



## Criminal History Score Overview Part 5: Custody History Policy

MSGC Staff Presentation

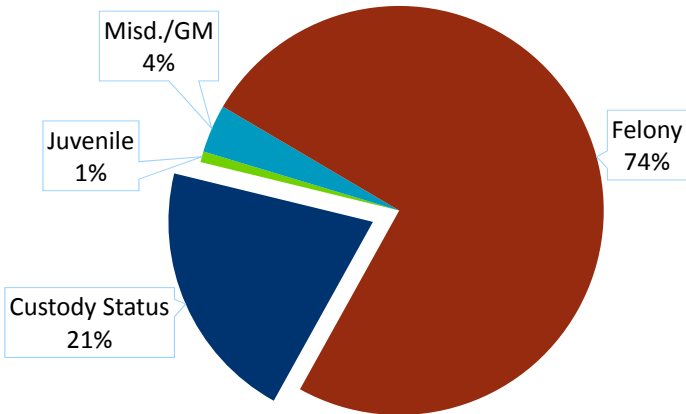
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## Four Components of Minnesota's Criminal History Score: Felony Criminal History

**2014 Average CHS**



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### Custody Status Point Policy

## One Custody Status Point is Assigned: Custody Status at the Time of the Offense

<b>CUSTODY STATUS TYPES</b>	<ul style="list-style-type: none"><li>• Probation</li><li>• Parole</li><li>• Supervised release</li><li>• Conditional release following release from an executed prison sentence</li><li>• Confinement in a jail, workhouse, or prison pending or after sentencing</li><li>• Escape from confinement following an executed sentence</li></ul>
<b>PLEA/VERDICT/ CONVICTION</b>	<ul style="list-style-type: none"><li>• After entering a guilty plea (includes Minn. Stat. § 152.18)</li><li>• After court enters a guilty verdict</li><li>• After conviction</li></ul>
<b>ELIGIBLE OFFENSES</b>	<ul style="list-style-type: none"><li>• Felony</li><li>• Extended jurisdiction juvenile (EJJ) conviction</li><li>• Non-traffic gross misdemeanor</li><li>• Gross misdemeanor DWI or refusal to submit to a chemical test</li><li>• Reckless driving</li><li>• Targeted misdemeanor</li></ul>

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## Targeted Misdemeanor List

- *As provided for in Minn. Stat. § 299C.10, subd. 1(e), a targeted misdemeanor is a misdemeanor violation of:*
  - Driving While Impaired
  - Order for Protection Violation
  - Assault 5<sup>th</sup> Degree
  - Domestic Assault
  - Interference with Privacy
  - Harassment or Restraining Order Violation
  - Indecent Exposure
  - Domestic Abuse No Contact Order Violation

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## Custody Status Point Policy

### Additional Custody Status Point Policies: Custody Status at the Time of the Offense

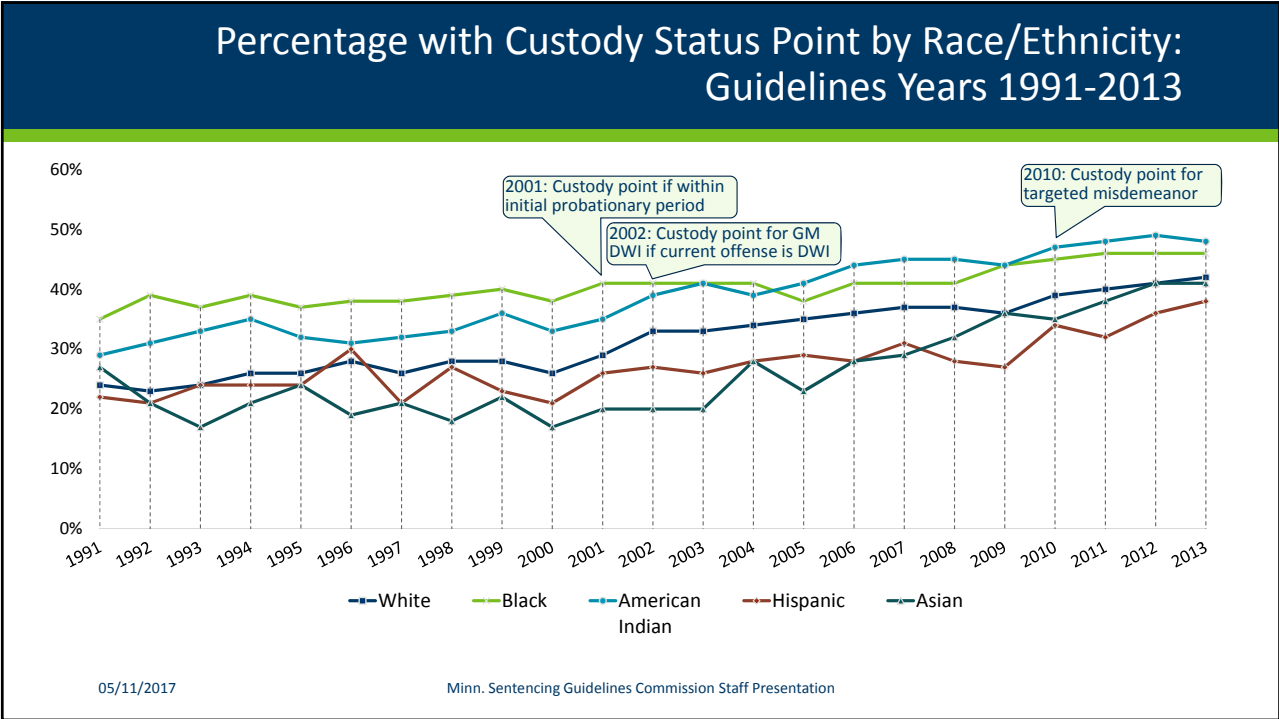
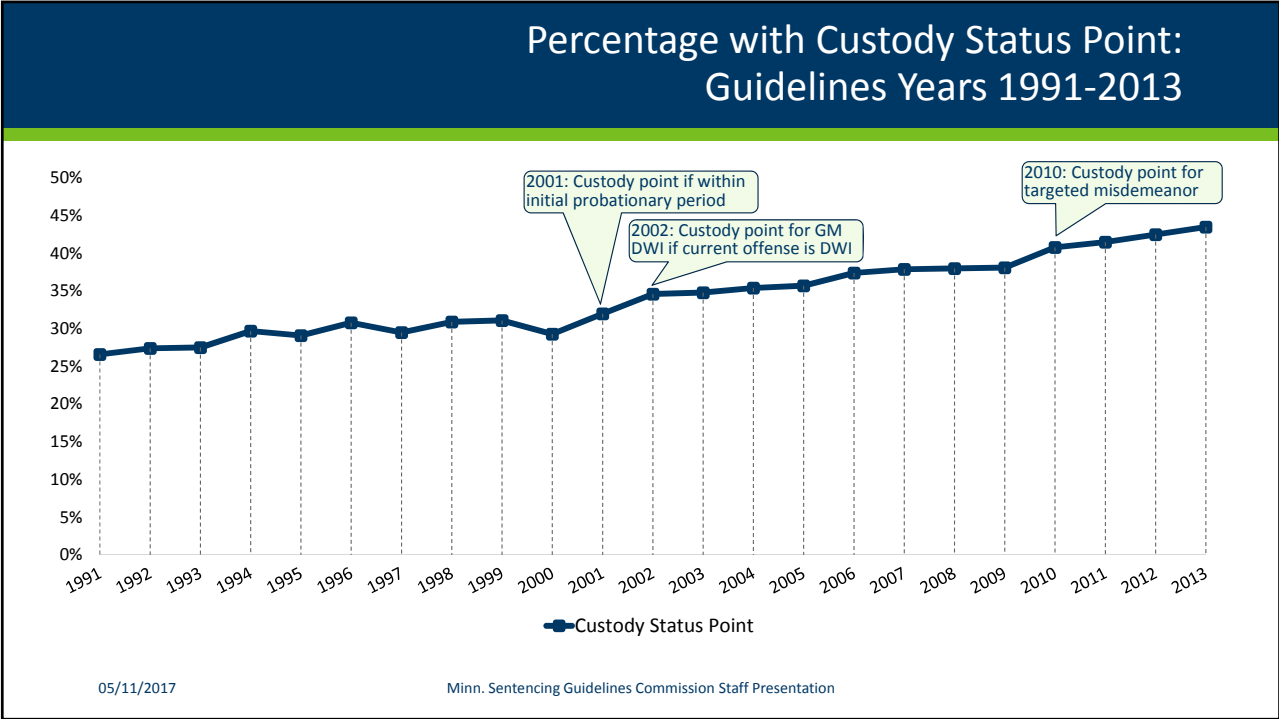
<b>TWO CUSTODY STATUS POINTS</b>	<ul style="list-style-type: none"> <li>• Current conviction offense is an offense on the Sex Offender Grid other than Failure to Register as a Predatory Offender; <b>AND</b></li> <li>• Offender qualifies for one custody status point (as described in previous slide) for an offense currently found on the Sex Offender Grid other than Failure to Register as Predatory Offender</li> </ul>
<b>NO CUSTODY STATUS POINT</b>	<ul style="list-style-type: none"> <li>• Committed for treatment or examination under Minn. R. Crim. P. 20</li> <li>• Juvenile custody status other than EJJ</li> <li>• Misd./gross misdemeanor DWI committed when offender was 16 or 17 years old, and the DWI was processed in adult court under Minn. Stat. § 260B.225, subs. 3 and 8</li> </ul>
<b>CUSTODY STATUS ENHANCEMENT</b>	<ul style="list-style-type: none"> <li>• An additional three months is added to the duration if:</li> <li>• A custody status point is assigned; <b>AND</b></li> <li>• Offender's total CHS exceeds the maximum score on the applicable Grid (i.e. 7 or more)</li> </ul>

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## Changes to Custody Status Point Policies

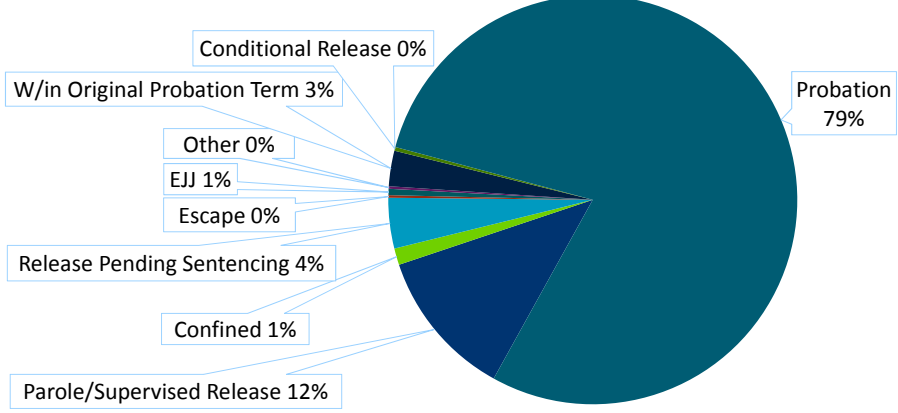
<b>1989 POLICY</b>	<ul style="list-style-type: none"> <li>• Point assigned if in a custody status at time of current offense</li> <li>• Custody attaches to prior gross misdemeanor or felony offenses</li> <li>• Custody status types include probation, parole, confined, release pending sentencing (supervised release in comment)</li> <li>• No point assigned for gross misdemeanor DWI unless current offense is a CVO</li> </ul>
<b>CHANGES</b>	<ul style="list-style-type: none"> <li>• 1995 – point assigned for custody following EJJ conviction</li> <li>• 1996 – moved supervised release to Guidelines; added conditional release</li> <li>• 2001 – point assigned if current offense is within the period of the initial length of stay</li> <li>• 2002 – point assigned for GM DWI if current offense is DWI</li> <li>• 2004 – point assigned if, during any point in time when offense takes place over time or is aggregated, the offender was on custody status</li> <li>• 2006 – point assigned for GM DWI no matter what current offense is</li> <li>• 2006 – additional point for sex offenders if on custody for a sex offense</li> <li>• 2010 – point assigned for custody following a targeted misdemeanor conviction</li> <li>• 2015 – point assigned for GM reckless driving</li> </ul>

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## Custody Status Point Policy: Breakdown of Custody Status Type Assigned

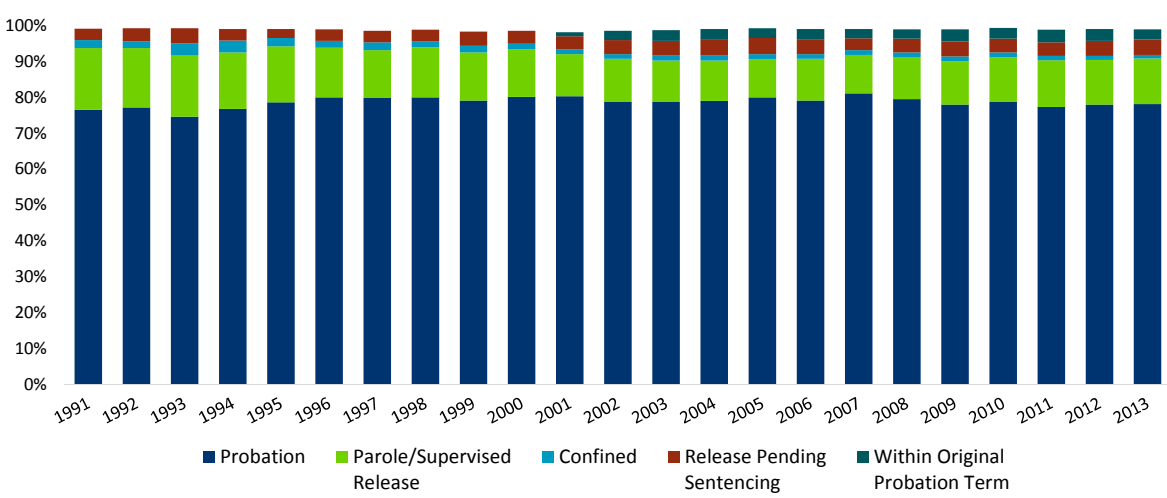
**Custody Status Type Assigned for Guidelines Years 2001-2013**



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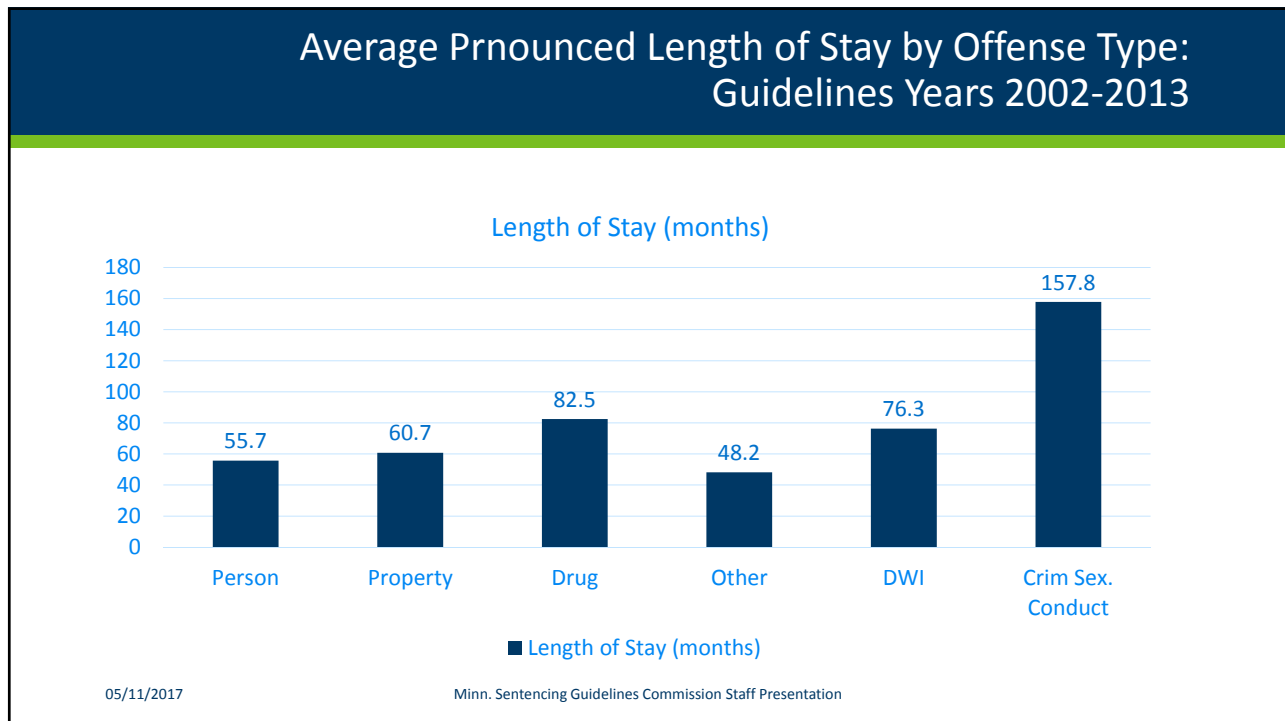
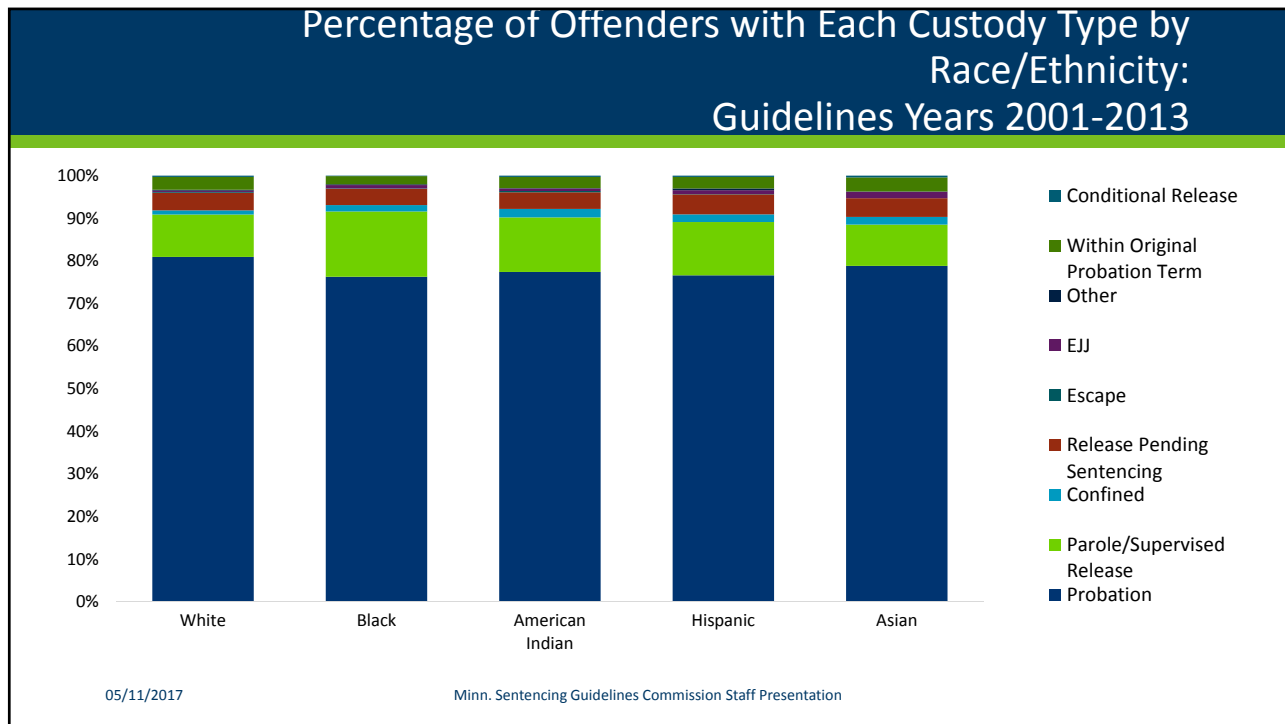
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## Percentage of Offenders with Each Custody Status Type: Guidelines Years 1991-2013

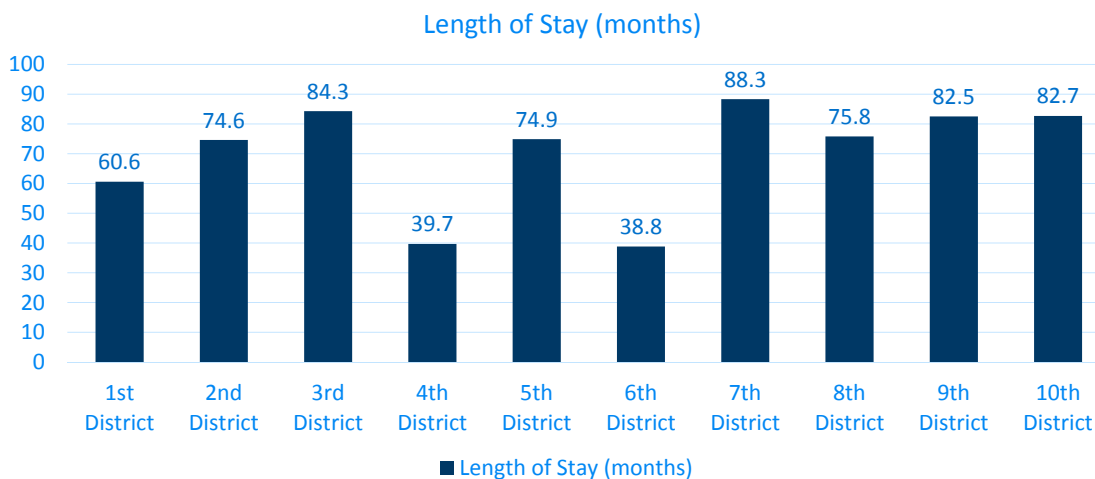


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### Average Pronounced Length of Stay by Judicial District: Guidelines Years 2002-2013



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### Felony Probation Lengths as Studied in 28 States\*: Excerpt from the Study of Earned Compliance Credit

MAX. LENGTH OF FELONY PROBATION	STATES
1 year	WA
2 years	FL
3 years	UT
4 years	ME
5 years	AI, IA, MO, MS, NY, NC, OH, OR
7 years	AZ
10 years	TX
Discretionary	CO, MA
Maximum Term	CA, MN, PA, WI
Unclear	IN

\*Robina Institute of Criminal Law & Criminal Justice, Profiles in Probation Revocation: Examining the Legal Framework in 21 states (2014). Available at <http://robinainstitute.umn.edu/publications/profiles-probation-revocation-examining-legal-framework-21-states>.  
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## Adult Felony Early Discharges by Months: Excerpt from the Study of Earned Compliance Credit

MONTHS DISCHARGED EARLY FOR CALENDAR YEARS 2014 AND 2015			
Months Closed Early	2014	2015	Total
12 to 47	1,817	2,006	3,823
48 to 83	340	330	670
84 to 119	127	137	264
120 Plus	212	171	383
Grand Total	2,496	2,644	5,140

Source: Statewide Supervision System

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## Adult Felony Early Discharges by Offense Type, 2014-2015: Excerpt from the Study of Earned Compliance Credit

OFFENSE TYPE	NUMBER / % OF TOTAL
Drugs	1,812 (35%)
Theft	611 (12%)
Assault	520 (10%)
Burglary	370 (7%)
DWI	301 (6%)
Forgery/Counterfeiting	300 (6%)

Source: Statewide Supervision System

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## Standard Grid: Effective August 1, 2016

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)	CRIMINAL HISTORY SCORE							
	0	1	2	3	4	5	6 or more	
<i>Murder, 2nd Degree (intentional murder; drive-by-shootings)</i>	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 <sup>1</sup>	426 363-480 <sup>1</sup>
<i>Murder, 3rd Degree (unintentional murder)</i>	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
<i>Assault, 1st Degree</i>	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
<i>Agg. Robbery, 1st Degree; Burglary, 1st Degree (w/ Weapon or Assault)</i>	8	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
<i>Felony DWI; Financial Exploitation of a Vulnerable Adult</i>	7	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 <sup>1,3</sup>
<i>Assault, 2nd Degree; Burglary, 1st Degree (Occupied Dwelling)</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary; Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12 <sup>1</sup>	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12 <sup>1</sup>	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less); Check Forgery (\$251-\$2,500)</i>	2	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 18-25
<i>Assault, 4th Degree; Fleeing a Peace Officer</i>	1	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 17-22

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## The Road Ahead

- In future meetings, we may have a chance to—
  - Provide more information for any questions you have
  - Review decay policies and their impact
  - Look at what other policies have changed over time

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