

**MSGC****Departure Report**

<b>Offender Name</b> (Last, First, Middle):	<b>Date of Sentence:</b>	<b>Sentencing County Name:</b>
<b>Judge Name:</b>	<b>Date of Report:</b>	<b>District Court Case No.:</b>
<b>Report Completed By</b> (Name/Title):	<b>Contact Information:</b>	

**Instructions**

In making decisions about departing from the Guidelines, and in writing reasons for departures, judges should consult § 2.D of the ***Minn. Sentencing Guidelines and Commentary***. This report should be completed by the Court when:

- (a) The pronounced disposition (prison/probation) differs from the presumptive disposition under the Guidelines;
- (b) The length of the sentence pronounced by the Court differs from the presumptive sentence length;
- (c) A consecutive sentence is given in a circumstance other than described in § 2.F of the Guidelines;
- (d) A consecutive sentence is not pronounced when consecutive sentencing is presumed under the Guidelines; or
- (e) A non-felony sentence is pronounced for an offender convicted of a felony-level offense.

**Type of Departure (check all that apply)**

<b>Dispositional:</b> <input type="checkbox"/> <b>Mitigated/Downward</b> (Stay – Guidelines presume prison) <input type="checkbox"/> <b>Aggravated/Upward</b> (Prison – Guidelines presume stay) <input type="checkbox"/> <b>NOT</b> an aggravated/upward dispositional departure: Sentence was executed pursuant to offender's right to demand execution, offense date after 7/31/2015 (Guidelines § 2.D.1.f).	<b>Durational:</b> <input type="checkbox"/> <b>Mitigated/Downward</b> (Less than Guidelines time) <input type="checkbox"/> <b>Aggravated/Upward</b> (Greater than Guidelines time)	<input type="checkbox"/> <b>Non-Felony Sentence</b> (Misdemeanor or Gross Misd. sentence pronounced for felony-level conviction)	<input type="checkbox"/> <b>Consecutive</b> (Departure from Guidelines policy on consecutive sentencing)
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**Aggravated Departure:**

If the sentence is an aggravated departure, please indicate how the sentence was imposed:

- |  |  |
|--|--|
| <input type="checkbox"/> Jury determination of aggravating factors (other than the fact of a prior conviction) | <input type="checkbox"/> Defendant waived right to jury determination of aggravating factors |
|--|--|

**Reason(s) for Departure**

Please do one or more of the following: 1) Check the appropriate reason(s) for departure on the checklist of frequently cited departure reasons on page 2; 2) Write the reasons in the space below; or 3) Attach the relevant pages from the sentencing order or sentencing transcript.

**PLEASE SEND TO:****Minnesota Sentencing Guidelines Commission****309 Administration Building, 50 Sherburne Avenue, St. Paul, MN 55155****Voice: (651) 296-0144 Fax: (651) 297-5757 Email: [sentencing.guidelines@state.mn.us](mailto:sentencing.guidelines@state.mn.us)**

(Rev. 12/2016)

Section 1, below, contains frequently cited reasons for departure provided to the Court for convenience. Check all reasons that apply. An asterisk (\*) denotes a reason listed in Guidelines § 2.D.3, which is a nonexclusive list. Reasons with no asterisk are not enumerated in the Guidelines, but may be sanctioned elsewhere in law. Items listed in section 2 are requested as additional information. **The Court may also record reasons for departure in the space provided on page 1.**

### Section 1. Frequently Cited Reasons for Departure

#### Related to Nature of Current Offense

##### Reasons Frequently Used as Mitigating Factors:

- Offender played minor or passive role\*
- Victim was aggressor in incident\*
- Crime less onerous than usual

##### Reasons Frequently Used as Aggravating Factors:

- Victim treated with particular cruelty\*
- Victim was particularly vulnerable\*
- Victim injury/psychological impact on victim
- Current conviction is offense w/ victim injury (including Crim. Sex. Conduct) and there is a similar prior\*
- Major economic offense--involves 2 or more of following.\*
  - multiple victims/multiple incidents per victim
  - use of position/status
  - high degree planning/soph./lengthy period of time
  - actual/attempted loss greater than usual/than min.
  - similar prior conduct
- Committed, for hire, a crime against the person\*
- Committed crime as part of a group of three or more persons who all actively participated in the crime\*

- Major controlled substance crime involving 2 or more of the following.\*
  - 3 or more separate transactions
  - offender or accomplice possessed equipment, paraphernalia, or monies evidencing wholesale trafficking
  - involved manufacture for use by others
  - offender or accomplice possessed firearm or other dangerous weapon during offense
  - high position in drug distribution hierarchy
  - high degree of sophistication/lengthy period of time
  - use of position/status
  - separate acts in 3 or more counties
  - prior conv. under Minn. Stat. § 609.1095, s. 1(d), except prior under chap. 152, including attempt or conspiracy
  - sale to a minor or vulnerable adult
  - occurred in a zone or correctional/treat. facility
- Multiple victims or multiple incidents per victim
- Crime committed in victim's home or zone of privacy
- Position of authority, superiority, confidence or trust
- Crime more onerous than usual offense

#### Related to Individual Offender

##### Reasons Frequently Used as Mitigating Factors:

- Lacked substantial capacity for judgment (not drug/alc.)\*
- Particularly amenable to probation
- Particularly amenable to treatment:
  - Chem. dependency
  - Sex offender
  - Other
  - Convicted of controlled substance offense, is particularly amenable to probation based on adequate evidence that offender is chemically dependent and has been accepted by, and can respond to, a treatment program in accordance with Minn. Stat. § 152.152\*

- Impose restitution/ensure financial penalties paid
- Ensure compliance w/ probation or allow longer supervision
- Shows remorse/accepts responsibility
- Current Severity Level 1-4 offense and priors resulted from crime spree\*

##### Reasons Frequently Used as Aggravating Factors:

- Has failed on probation/unamenable to probation
- Career Offender under Minn. Stat. § 609.1095, s. 4
- Dangerous Offender under Minn. Stat. § 609.1095, s. 2
- Engrained Offender under Minn. Stat. § 609.3455, s. 3a

#### Related to Requests for Executed Sentence

- Request prison to avoid probation and/or jail
- Request prison as part of a plea agreement
- Request prison--revocation/prison on another offense
- Request prison--other reasons \_\_\_\_\_

#### Related to Recommendations Regarding Sentence

- Recommended by court services
- Recommended by treatment professional

### Section 2. Additional Information Requested (if applicable)

#### Regarding Victim/Witness

- Recommendation or agreement of victim/victim's family
- Witness is unlikely, unable, or unwilling to testify
- Prevent trauma to witness from testifying

#### Regarding Plea Agreements and Prosecutorial Recommendations

- Prosecutor objects to the departure
- Departure recommended by prosecutor
- Prosecutor does not object to the departure
- Plea agreement on sentence
- Prosecutor motion to sentence without regard to Minn. Stat. § 609.11

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\* Indicates reasons specified in the *nonexclusive* list in § 2.D.3 of the Minn. Sentencing Guidelines and Commentary.