

1. Purpose and Definitions

A. Statement of Purpose and Principles

The purpose of the Sentencing Guidelines is to establish rational and consistent sentencing standards that promote public safety, reduce sentencing disparity, and ensure that the sanctions imposed for felony convictions are proportional to the severity of the conviction offense and the criminal history of the person being sentenced.

The sentencing guidelines shall embody the following principles:

1. In establishing and modifying the Sentencing Guidelines, the Commission's primary consideration shall be public safety, including consideration of the long-term negative impact of the crime on the community. Minnesota Statutes, section 244.09, subdivision 5. Public safety is furthered by sentences that work to reduce future crimes and victimizations through means such as rehabilitation, deterrence, incapacitation, and effective community supervision. In some cases, it is furthered by reasonable caution in the choice of sanctions that could hinder reintegration into the law-abiding community.

2. Sentencing should be neutral with respect to the race, gender, social, or economic status of those convicted of felonies.

3. The severity of the sanction should increase in direct proportion to an increase in offense severity or criminal history, or both. This promotes a rational and consistent sentencing policy. Proportionate sentence severity is measured against the blameworthiness of the person being sentenced and the harms done, or risked, to victims and the community in the current offense.

4. The criminal history score advances the Guidelines' goals of public safety and proportionality. The score reflects policy judgments that prior convictions are an important indicator of a person's risk of recidivism, and that they may add to the blameworthiness of the commission of the current offense. The criminal history score is not meant to impose cumulative penalties for prior offenses that have previously been punished.

5. Commitment to the Commissioner of Corrections is the most severe sanction that can be imposed for a felony conviction, but it is not the only significant sanction available to the court.

6. Because state and local correctional facility capacity is finite, confinement should be imposed only for those convicted of more serious offenses or who have longer criminal histories. To ensure such usage of finite resources, sanctions used in sentencing those convicted of felonies should be the least restrictive necessary to achieve the purposes of the sentence.

7. Although the Sentencing Guidelines are advisory to the court, the presumptive sentences are deemed appropriate for the felonies covered by them. Therefore, departures from the presumptive sentences established in the Sentencing Guidelines should be made only when substantial and compelling circumstances can be identified and articulated.

B. Definitions

As used in these Sentencing Guidelines (or "Guidelines"), the following terms have the meanings given.

1. Commitment. "Commitment" occurs when the offender is sentenced to the custody of the Commissioner of Corrections.

2. Concurrent Sentence. When the court orders sentences to be "concurrent," the court is ordering that multiple sentences be served at the same time.

3. Consecutive Sentence. When the court orders sentences to be "consecutive," the court is ordering that multiple sentences be served one after the other in the manner described in section 2.F.

4. Criminal History Score. The "criminal history score" is comprised of criminal history factors detailed in section 2.B. The horizontal axis on the applicable grid represents the offender's criminal history score.

5. Departure. A "departure" is a pronounced sentence other than that recommended in the appropriate cell on the applicable Grid, including a stayed or imposed gross misdemeanor or misdemeanor sentence.

a. Dispositional Departure. A "dispositional departure" occurs when the court orders a disposition other than that recommended in the Guidelines.

(1) Aggravated Dispositional Departure. An "aggravated dispositional departure" occurs when the Guidelines recommend a stayed sentence but the court pronounces a prison sentence.

(2) Mitigated Dispositional Departure. A "mitigated dispositional departure" occurs when the Guidelines recommend a prison sentence but the court stays the sentence.

b. Durational Departure. A "durational departure" occurs when the court orders a sentence with a prison duration other than the presumptive fixed duration or range in the appropriate cell on the applicable Grid.

(1) Aggravated Durational Departure. An "aggravated durational departure" occurs when the court pronounces a prison duration that is more than 20 percent higher than the fixed duration displayed in the appropriate cell on the applicable Grid.

(2) Mitigated Durational Departure. A "mitigated durational departure" occurs when the court pronounces a prison sentence that is more than 15 percent lower than the fixed duration displayed in the appropriate cell on the applicable Grid.

6. Departure Report. A "departure report" is a form completed by the sentencing court when the court pronounces a sentence that is a departure from the presumptive sentence. Under Minn. R. Crim. P. 27.03, subd. 4(c), the form must be completed and submitted to the Sentencing Guidelines Commission within 15 days after sentencing.

7. Executed Sentence. An "executed sentence" is the total period of time for which an inmate is committed to the custody of the Commissioner of Corrections (sent to prison). Under Minnesota Statutes, section 244.101, the sentence consists of two parts: a minimum term of imprisonment and a maximum period of supervised release.

a. Term of Imprisonment. For offenders committed to the Commissioner of Corrections for crimes committed on or after August 1, 1993, the "term of imprisonment" (incarceration) is equal to two-thirds of the executed sentence.

b. Supervised Release Term. For offenders committed to the Commissioner of Corrections for crimes committed on or after August 1, 1993, the "supervised release term" is a period of mandatory community supervision, which is served following the end of the term of imprisonment, and is equal to one-third of the executed sentence less any applicable disciplinary confinement period.

8. Extended Jurisdiction Juvenile (EJJ). An "extended jurisdiction juvenile" is a child who, under the procedures in Minnesota Statutes, section 260B.130, has been given a stayed adult sentence

and a juvenile disposition, and for whom jurisdiction of the juvenile court may continue until the child's twenty-first birthday.

9. Factfinder. The "factfinder" or finder of fact determines the facts in the case, and may be either the court or the jury.

10. Hernandize. "Hernandize" (or "Hernandizing") is the unofficial term for the process described in section 2.B.1.e of counting criminal history when multiple offenses are sentenced on the same day before the same court.

11. Local Confinement. "Local confinement" is a term of incarceration of up to one year served in a local facility, and may be pronounced by the court as a condition of probation.

12. Mandatory Minimum. The "mandatory minimum" is a minimum executed sentence duration specified in statute for offenders convicted of certain felony offenses.

13. Presumptive Sentence. "Presumptive sentences" are those sentences provided on the Sentencing Guidelines Grids. They are presumptive because they are presumed to be appropriate for all typical cases sharing criminal history and offense severity characteristics.

a. Presumptive Disposition. The "presumptive disposition" is the recommendation for either a commitment or a stayed sentence.

(1) Presumptive Commitment. A "presumptive commitment" is a recommended disposition of imprisonment for cases contained in cells outside of the shaded area on the Grids.

(2) Presumptive Stayed Sentence. A "presumptive stayed sentence" is a recommendation for a stayed sentence for cases contained in the cells within the shaded area on the Grids.

b. Presumptive Duration. The "presumptive duration" is the recommended fixed sentence length in months found in the appropriate cell on the applicable Grid.

c. Presumptive Range. The "presumptive range" is provided for each presumptive fixed duration. Pursuant to Minnesota Statutes, section 244.09, subdivision 5, clause (2), the range is 15 percent lower and 20 percent higher than the fixed duration displayed in each cell on the Grids.

d. Lower Range. The "lower range" is that portion of the presumptive range that is shorter than the fixed presumptive duration.

14. Sentence Modifier. A "sentence modifier" is a statute or policy that aids in defining the punishment for the underlying offense. A sentence modifier can affect either or both the duration and the disposition of the presumptive sentence. See section 2.G for policies relating to determining the presumptive sentence for offenses that include a sentence modifier.

15. Sentencing Guidelines Grids. The "Sentencing Guidelines Grids" (or "Grids") display presumptive sentences for felony offenses according to the severity level of the offense (vertical axis) and offender's criminal history score (horizontal axis).

a. Sex Offender Grid. The "Sex Offender Grid" displays the presumptive sentences for criminal sexual conduct, failure to register as a predatory offender, and related offenses as shown on the Sex Offender Grid.

b. Drug Offender Grid. The "Drug Offender Grid" displays the presumptive sentences for controlled substance crime, failure to affix stamp, and related offenses as shown on the Drug Offender Grid.

c. Standard Grid. The "Standard Grid" displays the presumptive sentences for felony offenses not on the Sex Offender Grid or Drug Offender Grid.

16. Sentencing Worksheet. The "Sentencing Worksheet" (or "Worksheet") is a form completed by probation at the direction of the court under Minnesota Statutes, section 609.115, subdivision 2a. The Worksheet reflects the severity of the current conviction offense, applicable history as calculated under Sentencing Guidelines policies, and the presumptive sentence as reflected in the appropriate cell of the applicable Grid. A separate Worksheet should be completed for all felony-level offenses receiving a stayed or imposed sentence, or a stay of imposition. This includes offenses that receive a life sentence and felony convictions for which the court imposes a gross misdemeanor or misdemeanor sentence.

17. Severity Level. The "severity level" is a ranking assigned to each felony offense by the Sentencing Guidelines Commission to indicate the seriousness of the offense. The vertical axis on the applicable grid represents the severity of the conviction offense. Felony offenses, other than sex and drug offenses, are arranged on the Standard Grid into eleven levels of severity, ranging from high (Severity Level 11) to low (Severity Level 1). Sex offenses are arranged on the Sex Offender Grid into nine severity levels, ranging from high (Severity Level A) to low (Severity Level I). Drug offenses are arranged on the Drug Offender Grid into nine levels of severity, ranging from high (Severity Level D9) to low (Severity Level D1). Offenses listed within each severity level are deemed equally serious.

18. Statutory Maximum. The "statutory maximum" is the maximum sentence duration provided for the offense in statute (e.g., "imprisonment for not more than 15 years").

19. Stayed Sentence. A "stay of sentence" may be accomplished by either a stay of imposition or a stay of execution. There are two steps in sentencing: the imposition of a sentence and the execution of the sentence imposed. The imposition of sentence consists of pronouncing the sentence to be served in prison (for example, three years imprisonment). The execution of an imposed sentence consists of transferring the felon to the custody of the Commissioner of Corrections to serve the prison sentence.

a. Stay of Imposition. A "stay of imposition" occurs when the court accepts and records a finding or plea of guilty, but does not impose (or pronounce) a prison sentence. If the offender successfully completes the stay, the case is discharged, and the conviction is deemed a misdemeanor under Minnesota Statutes, section 609.13, but is still included in criminal history under section 2.B.

b. Stay of Execution. A "stay of execution" occurs when the court accepts and records a finding or plea of guilty, and a prison sentence is pronounced, but is not executed. If the offender successfully completes the stay, the case is discharged, but the offender continues to have a record of a felony conviction, which is included in criminal history under section 2.B.