

Demographic Impact Statement

House File 89-0

Modify Sex Offender Grid; Increase Child Pornography Penalty

Statement Date: March 7, 2019

The staff of the Minnesota Sentencing Guidelines Commission (MSGC) prepares demographic impact statements for proposed crime bills when it appears that the bill's policy changes would likely increase or decrease the number of people convicted of felonies each year by 50 or more; when it appears that the bill's policy changes would likely increase or decrease the annual need for prison beds by 10 or more; or upon legislative request.

Bill Description

HF 89, as introduced, increases penalties for use of minors in a sexual performance and child pornography offenses, creates mandatory minimum sentences, and directs the Minnesota Sentencing Guidelines Commission (MSGC) to modify the Sex Offender Grid.

This bill amends Minn. Stat. § 617.246 (use of minors in sexual performance), subdivisions 2, 3, and 4, by increasing the statutory maximum sentence from ten years to 15 years. The bill increases the mandatory conditional release term applicable to those imprisoned for violations of Minn. Stat. § 617.246 from five to ten years, and from ten to at least 50 years if the offender had previously been convicted of a criminal sexual conduct in the first- through fifth-degree, criminal sexual predatory conduct, use of minors in sexual performance, or child pornography. The bill requires the MSGC to increase the severity level of use of minors in sexual performance (Minn. Stat. § 617.246) from E to D.

The bill amends Minn. Stat. § 617.247, subd. 3 (dissemination of child pornography - first time, non-predatory offender), by increasing the statutory maximum sentence from seven to 10 years. The bill requires the MSGC to increase the offense's severity level from E to D.

The bill amends Minn. Stat. § 617.247, subd. 3 (dissemination of child pornography - subsequent or by predatory offender), by increasing the statutory maximum sentence from 15 to 20 years. The bill requires the MSGC to increase the offense's severity level from D to C.

The bill amends Minn. Stat. § 617.247, subd. 4 (possession of child pornography - first time, non-predatory offender), by increasing the statutory maximum sentence from five to seven years. The bill requires the MSGC to increase the offense's severity level from G to E.

The bill amends Minn. Stat. § 617.247, subd. 4 (possession of child pornography - subsequent or by predatory offender), by increasing the statutory maximum sentence from 10 to 15 years. The bill requires the MSGC to increase the offense's severity level from F to D.

The bill amends Minn. Stat. § 617.247, subd. 9 by increasing the mandatory conditional release term applicable to those imprisoned for violations of Minn. Stat. § 617.247 from five to ten years, and from ten to at least 50 years if the offender had previously been convicted of a criminal sexual conduct in the first- through fifth-degree, criminal sexual predatory conduct, use of minors in sexual performance, or child pornography

The bill adds new subdivisions to Minn. Stat. §§ 617.246 & 617.247 establishing, for a violation of either section, a mandatory minimum six-month incarceration period, or, if the offender was required to register as a predatory offender, or had a prior conviction for use of minors in sexual performance or child pornography, a mandatory minimum 12-month incarceration period.

The bill is effective August 1, 2019, and applies to crimes committed on or after that date.

Estimated Impact

In its fiscal note, MSGC staff estimated that this bill, which increases statutory maximums and re-ranking of offenses, will result in the need for 55 prison beds. Eight people who currently do not receive prison sentences will move to a presumptive prison sentence, resulting in the need for 27 additional beds; and 13 people, who currently received prison sentences, would serve more time, resulting in the need for 28 additional beds. Allowing a six-month delay for implementation, four beds will be needed in FY2020 and 55 beds in FY2030, and every year after. The timing is provided in Table 1.

Table 1. Estimated Prison Beds Needed by Fiscal Year

Fiscal Year	Additional Beds
2021	4
2022	12
2023	20
2024	28
2025	35
2026	40
2027	45
2028	51
2029	53
2030	55

Current State Demographics

Table 2 displays current demographic information pertaining to three populations within the state: the felony population (that is, the population of offenders sentenced for felony offenses in 2017); the adult prison population (as of July 1, 2017); and the general population, age 15 and older (on July 1, 2017, as estimated by the U.S. Census Bureau). Table 4 breaks down those populations by the following demographic categories: Gender; race and ethnicity; and judicial district. A map of Minnesota's ten judicial districts may be found at <http://www.mncourts.gov/Find-Courts.aspx>.

Table 2. Minnesota's 2017 General Population, Felony Population, and Prison Population, by Gender, Race and Ethnicity, and Judicial District

		General Population		Felony Population			Prison Population	
		2017 Estimated Pop. Age 15 & Older		MSGC Category	Offenders Sentenced in 2017		2017 Adult Inmate Population	
U.S. Census Category		Number	Percent		Number	Percent	Number	Percent
Male		2,223,712	49.5%	Male	14,703	80.4%	9,374	92.7%
Female		2,270,163	50.5%	Female	3,584	19.6%	737	7.3%
Race & Ethnicity	White*	3,755,112	83.6%	White	10,480	57.3%	4,788	47.4%
	Black or African American*	279,784	6.2%	Black	4,656	25.5%	3,463	34.2%
	American Indian*	70,247	1.6%	American Indian	1,640	9.0%	967	9.6%
	Hispanic**	203,250	4.5%	Hispanic**	942	5.2%	601	5.9%
	Asian*	234,126	5.2%	Asian	514	3.1%	274	2.7%
	Native Hawaiian/ Other Pacific Islander*	4,998	0.1%	Other/ Unknown	55	0.3%	18	0.2%
Judicial District	First	628,830	14.0%	First	2,404	13.1%	861	8.5%
	Second	439,934	9.8%	Second	1,815	9.9%	1,304	12.9%
	Third	386,982	8.6%	Third	1,426	7.8%	769	7.6%
	Fourth	1,019,718	22.7%	Fourth	3,819	20.9%	2,540	25.1%
	Fifth	233,192	5.2%	Fifth	1,006	5.5%	448	4.4%
	Sixth	210,739	4.7%	Sixth	912	5.0%	568	5.6%
	Seventh	392,773	8.7%	Seventh	1,972	10.8%	1,098	10.9%
	Eighth	128,819	2.9%	Eighth	492	2.7%	293	2.9%
	Ninth	275,394	6.1%	Ninth	1,818	9.9%	1,088	10.8%
	Tenth	777,494	17.3%	Tenth	2,624	14.3%	1,034	10.2%
Total		4,493,875	100.0%	Total	18,288	100.0%	10,111	100.0%

Source of July 1, 2017, Adult Inmate Population: Minn. Department of Corrections. Judicial district populations exclude 107 inmates whose governing sentences were for offenses committed in non-Minnesota jurisdictions.

Source of July 1, 2017, population estimate: U.S. Census Bureau (June 2018).

* Not Hispanic, alone or in combination with one or more other races. Sum of percentages of residents in each racial/ethnic category exceeds 100 percent because residents of more than one race are counted in more than one category.

** Lists all Hispanic offenders and residents as Hispanic, regardless of race.

Demographic Impact

Demographic Characteristics – New Felony Population

No change to felony population.

Demographic Characteristics – New Prison Population

It is estimated that the bill will result in a total projected prison bed impact of 55 beds a year. One might assume that, in the future, the demographic characteristics of the occupants of the new prison beds will be the same as the known demographic characteristics of the offenders sentenced in 2017 who would receive prison sentences under the provisions in the bill, as shown in Table 3.

Table 3. Demographic Characteristics of Persons Receiving Prison Sentences for Amended Provisions

	MSGC Category	Demographic Characteristics of Prison Sentences in 2017	
		Number	Percent
	Male	21	100%
	Female	0	
Race & Ethnicity	White	20	95%
	Black		5%
	American Indian	0	
	Hispanic	0	
	Asian	0	
Judicial District	First	5	23.8%
	Second	2	9.5%
	Third	6	28.6%
	Fourth	2	9.5%
	Fifth	0	0%
	Sixth	0	0%
	Seventh	1	4.8%
	Eighth	1	4.8%
	Ninth	2	9.5%
	Tenth	2	9.5%
		Total	21

If that assumption is accurate, it is estimated that the demographic characteristics of the occupants of the prison beds resulting from this bill would be as follows.

- **Gender:** Male (100%).
- **Race & Ethnicity:** White (95%); Black (5%).
- **Judicial District:** First (24%); Second (9.5%); Third (28.5%); Fourth (9.5%); Fifth (0%); Sixth (0%); Seventh (5%); Eighth (5%); Ninth (9.5%); and Tenth (9.5%).

Table 4, on page 5, shows the demographic change in the prison population that would result from the enactment of this bill, if the assumption stated above is accurate.

Table 4. Minnesota’s Existing Annual Prison Population, Estimated Change in Prison Beds Needed, and Estimated Resulting Annual Prison Population, by Gender, Race and Ethnicity, and Judicial District

	Prison Population			Estimated Change in Prison Beds Needed*		Estimated Resulting Prison Population*					
	MSGC Category	2017 Adult Inmate Population				No.	%	No.	%	% -point change relative to other categories**	Estimated resulting rate per 100,000*†
		No.	%	Rate per 100,000†							
	Male	9,374	92.7%	422	+55.0	100%	9,429	92.8%	+0.1%	424	0.6%
	Female	737	7.3%	32	0.0	0%	737	7.2%	-0.1%	32	0.0%
Race & Ethnicity	White	4,788	47.4%	128	+52.3	95%	4,840	47.6%	+0.2%	129	1.1%
	Black	3,463	34.2%	1238	+2.8	5%	3,466	34.1%	-0.1%	1,239	0.1%
	American Indian	967	9.6%	1377	0.0	0%	967	9.5%	-0.1%	1,377	0.0%
	Hispanic	601	5.9%	296	0.0	0%	601	5.9%		296	0.0%
	Asian	274	2.7%	117	0.0	0%	274	2.7%		117	0.0%
Judicial District	First	861	8.5%	137	+13.1	23.8%	874	8.6%	+0.1%	139	1.5%
	Second	1,304	12.9%	296	+5.0	9.5%	1,309	12.9%		298	0.4%
	Third	769	7.6%	199	+15.7	28.6%	785	7.7%	+0.1%	203	2.1%
	Fourth	2,540	25.1%	249	+5.2	9.5%	2,545	25.0%	-0.1%	250	0.2%
	Fifth	448	4.4%	192	0.0	0%	448	4.4%		192	0.0%
	Sixth	568	5.6%	270	0.0	0%	568	5.6%		270	0.0%
	Seventh	1,098	10.9%	280	+2.6	4.8%	1,101	10.8%	-0.1%	280	0.3%
	Eighth	293	2.9%	227	+2.6	4.8%	296	2.9%		230	1.0%
	Ninth	1,088	10.8%	395	+5.2	9.5%	1,093	10.8%		397	0.5%
	Tenth	1,034	10.2%	133	+5.2	9.5%	1,039	10.2%		134	0.5%
	Total	10,111	100%	225	+55.0	100%	10,166	100%		226	+0.5%

* This table’s projections assume that future offenders’ demographic characteristics will be similar to past offenders, as stated on page **Error! Bookmark not defined.**. The accuracy of these projections will therefore vary according to the accuracy of these assumptions.

† Rate per 100,000 residents age 15 and older, as shown on Table 1, “General Population” (2017 U.S. Census Bureau Estimate).

** I.e., the expected change, in percentage points, of the category’s share of the annual prison population relative to the other demographic categories.

Appendix: Historical Demographic Data

The following figures illustrate the change in the state’s population, imprisonment rates, and felony sentencing rates for the period 2002 to 2017. Rates are per 100,000 Minnesota residents age 15 and older.

Estimated Population, Age 15 and Older

Figure 1. Minnesota Residents Age 15 and Older, Estimated 2002-17, by Gender and Total

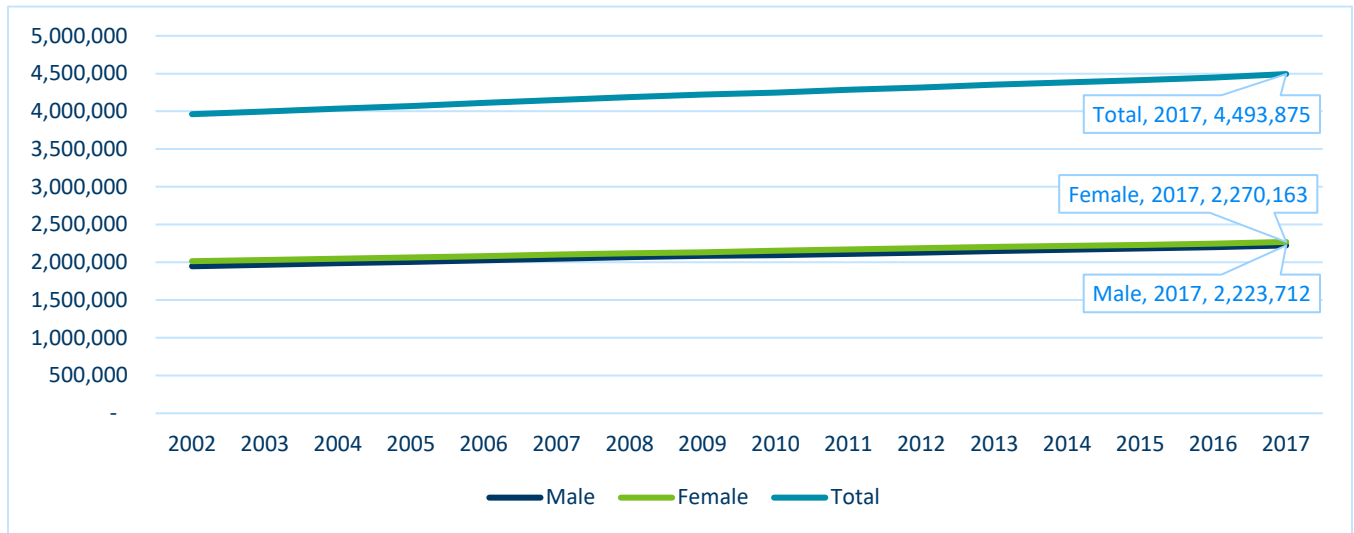


Figure 2. Minnesota Residents Age 15 and Older, Estimated 2002-17, by Race and Ethnicity

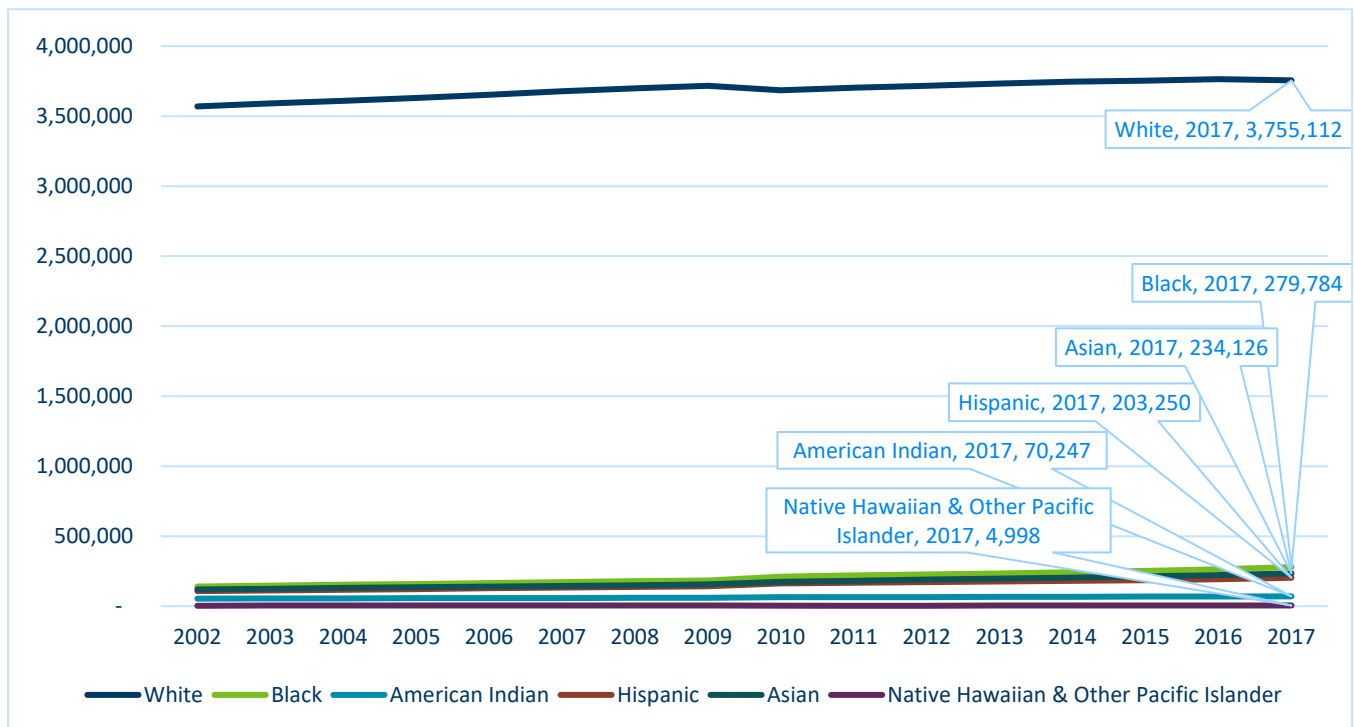
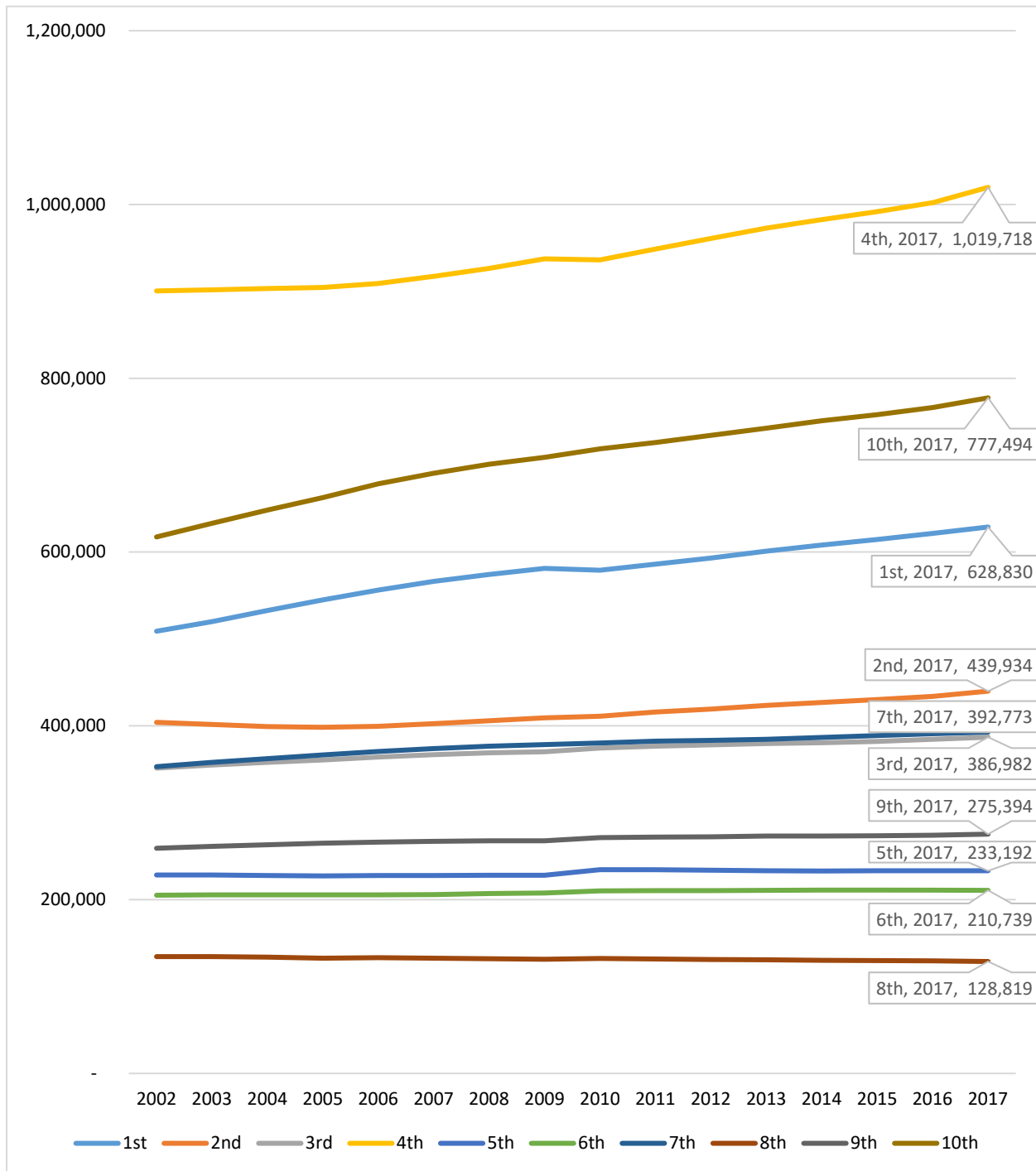


Figure 3. Minnesota Residents Age 15 and Older, Estimated 2002-17, by Judicial District



Notes for Figure 1 through Figure 3: Minnesota residents age 15 and older on July 1 of the respective year. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category.

Felony Sentencing Rates

Figure 4. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002-17, by Gender and Total

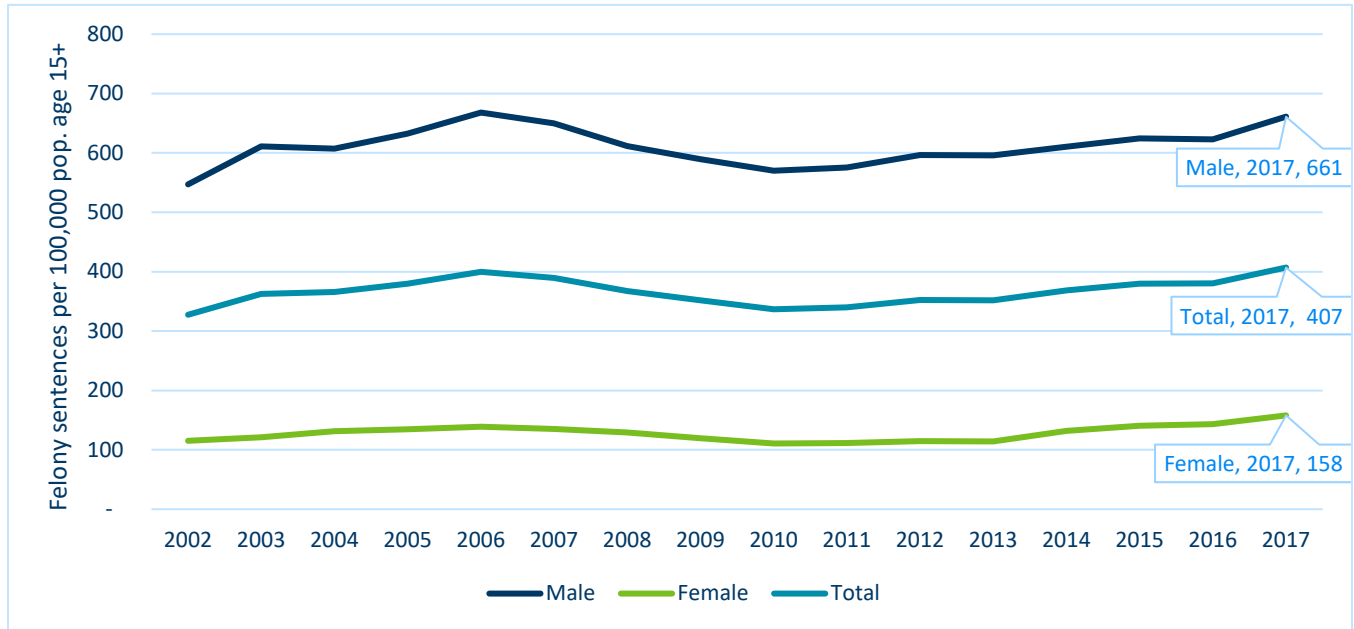


Figure 5. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002-17, by Race and Ethnicity

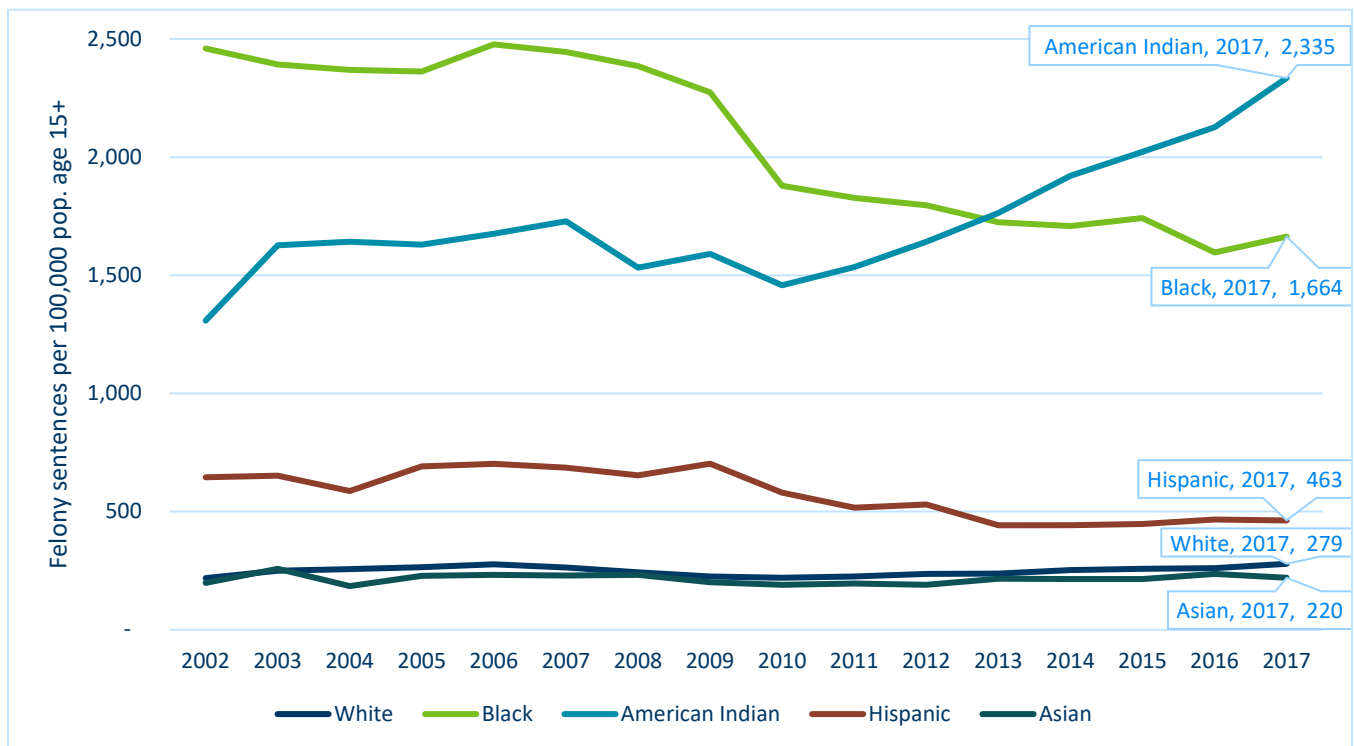
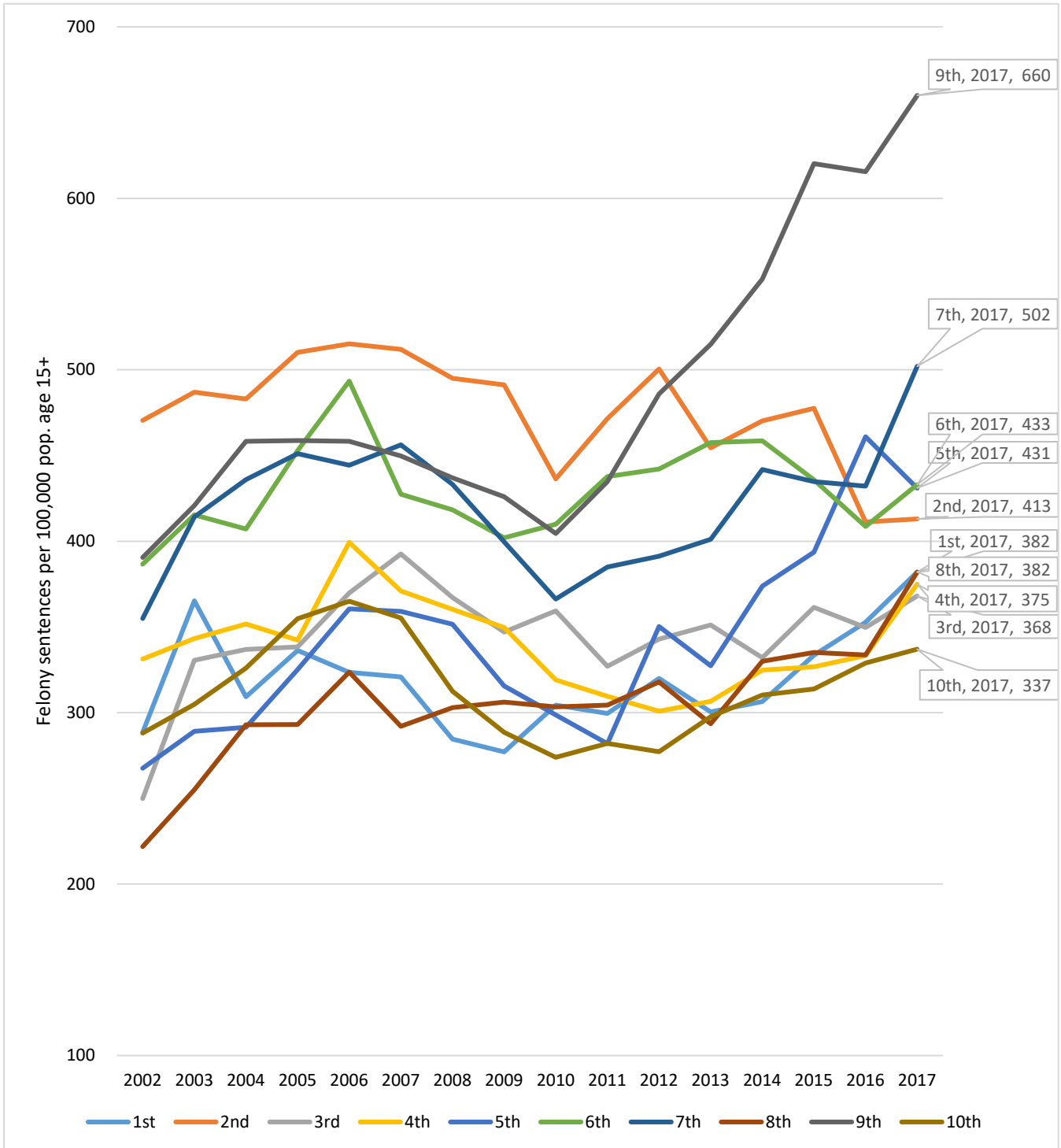


Figure 6. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002-17, by Judicial District



Notes for Figure 4 through Figure 6: Rates are felony offenders sentenced annually per 100,000 Minnesota residents age 15 and older on July 1 of the respective year. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category. Other/unknown and Hawaiian/Pacific Islander are excluded.

Imprisonment Rates

Figure 7. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002-17, by Gender and Total

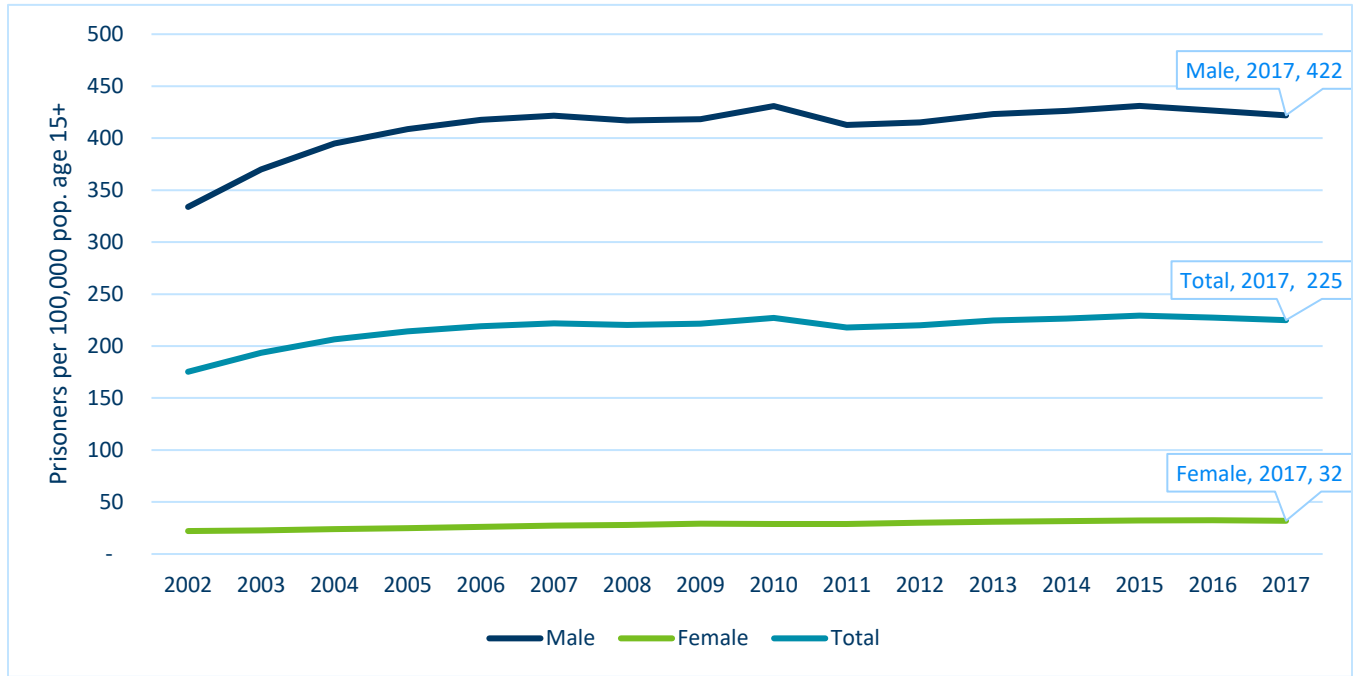


Figure 8. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002-17, by Race and Ethnicity

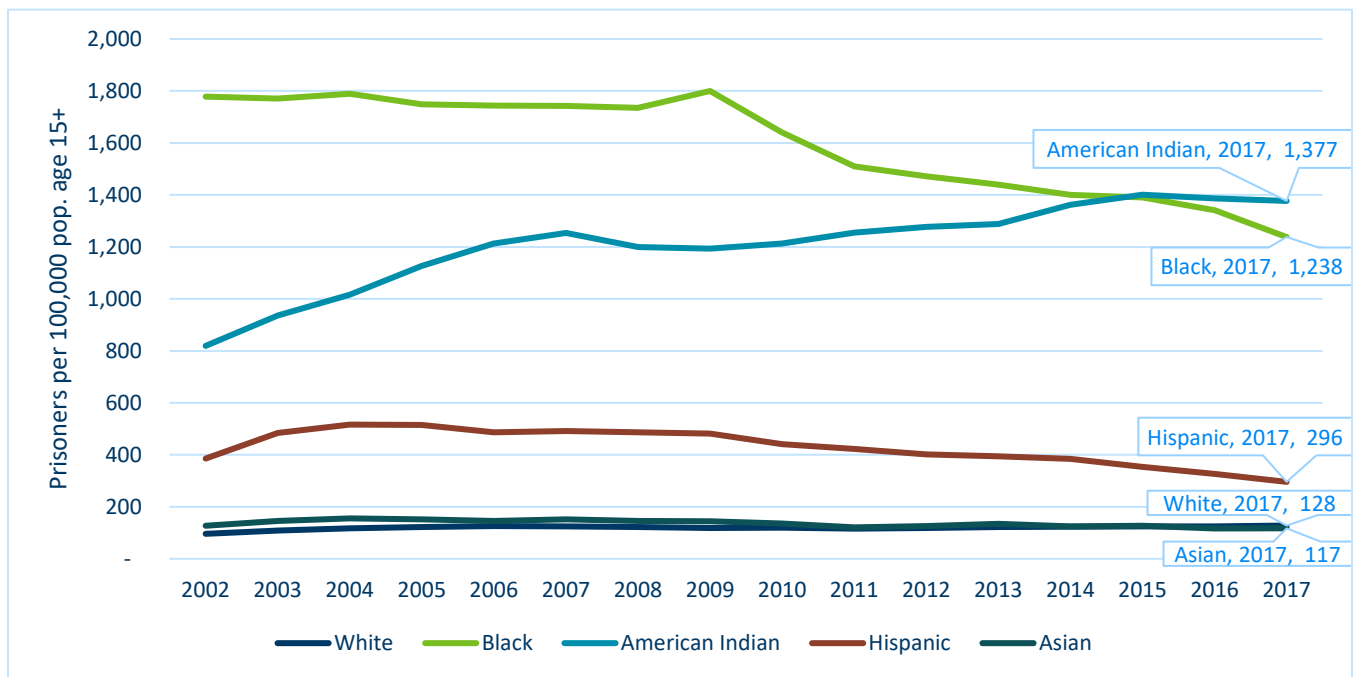
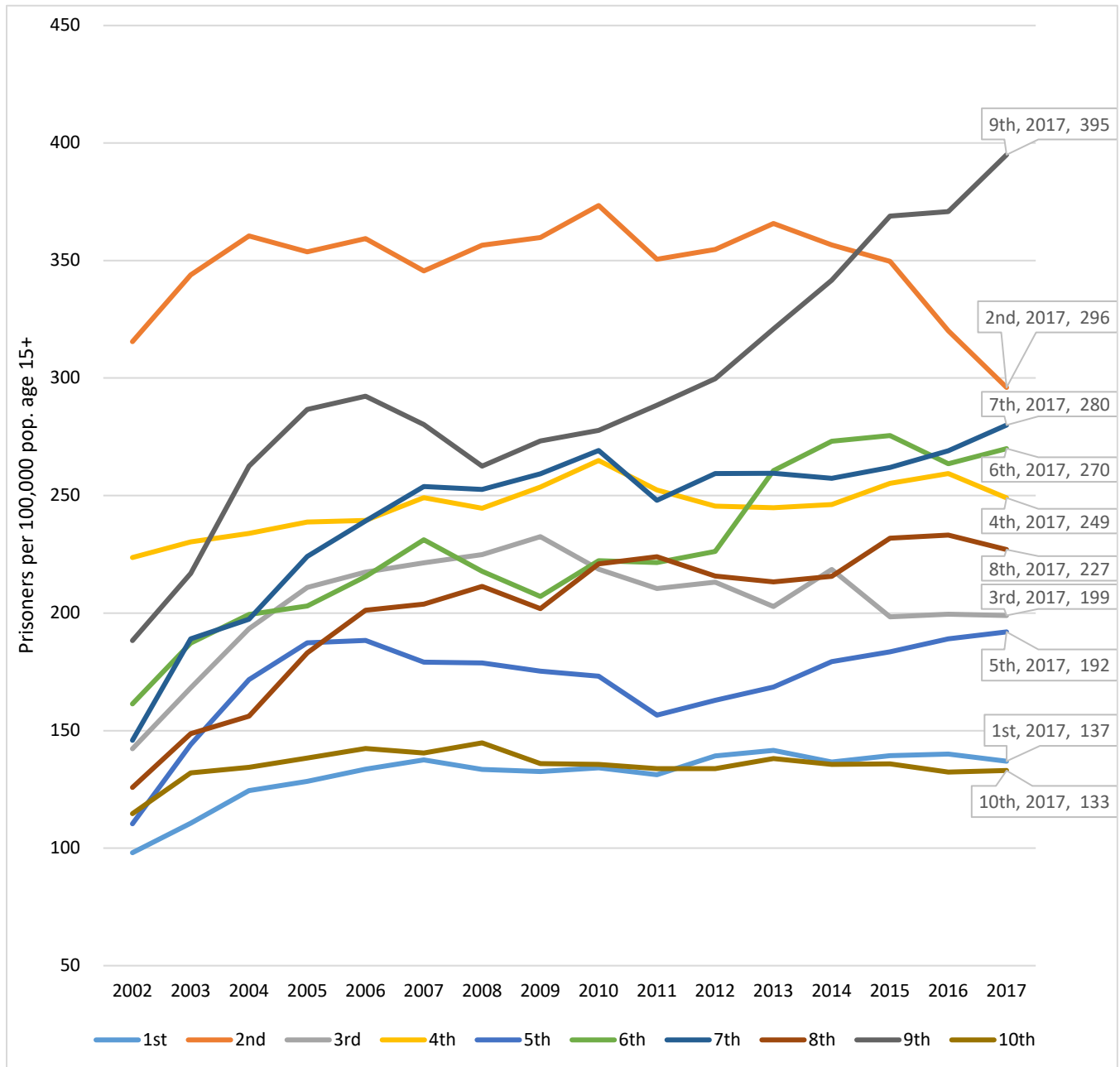


Figure 9. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002-17, by Judicial District



Notes for Figure 7 through Figure 9: Rates are prisoners on July 1 of the respective year per 100,000 Minnesota residents age 15 and older on the same date. Source of prison population counts: Minn. Dep't of Corrections. Source of residential population estimates: U.S. Census Bureau. Except for Hispanic residents, residents of more than one race are counted in more than one category. Other/unknown and Hawaiian/Pacific Islander are excluded, except for 2005-07, in which case they were included in the Asian prison population counts. Not all prisoners were associated with a particular judicial district.