

PRISON POPULATION TASKFORCE PROPOSALS
Minnesota Association of Criminal Defense Lawyers
Minnesota Second Chance Coalition
Council on Crime and Justice

REDUCE SENTENCE LENGTHS: Minnesota has some of the longest controlled substance sentences in the United States. They have created some of the greatest racial disparity rates and they waste public resources and human potential by putting people in prison for much longer than necessary. The most serious controlled substance crime in Minnesota (First Degree) is triggered by the sale of only 10 grams (which could be small aggregated sales within 90 days), or possession of 25 grams or more of cocaine, heroin, or methamphetamine. These thresholds fail to define the most serious offenders. The result is that people engaged in low level drug conduct are charged and punished as if they were high level drug dealers. This includes those who sell to support their addiction and addicted users who buy several weeks' worth of drugs to save money. The Federal Guidelines sentence for similar conduct is much shorter at 10 to 27 months. The Minnesota Sentencing Guidelines Commission proposal creates a more appropriate guideline by lowering the presumptive prison sentence to 65 months and 48 months for this level of sale and possession. However, this is still a very long presumptive prison sentence for someone at the lowest level of drug dealing or even an addicted user. For this reason the threshold amounts should be raised while still maintaining the Guidelines changes. If someone is a higher level dealer, the use of aggravating factors allows for them to be given a much higher sentence if appropriate.

REMOVE RACIALLY BIASED AGGRAVATING FACTORS: Because of the higher concentration of poverty and people of color in urban areas, the aggravating factor related to school, park, and public housing zones will exacerbate existing racial disparities in our prison system. Similarly, the aggravating factor for a prior crime of violence will disproportionately impact minority communities where there are higher rates of police contact while doing little to distinguish sophisticated dealers from mere users and addicts. Both factors should be removed.

ELIMINATE MANDATORY MINIMUM DRUG SENTENCES: Mandatory minimum sentences prevent judges from tailoring a sentence to the circumstances of the case before them. They also undermine the effectiveness of drug courts which are most impactful when working with addicts who are at high risk of relapsing. The legislature should eliminate mandatory minimums for subsequent controlled substance convictions. Judges will still be able to sentence based on criminal history and aggravating and mitigating circumstances.

MAKE 5TH DEGREE CONTROLLED SUBSTANCE CRIMES GROSS MISDEMEANORS: 15 States treat drug possession as a misdemeanor, and treatment admission rates are higher and crime rates slightly lower in these states. Minnesota currently has a felony stayed adjudication statute, but it creates a felony record and many still go to prison - over 500 prison beds are filled with these lowest level users. Funding should be allocated to counties to ensure that those serving gross misdemeanor drug sentences have access to effective treatment programs.

MAKE GUIDELINES CHANGES RETROACTIVE: The legislature has the authority to make Sentencing Guidelines changes retroactive and should do so. If a revised sentence is just and appropriate for people in the future, it is just and appropriate that someone convicted of the same conduct in the past should be given the same sentence, or as close to it as possible given the passage of time. This would save additional prison space.

REINVEST IN PROGRAMS THAT REDUCE RECIDIVISM: Savings from the above changes should be reinvested in programs that will help to get at the root of the problem by reducing crime. Funding should be increased for DOC programs that have been shown to reduce recidivism. These programs include early release programs such as the Challenge Incarceration Program, re-entry programs such as the pilot High-Risk Revocation Reduction (HRRR) program, education and vocational training programs, and both prison and community based treatment programs for chemical dependency and mental health disorders. Funding programs that help people who have committed crimes obtain a meaningful second chance will reduce crime in the long run, and is therefore a much more fiscally responsible approach to prison overcrowding than investing in new facilities that will continue to simply warehouse prisoners.