

The Guideliner

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1st Quarter 2012 Guidelines Webinars

All webinars begin promptly at 11:30am.

- ✚ **1/19/2012 – Uncovering the Guidelines**
This webinar will point out and discuss some of the most frequently cited Guidelines policies. (30 minutes) *CLE credits will be offered.*
- ✚ **2/9/2012 – “Enhanced” Felonies**
This webinar will cover the policies that relate to the use of criminal history for an enhanced felony. (30 minutes) *CLE credits will be offered.*
- ✚ **3/8/2012 – Criminal History Calculation for Specified Sex Offenses**
This webinar will focus on custody status points and prior felony criminal history calculation. (30 minutes) *CLE credits will be offered.*
- ✚ **4/12/2012 – Presumptive & Mandatory Sentences**
This webinar will cover all policies on determining the appropriate sentence when a statutory or Guidelines mandatory sentence exists. (30 minutes) *CLE credits will be offered.*

Registration information will be e-mailed one (1) week before the webinar with materials going out the day before.

Have a topic you'd like *The Guideliner* to cover? E-mail your suggestions to Linda at linda.mcbrayer@state.mn.us.

Special Consideration for Felony Plea Agreements: Mandatory Minimums



In the context of a plea agreement, a mandatory minimum of at least 1 year and 1 day does not offer much leeway for negotiation. With an offense that has a mandatory minimum, the presumptive disposition will always be a prison term, and per the Guidelines policy in section 2.E, the presumptive sentence duration will be either the mandatory minimum from statute or the duration reflected on the grid based on the severity level of the conviction offense and the criminal history score, whichever is greater.

There are certain offenses that allow for sentencing without regard to the mandatory minimum. The most common of these is a weapon offenses found in Minn. Stat. § 609.11, subd. 9. As stated in subdivision 8 of this statute, the prosecutor can file a motion to sentence without regard to the mandatory minimum.

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“DATA: Facts and statistics collected together for reference or analysis.”

In 2010, while the overall number of offenders sentenced decreased by 3.6%, the number of offenders sentenced for person crimes increased by two percent, which follows a growth rate of six percent in 2009, three percent in 2008, over 7 percent in 2007, and 13 percent in 2006.

Much of this growth can be attributed to the increase in certain domestic assault-related offenses, including domestic assault, domestic assault by strangulation, and violations of restraining orders. The growth in the number of offenders sentenced in 2010 for violations of domestic abuse no contact orders (VDANCO) (50.6%) and violations of harassment restraining orders (VHRO) (64.9%) was particularly striking.

2010 sentencing data is now available on our website www.msgc.state.mn.us.

Mandatory Minimums, cont.

When presented with a motion from the prosecutor, or through a motion of its own, the court can sentence without regard to the mandatory minimum as required by statute. The court must find substantial and compelling reasons to do so, and a sentence imposed under this subdivision is a departure from the Guidelines.

When a plea agreement is made that involves a departure from the mandatory minimum, or any presumptive Guidelines sentence, the court should cite the reasons that *underlie* the plea agreement. Simply stating “plea agreement” on the departure report does not allow the Commission enough information, and the process of making informed policy decisions with respect to consistency, proportionality, and rationality in sentencing can be hindered. (MSGC section 2.D.04)

Did you know?



- A felony that receives a Stay of Imposition will always be classified as a felony prior for Guidelines purposes no matter what period of probation is pronounced. (2011 *Minnesota Sentencing Guidelines and Commentary* section 2.B.101)
- The policies governing how to apply criminal history for a prior burglary or kidnapping offense involving an additional offense as part of the same course of conduct, or for a single course of conduct with multiple victims, applies to juvenile and misd./gross misd. priors as well as felonies. (2011 *Minnesota Sentencing Guidelines and Commentary* section 2.B.107 & 2.B.108; 2.B.308 & 312; 2.B.407)
- A mandatory minimum sentence that falls below 1 year and 1 day, such as with a subsequent 5th degree controlled substance offense, will result in local time as a condition of a stayed sentence, unless the presumptive grid disposition calls for a commit. (2011 *Minnesota Sentencing Guidelines and Commentary* section 2.E.03)
- When an offender is convicted of a felony offense, such as Terroristic Threats per Minn. Stat. § 609.713, subd. 1, but given an imposed sentence of less than 1 year and 1 day, the sentence will be a departure. (2011 *Minnesota Sentencing Guidelines and Commentary* section 2.C.06)