

Proposed Revisions to Sentencing Guideline Section 2.F. Concurrent/Consecutive Sentences

Key: Gray=Timing Alternative 1
 Green=Timing Alternative 2
 Blue=Staff Policy Proposal
 Yellow=Staff Technical Proposal

2014 Minn. Sentencing Guidelines (as currently written)	Proposal 1: Current DOC Standard Practice	Proposal 2: Current MSGC Comment	Proposal 3: Compromise
<p>2.F. Concurrent/Consecutive Sentences Generally, when an offender is convicted of multiple current offenses, or when there is a prior felony sentence that has not expired or been discharged, concurrent sentencing is presumptive.</p> <p>This section sets forth the criteria for imposing consecutive sentences. Imposition of consecutive sentences in any situation not described in this section is a departure. When the court imposes consecutive sentences, the court must sentence the offenses in the order in which they occurred.</p>	<p>2.F. Concurrent/Consecutive Sentences Generally, when an offender is convicted of multiple current offenses, or when there is a prior felony sentence that has not expired or been discharged, concurrent sentencing is presumptive.</p> <p>This section sets forth the criteria for imposing consecutive sentences. Imposition of consecutive sentences in any situation not described in this section is a departure. When the court imposes consecutive sentences, the court must sentence the offenses in the order in which they occurred. <u>The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence.</u></p> <p><u>When the court imposes an executed consecutive sentence, the term of imprisonment will be consecutive to, and served immediately after, the previous offense's term of imprisonment (and any extended incarceration thereafter). Each supervised release term begins immediately upon completion of the corresponding term of imprisonment. As a consequence, the first</u></p>	<p>2.F. Concurrent/Consecutive Sentences Generally, when an offender is convicted of multiple current offenses, or when there is a prior felony sentence that has not expired or been discharged, concurrent sentencing is presumptive.</p> <p>This section sets forth the criteria for imposing consecutive sentences. Imposition of consecutive sentences in any situation not described in this section is a departure. When the court imposes consecutive sentences, the court must sentence the offenses in the order in which they occurred. <u>The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence.</u></p> <p><u>When the court imposes an executed consecutive sentence, the term of imprisonment will be consecutive to, and served immediately after, the previous offense's term of imprisonment (and any extended incarceration thereafter).</u></p>	<p>2.F. Concurrent/Consecutive Sentences Generally, when an offender is convicted of multiple current offenses, or when there is a prior felony sentence that has not expired or been discharged, concurrent sentencing is presumptive.</p> <p>This section sets forth the criteria for imposing consecutive sentences. Imposition of consecutive sentences in any situation not described in this section is a departure. When the court imposes consecutive sentences, the court must sentence the offenses in the order in which they occurred. <u>The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence.</u></p> <p><u>When the court imposes an executed consecutive sentence, the term of imprisonment will be consecutive to, and served immediately after, the previous offense's term of imprisonment (and any extended incarceration thereafter).</u></p>

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	<p><u>offense’s supervised release term may be served at the same time as the consecutive offense’s term of imprisonment and supervised release term.</u></p>	<p><u>[If the court executes the consecutive sentence on the same day it executes the first sentence, t]</u></p> <p>[OR]</p> <p><u>[If, at the time the court imposes an executed consecutive sentence, the offender has not yet been placed on supervised release for the first executed sentence, t]</u></p> <p><u>[T]he Commissioner of Corrections must aggregate the two terms of imprisonment into one fixed term of imprisonment, and must aggregate the two supervised release terms into one fixed period of supervised release, to begin after the aggregate term of imprisonment is served. As a consequence, in such a case, supervised release terms will be served consecutively to each other and consecutively to the consecutive terms of imprisonment.</u></p> <p><u>If more than two sentences are consecutively executed, all will be aggregated as described in the preceding paragraph.</u></p>	<p><u>[If the court executes the consecutive sentence on the same day it executes the first sentence, t]</u></p> <p>[OR]</p> <p><u>[If, at the time the court imposes an executed consecutive sentence, the offender has not yet been placed on supervised release for the first executed sentence, t]</u></p> <p><u>[T]he Commissioner of Corrections must aggregate the two terms of imprisonment into one fixed term of imprisonment. Each supervised release term will begin at the conclusion of the aggregate term of imprisonment, and both are concurrently served. As a consequence, in such a case, the longer period of supervised release will effectively control the duration of supervised release.</u></p> <p><u>If more than two sentences are consecutively executed, all will be aggregated as described in the preceding paragraph.</u></p>

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		<p>[If, however, the first sentence and the consecutive sentence were executed on different days or before different courts, the first supervised release term will continue to run during the service of the second executed consecutive sentence. As a consequence, in such a case, the first offense’s supervised release term may be served at the same time as the consecutively sentenced offense’s term of imprisonment and supervised release term.]</p> <p>[OR]</p> <p>[If, however, the offender has previously been placed on supervised release for the first executed sentence when the court imposes an executed consecutive sentence, the first supervised release term will continue to run during the service of the second executed consecutive sentence. As a consequence, in such a case, the first offense’s supervised release term may be served at the same time as the consecutively</p>	<p>[If, however, the first sentence and the consecutive sentence were executed on different days or before different courts, the first supervised release term will continue to run during the service of the second executed consecutive sentence. As a consequence, in such a case, the first offense’s supervised release term may be served at the same time as the consecutively sentenced offense’s term of imprisonment and supervised release term.]</p> <p>[OR]</p> <p>[If, however, the offender has previously been placed on supervised release for the first executed sentence when the court imposes an executed consecutive sentence, the first supervised release term will continue to run during the service of the second executed consecutive sentence. As a consequence, in such a case, the first offense’s supervised release term may be served at the same time as the consecutively</p>

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<p><i>Comment</i> 2.F.01. Consecutive sentences are a more severe sanction because the intent is to confine the offender for a longer period than under concurrent sentences. If the severity of the sanction is to be proportional to the severity of the offense, consecutive sentences should be limited to more severe offenses. The Commission recommends that the court consider carefully whether the purposes of the Guidelines (in terms of punishment proportional to the severity of the offense and the offender’s criminal history) would be served best by concurrent rather than consecutive sentences.</p> <p>2.F.02. The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence. The Commissioner of Corrections aggregates the separate durations into a single fixed sentence. The terms of imprisonment and the periods of supervised release are aggregated</p>	<p><i>Comment</i> 2.F.01. Consecutive sentences are a more severe sanction because the intent is to confine the offender for a longer period than under concurrent sentences. If the severity of the sanction is to be proportional to the severity of the offense, consecutive sentences should be limited to more severe offenses. The Commission recommends that the court consider carefully whether the purposes of the Guidelines (in terms of punishment proportional to the severity of the offense and the offender’s criminal history) would be served best by concurrent rather than consecutive sentences.</p> <p>2.F.02. The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence. <u>For consecutive sentences, the two-thirds terms of imprisonment are served consecutively; however, the one-third terms of supervised release are served</u></p>	<p><u>sentenced offense’s term of imprisonment and supervised release term.</u></p> <p><i>Comment</i> 2.F.01. Consecutive sentences are a more severe sanction because the intent is to confine the offender for a longer period than under concurrent sentences. If the severity of the sanction is to be proportional to the severity of the offense, consecutive sentences should be limited to more severe offenses. The Commission recommends that the court consider carefully whether the purposes of the Guidelines (in terms of punishment proportional to the severity of the offense and the offender’s criminal history) would be served best by concurrent rather than consecutive sentences.</p> <p>2.F.02. The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence. <u>When a sentence is executed consecutively to another executed sentence</u> <u>[at the same time and before the same court]</u></p>	<p><u>sentence offense’s term of imprisonment and supervised release term.]</u></p> <p><i>Comment</i> 2.F.01. Consecutive sentences are a more severe sanction because the intent is to confine the offender for a longer period than under concurrent sentences. If the severity of the sanction is to be proportional to the severity of the offense, consecutive sentences should be limited to more severe offenses. The Commission recommends that the court consider carefully whether the purposes of the Guidelines (in terms of punishment proportional to the severity of the offense and the offender’s criminal history) would be served best by concurrent rather than consecutive sentences.</p> <p>2.F.02. The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence. <u>When a sentence is executed consecutively to another executed sentence</u> <u>[at the same time and before the same court]</u></p>

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<p>as well. For example, if a court executes a 44-month fixed sentence, and a 24-month fixed sentence to be served consecutively to the first sentence, the Commissioner of Corrections aggregates the sentences into a single 68-month fixed sentence, with a specified minimum 45.3-month term of imprisonment and a specified maximum 22.7-month period of supervised release.</p> <p>44 months (first sentence) +24 months consecutive (second sentence) =68 months (fixed sentence)</p> <p>45.3 months (2/3 – term of imprisonment) 22.7 months (1/3 – supervised release)</p>	<p>concurrently. The Commissioner of Corrections aggregates the separate durations into a single fixed sentence. The terms of imprisonment and the periods of supervised release are aggregated as well. For example, if a court executes a 44-month fixed sentence, and a 24-month fixed sentence to be served consecutively to the first sentence, the Commissioner of Corrections aggregates the sentences into a single 68-month fixed sentence, with a specified minimum 45.3-month term of imprisonment and a specified maximum 22.7-month period of supervised release.</p> <p>44 months (first sentence) +24 months consecutive (second sentence) =68 months (fixed sentence)</p> <p>45.3 months (2/3 – term of imprisonment) 22.7 months (1/3 – supervised release)</p> <p><u>For example, if a court executes a 60-month fixed sentence, and a 21-month fixed sentence to be served consecutively to the first sentence, the offender serves the 40-month term of imprisonment (2/3 of 60</u></p>	<p>[OR]</p> <p><u>[during the term of imprisonment or extended incarceration of the first executed sentence]</u></p> <p>the Commissioner of Corrections aggregates the separate durations into a single fixed sentence. The two-thirds terms of imprisonment are aggregated and served consecutively; then, the one-third and the periods of supervised release are aggregated and served consecutively as well. For example, if a court executes a 44-month fixed sentence, and a 24-month fixed sentence to be served consecutively to the first sentence, the Commissioner of Corrections aggregates the sentences into a single 68-month fixed sentence, with a specified minimum 45.3-month term of imprisonment and a specified maximum 22.7-month period of supervised release.</p> <p>44 months (first sentence) +24 months consecutive (second sentence) =68 months (fixed sentence)</p>	<p>[OR]</p> <p><u>[during the term of imprisonment or extended incarceration of the first executed sentence]</u></p> <p>the Commissioner of Corrections aggregates the separate durations into a single fixed sentence. The two-thirds terms of imprisonment, which are served consecutively. The one-third and the periods of supervised release are not aggregated. Instead, both supervised release terms begin at the conclusion of the aggregate term of imprisonment. The supervised release terms run concurrently with each other, but do not run during either term of imprisonment. As a result, the longest remaining supervised release term controls the duration of supervised release. as well. For example, if a court executes a 44-month fixed sentence, and a 24-month fixed sentence to be served consecutively to the first sentence, the Commissioner of Corrections aggregates the sentences into a single 68-month fixed</p>

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	<p><u>months) from the first sentence followed by the 14-month term of imprisonment (2/3 of 20 months) from the second sentence, for an effective 54-month term of imprisonment. The terms of supervised release are not added together. The 20-month supervised release term from the first sentence (1/3 of 60 months) would begin during the term of imprisonment on the second sentence. The remainder of the supervised release term from the first sentence (6 months) would be served concurrently with the supervised release term from the second sentence (7 months), as shown below:</u></p> <p>< example graphic will be inserted here > <1st Sentence: 2/3 Term of Imprisonment (40 Mos.) 1st Sent: 1/3 Sup. Rel. (20 Mos.) 2nd Sentence: 2/3 Term of Imprisonment (14 Mos.) 2nd Sent: 1/3 Sup. Rel. (7 Mos.)></p>	<p>45.3 months (2/3 — term of imprisonment) 22.7 months (1/3 — supervised release) <u>For example, if a court executes a 60-month fixed sentence, and a 21-month fixed sentence to be served consecutively to the first sentence, the Commissioner of Corrections must aggregate the 40-month and 14-month terms of imprisonment into a single 54-month fixed term of imprisonment, and must aggregate the supervised release terms of 20 months and 7 months into a single 27-month fixed term of supervised release to be served consecutively, as shown below:</u></p> <p><example graphic will be inserted here> <1st Sentence: 2/3 Term of Imprisonment (40 Mos.)> <2nd Sentence: 2/3 Term of Imprisonment (14 Mos.)> <1st Sent: 1/3 Sup. Rel. (20 Mos.)> <2nd Sent: 1/3 Sup. Rel. (7 Mos.)></p>	<p>sentence, with a specified minimum 45.3-month term of imprisonment and a specified maximum 22.7 month period of supervised release. 44 months (first sentence) +24 months consecutive (second sentence) =68 months (fixed sentence) 45.3 months (2/3 — term of imprisonment) 22.7 months (1/3 — supervised release) <u>For example, if a court executes a 60-month fixed sentence, and a 21-month fixed sentence to be served consecutively to the first sentence, the Commissioner of Corrections must aggregate the 40-month and 14-month terms of imprisonment into a single 54-month fixed term of imprisonment. The offender’s two supervised release terms are 20 months and 7 months. Because the supervised release terms are concurrent, the net supervised release term is 20 month, which begins upon release from the aggregate term of imprisonment for both offenses.</u></p> <p><example graphic will be inserted here></p>

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	<p><u>2.F.03. When a sentence is executed consecutively to another executed sentence, the terms of imprisonment will be served consecutively, but the first supervised release term will continue to run even while the offender is imprisoned for the second offense. While supervised release may be thought of as inconsistent with imprisonment, it will, while occurring simultaneously with imprisonment, be treated as if it had been revoked.</u></p>	<p><u>2.F.03. When two sentences are executed on different days or before different courts, and one sentence is consecutive to the other, the terms of imprisonment will be served consecutively, but the first supervised release term will continue to run even while the offender is imprisoned for the second offense. While supervised release may be thought of as inconsistent with imprisonment, it will, while occurring simultaneously with imprisonment, be treated as if it had been revoked.</u></p> <p>[OR]</p> <p><u>2.F.03. When a sentence is executed consecutively to, and after having been placed on supervised release for, an earlier</u></p>	<p><1st Sentence: 2/3 Term of Imprisonment (40 Mos.)> <2nd Sentence: 2/3 Term of Imprisonment (14 Mos.)> <1st Sent: 1/3 Sup. Rel. (20 Mos.)> <2nd Sent: 1/3 Sup. Rel. (7 Mos.)></p> <p><u>2.F.03. When two sentences are executed on different days or before different courts, and one sentence is consecutive to the other, the terms of imprisonment will be served consecutively, but the first supervised release term will continue to run even while the offender is imprisoned for the second offense. While supervised release may be thought of as inconsistent with imprisonment, it will, while occurring simultaneously with imprisonment, be treated as if it had been revoked.</u></p> <p>[OR]</p> <p><u>2.F.03. When a sentence is executed consecutively to, and after having been placed on supervised release for, an earlier</u></p>

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<p>1. <u>Presumptive Consecutive Sentences.</u></p> <p>a. <u>Criteria for Imposing a Presumptive Consecutive Sentence.</u> Consecutive sentences are presumptive (required under the Guidelines) when:</p> <p>(1) the offender is:</p> <ul style="list-style-type: none"> (i) serving an executed prison sentence; (ii) on escape status from an executed prison sentence; (iii) on supervised release; or (iv) on conditional release following release from an 	<p>1. <u>Presumptive Consecutive Sentences.</u></p> <p>a. <u>Criteria for Imposing a Presumptive Consecutive Sentence.</u> Consecutive sentences are presumptive (required under the Guidelines) when:</p> <p>(1) the offender is was, at the time of the current offense:</p> <ul style="list-style-type: none"> (i) serving an executed prison sentence; (ii) on escape status from an executed prison sentence; (iii) on supervised release; or 	<p><i>term of imprisonment, the terms of imprisonment will be served consecutively, but the first supervised release term will continue to run even while the offender is imprisoned for the second offense. While supervised release may be thought of as inconsistent with imprisonment, it will, while occurring simultaneously with imprisonment, be treated as if it had been revoked.</i></p> <p>1. <u>Presumptive Consecutive Sentences.</u></p> <p>a. <u>Criteria for Imposing a Presumptive Consecutive Sentence.</u> Consecutive sentences are presumptive (required under the Guidelines) when:</p> <p>(1) the offender is was, at the time of the current offense:</p> <ul style="list-style-type: none"> (i) serving an executed prison sentence; term of imprisonment, extended incarceration, or reimprisonment; or (ii) on escape status from an executed prison sentence 	<p><i>term of imprisonment, the terms of imprisonment will be served consecutively, but the first supervised release term will continue to run even while the offender is imprisoned for the second offense. While supervised release may be thought of as inconsistent with imprisonment, it will, while occurring simultaneously with imprisonment, be treated as if it had been revoked.</i></p> <p>1. <u>Presumptive Consecutive Sentences.</u></p> <p>a. <u>Criteria for Imposing a Presumptive Consecutive Sentence.</u> Consecutive sentences are presumptive (required under the Guidelines) when:</p> <p>(1) the offender is was, at the time of the current offense:</p> <ul style="list-style-type: none"> (i) serving an executed prison sentence; term of imprisonment, extended incarceration, or reimprisonment; or (ii) on escape status from an executed prison sentence

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<p>executed prison sentence (see conditional release terms in section 2.E.3); and</p> <p>(2) the presumptive disposition for the current offense(s) is commitment. The presumptive disposition for an escape from an executed sentence or for a felony assault committed by an inmate serving an executed term of imprisonment is always commitment.</p>	<p>(iv) on conditional release following release from an executed prison sentence (see conditional release terms in section 2.E.3); and</p> <p>(2) the presumptive disposition for the current offense(s) is commitment. The presumptive disposition for an escape from an executed sentence or for a felony assault committed by an inmate serving an executed term of imprisonment is always commitment.</p> <p>b. <u>Finding the Presumptive Disposition.</u> The presumptive disposition for an escape from an executed sentence or for a felony assault committed by an inmate serving an executed term of</p>	<p><u>term of imprisonment, extended incarceration, or reimprisonment;</u> (iii) on supervised release; or (iv) on conditional release following release from an executed prison sentence (see conditional release terms in section 2.E.3); and</p> <p>(2) the presumptive disposition for the current offense(s) is commitment. The presumptive disposition for an escape from an executed sentence or for a felony assault committed by an inmate serving an executed term of imprisonment is always commitment.</p> <p>b. <u>Finding the Presumptive Disposition.</u> The presumptive disposition for an escape from an executed sentence or for a felony assault committed by an inmate serving an executed term of imprisonment is always commitment. In all other cases, the presumptive</p>	<p><u>term of imprisonment, extended incarceration, or reimprisonment;</u> (iii) on supervised release; or (iv) on conditional release following release from an executed prison sentence (see conditional release terms in section 2.E.3); and</p> <p>(2) the presumptive disposition for the current offense(s) is commitment. The presumptive disposition for an escape from an executed sentence or for a felony assault committed by an inmate serving an executed term of imprisonment is always commitment.</p> <p>b. <u>Finding the Presumptive Disposition.</u> The presumptive disposition for an escape from an executed sentence or for a felony assault committed by an inmate serving an executed term of imprisonment is always commitment. In all other cases, the presumptive</p>

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<p>b. <u>Finding the Presumptive Duration.</u> For each offense sentenced consecutively to another offense(s) under this section, the presumptive duration is the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 1, or the mandatory minimum for the offense, whichever is longer.</p> <p>c. <u>Exception When Presumptive Concurrent Sentence is Longer.</u> If the criteria in paragraph 2.F.1.a have been met but the total time to serve in prison would be longer if a concurrent sentence were imposed, a concurrent sentence is presumptive. Otherwise, a concurrent sentence is a departure.</p>	<p><u>imprisonment is always commitment. In all other cases, the presumptive disposition is determined using the criteria in section 2.C.</u></p> <p>c. b. <u>Finding the Presumptive Duration.</u> For each offense sentenced consecutively to another offense(s) under this section, the presumptive duration is the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 1, or the mandatory minimum for the offense, whichever is longer.</p> <p>d. c. <u>Exception When Presumptive Concurrent Sentence is Longer.</u> If the criteria in paragraph 2.F.1.a have been met but the total time to serve in prison would be longer if a concurrent sentence were imposed, a concurrent sentence is presumptive. Otherwise, a concurrent sentence is a departure.</p>	<p><u>disposition is determined using the criteria in section 2.C.</u></p> <p>c. b. <u>Finding the Presumptive Duration.</u> For each offense sentenced consecutively to another offense(s) under this section, the presumptive duration is the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 1, or the mandatory minimum for the offense, whichever is longer.</p> <p>d. c. <u>Exception When Presumptive Concurrent Sentence is Longer.</u> If the criteria in paragraph 2.F.1.a have been met but the total time to serve in prison would be longer if a concurrent sentence were imposed, a concurrent sentence is presumptive. Otherwise, a concurrent sentence is a departure.</p> <p>e. <u>Consecutive Sentences for Multiple Offenses. When the court pronounces presumptive consecutive</u></p>	<p><u>disposition is determined using the criteria in section 2.C.</u></p> <p>c. b. <u>Finding the Presumptive Duration.</u> For each offense sentenced consecutively to another offense(s) under this section, the presumptive duration is the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 1, or the mandatory minimum for the offense, whichever is longer.</p> <p>d. c. <u>Exception When Presumptive Concurrent Sentence is Longer.</u> If the criteria in paragraph 2.F.1.a have been met but the total time to serve in prison would be longer if a concurrent sentence were imposed, a concurrent sentence is presumptive. Otherwise, a concurrent sentence is a departure.</p> <p>e. <u>Consecutive Sentences for Multiple Offenses. When the court pronounces presumptive consecutive</u></p>

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<p>d. <u>Departure Factor</u>. If there is evidence that the defendant has provided substantial and material assistance in the detection or prosecution of crime, the court may depart from the presumptive consecutive sentence and impose a concurrent sentence.</p> <p>e.</p> <p>f. <u>Felony Driving While Impaired (DWI)</u>. Minn. Stat. § 169A.28 subd. 1 requires a consecutive sentence when the court sentences an offender for a felony DWI and:</p>	<p>e. <u>Consecutive Sentences for Multiple Offenses</u>. When the court pronounces presumptive consecutive sentences for multiple offenses, each new offense will be sentenced at a Criminal History Score of 1. The new offenses will run concurrently to each other, but consecutive to the prior offense. Permissive consecutive sentencing under section 2.F.2 is not a departure if it would result in a longer sentence than the sentence resulting from this rule.</p> <p>f. e <u>Departure Factor</u>. If there is evidence that the defendant has provided substantial and material assistance in the detection or prosecution of crime, the court may depart from the presumptive consecutive sentence and impose a concurrent sentence.</p> <p>g. e <u>Felony Driving While Impaired (DWI)</u>. Minn. Stat. § 169A.28 subd. 1 requires a consecutive sentence when</p>	<p><u>sentences for multiple offenses, each new offense will be sentenced at a Criminal History Score of 1. The new offenses will run concurrently to each other, but consecutive to the prior offense. Permissive consecutive sentencing under section 2.F.2 is not a departure if it would result in a longer sentence than the sentence resulting from this rule.</u></p> <p>f. e <u>Departure Factor</u>. If there is evidence that the defendant has provided substantial and material assistance in the detection or prosecution of crime, the court may depart from the presumptive consecutive sentence and impose a concurrent sentence.</p> <p>g. e <u>Felony Driving While Impaired (DWI)</u>. Minn. Stat. § 169A.28 subd. 1 requires a consecutive sentence when the court sentences an offender for a felony DWI and:</p>	<p><u>sentences for multiple offenses, each new offense will be sentenced at a Criminal History Score of 1. The new offenses will run concurrently to each other, but consecutive to the prior offense. Permissive consecutive sentencing under section 2.F.2 is not a departure if it would result in a longer sentence than the sentence resulting from this rule.</u></p> <p>f. e <u>Departure Factor</u>. If there is evidence that the defendant has provided substantial and material assistance in the detection or prosecution of crime, the court may depart from the presumptive consecutive sentence and impose a concurrent sentence.</p> <p>g. e <u>Felony Driving While Impaired (DWI)</u>. Minn. Stat. § 169A.28 subd. 1 requires a consecutive sentence when the court sentences an offender for a felony DWI and:</p>

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<p>(1) the offender has a prior unexpired misdemeanor, gross misdemeanor or felony DWI sentence; and (2) the disposition for the current offense will be probation; but not (3) when the disposition for the current offense will be commitment.</p> <p>If the court pronounces a consecutive sentence, the presumptive duration is based on a Criminal History Score of 1. Any pronounced probationary jail time should be served consecutively to any remaining time to be served on the prior DWI offense.</p> <p><i>Comment</i> 2.F.101. This section establishes criteria requiring the use of consecutive sentences under the Guidelines. These are called “presumptive consecutive sentences.” When consecutive sentencing is presumptive, it is a departure to give concurrent sentences.</p>	<p>the court sentences an offender for a felony DWI and:</p> <p>(1) the offender has a prior unexpired misdemeanor, gross misdemeanor or felony DWI sentence; and (2) the disposition for the current offense will be probation; but not (3) when the disposition for the current offense will be commitment.</p> <p>If the court pronounces a consecutive sentence, the presumptive duration is based on a Criminal History Score of 1. Any pronounced probationary jail time should be served consecutively to any remaining time to be served on the prior DWI offense.</p> <p><i>Comment</i> 2.F.101. This section establishes criteria requiring the use of consecutive sentences under the Guidelines. These are called “presumptive consecutive sentences.” When</p>	<p>(1) the offender has a prior unexpired misdemeanor, gross misdemeanor or felony DWI sentence; and (2) the disposition for the current offense will be probation; but not (3) when the disposition for the current offense will be commitment.</p> <p>If the court pronounces a consecutive sentence, the presumptive duration is based on a Criminal History Score of 1. Any pronounced probationary jail time should be served consecutively to any remaining time to be served on the prior DWI offense.</p> <p><i>Comment</i> 2.F.101. This section establishes criteria requiring the use of consecutive sentences under the Guidelines. These are called “presumptive consecutive sentences.” When consecutive sentencing is presumptive, it is a departure to give concurrent sentences.</p>	<p>(1) the offender has a prior unexpired misdemeanor, gross misdemeanor or felony DWI sentence; and (2) the disposition for the current offense will be probation; but not (3) when the disposition for the current offense will be commitment.</p> <p>If the court pronounces a consecutive sentence, the presumptive duration is based on a Criminal History Score of 1. Any pronounced probationary jail time should be served consecutively to any remaining time to be served on the prior DWI offense</p> <p><i>Comment</i> 2.F.101. This section establishes criteria requiring the use of consecutive sentences under the Guidelines. These are called “presumptive consecutive sentences.” When consecutive sentencing is presumptive, it is a departure to give concurrent sentences.</p>

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<p>2.F.102. When the court pronounces presumptive consecutive sentences for multiple offenses, each new offense will be sentenced at a Criminal History Score of 1. The new offenses will run concurrently to each other, but consecutive to the prior offense.</p> <p>For example, an offender is convicted of Escape from Custody and First-Degree Burglary of an Occupied Dwelling following escape from an executed sentence. The term of imprisonment remaining on the original offense from which the offender escaped is 18 months. Each of the new offenses will have a presumptive consecutive sentence duration found at a Criminal History Score of 1: Escape from Custody (Severity Level 3), 13 months; Burglary (Severity Level 6), 27 months. The two sentences will run concurrently to each other, and the longer of the two durations will be added to the time remaining on the original term of imprisonment (here, 27 months will be added to the time remaining on the original 18-month sentence). Aggregated, the new</p>	<p>consecutive sentencing is presumptive, it is a departure to give concurrent sentences.</p> <p>2.F.102. When the court pronounces presumptive consecutive sentences for multiple offenses, each new offense will be sentenced at a Criminal History Score of 1. The new offenses will run concurrently to each other, but consecutive to the prior offense.</p> <p>For example, an offender is convicted of Escape from Custody and First-Degree Burglary of an Occupied Dwelling following escape from an executed sentence. The term of imprisonment remaining on the original offense from which the offender escaped is 18 months. Each of the new offenses will have a presumptive consecutive sentence duration found at a Criminal History Score of 1: Escape from Custody (Severity Level 3), 13 months; Burglary (Severity Level 6), 27 months. The two sentences will run concurrently to each other, and the longer of the two durations will be added to the time remaining on the original term of</p>	<p>2.F.102. When the court pronounces presumptive consecutive sentences for multiple offenses, each new offense will be sentenced at a Criminal History Score of 1. The new offenses will run concurrently to each other, but consecutive to the prior offense.</p> <p>For example, an offender is convicted of Escape from Custody and First-Degree Burglary of an Occupied Dwelling following escape from an executed sentence. The term of imprisonment remaining on the original offense from which the offender escaped is 18 months. Each of the new offenses will have a presumptive consecutive sentence duration found at a Criminal History Score of 1: Escape from Custody (Severity Level 3), 13 months; Burglary (Severity Level 6), 27 months. The two sentences will run concurrently to each other, and the longer of the two durations will be added to the time remaining on the original term of imprisonment (here, 27 months will be added to the time remaining on the original 18-month sentence). Aggregated, the new</p>	<p>2.F.102. When the court pronounces presumptive consecutive sentences for multiple offenses, each new offense will be sentenced at a Criminal History Score of 1. The new offenses will run concurrently to each other, but consecutive to the prior offense.</p> <p>For example, an offender is convicted of Escape from Custody and First-Degree Burglary of an Occupied Dwelling following escape from an executed sentence. The term of imprisonment remaining on the original offense from which the offender escaped is 18 months. Each of the new offenses will have a presumptive consecutive sentence duration found at a Criminal History Score of 1: Escape from Custody (Severity Level 3), 13 months; Burglary (Severity Level 6), 27 months. The two sentences will run concurrently to each other, and the longer of the two durations will be added to the time remaining on the original term of imprisonment (here, 27 months will be added to the time remaining on the original 18-month sentence). Aggregated, the new</p>

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<p><i>presumptive consecutive sentence duration is 45 months.</i></p> <p>2.F.103. A concurrent sentence is presumptive if the result is that an offender will serve longer in prison. For example, an offender with a Criminal History Score of 6 is on supervised release. The offender has one month remaining until the sentence expires when the offender commits a theft over \$5,000 (Severity Level 3). The Guidelines would typically recommend that the theft run consecutively to the unexpired prior except that a concurrent sentence is longer; therefore, a concurrent sentence is presumptive.</p> <p>1 month (before expiration of sentence) +13 months (Severity Level 3; Criminal History Score of 1) =14 months consecutive vs. 23 months concurrent (Severity Level 3; Criminal History Score of 6)</p>	<p><i>imprisonment (here, 27 months will be added to the time remaining on the original 18-month sentence). Aggregated, <u>In effect,</u> the new presumptive consecutive sentence duration is 45 months.</i></p> <p>2.F.103. A concurrent sentence is presumptive if the result is that an offender will serve longer in prison. For example, an offender with a Criminal History Score of 6 is on supervised release. The offender has one month remaining until the sentence expires when the offender commits a theft over \$5,000 (Severity Level 3). The Guidelines would typically recommend that the theft run consecutively to the unexpired prior except that a concurrent sentence is longer; therefore, a concurrent sentence is presumptive.</p> <p>1 month (before expiration of sentence) +13 months (Severity Level 3; Criminal History Score of 1) =14 months consecutive vs. 23 months concurrent (Severity Level 3; Criminal History Score of 6)</p>	<p><i>presumptive consecutive sentence duration is 45 months.</i></p> <p>2.F.103. A concurrent sentence is presumptive if the result is that an offender will serve longer in prison. For example, an offender inmate <u>inmate</u> with a Criminal History Score of 6 <u>assaults a prison guard during his term of imprisonment and has only one month remaining until his supervised release term is scheduled to begin.</u> is on supervised release. The offender has one month remaining until the sentence expires when the offender commits a theft over \$5,000 (Severity Level 3). The Guidelines would typically recommend that the theft <u>assault</u> run consecutively to the unexpired prior except that a concurrent sentence is longer; therefore, a concurrent sentence is presumptive.</p> <p>1 month (before expiration of sentence <u>scheduled supervised release date</u>) +13 months (Severity Level 3; Criminal History Score of 1) =14 months consecutive vs.</p>	<p><i>presumptive consecutive sentence duration is 45 months.</i></p> <p>2.F.103. A concurrent sentence is presumptive if the result is that an offender will serve longer in prison. For example, an offender inmate <u>inmate</u> with a Criminal History Score of 6 <u>assaults a prison guard during his term of imprisonment and has only one month remaining until his supervised release term is scheduled to begin.</u> is on supervised release. The offender has one month remaining until the sentence expires when the offender commits a theft over \$5,000 (Severity Level 3). The Guidelines would typically recommend that the theft <u>assault</u> run consecutively to the unexpired prior except that a concurrent sentence is longer; therefore, a concurrent sentence is presumptive.</p> <p>1 month (before expiration of sentence <u>scheduled supervised release date</u>) +13 months (Severity Level 3; Criminal History Score of 1) =14 months consecutive vs.</p>

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<p>2.F.104. <i>If the offense is an attempt under Minn. Stat. § 609.17, or a conspiracy under Minn. Stat. § 609.175, and the court pronounces a presumptive consecutive sentence, the presumptive duration for each offense sentenced consecutively to another offense is determined by first locating the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 1, then applying the rules for attempts and conspiracy set forth in section 2.G.2. For example, for an attempted aggravated robbery offense sentenced presumptive consecutive to another offense, the duration found at Severity Level 8 and Criminal History Score of 1 (58 months), is divided in half – making the presumptive duration 29 months.</i></p>	<p>2.F.104. <i>If the offense is an attempt under Minn. Stat. § 609.17, or a conspiracy under Minn. Stat. § 609.175, and the court pronounces a presumptive consecutive sentence, the presumptive duration for each offense sentenced consecutively to another offense is determined by first locating the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 1, then applying the rules for attempts and conspiracy set forth in section 2.G.2. For example, for an attempted aggravated robbery offense sentenced presumptive consecutive to another offense, the duration</i></p>	<p>23 months concurrent (Severity Level 3; Criminal History Score of 6) +12 mos. and 1 day (Severity Level 1; Criminal History Score of 1) =12 mos. and 1 day, consecutive <u>vs.</u> <u>19 months, concurrent (Severity Level 1; Criminal History Score of 6)</u></p> <p>2.F.104. <i>If the offense is an attempt under Minn. Stat. § 609.17, or a conspiracy under Minn. Stat. § 609.175, and the court pronounces a presumptive consecutive sentence, the presumptive duration for each offense sentenced consecutively to another offense is determined by first locating the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 1, then applying the rules for attempts and conspiracy set forth in section 2.G.2. For example, for an attempted aggravated robbery offense sentenced presumptive consecutive to another offense, the duration found at Severity Level 8 and Criminal History Score of 1 (58 months), is divided in half – making the presumptive duration 29 months.</i></p>	<p>23 months concurrent (Severity Level 3; Criminal History Score of 6) +12 mos. and 1 day (Severity Level 1; Criminal History Score of 1) =12 mos. and 1 day, consecutive <u>vs.</u> <u>19 months, concurrent (Severity Level 1; Criminal History Score of 6)</u></p> <p>2.F.104. <i>If the offense is an attempt under Minn. Stat. § 609.17, or a conspiracy under Minn. Stat. § 609.175, and the court pronounces a presumptive consecutive sentence, the presumptive duration for each offense sentenced consecutively to another offense is determined by first locating the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 1, then applying the rules for attempts and conspiracy set forth in section 2.G.2. For example, for an attempted aggravated robbery offense sentenced presumptive consecutive to another offense, the duration found at Severity Level 8 and Criminal History Score of 1 (58 months), is divided in half – making the presumptive duration 29 months.</i></p>

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<p>2. <u>Permissive Consecutive Sentences.</u></p> <p>a. <u>Criteria for Imposing a Permissive Consecutive Sentence.</u> Consecutive sentences are permissive (may be given without departure) only in the situations specified in this section. For each felony offense sentenced consecutively to another felony offense(s), the court must use a Criminal History Score of 0, or the mandatory minimum for the offense, whichever is longer, to determine the presumptive duration. A consecutive sentence at any other duration is a departure.</p> <p>(1) <u>Specific Offenses; Presumptive Commitment.</u> Consecutive sentences are permissive if the presumptive disposition for the current offense(s) is commitment and paragraph (i), (ii), or (iii) applies. If the court pronounces a consecutive stayed sentence</p>	<p><i>found at Severity Level 8 and Criminal History Score of 1 (58 months), is divided in half – making the presumptive duration 29 months.</i></p> <p>2. <u>Permissive Consecutive Sentences.</u></p> <p>a. <u>Criteria for Imposing a Permissive Consecutive Sentence.</u> Consecutive sentences are permissive (may be given without departure) only in the situations specified in this section. For each felony offense sentenced consecutively to another felony offense(s), the court must use a Criminal History Score of 0, or the mandatory minimum for the offense, whichever is longer, to determine the presumptive duration. A consecutive sentence at any other duration is a departure.</p> <p>(1) <u>Specific Offenses; Presumptive Commitment.</u> Consecutive sentences are permissive if the presumptive disposition for the current offense(s) is commitment,</p>	<p>2. <u>Permissive Consecutive Sentences.</u></p> <p>a. <u>Criteria for Imposing a Permissive Consecutive Sentence.</u> Consecutive sentences are permissive (may be given without departure) only in the situations specified in this section. For each felony offense sentenced consecutively to another felony offense(s), the court must use a Criminal History Score of 0, or the mandatory minimum for the offense, whichever is longer, to determine the presumptive duration. A consecutive sentence at any other duration is a departure.</p> <p>(1) <u>Specific Offenses; Presumptive Commitment.</u> Consecutive sentences are permissive if the presumptive disposition for the current offense(s) is commitment, as outlined in section 2.C, and paragraph (i), (ii), or (iii) applies. If the court pronounces a</p>	<p>2. <u>Permissive Consecutive Sentences.</u></p> <p>a. <u>Criteria for Imposing a Permissive Consecutive Sentence.</u> Consecutive sentences are permissive (may be given without departure) only in the situations specified in this section. For each felony offense sentenced consecutively to another felony offense(s), the court must use a Criminal History Score of 0, or the mandatory minimum for the offense, whichever is longer, to determine the presumptive duration. A consecutive sentence at any other duration is a departure.</p> <p>(1) <u>Specific Offenses; Presumptive Commitment.</u> Consecutive sentences are permissive if the presumptive disposition for the current offense(s) is commitment, as outlined in section 2.C, and paragraph (i), (ii), or (iii) applies. If the court pronounces a</p>

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<p>under one of these paragraphs, the stayed sentence is a mitigated dispositional departure, but the consecutive nature of the sentence is not a departure. The consecutive stayed sentence begins when the offender completes the term of imprisonment and is placed on supervised release.</p> <p>(i) <u>Prior Felony Sentence</u>. A current felony conviction for a crime on the list in section 6 of offenses eligible for permissive consecutive sentences may be sentenced consecutively to a prior felony sentence that has not expired or been discharged if the prior felony conviction:</p> <p>(a) is for a crime on the list in section 6 of offenses eligible for permissive</p>	<p>as outlined in section 2.C, and paragraph (i), (ii), or (iii) applies. If the court pronounces a consecutive stayed sentence under one of these paragraphs, the stayed sentence is a mitigated dispositional departure, but the consecutive nature of the sentence is not a departure. The consecutive stayed sentence begins when the offender completes the term of imprisonment and is placed on supervised release.</p> <p>(i) <u>Prior Felony Sentence</u>. A current felony conviction for a crime on the list in section 6 of offenses eligible for permissive consecutive sentences may be sentenced consecutively to a prior felony sentence that has not expired or been discharged if the prior felony conviction:</p>	<p>consecutive stayed sentence under one of these paragraphs, the stayed sentence is a mitigated dispositional departure, but the consecutive nature of the sentence is not a departure. The consecutive stayed sentence begins when the offender completes the term of imprisonment and is placed on supervised release.</p> <p>(i) <u>Prior Felony Sentence</u>. A current felony conviction for a crime on the list in section 6 of offenses eligible for permissive consecutive sentences may be sentenced consecutively to a prior felony sentence that has not expired or been discharged if the prior felony conviction:</p> <p>(a) is for a crime on the list in section 6 of offenses eligible for permissive</p>	<p>consecutive stayed sentence under one of these paragraphs, the stayed sentence is a mitigated dispositional departure, but the consecutive nature of the sentence is not a departure. The consecutive stayed sentence begins when the offender completes the term of imprisonment and is placed on supervised release.</p> <p>(i) <u>Prior Felony Sentence</u>. A current felony conviction for a crime on the list in section 6 of offenses eligible for permissive consecutive sentences may be sentenced consecutively to a prior felony sentence that has not expired or been discharged if the prior felony conviction:</p> <p>(a) is for a crime on the list in section 6 of offenses eligible for permissive</p>

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<p>consecutive sentences; or</p> <p>(b) is from a jurisdiction other than Minnesota and would be equivalent to a crime on the list in section 6.</p> <p>The presumptive disposition for the prior offense(s) must also be commitment as outlined in section 2.C. A non-Minnesota conviction is equivalent to a crime on the list in section 6 if it would both be defined as a felony in Minnesota, and received a sentence that in Minnesota would be a felony-level sentence, including the equivalent of a stay of imposition.</p> <p>(ii) <u>Multiple Current Felony Convictions.</u> If the offender</p>	<p>(a) is for a crime on the list in section 6 of offenses eligible for permissive consecutive sentences; or</p> <p>(b) is from a jurisdiction other than Minnesota and would be equivalent to a crime on the list in section 6.</p> <p>The presumptive disposition for the prior offense(s) must also be commitment as outlined in section 2.C. A non-Minnesota conviction is equivalent to a crime on the list in section 6 if it would both be defined as a felony in Minnesota, and received a sentence that in Minnesota would be a felony-level sentence, including the equivalent of a stay of imposition.</p>	<p>consecutive sentences; or</p> <p>(b) is from a jurisdiction other than Minnesota and would be equivalent to a crime on the list in section 6.</p> <p>The presumptive disposition for the prior offense(s) must also be commitment as outlined in section 2.C. A non-Minnesota conviction is equivalent to a crime on the list in section 6 if it would both be defined as a felony in Minnesota, and received a sentence that in Minnesota would be a felony-level sentence, including the equivalent of a stay of imposition.</p> <p>(ii) <u>Multiple Current Felony Convictions.</u> If the offender</p>	<p>consecutive sentences; or</p> <p>(b) is from a jurisdiction other than Minnesota and would be equivalent to a crime on the list in section 6.</p> <p>The presumptive disposition for the prior offense(s) must also be commitment as outlined in section 2.C. A non-Minnesota conviction is equivalent to a crime on the list in section 6 if it would both be defined as a felony in Minnesota, and received a sentence that in Minnesota would be a felony-level sentence, including the equivalent of a stay of imposition.</p> <p>(ii) <u>Multiple Current Felony Convictions.</u> If the offender</p>

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<p>is being sentenced for multiple current felony convictions for crimes on the list of offenses eligible for permissive consecutive sentences in section 6, the convictions may be sentenced consecutively to each other.</p> <p>(iii) <u>Felony Conviction After Escape (Non-Executed Sentence)</u>. If the offender commits and is convicted for a new felony crime while on felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – from a non-executed felony sentence, the new felony conviction may be sentenced consecutively to the sentence for the escape or the offense for which the offender was confined.</p>	<p>(ii) <u>Multiple Current Felony Convictions</u>. If the offender is being sentenced for multiple current felony convictions for crimes on the list of offenses eligible for permissive consecutive sentences in section 6, the convictions may be sentenced consecutively to each other.</p> <p>(iii) <u>Felony Conviction After Escape (Non-Executed Sentence)</u>. If the offender commits and is convicted for a new felony crime while on felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – from a non-executed felony sentence, the new felony conviction may be sentenced consecutively to the sentence for the escape or</p>	<p>is being sentenced for multiple current felony convictions for crimes on the list of offenses eligible for permissive consecutive sentences in section 6, the convictions may be sentenced consecutively to each other.</p> <p>(iii) <u>Felony Conviction After Escape (Non-Executed Sentence)</u>. If the offender commits and is convicted for a new felony crime while on felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – from a non-executed felony sentence, the new felony conviction may be sentenced consecutively to the sentence for the escape or the offense for which the offender was confined.</p>	<p>is being sentenced for multiple current felony convictions for crimes on the list of offenses eligible for permissive consecutive sentences in section 6, the convictions may be sentenced consecutively to each other.</p> <p>(iii) <u>Felony Conviction After Escape (Non-Executed Sentence)</u>. If the offender commits and is convicted for a new felony crime while on felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – from a non-executed felony sentence, the new felony conviction may be sentenced consecutively to the sentence for the escape or the offense for which the offender was confined.</p>

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<p>(2) <u>Other Offenses</u>. Consecutive sentences for the following offenses are always permissive and there is no dispositional departure if the sentences are executed.</p> <p>(i) <u>Felony Escape</u>. If the offender is convicted of felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – and the offender did not escape from an executed prison sentence, the escape may be sentenced consecutively to the sentence for which the offender was confined.</p> <p>(ii) <u>Felony Conviction After Escape (Executed Sentence)</u>. If the offender committed and is convicted for a new felony crime committed while on felony escape from lawful custody – as defined</p>	<p>the offense for which the offender was confined.</p> <p>(2) <u>Other Offenses</u>. Consecutive sentences for the following offenses are always permissive and there is no dispositional departure if the sentences are executed.</p> <p>(i) <u>Felony Escape</u>. If the offender is convicted of felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – and the offender did not escape from an executed prison sentence, the escape may be sentenced consecutively to the sentence for which the offender was confined.</p> <p>(ii) <u>Felony Conviction After Escape (Executed Sentence)</u>. If the offender committed and is convicted for a new</p>	<p>(2) <u>Other Offenses</u>. Consecutive sentences for the following offenses are always permissive and there is no dispositional departure if the sentences are executed.</p> <p>(i) <u>Felony Escape</u>. If the offender is convicted of felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – and the offender did not escape from an executed prison sentence, the escape may be sentenced consecutively to the sentence for which the offender was confined.</p> <p>(ii) <u>Felony Conviction After Escape (Executed Sentence)</u>. If the offender committed and is convicted for a new felony crime committed while on felony escape from lawful custody – as defined</p>	<p>(2) <u>Other Offenses</u>. Consecutive sentences for the following offenses are always permissive and there is no dispositional departure if the sentences are executed.</p> <p>(i) <u>Felony Escape</u>. If the offender is convicted of felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – and the offender did not escape from an executed prison sentence, the escape may be sentenced consecutively to the sentence for which the offender was confined.</p> <p>(ii) <u>Felony Conviction After Escape (Executed Sentence)</u>. If the offender committed and is convicted for a new felony crime committed while on felony escape from lawful custody – as defined</p>

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<p>in Minn. Stat. § 609.485 – from an executed felony sentence, the new felony may be sentenced consecutively to the sentence for the escape.</p> <p>(iii) <u>Fleeing a Police Officer; Criminal Sexual Conduct.</u> The court may impose consecutive sentences as permitted under Minn. Stat. § 609.035, subds. 5 and 6 if both of the following occur:</p> <p>(a) the offender is convicted of either of the following offenses:</p> <ul style="list-style-type: none"> • Fleeing a Peace Officer in a Motor Vehicle, as defined in Minn. Stat. § 609.487; or • Criminal Sexual Conduct in the First through Fourth Degrees with force or 	<p>felony crime committed while on felony escape from lawful custody – as defined in Minn. Stat. § 609.485 – from an executed felony sentence, the new felony may be sentenced consecutively to the sentence for the escape.</p> <p>(iii) <u>Fleeing a Police Officer; Criminal Sexual Conduct.</u> The court may impose consecutive sentences as permitted under Minn. Stat. § 609.035, subds. 5 and 6 if both of the following occur:</p> <p>(a) the offender is convicted of either of the following offenses:</p> <ul style="list-style-type: none"> • Fleeing a Peace Officer in a Motor Vehicle, as defined in Minn. Stat. § 609.487; or 	<p>in Minn. Stat. § 609.485 – from an executed felony sentence, the new felony may be sentenced consecutively to the sentence for the escape.</p> <p>(iii) <u>Fleeing a Police Officer; Criminal Sexual Conduct.</u> The court may impose consecutive sentences as permitted under Minn. Stat. § 609.035, subds. 5 and 6 if both of the following occur:</p> <p>(a) the offender is convicted of either of the following offenses:</p> <ul style="list-style-type: none"> • Fleeing a Peace Officer in a Motor Vehicle, as defined in Minn. Stat. § 609.487; or • Criminal Sexual Conduct in the First through Fourth Degrees with force or 	<p>in Minn. Stat. § 609.485 – from an executed felony sentence, the new felony may be sentenced consecutively to the sentence for the escape.</p> <p>(iii) <u>Fleeing a Police Officer; Criminal Sexual Conduct.</u> The court may impose consecutive sentences as permitted under Minn. Stat. § 609.035, subds. 5 and 6 if both of the following occur:</p> <p>(a) the offender is convicted of either of the following offenses:</p> <ul style="list-style-type: none"> • Fleeing a Peace Officer in a Motor Vehicle, as defined in Minn. Stat. § 609.487; or • Criminal Sexual Conduct in the First through Fourth Degrees with force or

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<p>violence, as defined in Minn. Stat. §§ 609.342 through 609.345; and</p> <p>(b) the court imposes punishment for any other crime committed by the defendant as part of the same conduct.</p> <p>(iv) <u>Felony Assault in a Local Jail or Workhouse.</u> If the offender is convicted of felony assault committed while in a local jail or workhouse, the felony assault conviction may be sentenced consecutively to any other executed prison sentence if the presumptive disposition for the other offense was commitment as outlined in section 2.C.</p>	<ul style="list-style-type: none"> • Criminal Sexual Conduct in the First through Fourth Degrees with force or violence, as defined in Minn. Stat. §§ 609.342 through 609.345; and <p>(b) the court imposes punishment for any other crime committed by the defendant as part of the same conduct.</p> <p>(iv) <u>Felony Assault in a Local Jail or Workhouse.</u> If the offender is convicted of felony assault committed while in a local jail or workhouse, the felony assault conviction may be sentenced consecutively to any other executed prison sentence if the presumptive disposition for the other offense was</p>	<p>violence, as defined in Minn. Stat. §§ 609.342 through 609.345; and</p> <p>(b) the court imposes punishment for any other crime committed by the defendant as part of the same conduct.</p> <p>(iv) <u>Felony Assault in a Local Jail or Workhouse.</u> If the offender is convicted of felony assault committed while in a local jail or workhouse, the felony assault conviction may be sentenced consecutively to any other executed prison sentence if the presumptive disposition for the other offense was commitment as outlined in section 2.C.</p> <p><u>b. Finding the Presumptive Duration. For each felony offense sentenced</u></p>	<p>violence, as defined in Minn. Stat. §§ 609.342 through 609.345; and</p> <p>(b) the court imposes punishment for any other crime committed by the defendant as part of the same conduct.</p> <p>(iv) <u>Felony Assault in a Local Jail or Workhouse.</u> If the offender is convicted of felony assault committed while in a local jail or workhouse, the felony assault conviction may be sentenced consecutively to any other executed prison sentence if the presumptive disposition for the other offense was commitment as outlined in section 2.C.</p> <p><u>b. Finding the Presumptive Duration. For each felony offense sentenced</u></p>

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<p>commitment as outlined in section 2.C.</p> <p><i>Comment</i> 2.F.201. <i>The Commission establishes criteria that permits, but does not require, the use of consecutive sentences in instances listed in the Guidelines. This is called “permissive consecutive sentences.”</i></p> <p>2.F.202. <i>If an offender is given permissive consecutive sentences, the presumptive duration for each offense sentenced consecutive to another offense(s) is determined by using the zero criminal history column, or the mandatory minimum, whichever is longer. The purpose of this procedure is to count an offender’s criminal history score only one time in the</i></p>	<p>commitment as outlined in section 2.C.</p> <p>b. Finding the Presumptive Duration. For each felony offense sentenced consecutively to another felony offense(s), the court must use a Criminal History Score of 0, or the mandatory minimum for the offense, whichever is longer, to determine the presumptive duration. A consecutive sentence at any other duration is a departure.</p> <p><i>Comment</i> 2.F.201. <i>The Commission establishes criteria that permits, but does not require, the use of consecutive sentences in instances listed in the Guidelines. This is called “permissive consecutive sentences.”</i></p> <p>2.F.202. <i>If an offender is given permissive consecutive sentences, the presumptive duration for each offense sentenced consecutive to another offense(s) is determined by using the zero criminal history</i></p>	<p>consecutively to another felony offense(s), the court must use a Criminal History Score of 0, or the mandatory minimum for the offense, whichever is longer, to determine the presumptive duration. A consecutive sentence at any other duration is a departure.</p> <p><i>Comment</i> 2.F.201. <i>The Commission establishes criteria that permits, but does not require, the use of consecutive sentences in instances listed in the Guidelines. This is called “permissive consecutive sentences.”</i></p> <p>2.F.202. <i>If an offender is given permissive consecutive sentences, the presumptive duration for each offense sentenced consecutive to another offense(s) is determined by using the zero criminal history column, or the mandatory minimum, whichever is longer. The purpose of this procedure is to count an offender’s criminal history score only one time in the</i></p>	<p>consecutively to another felony offense(s), the court must use a Criminal History Score of 0, or the mandatory minimum for the offense, whichever is longer, to determine the presumptive duration. A consecutive sentence at any other duration is a departure.</p> <p><i>Comment</i> 2.F.201. <i>The Commission establishes criteria that permits, but does not require, the use of consecutive sentences in instances listed in the Guidelines. This is called “permissive consecutive sentences.”</i></p> <p>2.F.202. <i>If an offender is given permissive consecutive sentences, the presumptive duration for each offense sentenced consecutive to another offense(s) is determined by using the zero criminal history column, or the mandatory minimum, whichever is longer. The purpose of this procedure is to count an offender’s criminal history score only one time in the</i></p>

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<p><i>computation of consecutive sentence durations.</i></p> <p>2.F.203. <i>If the offense is an attempt under Minn. Stat. § 609.17, or a conspiracy under Minn. Stat. § 609.175, and the court pronounces a permissive consecutive sentence, the presumptive duration for each offense sentenced consecutively to another offense is determined by first locating the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 0, then applying the rules for attempts and conspiracy set forth in section 2.G.2. For example, for an attempted aggravated robbery offense sentenced permissive consecutive to another offense, the duration found at Severity Level 8 and Criminal History Score of 0 (48 months), is divided in half – making the presumptive sentence 24 months.</i></p> <p>2.F.204. <i>The Commission's policies on permissive consecutive sentences outline the criteria that are necessary to permit consecutive sentences without the</i></p>	<p><i>column, or the mandatory minimum, whichever is longer. The purpose of this procedure is to count an offender's criminal history score only one time in the computation of consecutive sentence durations.</i></p> <p>2.F.203. <i>If the offense is an attempt under Minn. Stat. § 609.17, or a conspiracy under Minn. Stat. § 609.175, and the court pronounces a permissive consecutive sentence, the presumptive duration for each offense sentenced consecutively to another offense is determined by first locating the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 0, then applying the rules for attempts and conspiracy set forth in section 2.G.2. For example, for in the case of an attempted aggravated robbery offense sentenced permissive consecutive to another offense, the duration found at Severity Level 8 and Criminal History Score of 0 (48 months), is divided in half – making the presumptive sentence 24 months.</i></p>	<p><i>computation of consecutive sentence durations.</i></p> <p>2.F.203. <i>If the offense is an attempt under Minn. Stat. § 609.17, or a conspiracy under Minn. Stat. § 609.175, and the court pronounces a permissive consecutive sentence, the presumptive duration for each offense sentenced consecutively to another offense is determined by first locating the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 0, then applying the rules for attempts and conspiracy set forth in section 2.G.2. For example, for in the case of an attempted aggravated robbery offense sentenced permissive consecutive to another offense, the duration found at Severity Level 8 and Criminal History Score of 0 (48 months), is divided in half – making the presumptive sentence 24 months.</i></p> <p>2.F.204. <i>The Commission's policies on permissive consecutive sentences outline the criteria that are necessary to permit consecutive sentences without the</i></p>	<p><i>computation of consecutive sentence durations.</i></p> <p>2.F.203. <i>If the offense is an attempt under Minn. Stat. § 609.17, or a conspiracy under Minn. Stat. § 609.175, and the court pronounces a permissive consecutive sentence, the presumptive duration for each offense sentenced consecutively to another offense is determined by first locating the duration in the appropriate cell on the applicable Grid at a Criminal History Score of 0, then applying the rules for attempts and conspiracy set forth in section 2.G.2. For example, for in the case of an attempted aggravated robbery offense sentenced permissive consecutive to another offense, the duration found at Severity Level 8 and Criminal History Score of 0 (48 months), is divided in half – making the presumptive sentence 24 months.</i></p> <p>2.F.204. <i>The Commission's policies on permissive consecutive sentences outline the criteria that are necessary to permit consecutive sentences without the</i></p>

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<p><i>requirement to cite reasons for departure. Courts may pronounce consecutive sentences in any other situation by citing reasons for departure. Courts may also pronounce durational and dispositional departures both upward and downward in cases involving consecutive sentencing if reasons for departure are cited. The reasons for each type of departure should be specifically cited. The procedures for departures are outlined in section 2.D.</i></p> <p>2.F.205. <i>Consecutive sentences are permissive for multiple current felony convictions even when the offenses involve one victim and a single course of conduct, but only when the presumptive disposition is commitment. However, consecutive sentencing is not permissive for multiple current felony convictions involving one victim and a single course of conduct if the court is giving an upward durational departure on any of the current conviction offenses. The Commission believes that to give both an upward durational departure and a consecutive sentence when the</i></p>	<p>2.F.204. <i>The Commission's policies on permissive consecutive sentences outline the criteria that are necessary to permit consecutive sentences without the requirement to cite reasons for departure. Courts may pronounce consecutive sentences in any other situation by citing reasons for departure. Courts may also pronounce durational and dispositional departures both upward and downward in cases involving consecutive sentencing if reasons for departure are cited. The reasons for each type of departure should be specifically cited. The procedures for departures are outlined in section 2.D.</i></p> <p>2.F.205. <i>Consecutive sentences are permissive for multiple current felony convictions even when the offenses involve one victim and a single course of conduct, but only when the presumptive disposition is commitment. However, consecutive sentencing is not permissive for multiple current felony convictions involving one victim and a single course of conduct if the court is giving an upward durational</i></p>	<p><i>requirement to cite reasons for departure. Courts may pronounce consecutive sentences in any other situation by citing reasons for departure. Courts may also pronounce durational and dispositional departures both upward and downward in cases involving consecutive sentencing if reasons for departure are cited. The reasons for each type of departure should be specifically cited. The procedures for departures are outlined in section 2.D.</i></p> <p>2.F.205. <i>Consecutive sentences are permissive for multiple current felony convictions even when the offenses involve one victim and a single course of conduct, but only when the presumptive disposition is commitment. However, consecutive sentencing is not permissive for multiple current felony convictions involving one victim and a single course of conduct if the court is giving an upward durational departure on any of the current conviction offenses. The Commission believes that to give both an upward durational departure and a consecutive sentence when the</i></p>	<p><i>requirement to cite reasons for departure. Courts may pronounce consecutive sentences in any other situation by citing reasons for departure. Courts may also pronounce durational and dispositional departures both upward and downward in cases involving consecutive sentencing if reasons for departure are cited. The reasons for each type of departure should be specifically cited. The procedures for departures are outlined in section 2.D.</i></p> <p>2.F.205. <i>Consecutive sentences are permissive for multiple current felony convictions even when the offenses involve one victim and a single course of conduct, but only when the presumptive disposition is commitment. However, consecutive sentencing is not permissive for multiple current felony convictions involving one victim and a single course of conduct if the court is giving an upward durational departure on any of the current conviction offenses. The Commission believes that to give both an upward durational departure and a consecutive sentence when the</i></p>

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<p><i>circumstances involve one victim and a single course of conduct can result in disproportional sentencing unless additional aggravating factors exist to justify the consecutive sentence.</i></p> <p>2.F.206. <i>An offender given a consecutive sentence for a crime committed while using or possessing metal-penetrating bullets under Minn. Stat. § 624.7191, subd. 3, can get up to the three-year statutory maximum without departing from the Guidelines. The length of the consecutive sentence is left to the discretion of the court. For example, an offender with a Criminal History Score of 0 is sentenced to a presumptive 48 months prison for aggravated robbery in the first degree, and next is sentenced to 36 months prison consecutively for possessing metal-penetrating bullets.</i></p> <p>3. <u>Crime Committed for the Benefit of a Gang.</u> When the court imposes a presumptive or permissive consecutive sentence for a crime committed for the</p>	<p><i>departure on any of the current conviction offenses. The Commission believes that to give both an upward durational departure and a consecutive sentence when the circumstances involve one victim and a single course of conduct can result in disproportional sentencing unless additional aggravating factors exist to justify the consecutive sentence.</i></p> <p>2.F.206. <i>An offender given a consecutive sentence for a crime committed while using or possessing metal-penetrating bullets under Minn. Stat. § 624.7191, subd. 3, can get up to the three-year statutory maximum without departing from the Guidelines. The length of the consecutive sentence is left to the discretion of the court. For example, an offender with a Criminal History Score of 0 is sentenced to a presumptive 48 months prison for aggravated robbery in the first degree, and next is sentenced to 36 months prison consecutively for possessing metal-penetrating bullets.</i></p>	<p><i>circumstances involve one victim and a single course of conduct can result in disproportional sentencing unless additional aggravating factors exist to justify the consecutive sentence.</i></p> <p>2.F.206. <i>An offender given a consecutive sentence for a crime committed while using or possessing metal-penetrating bullets under Minn. Stat. § 624.7191, subd. 3, can get up to the three-year statutory maximum without departing from the Guidelines. The length of the consecutive sentence is left to the discretion of the court. For example, an offender with a Criminal History Score of 0 is sentenced to a presumptive 48 months prison for aggravated robbery in the first degree, and next is sentenced to 36 months prison consecutively for possessing metal-penetrating bullets.</i></p> <p>3. <u>Crime Committed for the Benefit of a Gang.</u> When the court imposes a presumptive or permissive consecutive sentence for a crime committed for the</p>	<p><i>circumstances involve one victim and a single course of conduct can result in disproportional sentencing unless additional aggravating factors exist to justify the consecutive sentence.</i></p> <p>2.F.206. <i>An offender given a consecutive sentence for a crime committed while using or possessing metal-penetrating bullets under Minn. Stat. § 624.7191, subd. 3, can get up to the three-year statutory maximum without departing from the Guidelines. The length of the consecutive sentence is left to the discretion of the court. For example, an offender with a Criminal History Score of 0 is sentenced to a presumptive 48 months prison for aggravated robbery in the first degree, and next is sentenced to 36 months prison consecutively for possessing metal-penetrating bullets.</i></p> <p>3. <u>Crime Committed for the Benefit of a Gang.</u> When the court imposes a presumptive or permissive consecutive sentence for a crime committed for the</p>

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<p>benefit of a gang under Minn. Stat. § 609.229, subd. 3, the presumptive duration includes additional months as outlined in section 2.G.</p> <p>4. <u>Pre-Guidelines Cases</u>. If a sentence is imposed consecutively to an offense committed before May 1, 1980, the consecutive sentence begins after completion of any incarceration arising from the prior sentence.</p> <p><i>Comment</i> 2.F.401. <i>The Commissioner of Corrections has the authority to establish policies regarding durations of confinement for offenders sentenced for crimes committed before May 1, 1980, and will continue to establish policies for the durations of confinement for offenders revoked and re-imprisoned while on parole or supervised release, who were imprisoned for crimes committed on or after May 1, 1980.</i></p> <p><i>If an offender is under the custody of the Commissioner of Corrections pursuant to a sentence for an offense committed on or before April 30, 1980, and if the offender is</i></p>	<p>3. <u>Crime Committed for the Benefit of a Gang</u>. When the court imposes a presumptive or permissive consecutive sentence for a crime committed for the benefit of a gang under Minn. Stat. § 609.229, subd. 3, the presumptive duration includes additional months as outlined in section 2.G.</p> <p>4. <u>Pre-Guidelines Cases</u>. If a sentence is imposed consecutively to an offense committed before May 1, 1980, the consecutive sentence begins after completion of any incarceration arising from the prior sentence.</p> <p><i>Comment</i> 2.F.401. <i>The Commissioner of Corrections has the authority to establish policies regarding durations of confinement for offenders sentenced for crimes committed before May 1, 1980, and will continue to establish policies for the durations of confinement for offenders revoked and re-imprisoned while on parole or supervised release, who were imprisoned for crimes committed on or after May 1, 1980.</i></p>	<p>benefit of a gang under Minn. Stat. § 609.229, subd. 3, the presumptive duration includes additional months as outlined in section 2.G.</p> <p>4. <u>Pre-Guidelines Cases</u>. If a sentence is imposed consecutively to an offense committed before May 1, 1980, the consecutive sentence begins after completion of any incarceration arising from the prior sentence.</p> <p><i>Comment</i> 2.F.401. <i>The Commissioner of Corrections has the authority to establish policies regarding durations of confinement for offenders sentenced for crimes committed before May 1, 1980, and will continue to establish policies for the durations of confinement for offenders revoked and re-imprisoned while on parole or supervised release, who were imprisoned for crimes committed on or after May 1, 1980.</i></p> <p><i>If an offender is under the custody of the Commissioner of Corrections pursuant to a sentence for an offense committed on or before April 30, 1980, and if the offender is</i></p>	<p>benefit of a gang under Minn. Stat. § 609.229, subd. 3, the presumptive duration includes additional months as outlined in section 2.G.</p> <p>4. <u>Pre-Guidelines Cases</u>. If a sentence is imposed consecutively to an offense committed before May 1, 1980, the consecutive sentence begins after completion of any incarceration arising from the prior sentence.</p> <p><i>Comment</i> 2.F.401. <i>The Commissioner of Corrections has the authority to establish policies regarding durations of confinement for offenders sentenced for crimes committed before May 1, 1980, and will continue to establish policies for the durations of confinement for offenders revoked and re-imprisoned while on parole or supervised release, who were imprisoned for crimes committed on or after May 1, 1980.</i></p> <p><i>If an offender is under the custody of the Commissioner of Corrections pursuant to a sentence for an offense committed on or before April 30, 1980, and if the offender is</i></p>

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<p><i>convicted of a new felony committed on or after May 1, 1980, and is given a presumptive sentence to run consecutively to the previous indeterminate sentence, the phrase “completion of any incarceration arising from the prior sentence” means the target release date the Commissioner of Corrections assigned to the inmate for the offense committed on or before April 30, 1980, or the date on which the inmate completes any incarceration assigned as a result of a revocation of parole for the pre-Guidelines offense.</i></p>	<p><i>If an offender is under the custody of the Commissioner of Corrections pursuant to a sentence for an offense committed on or before April 30, 1980, and if the offender is convicted of a new felony committed on or after May 1, 1980, and is given a presumptive sentence to run consecutively to the previous indeterminate sentence, the phrase “completion of any incarceration arising from the prior sentence” means the target release date the Commissioner of Corrections assigned to the inmate for the offense committed on or before April 30, 1980, or the date on which the inmate completes any incarceration assigned as a result of a revocation of parole for the pre-Guidelines offense.</i></p>	<p><i>convicted of a new felony committed on or after May 1, 1980, and is given a presumptive sentence to run consecutively to the previous indeterminate sentence, the phrase “completion of any incarceration arising from the prior sentence” means the target release date the Commissioner of Corrections assigned to the inmate for the offense committed on or before April 30, 1980, or the date on which the inmate completes any incarceration assigned as a result of a revocation of parole for the pre-Guidelines offense.</i></p>	<p><i>convicted of a new felony committed on or after May 1, 1980, and is given a presumptive sentence to run consecutively to the previous indeterminate sentence, the phrase “completion of any incarceration arising from the prior sentence” means the target release date the Commissioner of Corrections assigned to the inmate for the offense committed on or before April 30, 1980, or the date on which the inmate completes any incarceration assigned as a result of a revocation of parole for the pre-Guidelines offense.</i></p>