

MINNESOTA SENTENCING GUIDELINES COMMISSION

SUMMARY OF ADOPTED MODIFICATIONS TO THE SENTENCING GUIDELINES

Includes All Modifications Effective August 1, 1989

Adopted Modifications to Comment II.A.03.(Exclusions from Offense Severity Reference Table):

- 1.Abortion - 617.20; 617.22; 145.412
- 2.Aiding suicide - 609.215
- 3.Altering engrossed bill - 3.191
- 4.Animal fighting - 343.31
- 5.Bigamy - 609.355
- 6.Cigarette tax and regulation violations - 297.12, subd.1
- 7.Collusive bidding/price fixing - 325D.53, subds.1(3), 2 & 3
8. Concealing criminal proceeds; engaging in business - 609.496; 609.497
- ~~8.9~~Corrupting legislator - 609.425
- 9.10. Criminal sexual conduct, third degree - 609.344, subd. 1(a)
(By definition the perpetrator must be a juvenile.)
- ~~10.11.~~ Criminal sexual conduct, fourth degree - 609.345, subd. 1(a)
(By definition the perpetrator must be a juvenile.)
- ~~11.12.~~ Falsely impersonating another - 609.83
13. Forced execution of a declaration - 145B.10, subd. 3
- ~~12.14.~~ Gambling regulation violations - 349.22, subd. 3
- ~~13.15.~~ Hazardous wastes - 609.671; 115.071, subd. 2(2)
- ~~14.16.~~ Horse racing-prohibited act - ~~299J.29~~ 240.25
- ~~15.17.~~ Killing a police dog - 609.596, subd. 1
- ~~16.18.~~ Incest - 609.365
- ~~17.19.~~ Metal penetrating bullets - 624.74
- ~~18.20.~~ Misprision of treason - 609.39
- ~~19.21.~~ Motor vehicle excise tax - 297B.10
- ~~20.22.~~ Obscene materials; distribution - 617.241, subd. 4
- ~~21.23.~~ Obstructing military forces - 609.395
- ~~22.24.~~ Penalties (sales tax violations) - 297A.39
- ~~23.25.~~ Pipeline safety - 299J.07, subd. 2
- ~~24.26.~~ Police radios during commission of crime - 609.856
- ~~25.27.~~ Possession of pictorial representations of minors-617.247
- ~~26.28.~~ Prohibiting promotion of minors to engage in obscene works - 617.246
29. Racketeering, criminal penalties (RICO) - 609.904
- ~~27.30.~~ Sales tax without permit, violations - 297A.08
31. State lottery fraud - 609.651
32. Subdivided land fraud - 83.43
- ~~28.33.~~ Treason - 609.385
34. Unauthorized computer access - 609.891
35. Warning subject of investigation - 609.4971
36. Warning subject of surveillance or search - 609.497
- ~~29.37.~~ Wire communications violations - 626A.02, subd. 4; 626A.03, subd. 1(b)(ii); 626A.26, subd. 2(1)(ii)

Adopted Modifications for Weighting of Prior Felonies

The offender's criminal history index score is computed in the following manner:

1. Subject to the conditions listed below, the offender is assigned ~~one point~~ a particular weight for every felony conviction for which a felony sentence was stayed or imposed before the current sentencing or for which a stay of imposition of sentence was given before the current sentencing.

a. The weight assigned to each prior felony sentence is determined according to its severity level, as follows:

Severity Level I - II - 1/2 point;

Severity Level III - V - 1 point;

Severity Level VI - VII - 1 1/2 point;

Severity Level VIII - X - 2 points; and

Murder 1st Degree - 2 points.

~~a. b.~~ When multiple sentences for a single course of conduct were imposed pursuant to Minn. Stats. § 609.585 or 609.251, the offender is assigned one point only the offense at the highest severity level is considered;

~~b. c.~~ An offender shall not be assigned more than two points. Only the two offenses at the highest severity levels are considered for prior multiple sentences arising out of a single course of conduct in which there were multiple victims;

~~c. d.~~ When a prior felony conviction resulted in a misdemeanor or gross misdemeanor sentence, that conviction shall be counted as a misdemeanor or gross misdemeanor conviction for purposes of computing the criminal history score, and shall be governed by item 3 below;

~~d. e.~~ Prior felony sentences or stays of imposition following felony convictions will not be used in computing the criminal history score if a period of fifteen years has elapsed since the date of discharge from or expiration of the sentence, to the date of the current offense.

Comment

ILB.101 *The basic rule for computing the number of prior felony points in the criminal history score is that the offender is assigned ~~one point~~ a particular weight for every felony conviction for which a felony sentence was stayed or imposed before the current sentencing or for which a stay of imposition of sentence was given before the current sentencing. The felony point total is the sum of these weights. No partial points are given -- thus, a person with less than a full point is not given that point. For example, an offender with a total weight of 2 1/2 would have 2 felony points. The Commission determined that it was important to establish a weighting scheme for prior felony sentences to assure a greater degree of proportionality in the current sentencing. Offenders who have a history of serious felonies are considered more culpable than those offenders whose prior felonies consist primarily of low severity, nonviolent offenses. The Commission recognized that determining the severity level of the prior felonies may be difficult in some instances. The appropriate severity level shall be based on the severity level ranking of the prior offense of conviction that is in effect at the time the offender commits the current offense. It was contemplated that the sentencing court, in its discretion, should make the final determination as to the weight accorded prior felony*

sentences.

In cases of multiple offenses occurring in a single behavioral incident in which state law prohibits the offender being sentenced on more than one offense, ~~the offender would receive one point~~ only the offense at the highest severity level should be considered. The phrase "before the current sentencing" means that in order for prior convictions to be used in computing criminal history score, the felony sentence for the prior offense must have been stayed or imposed before sentencing for the current offense. When multiple current offenses are sentenced on the same day before the same judge, sentencing shall occur in the order in which the offenses occurred. The dates of the offenses shall be determined according to the procedures in ILA.02.

When the judge determines that permissive consecutive sentences will be imposed or determines that a departure regarding consecutive sentences will be imposed, the procedure in section ILF. shall be followed in determining the appropriate sentence duration under the guidelines.

IL.B.102. *In addition, the Commission established policies to deal with several specific situations which arise under Minnesota law. The first deals with conviction under Minn. Stat. § 609.585, under which persons committing theft or another felony offense during the course of a burglary could be convicted of and sentenced for both the burglary and the other felony, or a conviction under Minn. Stat. § 609.251 under which persons who commit another felony during the course of a kidnapping can be convicted of and sentenced for both offenses. In all other instances of multiple convictions arising from a single course of conduct, where there is a single victim, persons may be sentenced on only one offense. For purposes of computing criminal history, the Commission decided that consideration should only be given to the most severe offense when there are prior multiple sentences under provisions of Minn. Stats. § 609.585 or 609.251 ~~should also receive one point.~~ This was done to prevent inequities due to past variability in prosecutorial and sentencing practices with respect to that statute, to prevent systematic manipulation of Minn. Stats. § 609.585 or 609.251 in the future, and to provide a uniform and equitable method of computing criminal history scores for all cases of multiple convictions arising from a single course of conduct, when single victims are involved.*

When multiple current convictions arise from a single course of conduct and multiple sentences are imposed on the same day pursuant to Minn. Stats. § § 609.585 or 609.251, the conviction and sentence for the "earlier" offense should not increase the criminal history score for the "later" offense.

IL.B.103. *To limit the impact of past variability in prosecutorial discretion, the Commission ~~placed a limit of two points on computing~~ decided that for prior multiple felony sentences arising out of a single course of conduct in which there were multiple victims, consideration should be given only for the two most severe offenses. For example, if an offender had robbed a crowded liquor store, he could be convicted of and sentenced for the robbery, as well as one count of assault for every person in the store at the time of the offense. Past variability in prosecutorial charging and negotiating practices could create substantial variance in the number of felony sentences arising from comparable criminal behavior. To prevent this past disparity from entering into the computation of criminal histories, and to prevent manipulation of the system in the future, the Commission ~~placed a limit of two points~~ limited consideration to the two most severe offenses in such situations. This still allows differentiation between those getting multiple sentences in such situations from those getting single sentences, but it prevents the perpetuation of gross disparities from the past.*

~~The two point~~ This limit in calculating criminal history when there are multiple felony sentences arising out of a single course of conduct with multiple victims also applies when such sentences are imposed on the same day.

IL.B.108. *A felony sentence imposed for a criminal conviction treated pursuant to Minn. Stat. Ch. 242 (Youth Conservation Commission and later Youth Corrections Board, repealed 1977) shall be assigned ~~one felony point~~ its appropriate weight in computing the criminal history score according to procedures in IL.B.1.*

IL.B.109. *An offense upon which a judgment of guilty has not been entered before the current sentencing; i.e., pursuant to Minn. Stat. § 152.18, subd. 1, shall not be assigned ~~a felony point~~ any weight in computing the criminal history score.*

Adopted Modifications to the Misdemeanor Point

3. Subject to the conditions listed below, the offender is assigned one unit for each misdemeanor conviction and ~~two units~~ units for each gross misdemeanor conviction (excluding traffic offenses with the exception of DWI and aggravated DWI offenses, which are assigned two units each, when the current conviction offense is criminal vehicular operation) for which a sentence was stayed or imposed before the current sentencing. Four such units shall equal one point on the criminal history score, and no offender shall receive more than one point for prior misdemeanor or gross misdemeanor convictions.

a. Only convictions of statutory misdemeanors and gross misdemeanors listed in the Misdemeanor and Gross Misdemeanor Offense List (see Section V.) ~~or ordinance misdemeanors that conform substantially to a statutory misdemeanor~~ shall be used to compute units. All felony convictions resulting in a misdemeanor or gross misdemeanor sentence shall also be used to compute units.

b. When multiple sentences for a single course of conduct are given pursuant to Minn. Stat. § 609.585, ~~and the most serious conviction is for a gross misdemeanor~~, no offender shall be assigned more than ~~two one~~ one units.

c. A prior misdemeanor or gross misdemeanor sentence shall not be used in computing the criminal history score if a period of ten years has elapsed since the offender was adjudicated guilty for that offense, to the sentencing date for the current offense. However, this does not apply to misdemeanor sentences that result from successful completion of a stay of imposition for a felony conviction.

Comment

II.B.301. *The Commission established a measurement procedure based on units for misdemeanor and gross misdemeanor sentences which are totaled and then converted to a point value. The purpose of this procedure is to provide different weightings for convictions of felonies, gross misdemeanors, and misdemeanors. Under this procedure, misdemeanors are assigned one unit, and gross misdemeanors are assigned ~~two one~~ one units. An offender must have a total of four units to receive one point on the criminal history score. No partial points are given--thus, a person with three units is assigned no point value. As a general rule, the Commission eliminated traffic misdemeanors and gross misdemeanors from consideration. However, the traffic offenses of driving while intoxicated and aggravated driving while intoxicated have particular relevance to the offense of criminal vehicular operation. Therefore, prior misdemeanor and gross misdemeanor sentences for DWI and aggravated DWI shall be used in the computation of the misdemeanor/gross misdemeanor point when the current conviction offense is criminal vehicular operation. These are the only prior misdemeanor and gross misdemeanor sentences that are assigned two units each. The Commission decided to reduce the weight of prior gross misdemeanors (other than DWI related offenses) in order to create a more proportional weighting scheme with respect to the weight of prior felonies at severity levels I and II which receive 1/2 point each. In addition, with the continued creation of new gross misdemeanors that are by definition nearly identical to misdemeanors, it is becoming increasingly difficult to discern whether a prior offense is a gross misdemeanor or a misdemeanor. The Commission believes that in light of these recording problems, a weighting scheme that sets the same weight for both misdemeanors and gross misdemeanors is more consistent and equitable.*

The offense of fleeing a peace officer in a motor vehicle (Minn. Stat. § 609.487) is deemed a non traffic offense. Offenders given a prior misdemeanor or gross misdemeanor sentence for this offense shall be assigned one ~~and two~~ units respectively in computing the criminal history. (Offenders with a prior felony sentence for fleeing a peace officer in a motor vehicle shall be assigned ~~one point~~ the appropriate weight for each sentence subject to the provisions in II.B.1.).

II.B.302. *The Commission placed a limit of one point on the consideration of misdemeanors or gross misdemeanors in*

the criminal history score. This was done because with no limit on point accrual, persons with lengthy, but relatively minor, misdemeanor records could accrue high criminal history scores and, thus, be subject to inappropriately severe sentences upon their first felony conviction. ~~With the exception of offenses with monetary thresholds~~ (The Commission limited consideration of misdemeanors to ~~those which are~~ particularly relevant misdemeanors under existing state statute, ~~or ordinance misdemeanors which substantially conform to existing state statutory misdemeanors. This was done to prevent criminal history point accrual for misdemeanor convictions which are~~ The Commission believes that only certain misdemeanors and gross misdemeanors are particularly relevant in determining the appropriate sentence for the offender's current felony conviction(s). Offenders whose criminal record includes at least four prior sentences for misdemeanors and gross misdemeanors contained in the Misdemeanor and Gross Misdemeanor Offense List, are considered more culpable and are given an additional criminal history point under the guidelines. The Commission has not included certain common misdemeanors in the Misdemeanor and Gross Misdemeanor Offense List because it is believed that these offenses are not particularly relevant in the consideration of the appropriate guideline sentence. This limiting was also done to prevent criminal history point accrual for misdemeanor convictions which are unique to one municipality, or for local misdemeanor offenses of a regulatory or control nature, such as swimming at a city beach with an inner tube. The Commission decided that using such regulatory misdemeanor convictions was inconsistent with the purpose of the criminal history score. In addition, several groups argued that some municipal regulatory ordinances are enforced with greater frequency against low income groups and members of racial minorities, and that using them to compute criminal history scores would result in economic or racial bias. For offenses defined with monetary thresholds, the threshold at the time the offense was committed determines the offense classification for criminal history purposes, not the current threshold.

ILB.303. *The Commission adopted a policy regarding multiple misdemeanor or gross misdemeanor sentences arising from a single course of conduct under Minn. Stat. § 609.585, that parallels their policy regarding multiple felony sentences under that statute. It is possible for a person who commits a misdemeanor in the course of a burglary to be convicted of and sentenced for a gross misdemeanor (the burglary) and the misdemeanor. If that situation exists in an offender's criminal history, the policy places a ~~two~~ one-unit limit in computing the misdemeanor/gross misdemeanor portion of the criminal history score.*

~~***ILB.305.***~~ *If an offender was convicted of a gross misdemeanor, but given a misdemeanor sentence, that is counted as a misdemeanor in computing the criminal history score.*

ILB.3065. *Convictions which are petty misdemeanors by statutory definition, or which have been certified as petty misdemeanors under Minn. R. Crim. P. 23.04, or which are deemed to be petty misdemeanors under Minn. R. Crim. P. 23.02, will not be used to compute the criminal history score.*

ILB.3076. *Misdemeanor convictions under Minn. Stat. § 340A.503, with the exception of subd. 2 (1), will not be used to compute the criminal history score. Because it is not the nature of the act but the age of the offender that determines the crime and because the record of violation cannot be disclosed absent an order by the court, the Commission believes it is inappropriate to include these convictions in the criminal history score.*

Adopted Modifications to the Juvenile Point

4. The offender is assigned one point for every two offenses committed and prosecuted as a juvenile that would have been felonies if committed by an adult, provided that:
 - a. Findings were made by the juvenile court pursuant to an admission in court or after trial;
 - b. Each offense represented a separate behavioral incident or involved separate victims in a single behavioral incident;
 - c. The juvenile offenses occurred after the offender's sixteenth birthday;
 - d. The offender had not attained the age of twenty-one at the time the felony was committed for which he or she is

being currently sentenced; and

e.No offender may receive more than one point for offenses committed and prosecuted as a juvenile unless at least one of the offenses is Murder, Assault in the 1st or 2nd Degree, Criminal Sexual Conduct in the First, Second, or Third Degree or Aggravated Robbery involving a dangerous weapon. No offender may receive more than two points for offenses committed and prosecuted as a juvenile.

Comment

ILB.405. Fourth, the Commission decided that, provided the above conditions are met, it would take two juvenile offenses to equal one point on the criminal history score, and that no offender may receive more than one point on the basis of prior juvenile offenses, unless at least one of the prior offenses was a serious violent offense, subject to provision ILB.4.e., upon which the offender may receive no more than two points. Again, no partial points are allowed, so an offender with only one juvenile offense meeting the above criteria would receive no point on the criminal history score. The ~~one~~ two point limit was deemed consistent with the purpose of including the juvenile record in the criminal history--to distinguish the young adult felon with no juvenile record of felony-type behavior from the young adult offender who has a prior juvenile record of repeated felony-type behavior. The ~~one~~ two point limit also was deemed advisable to limit the impact of findings obtained under a juvenile court procedure that does not afford the full procedural rights available in adult courts. The former one point limit was expanded to two points to differentiate the youthful violent offender.

ILB.406. Only those juvenile offenses where findings were made after August 1, 1989 can contribute to a juvenile history score of two. The Commission was concerned with the disparities in the procedures used in the various juvenile courts. This effective date gives proper notice that in the future, the juvenile history can result in two criminal history points, if at least one of the offenses is an offense listed in section 4.e.

Adopted Modifications to Section II. C. Presumptive Sentence

When the current conviction offense is criminal vehicular operation resulting in death (Minn. Stat. § 609.21, subd. 1 & 3), the presumptive disposition is Commitment to the Commissioner of Corrections. The presumptive duration of sentence is the fixed duration indicated in the appropriate cell of the Sentencing Guidelines Grid.

When the current conviction offense is burglary of an occupied dwelling (Minn. Stat. § 609.582, subd. 1 (a)) and there was a previous adjudication of guilt for a felony burglary before the current offense occurred, the presumptive disposition is Commitment to the Commissioner of Corrections. The presumptive duration of sentence is the fixed duration indicated in the appropriate cell of the Sentencing Guidelines Grid. Similarly, when the current conviction offense is ~~sale of~~ a severity level VI drug crime or sale of cocaine and there was a previous adjudication of guilt for a ~~sale of~~ a severity level VI or above drug crime or sale of cocaine before the current offense occurred, the presumptive disposition is Commitment to the Commissioner of Corrections. The presumptive duration of sentence is the fixed duration indicated in the appropriate cell of the Sentencing Guidelines Grid.

Comment

II.C.01 *The guidelines provide sentences which are presumptive with respect to (a) disposition--whether or not the sentence should be executed, and (b) duration--the length of the sentence. For cases below and to the right of the dispositional line, the guidelines create a presumption in favor of execution of the sentence. For cases in cells above and to the left of the dispositional line, the guidelines create a presumption against execution of the sentence, unless the conviction offense carries a mandatory minimum sentence.*

The dispositional policy adopted by the Commission was designed so that scarce prison resources would primarily be used for serious person offenders and community resources would be used for most property offenders. The Commission believes that a rational sentencing policy requires such trade-offs, to ensure the availability of correctional resources for the most serious offenders. For the first year of guidelines operation, that policy was reflected in sentencing practices. However, by the third year of guideline operation, the percentage of offenders with criminal history scores of four or more had increased greatly, resulting in a significant increase in imprisonment for property offenses. Given finite resources, increased use of imprisonment for property offenses results in reduced prison resources for person offenses. The allocation of scarce resources ~~will be~~ has been monitored and evaluated on an ongoing basis by the Commission. The Commission has determined that assigning particular weights to prior felony sentences in computing the criminal history score will address this problem. The significance of low severity level prior felonies is reduced, which should result in a lower imprisonment rate for property offenders. The significance of more serious prior felonies is increased, which should result in increased prison sentences for repeat serious person offenders.

**Adopted Modifications to Commentary to Address
Dispositional Departures for Reasons Related to the Excluded Factors**

Comment

II.D.101 *The Commission believes that sentencing should be neutral with respect to offenders' race, sex, and income levels. Accordingly, the Commission has listed several factors which should not be used as reasons for departure from the presumptive sentence, because these factors are highly correlated with sex, race, or income levels. ~~The Commission's study of Minnesota sentencing decisions indicated that, unlike many other states, these factors generally were not important in dispositional decisions. Therefore, their exclusion as reasons for departure should not result in a change from current judicial sentencing practices. The only excluded factor which was associated with judicial dispositional decisions was employment at time of sentencing. In addition to~~ Employment is excluded as a reason for departure not only because of its correlation with race and income levels, but also because this factor was excluded because it is manipulable--offenders could lessen the severity of the sentence by obtaining employment between arrest and sentencing. While it may be desirable for offenders to obtain employment between arrest and sentencing, some groups (those with low income levels, low education levels, and racial minorities generally) find it more difficult to*

obtain employment than others. It is impossible to reward those employed without, in fact, penalizing those not employed at time of sentencing. The use of the factors "amenable to probation (or treatment)" or "unamenable to probation" to justify a dispositional departure, could be closely related to social and economic factors. The use of these factors, alone, to explain the reason for departure is insufficient and the trial court shall demonstrate that the departure is not based on any of the excluded factors.

**Adopted Modifications to Add Mitigated Factor
Regarding Crime Spree Offenders**

2. Factors that may be used as reasons for departure: The following is a nonexclusive list of factors which may be used as reasons for departure:

a. Mitigating Factors:

- (1) The victim was an aggressor in the incident.
- (2) The offender played a minor or passive role in the crime or participated under circumstances of coercion or duress.

(3)The offender, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants (drugs or alcohol) does not fall within the purview of this factor.

~~(4)~~The offender's presumptive sentence is a commitment to the commissioner but not a mandatory minimum sentence, and either of the following exist:

~~(a)~~The current conviction offense is at severity level I or II and the offender received all of his or her prior felony sentences during less than three separate court appearances; or

~~(b)~~The current conviction offense is at severity level III or IV and the offender received all of his or her prior felony sentences during one court appearance.

~~(4)~~(5)Other substantial grounds exist which tend to excuse or mitigate the offender's culpability, although not amounting to a defense.

Adopted Modifications to Aggravating Factors

b. Aggravating Factors:

(3)The current conviction is for a Criminal Sexual Conduct offense or an offense in which the victim was otherwise injured and there is a prior felony conviction for a Criminal Sexual Conduct offense or an offense in which the victim was otherwise injured.

~~(8)~~The offender was convicted of a controlled substance offense in

violation of chapter 152 and the offense was committed in a park zone or in a school zone as defined in chapter 152.01.

This aggravating factor shall not apply to an offender convicted of unlawfully possessing controlled substances in a private residence located within a school zone or a park zone if no person under the age of 18 was present in the residence when the offense was committed.

This aggravating factor shall not apply to an offender convicted under chapter 152.022, subdivision 1, clause (5), (ii) or under chapter 152.023, subdivision 2, clause (5).

(9)Offender is a "patterned sex offender" (See Minn. Stat. § 609.1352).

Adopted Modifications to Commentary

Regarding Departures

Comment

II.D.202. The Commission recognizes that the criminal history score does not differentiate between the crime spree offender who has been convicted of several offenses but has not been previously sanctioned by the criminal justice system and the repeat offender who continues to commit new crimes despite receiving previous consequences from the criminal justice system. The Commission believes the nonviolent crime spree offender should perhaps be sanctioned in the community at least once or twice before a prison sentence is appropriate. At this time, the Commission believes that the judge is best able to distinguish these offenders and can depart from the guidelines accordingly.

II.D.2023. An aggravated sentence would be appropriate when the current conviction is for a Criminal Sexual

Conduct offense or for an offense in which the victim was injured and there is a prior felony conviction for a Criminal Sexual Conduct offense or for an offense in which the victim was injured even if the prior felony offense had decayed in accordance with section II.B.1.d.

II.D.204. A special sentencing provision was established by the legislature under M.S. 609.1352 that is available to judges when sentencing certain sex offenders. The use of this sentencing provision would constitute a departure under the sentencing guidelines and a judge must provide written reasons which specify the substantial and compelling nature of the circumstances.

Adopted Modifications to Section II. E. Mandatory Sentences

When an offender has been sentenced according to 609.196, Mandatory Penalty for Certain Murderers, or has been sentenced according to 609.346, subd. 2a, which provides for a mandatory sentence of 37 years for certain sex offenders; the statutory provision determines the presumptive sentence.

Adopted Modifications to Comment II. E. Mandatory Sentences

II.E.01. The types of offenses that may involve a mandatory minimum sentence or a mandatory sentence include offenses involving dangerous weapons, a second or subsequent criminal sexual conduct offense, a second or subsequent controlled substance offense, and certain 2nd and 3rd degree murder offenses when the offender has a prior conviction for a "heinous" offense as described by statute.

~~II.E.01.~~ II.E.02. The Commission attempted to draw . . .

~~II.E.02.~~ II.E.03. In 1981 the mandatory minimum . . .

~~II.E.03.~~ II.E.04. In State v. Feinstein . . .

Adopted Modifications to Comment II. F. 03

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 which the Commission 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 connected with the preguidelines offense.

Adopted Modifications to Section II. G. Convictions for Attempts or Conspiracies

Conspiracy/Attempted Murder, 1st Degree

(The Figures "0" through "6" represent the criminal history score)

<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
130	142	154	166	178	190	202
127-133	138-146	149-159	161-171	173-183	185-195	196-208
<u>180</u>	<u>190</u>	<u>200</u>	<u>210</u>	<u>220</u>	<u>230</u>	<u>240</u>

Adopted Modifications to Comment III. A. 202 (Establishing Conditions of Stayed Sentences):

III.A.202. While the Commission has resolved not to develop guidelines for nonimprisonment sanctions at this time, the Commission believes it is important for the sentencing judge to consider proportionality when pronouncing a period of local confinement as a condition of probation. This is particularly important given Minn. Stat. § 609.135, subd. 7, which states that an offender may not demand execution of sentence. The period of local confinement should be proportional to the severity of the conviction offense and the prior criminal history score of the offender. Therefore, the period of local confinement should not exceed the term of imprisonment that would be served if the offender were to have received an executed prison sentence according to the presumptive guidelines duration.

Adopted Modifications to Section V. Offense Severity Reference Table are as follows:

(Corrected 9/18/89)

Controlled Substance Crime in the First Degree - 152.021

Controlled Substance Crime in the Second Degree - 152.022..

Controlled Substance Crime in the Third Degree - 152.023, subd. 2(1) & (2)

~~Sale of Cocaine - 152.15, subd. 1(1) (i), (ii), (v), & (vi)~~
~~Sale of Hallucinogens or PCP - 152.15, subd. 1(1) (iii), (v), & (vi)~~
~~Sale of Heroin - 152.15, subd. 1(1) (ii), (v), & (vi)~~
~~Sale of Remaining Schedule I & II Narcotics - 152.15, subd. 1(1) (iv), (v), & (vi)~~

Bringing Stolen Goods into State (over \$2,500) - 609.525.....

Controlled Substance Crime in the Third Degree - 152.023, subd. 1 & 2(3), (4), & (5)

~~Criminal Vehicular Operation - 609.21, subd. 1 & 3.~~

~~Precious Metal Dealers, Receiving Stolen Goods (over \$2,500) - 609.53, subd. 1(a)~~

~~Precious Metal Dealers, Receiving Stolen Goods (all values) - 609.53, subd. 3(a)~~

Precious Metal Dealers, Receiving Stolen Goods (over \$2,500) - 609.526, (1)

Precious Metal Dealers, Receiving Stolen Goods (over \$300) - 609.526, second or _____ subsequent violations

~~Receiving Stolen Goods (over \$2,500) - 609.525; 609.53~~

~~Sale of Cocaine - 152.15, subd. 1(2)~~

~~Sale of Hallucinogens or PCP - 152.15, subd. 1(3)(ii)~~

~~Sale of Heroin - 152.15, subd. 1(2)~~

~~Sale of Remaining Schedule I & II Narcotics - 152.15, subd. 1(2)~~

Bringing Stolen Goods into State (\$1,000 - \$2,500) - 609.525

~~Criminal Vehicular Operation - 609.21, subd. 1 & 3 2 & 4~~

~~Receiving Stolen Goods (\$1,000 - \$2,500) - 609.525; 609.53~~

Bringing Stolen Goods into State (\$301 - \$999) - 609.525

Controlled Substance Crime in the Fourth Degree - 152.024.

Negligent Fires - 609.576, subd. 1 (a)

~~Precious Metal Dealers, Receiving Stolen Goods (\$150 - \$2,500) - 609.53, subd. 1(a)~~

~~_____ Precious Metal Dealers, Receiving Stolen Goods (over \$2,500) - 609.53, subd. 2(a)~~

Precious Metal Dealers, Receiving Stolen Goods (\$300 - \$2,500) - 609.526 (1) & (2)

~~Receiving Stolen Goods (\$301 - \$999) Over \$2,500 - 609.525; 609.53~~

~~Receiving Stolen Property (firearm) - 609.53, subd. 1(4)~~

~~Sale of Remaining Schedule I, II, & III Non-Narcotics - 152.15, subd. 1(3) (i)~~

Theft of Motor Vehicle - 609.52, subd. 3(4)(f) (3) (d) (17)

~~Criminal Vehicular Operation - 609.21, subd. 2 & 4~~

Depriving Another of Custodial or Parental Rights - 609.26, subd. 6(2)

Dangerous Smoking - 609.576, subd. 2

Dangerous Trespass, Railroad Tracks - 609.60; 609.85(1)

False Traffic Signal - 609.851, subd. 2

Intentional Release of Harmful Substance - 624.732, subd. 2
Motor Vehicle Use Without Consent - 609.52, subd. 2 (17)
Obstructing Legal Process, Arrest, or Firefighting - 609.50, subd. 2
~~Possession of Cocaine - 152.15, subd. 2(1)~~
~~Possession of Hallucinogens or PCP - 152.15, subd. 2(2)~~
~~Possession of Heroin - 152.15, subd. 2(1)~~
~~Possession of Remaining Schedule I & II Narcotics - 152.15, subd. 2(1)~~
~~Precious Metal Dealers, Receiving Stolen Goods (less than \$150) - 609.53, subd. 1(a)~~
~~Precious Metal Dealers, Receiving Stolen Goods (\$150 - \$2,500) - 609.53, subd. 2(a)~~
Receiving Stolen Goods (\$2,500 or less) - 609.53
~~Sale of Marijuana/Hashish/Tetrahydrocannabinols - 152.15, subd. 1(3)(i)~~
~~Sale of Remaining Schedule I, II, & III Non-Narcotics - 152.15, subd. 1(3)(ii)~~
~~Sale of a Schedule IV Substance - 152.15, subd. 1(4)(i)~~
~~Theft of a Firearm - 609.52, subd. 3(4)(e) (3) (d) (r)~~
Unauthorized Presence at Camp Ripley - 609.396, subd. 2

Controlled Substance Crime in the Fifth Degree - 152.025
Negligent Fires (damage greater than \$10,000) - 609.576, subd. 1 (b)(3)
~~Precious Metal Dealers, Receiving Stolen Goods (less than \$150) - 609.53, subd. 2(a)~~
~~———— Sale of Marijuana/Hashish/Tetrahydrocannabinols - 152.15, subd. 1(3)(ii)~~
~~Sale of a Schedule IV Substance - 152.15, subd. 1(4) (ii)~~

Assault 4 - 609.2231, subd. 1
Assaults Motivated by Bias - 609.2231, subd. 4 (b)
Criminal Damage to Property Motivated by Bias - 609.595, subd. 1a, (a)
Depriving Another of Custodial or Parental Rights - 609.26, subd. 6 (1)
~~Fraudulent Procurement of a Controlled Substance - 152.15, subd. 3~~
~~Possession of Marijuana/Hashish/Tetrahydrocannabinols - 152.15, subd. 2(2)~~
~~Possession of Remaining Schedule I, II, & III Non-Narcotics - 152.15, subd. 2(2)~~
~~Possession of Schedule IV Substance - 152.15, subd. 2(3)~~
~~Sale of Schedule V Substance - 152.15, subd. 1(5)(i)~~
~~Sale of Simulated Controlled Substance - 152.097; 152.15, subd. 2b~~
~~———— Selling Unlawful Acts Involving Liquor that Causes Injury - 340A.701~~
~~———— Unauthorized Use of a Motor Vehicle - 609.55~~

Misdemeanor and Gross Misdemeanor Offense List

The following misdemeanors and gross misdemeanors will be used to compute units in the criminal history score. All felony convictions resulting in a misdemeanor or gross misdemeanor sentence shall also be used to compute units.

Arson 3rd Degree
609.563; subd. 2

Assault
609.224

Burglary 4th Degree
609.582

Carrying Pistol
624.714

Check Forgery
609.631

Contributing to Delinquency of Minor
260.315

Criminal Sexual Conduct 5th Degree
609.3451

Damage to Property
609.595

Dangerous Weapons
609.66

Fleeing a Police Officer
609.487

Furnishing Liquor to Persons Under 21
340A.503

Indecent Exposure
617.23

Interference with Privacy
609.746

Possession of Small Amount of Marijuana in Motor Vehicle
152.15

Possession of Stolen Property

609.53

Theft

609.52, subd. 2(1)

Trespass (gross misdemeanor)

609.605

Violating an Order for Protection

518B.01; subd. 14