "Melina Method" proposal/suggestion can change this and create the goal of this Commission and create uniformity in sentencing for a crime.

The "Systemic Fix" by John Kevin Melina (Certified Legal Assistant) 03/28/2026
THE MELINA METHOD vs. THE HERNANDEZ METHOD

Timing of the Offense: I argue that the manual is "vague and ambiguous" because it allows offenses that happened after the current crime to be counted as "prior" just because they were sentenced first.

Conflict with Statutes: I contend that the manual's definition of "Prior Felonies" improperly diverges from the statutory definition of "prior felony conviction" found in Minnesota Statute § 609.1095, which I believe should only include crimes committed before the current offense.

I am also effectively challenging Section 2.B.1.e, known as "Hernandizing". This rule allows multiple offenses sentenced on the same day to be stacked, rapidly increasing a person's criminal history score within a single court appearance.

The challenge focuses on the definition of a "prior" felony. According to the current manual, a felony conviction is counted if:

"...a felony sentence was stayed or imposed before the current sentencing or a stay of imposition of sentence was given before the current sentencing."

((suggested change to MSG 2.B.1.) Prior Felonies. Assign a particular weight as set forth in paragraph a and b, to each extended jurisdiction juvenile (EJJ) conviction and each felony conviction, provided that a felony sentence was stayed or imposed before the *date of offense* or a stay of imposition of sentence was given before the current *date of offense*.)

I have filed a Memorandum for a Corrected Sentence (District Case No. 86-CR-19-5687). In it, I argued that the court should take "judicial notice" of the fact that the Sentencing Commission itself has identified his exact situation (counting later offenses as "priors") as a flaw in the system.

I respectfully will come before this Commission for the Minnesota Sentencing Guidelines (April 9, 2026), in proposal to the issue the Committee now faces with discrepancies and non-uniformity in sentencing. I am suggesting a *Systemic Fix, for the "Non-Uniformity"* currently sought by this Committee to correct due to the issues with the (outdated) "Hernandez Method," Which can easily be fixed with the proposed (modernized, fair and uniform) "Melina Method".

Proportionality vs. Math: the core stance is that a sentence is not proportional to the blameworthiness. The proposed revisions seek to clarify that "proportionate sentence severity" should be measured against the defendant's actual harm, rather than just a mechanical point total.

The "Artificial Inflation" of Records: I criticize the "Hernandizing" rule for making a record may look worse than it is. In its December 2025 memorandum, the Commission agreed, stating the rule is "complicated to apply" and can cause a person to move "all the way across the grid in a single sentencing event". This Commission has made Hernandizing reform a top priority for the 2026 cycle. And I now seek to fix the Hernandizing Method with this Commission in favor of the proposed "Melina Method".

The proposed changes in the 2026 MSGC Report to the Legislature directly address the "non-uniformity" and "disproportionality" that I have argued exist in the current system.

Separate from the MSGC's proposals, a bill (HF 392) was introduced to require explicit legislative approval for any future changes to criminal history scores or the sentencing grid. This would move the power to change these "non-uniform" rules away from the Commission and directly into the hands of elected lawmakers.

In its 2026 Report to the Legislature, the Minnesota Sentencing Guidelines Commission (MSGC) proposed a consensus policy package that directly addresses the "weight" and "relevance" issues I have previously and now have highlighted.

The Problem: The current rule allows multiple offenses sentenced at the same time to stack, causing a person to "move all the way across the grid in a single sentencing event".

The Goal: The Steering Committee is actively seeking a "workable proposal" to simplify this rule and prevent the rapid, artificial inflation of criminal history scores that I am now criticizing.

While a final legislative fix was not fully developed in the initial 2026 report, the Commission formally identified "Hernandizing" as a priority for reform.

Whether I am "correct" depends on how you define the goal of the justice system. Legally, the courts have ruled against me in the case I raised this issue (as in 86-CR-19-5687), but policy-makers admit I John Melina, have pointed out a genuine friction point in how the rules work.

The Melina Method will promote:

Neutrality & Uniformity

I am here today to highlight a systemic glitch in our sentencing manual that violates this Commission's primary mandate: Uniformity.

Currently, our system relies on 'Procedural Luck' rather than 'Criminal History.' I am proposing what I call a Chronological Fix to restore logic to our guidelines."

Current Rule 2.B.1 defines a "prior" felony based on the date of sentencing, not the date of offense.

This creates a Geographic Lottery: A defendant's sentence depends on how fast a specific county's court system moves, rather than their actual criminal conduct.

THE "CHRONOLOGICAL FIX" COMPARISON CURRENT SYSTEM (Random) PROPOSED FIX (Logical)

1. Offense A (committed in Jan) ,
2. Offense B (committed in Feb)

If Sentenced for "B" first: Fixed Rule:

Result: "B" counts as a prior to "A." Only crimes committed BEFORE the current act are

"priors."

Verdict: Procedural Luck Verdict: Uniform Justice

The "Chronological Logic" Glitch

"Right now, the definition of a 'prior' felony is based on sentencing dates, not offense dates.

If a person commits Crime A in January and Crime B in February, but a fast prosecutor in one county sentences them for Crime B first, Crime B becomes a 'prior' to Crime A. This creates a Geographic Lottery. A defendant's prison stay shouldn't be determined by how fast a county clears its paperwork. A 'prior' must be something that happened before the current offense to be logically sound."

Ending "Artificial Recidivism" (Hernandizing)

"Secondly, we must address Hernandizing. Criminal history scores are meant to measure a person's failure to reform after a court intervention. But when we stack points for multiple counts in a single spree—before a person has ever stepped foot in a jail or a treatment program—we aren't measuring history. We are creating Artificial Recidivism. This double-counts conduct and leads to disproportionate sentences that this Commission's own 2026 findings have already flagged as 'complicated and inconsistent.'"

The "Interest of Justice"

"I am asking this Commission to exercise its authority to clarify Rule 2.B.1. Fix the definition of 'prior' to follow a chronological timeline.

I argues that Section 2.B.1 of the Guidelines is "vague and ambiguous" because it does not align perfectly with statutory definitions of "prior felony conviction" found in Minn. Stat. § 609.1095.

I further believe that counting offenses that occurred after the current crime but were sentenced before it makes the system non-uniform.

CONCLUSION

Members on the board might claim that the (suggested change) "Melina Method" as "soft on crime," and an "administrative burden." I would request this Committee focus on the fact that policy-makers admit I have pointed out a genuine friction point in how the rules work.

The way the Sentencing Guidelines § 2.B.1. is currently, it creates "artificial recidivism." A criminal history score is intended to measure a person's failure to reform after a previous court intervention. If there was no prior intervention (because all crimes are being sentenced at once), the points don't actually measure "history".

The current rules are so confusing they lead to constant, expensive appeals (like my own appeal for the Unconstitutionality and discrepancy allowed in a criminal history score including "later

offenses" from date of offense of crime being sentence on, as shown in 86-CR-19-5687) where later offenses were counted in the Criminal History Score as prior offenses/prior felonies.

My case (86-CR-19-5687) is actually being used as "testimony" in the broader debate. The MSGC is currently reviewing whether to change the "prior offense" definition specifically because of the issues I raised. They have acknowledged that the current rules can lead to "disproportionate" results, which is a soft way of saying the system isn't as consistent as it was intended to be.

Possible Questions and Answers to the MSG Commission

(Question 1) The "Accountability" Trap

If we don't count these as priors just because they are sentenced on the same day, aren't we letting people 'get away' with multiple crimes for the price of one?"

Not at all. The crimes are still sentenced. My argument is about the Criminal History Score. Points are meant to measure a person's refusal to change after a court intervenes. If they haven't been sentenced yet, there was no intervention to ignore. Let the judge use their discretion for the current crimes, but don't inflate the 'history' score with 'present' conduct.

(Question 2) The "Statutory Conflict" Defense

Statute 609.1095 is for 'Dangerous Offenders.' Why should we apply that high-level definition to every standard felony in the Guidelines?

Because the logic of time doesn't change based on the severity of the crime. If the Legislature decided that a 'prior' must chronologically precede a 'subsequent' act for our most serious offenders, it makes no sense to have a different, more confusing definition for everyone else.

Uniformity requires one clear definition of 'prior' across the entire Minnesota code.

(Question 3) The "Administrative Burden" Pushback

Wouldn't changing this rule require us to go back and recalculate thousands of past sentences? Isn't that an administrative nightmare?

Doing the right thing is never a nightmare; it's a correction. If the Commission admits—as it has in its 2026 review—that the current rules are 'complicated and disproportionate,' then we are knowingly keeping people in prison under a broken formula. We should prioritize Justice over Paperwork.

The Commission has already admitted that the current rules are "complicated" and lead to "disproportionate" results.

You have already identified these flaws. By not fixing the 'prior' definition now, you are knowingly maintaining a system that you've admitted is non-uniform. I respectfully request to prevent further Miscarriage of Justice on the People of this Glorious State of Minnesota is to

adopt a "Commisison-initiated Retroactivity" clause, arguing that **if a rule is found to be "broken," it is an injustice to keep people in prison under that broken rule.**

(Question 4) The "Specific Case" Redirect

How would this change have affected your specific case, and isn't this just a personal request?

My case is simply the Evidence of the Error was first brought to light in my case (86-CR-19-5687). It proved that two people committing the exact same crimes in two different counties can end up with years of difference in their sentences based solely on court scheduling. I'm not here for a favor; **I'm here to help the Commission close a loophole that creates Non-Uniformity—which is exactly what you were appointed to prevent.**

My case is simply the proof of the glitch. I am here because my case exposed a loophole where 'procedural luck' replaced 'uniform justice.' I am asking for a fix that ensures no Minnesotan is sentenced based on which county moves their paperwork faster.

Request for Retroactivity:

I am requesting a retroactive reduction of the criminal history scores across the board.

By doing this now, you provide the Supreme Court and district judges the clear guidance they need to resolve these issues in the Interest of Justice. Don't wait for the courts to fix a broken rule that you have the power to repair today. Let's ensure Minnesota sentencing is predictable, neutral, fair, and—above all—uniform.

By adopting this method now, the Commission prevents the Supreme Court from having to step in and 'legislate from the bench.' You (The Minnesota Sentencing Guidelines Commission) are the experts; you should define the fix, not a court.

Thank you."