

### Predicate Felonies for Second-Degree Felony Murder.

The data subcommittee's second research question was: In practice, what were the predicate offenses for second-degree felony murder? The predicate offense is the "felony" in "felony murder"—the separate crime that was being committed while the death was caused.

This inquiry was limited to second-degree felony murder, in violation of Minn. Stat. § 609.19, subd. 2(1), because that statute does not define qualifying predicate felonies. First-degree felony murder, in violation of Minn. Stat. § 609.185(a)(3) (requiring intent to kill), was excluded from the inquiry because those predicate felonies are statutorily enumerated. Likewise, the specific statutory provisions requiring the predicate offenses to be criminal sexual conduct in the first or second degree with force or violence (Minn. Stat. § 609.185(a)(2)) or drive-by shooting (Minn. Stat. § 609.19, subd. 1(2)) were excluded because those predicate offenses are also statutorily defined.

The subcommittee examined the 296 second-degree felony murder cases sentenced from 2011 through 2022, according to Minnesota Sentencing Guidelines Commission (MSGC) records. Reviewing the court records associated with each case, Dakota County Attorney Kathryn M. Keena found that 6 of the 296 second-degree felony murder cases were incorrectly classified, and identified predicate felonies in 289 of the remaining 290 cases. Thus, the numbers in the figures that follow will either total 290 (when dealing with the total number of second-degree felony murder cases) or 289 (when analyzing the type of predicate felony).

### Classes of Predicate Felonies.

Each predicate felony is reported in one of three classes:

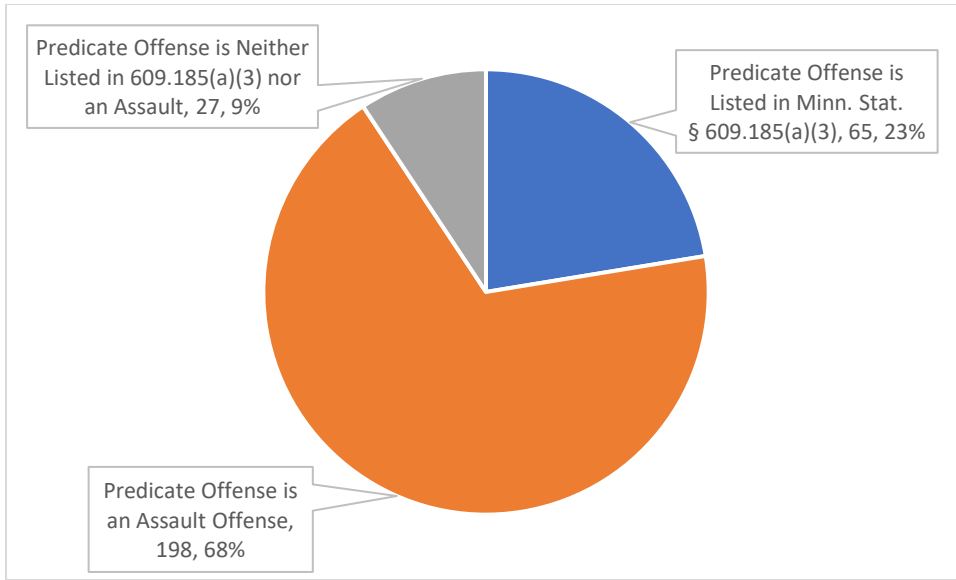
- **Listed** – the predicate offense is one of the predicate offenses listed in Minn. Stat. § 609.185(a)(3) (first-degree felony murder). (Recall that first-degree felony murder has a predicate-felony list, while second-degree felony murder does not.)<sup>1</sup>
- **Assault** – the predicate offense is any form of assault.
- **Other** – the predicate offense is neither listed in Minn. Stat. § 609.185(a)(3) nor an assault.

Figure 1 shows the distribution of predicate felonies by these three classes. Over two-thirds of the predicate felonies were some form of assault.

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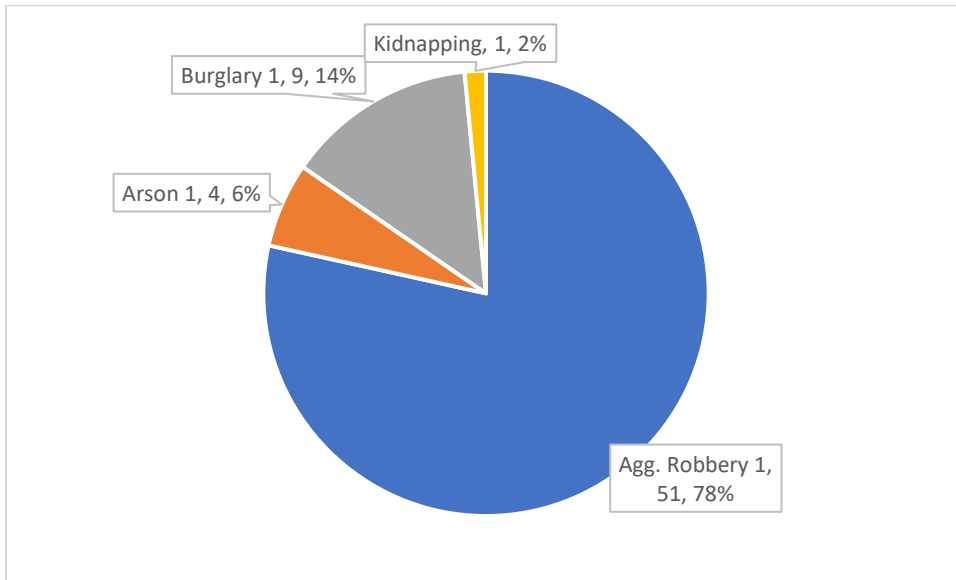
<sup>1</sup> That list has the following members: burglary, aggravated robbery, carjacking in the first or second degree (new in 2023), kidnapping, arson in the first or second degree, drive-by shooting, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance.

Figure 1. General Classes of Predicate Felonies in Felony Murder 2nd Degree Cases Sentenced 2011–2022.



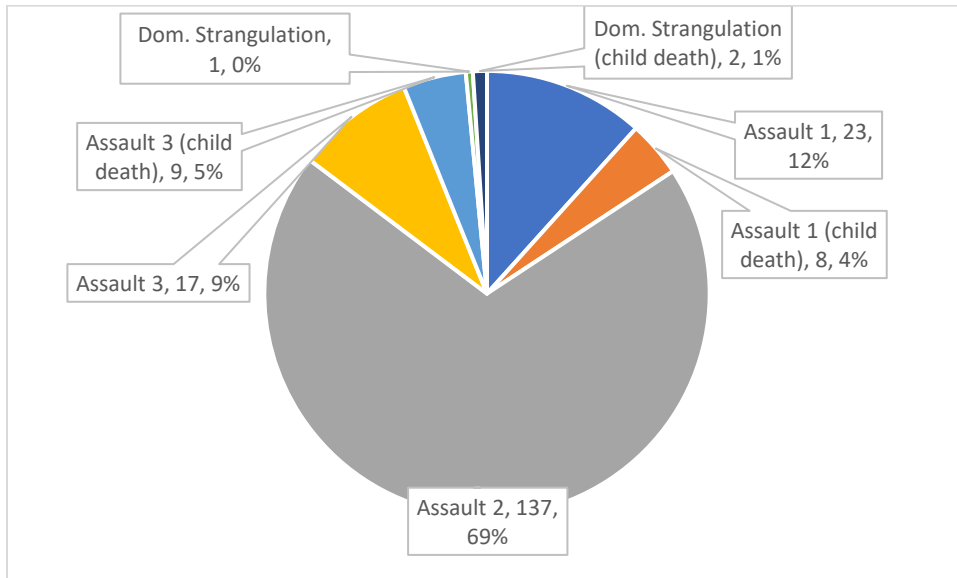
Among the “listed” class, over three-quarters of the predicate felonies were aggravated robbery in the first degree (defined as forcible theft from a person that either resulted in bodily harm or involved a dangerous weapon, whether real or simulated), as shown in Figure 2.

Figure 2. Predicate Felonies Listed in Minn. Stat. § 609.185(a)(3) in Felony Murder 2nd Degree Cases Sentenced 2011–2022.



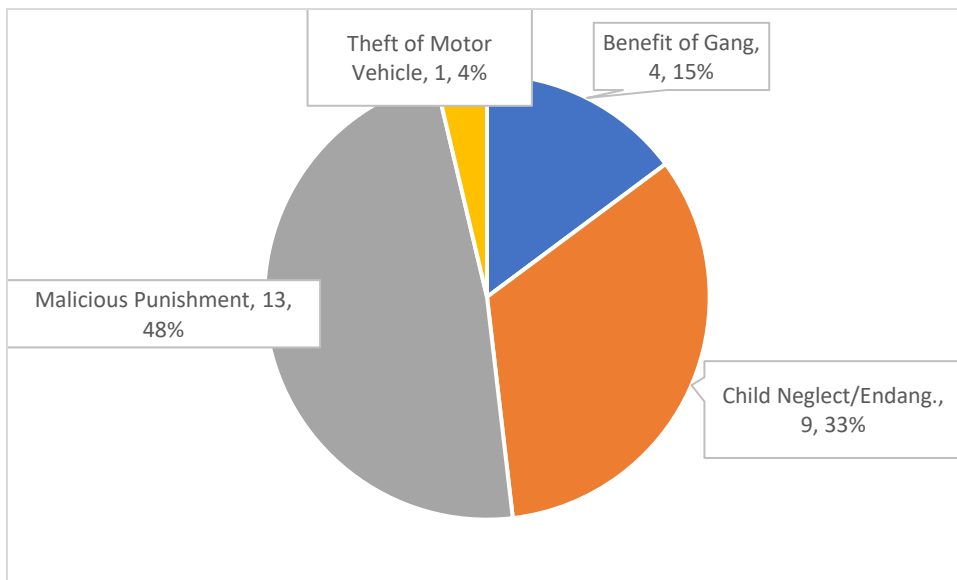
Among the “assault” class, over two-thirds of the predicate felonies were second-degree assault (defined as assault with a dangerous weapon) (Figure 3).

Figure 3. Predicate Felony Assaults in Felony Murder 2nd Degree Cases Sentenced 2011–2022.



Among the comparatively few “other” cases—where the predicate felony was neither an assault nor listed in the first-degree felony murder statute—the predicate felony most commonly involved a child: either malicious punishment of a child, child neglect, or child endangerment (Figure 4).

Figure 4. Other Predicate Felonies in Felony Murder 2nd Degree Cases Sentenced 2011–2022.



## Race and Predicate Felonies

This section looks at the racial distribution of people sentenced for second-degree felony murder by class of predicate felony. Before this breakdown, however, Figure 5 shows the overall racial distribution of all people sentenced for second-degree felony murder. Black people comprised a majority (54%) of this group, compared to significantly lower percentages of Minnesota's 2022 adult population (7%), sentenced felony population (27%), and prison population (37%) (sources: U.S. Census Bureau, MSGC, and Minn. DOC).

Figure 5. Defendant's Race, Felony Murder 2nd Degree Sentenced 2011–2022.

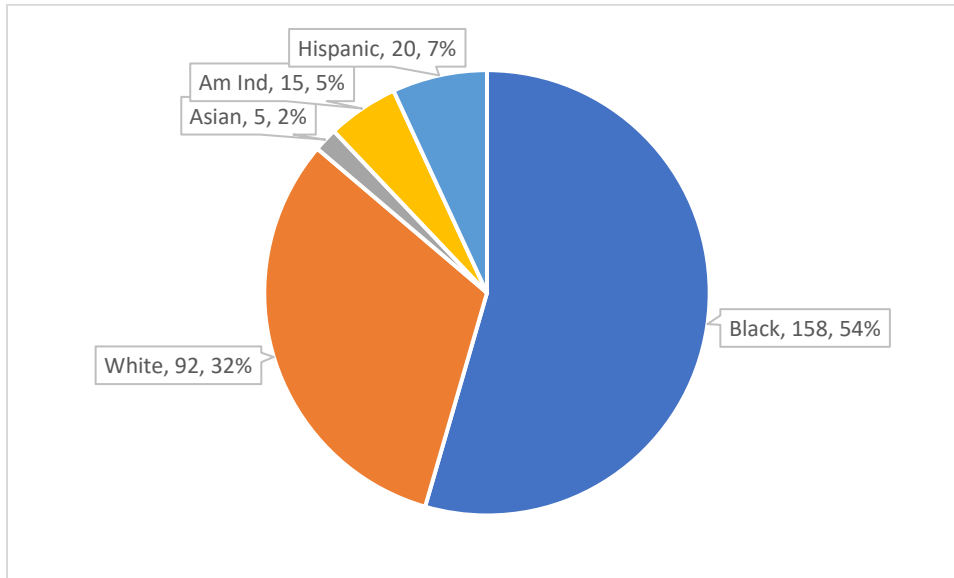
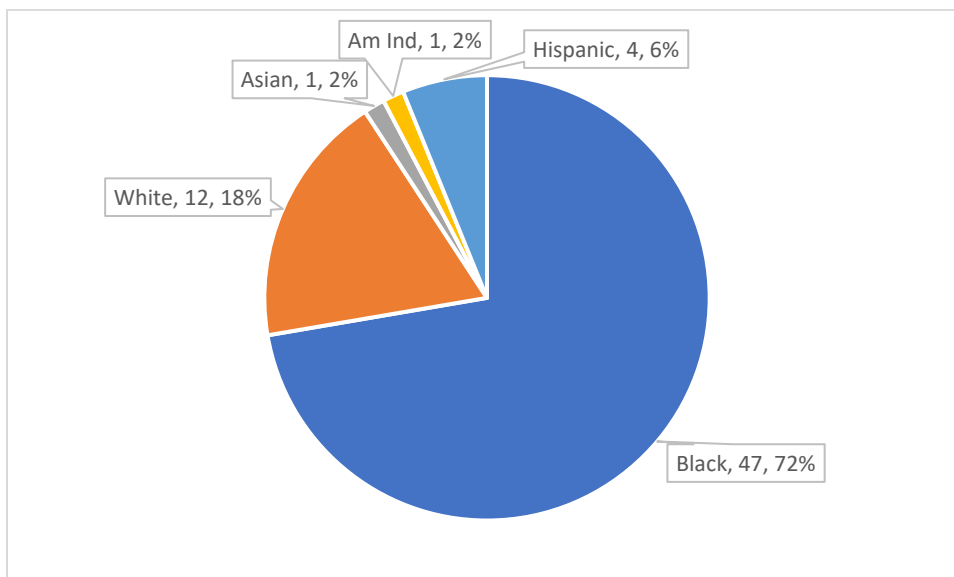


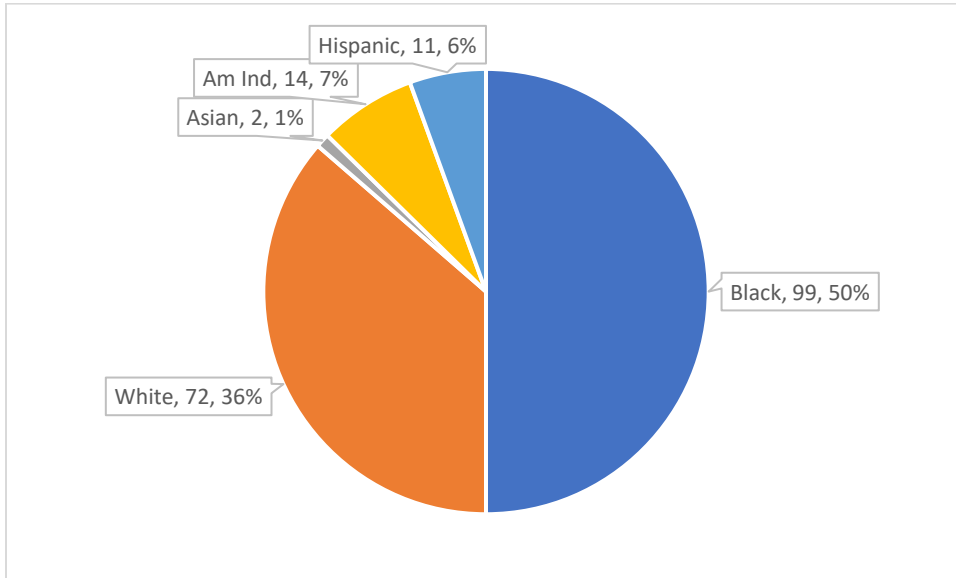
Figure 6 is limited to cases where the predicate felony is listed in Minn. Stat. § 609.185(a)(3). Black people comprised an even greater percentage of this group: 72 percent.

Figure 6. Defendant's Race, Felony Murder 2nd Degree Sentenced 2011–2022 with the Predicate Felony Listed in Minn. Stat. § 609.185(a)(3).



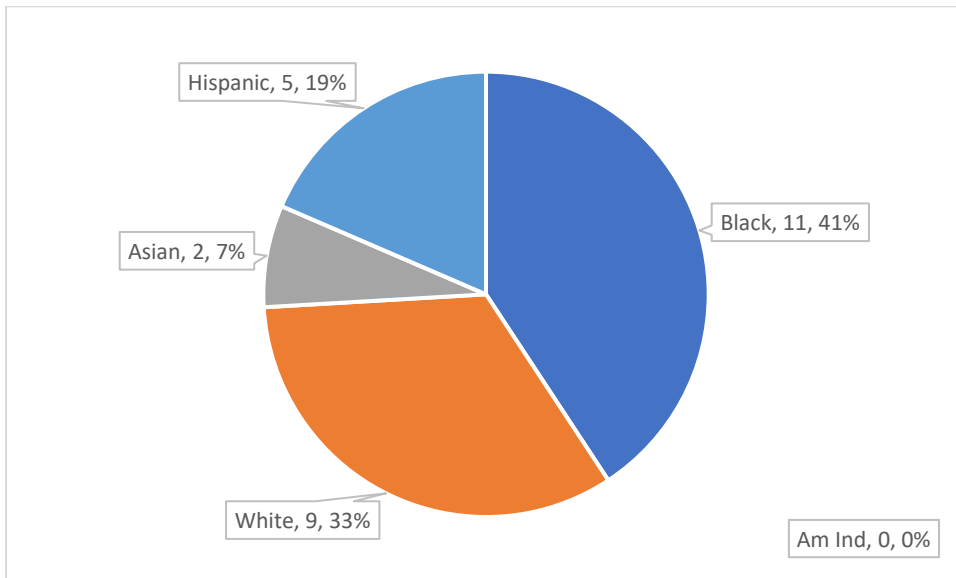
Cases of second-degree felony murder where the predicate felony was an assault were split evenly between defendants in the Black category and everyone else (Figure 7).

Figure 7. Defendant's Race, Felony Murder 2nd Degree Sentenced 2011–2022 with Assault as the Predicate Felony.



Black people also comprise the largest share (41%) of those sentenced for second-degree felony murder where the predicate felony was neither an assault nor listed in Minn. Stat. § 609.185(a)(3) .

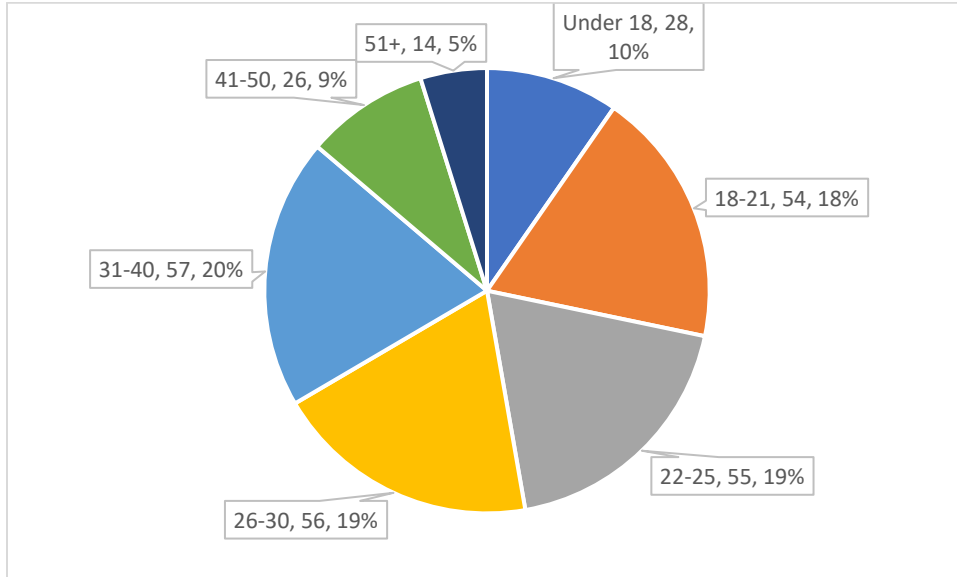
Figure 8. Defendant's Race, Felony Murder 2nd Degree Sentenced 2011–2022 with Other Predicate Felony.



### Age and Predicate Felonies

Figure 9 shows the ages—within general groups—of those sentenced for second-degree felony murder from 2011 through 2022. Nearly half were under age 26 at the time of the offense.

Figure 9. Defendant's Age, Felony Murder 2nd Degree Sentenced 2011–2022.



Figures 10, 11, and 12 show defendant's ages by the type of predicate offense. Among those who committed second-degree felony murder when the predicate felony was listed in the first-degree felony murder statute, 42 percent were age 21 or younger (Figure 10), a significantly higher percentage than when the predicate felony was assault (26%, Figure 11) or other (23%, Figure 12).

Figure 10. Defendant's Age, Felony Murder 2nd Degree Sentenced 2011–2022 with the Predicate Felony Listed in Minn. Stat. § 609.185(a)(3).

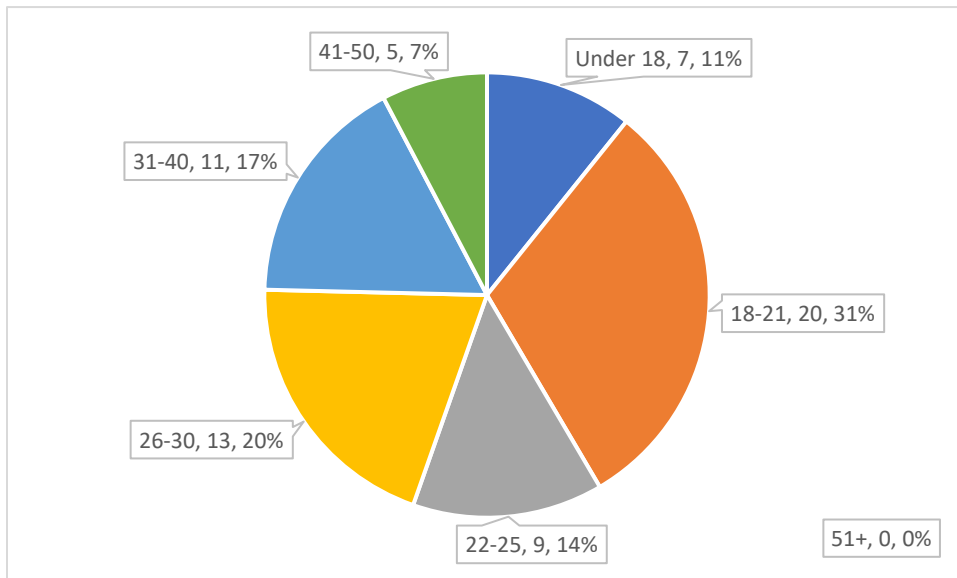


Figure 11. Defendant's Age, Felony Murder 2nd Degree Sentenced 2011–2022 with Assault as the Predicate Felony.

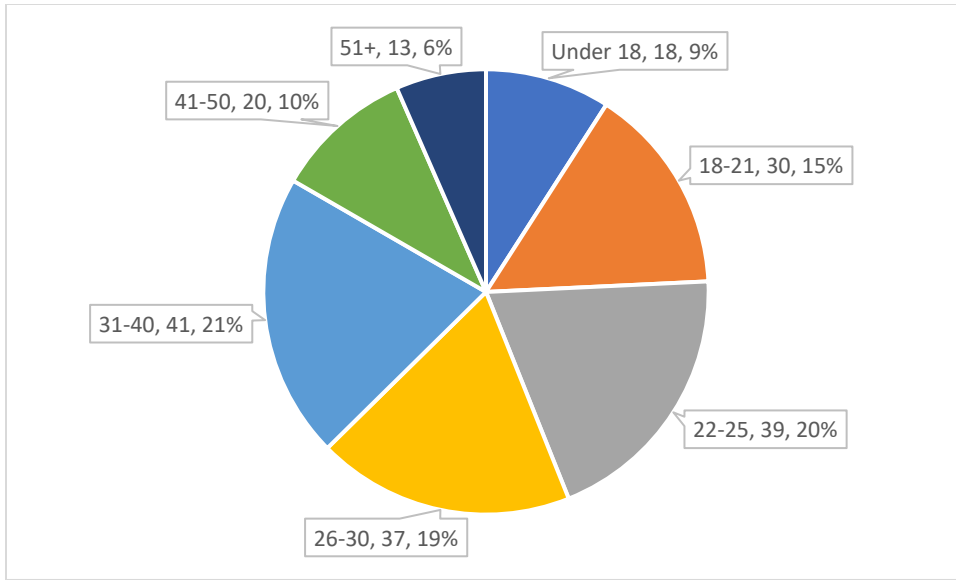
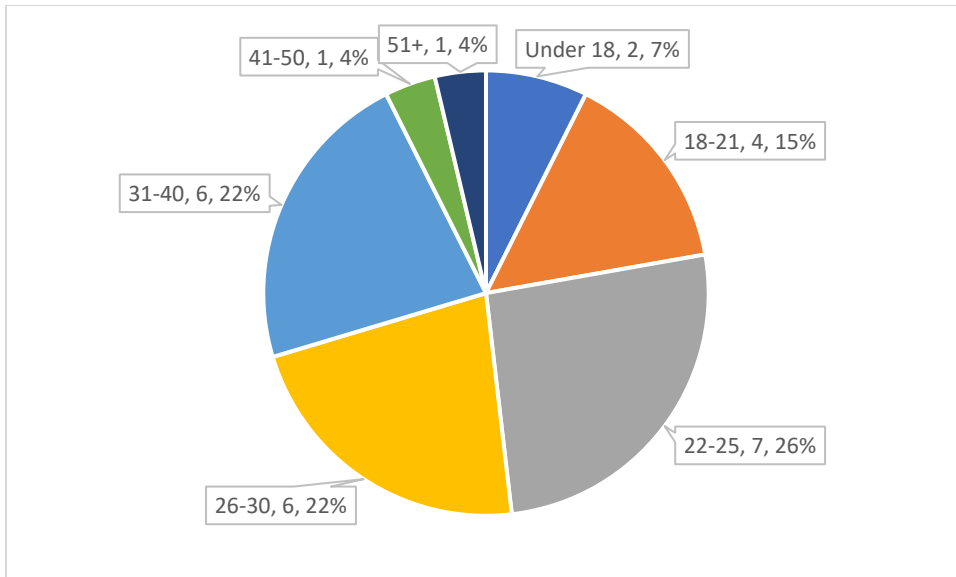


Figure 12. Defendant's Age, Felony Murder 2nd Degree Sentenced 2011–2022 with Other Predicate Felony.



## Geography and Predicate Felonies

Minnesota is geographically divided into ten judicial districts. As Table 1 shows, these districts vary by population and felony case volume. Two of the districts each consist of only one county: the 2nd Judicial District (Ramsey County) and the 4th Judicial District (Hennepin County). A district map may be found at <https://www.mncourts.gov/find-courts.aspx>

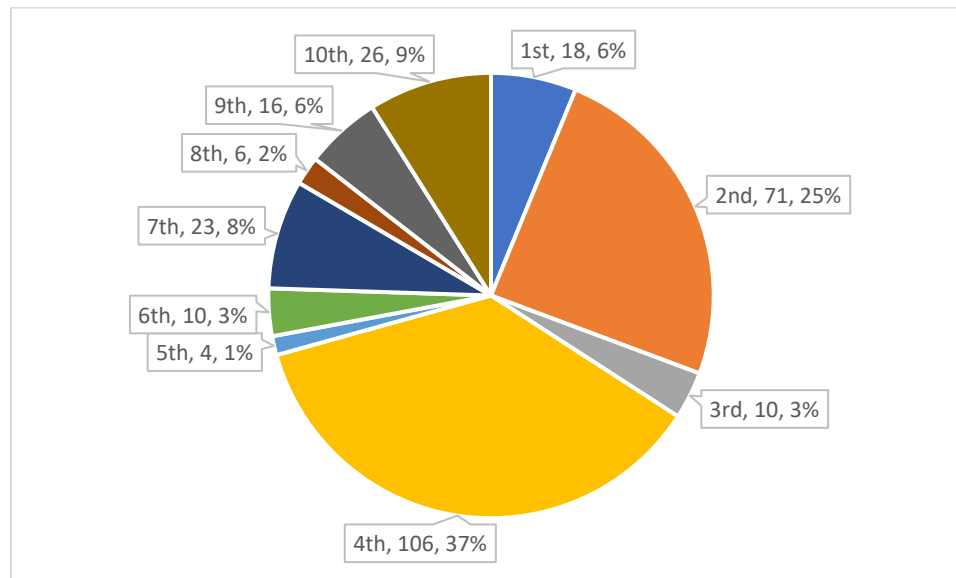
Table 1. Minnesota's Ten Judicial Districts.

Judicial District	Largest City	Share of Minn. Adults	Share of Felony Sentences	Share of Prison Inmates
1st	Lakeville	14%	15%	8%
2nd	St. Paul	9%	9%	11%
3rd	Rochester	9%	7%	8%
4th	Minneapolis	22%	17%	26%
5th	Mankato	5%	6%	6%
6th	Duluth	5%	4%	5%
7th	St. Cloud	9%	11%	12%
8th	Willmar	3%	3%	3%
9th	Bemidji	6%	10%	11%
10th	Woodbury	18%	16%	10%

Sources of 2022 population estimates and case & inmate counts: U.S. Census Bureau, MSGC, & Minn. DOC.

From 2011–2022, 61 percent of Minnesota's felony murder sentences occurred in the 4th and 2nd judicial districts (Figure 13). By comparison, these two districts, combined, hold only 32 percent of Minnesota's adults, sentenced only 27 percent of Minnesota's felony cases in 2022, and were responsible for only 37 percent of Minnesota's prison population in 2022 (Table 1).

Figure 13. Felony Murder 2nd Degree Sentenced 2011–2022, by Judicial District.





When limited to cases where the predicate felony is listed in Minn. Stat. § 609.185(a)(3), the percentage of second-degree felony murder cases from the 4th and 2nd judicial district was even higher: 66 percent (Figure 14). Among cases where the predicate was assault, the 4th and 2nd districts' combined share was 60 percent (Figure 15), and those two districts also sentenced a majority (56%) of the second-degree felony murder cases involving other predicate felonies (Figure 16).

Figure 14. Felony Murder 2nd Degree Sentenced 2011–2022 with the Predicate Felony Listed in Minn. Stat. § 609.185(a)(3), by Judicial District.

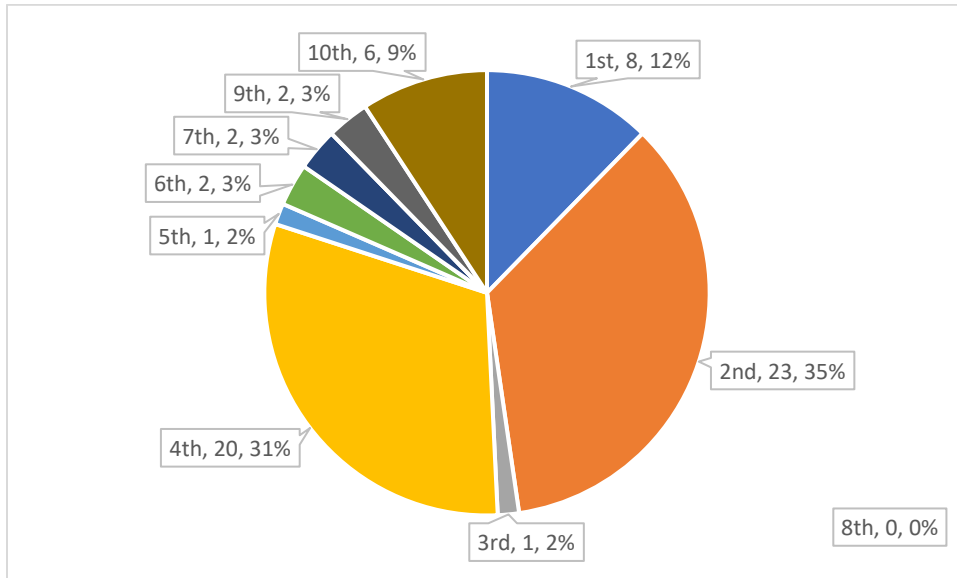


Figure 15. Felony Murder 2nd Degree Sentenced 2011–2022 with Assault as the Predicate Felony, by Judicial District.

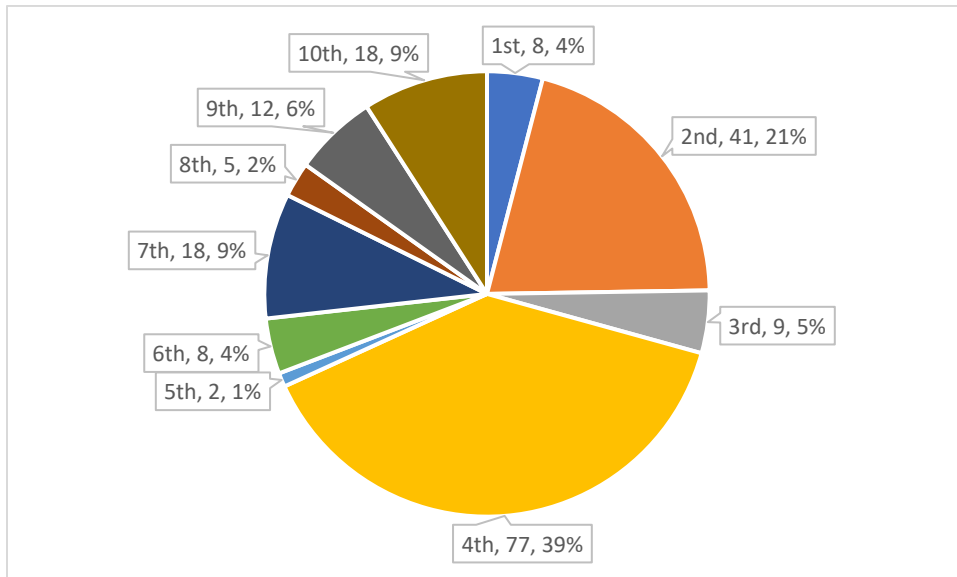


Figure 16. Felony Murder 2nd Degree Sentenced 2011–2022 with Other Predicate Felony, by Judicial District.

