

## Sentencing Guidelines Comprehensive Review

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# Planning Phase 1 of the Comprehensive Review – Commission/Research Track

September 28, 2023

Table 1 (beginning on p. 2) is a staff-drafted plan for the “Commission/Research Track” of Phase 1 of the Sentencing Guidelines Commission’s upcoming comprehensive review of the Minnesota Sentencing Guidelines. Because the parallel “Stakeholder Engagement Track” will be accomplished through a contract with Minnesota Management and Budget’s Management Analysis and Development (MAD), Table 1 does not depict the stakeholder engagement process.

Table 1 generally displays the plan chronologically, from top to bottom. The column labeled “Steering” identifies actions necessary to keep the comprehensive review on track. The remaining columns display five “blocks”—broad policy areas within the realm of sentencing guidelines.

- **Block A, Principles.** This block deals with refining the purposes and principles that should underly the sentencing guidelines. Some overlap is anticipated between these principles and the mission, vision, goals, values that the Commission—with MAD’s assistance—will develop for the comprehensive review (under “Steering”).
- **Block B, Weighing the Defendant’s Past.** To what extent should a defendant’s history—particularly criminal history—factor into the sentencing guidelines?
- **Block C, Weighing the Offense’s Severity and Establishing a Presumptive Sentence.** The final, and arguably most important, block is the severity of the crime being sentenced. Once the severity of the crime has been established, the presumptive sentence can be defined in the context of the policy directions established in the context of the other blocks.
- **Block D, Sentencing Multiple Offenses and Modifying Sentences.** Some of the least understood policies in the current Guidelines govern sentencing multiple offenses at the same time. Offense modifiers, such as attempts, are also included in this block.
- **Block E, Departures.** The question of how departures work is fundamental to the nature of a system of structured sentencing. Are the sentencing guidelines merely suggestions, or should they have some “teeth”? What guidance should the Guidelines give?

The plan envisions generally moving through the blocks in sequence, with two deviations. First, to maximize efficient use of time and research assets, the plan asks the Commission to identify specific research questions pertaining to each block well before the Commission begins its work on that block. This way, for

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*This document was prepared by the staff of the Minnesota Sentencing Guidelines Commission for the Commission’s review. This document has not been adopted by the Commission and does not necessarily represent its views.*

example, researchers can delve into research questions relevant to Block B while the Commission is working on Block A.

Second, because special legislative funding for phase 1 will end on June 30, 2025, the draft plan envisions the taking a break from the comprehensive review in September 2024 to assess the needs of phase 2, which would take place in fiscal years 2026 and 2027. This break is timed to match up with the Governor’s timeline for budget requests for that biennium. Within Phase 2, the Commission might choose to include such tasks as further refining the Commission’s intended policy direction, seeking stakeholder on that policy direction, drafting Guidelines changes, and submitting such changes to the Legislature.

*Table 1. Draft Plan for Phase 1 of MSGC's Upcoming Comprehensive Review of Minn. Sentencing Guidelines, Excluding Stakeholder Engagement.*

Steering		BLOCK A: Principles	BLOCK B: Defendant's Past	BLOCK C: Offense Severity/Presumptive Sentence	BLOCK D: Multiple Offenses & Sentence Modifiers	BLOCK E: Departures
Fall 2023	In MAD-led discussion(s): <ul style="list-style-type: none"> <li>• Hear staff-identified current Guidelines issues</li> <li>• Identify MAD’s stakeholder groups and their questions</li> <li>• Articulate comprehensive review’s mission, vision, goals, and values</li> <li>• Refine this draft plan</li> <li>• Identify broad research questions</li> </ul>					

	Steering	BLOCK A: Principles	BLOCK B: Defendant's Past	BLOCK C: Offense Severity/Presumptive Sentence	BLOCK D: Multiple Offenses & Sentence Modifiers	BLOCK E: Departures
Winter 2023		<ul style="list-style-type: none"> <li>Review history of the Sentencing Guidelines</li> <li>Review Guidelines' purposes and principles</li> <li>Refine purposes and principles</li> </ul>	<ul style="list-style-type: none"> <li>Simultaneously: Identify research questions focused on weighing the defendant's past</li> </ul>			
Winter/Spring '23-'24			<ul style="list-style-type: none"> <li>Receive research; request more research if necessary</li> <li>Refine policy direction on weighing the defendant's past</li> </ul>	<ul style="list-style-type: none"> <li>Simultaneously: Identify research questions focused on weighing offense severity and establishing presumptive sentences</li> </ul>		
Spring/Summer 2024				<ul style="list-style-type: none"> <li>Receive research; request more research if necessary</li> <li>Refine policy direction on weighing offense severity and establishing presumptive sentences</li> </ul>	<ul style="list-style-type: none"> <li>Simultaneously: Identify research questions focused on sentencing multiple offenses and modifying sentences</li> </ul>	

	Steering	BLOCK A: Principles	BLOCK B: Defendant's Past	BLOCK C: Offense Severity/Presumptive Sentence	BLOCK D: Multiple Offenses & Sentence Modifiers	BLOCK E: Departures
Summer/Fall 2024					<ul style="list-style-type: none"> <li>• Receive research; request more research if necessary</li> <li>• Refine policy direction on sentencing multiple offenses and modifying sentences</li> </ul>	<ul style="list-style-type: none"> <li>• Simultaneously: Identify research questions focused on departures</li> </ul>
Sept. '24	<ul style="list-style-type: none"> <li>• Map out Phase 2, identify resources needed</li> </ul>	<i>(Break)</i>				
Fall/Winter '24-'25						<ul style="list-style-type: none"> <li>• Receive research; request more research if necessary</li> <li>• Refine policy direction on departures</li> </ul>
Winter/Spring '25-'26	<p>In MAD-led discussion(s):</p> <ul style="list-style-type: none"> <li>• Receive MAD's stakeholder input report</li> <li>• Reconsider comprehensive review's mission, vision, goals, and values in light of stakeholder input</li> </ul>	<ul style="list-style-type: none"> <li>• Identify additional research questions in light of stakeholder input               <ul style="list-style-type: none"> <li>• Reconsider policy directions in light of stakeholder input</li> </ul> </li> </ul>				