

Demographic Impact Statement

House File 3070-0

Human Trafficking, Prostitution Patron Penalties

Statement Date: May 12, 2020

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

Section 1 of [HF 3070, as introduced](#), adds the crime of solicitation, inducement, and promotion of prostitution; sex trafficking ("Sex Trafficking") under Minn. Stat. § 609.322 to the list of violent crimes as defined in Minn. Stat. § 609.1095, subdivision 1(d). This would make Sex Trafficking subject to the sentencing enhancements provided in Minn. Stat. § 609.1095, subdivision 2 (aggravated durational departure for dangerous offender who commits third violent crime up to the statutory maximum if the offender has two or more prior convictions for violent crimes); and subdivision 3 (mandatory commitment to the commissioner of corrections for at least the length of the presumptive sentence for a dangerous offender who commits third violent felony).

Sections 3, 4, and 8 increase the statutory maximums from 20 to 25 years for 1st Degree Sex Trafficking under Minn. Stat. § 609.322, subd. 1(a); from 25 to 30 years for aggravated Sex Trafficking offenses under Minn. Stat. § 609.322, subd. 1(b); from 15 to 20 years for 2nd Degree Sex Trafficking under Minn. Stat. § 609.322, subd. 1a; and from 3 to 5 years for Solicitation of Children to Engage in Sexual Conduct under Minn. Stat. § 609.352.

Section 5 amends Minn. Stat. § 609.324, subdivision 2, to elevate the general offense of Patrons of Prostitution from a misdemeanor to a gross misdemeanor; to abolish the severity distinction between Patrons of Prostitution in a public place and generally; and to create a new felony crime with a statutory maximum of five years for violations within 10 years of a previous conviction under Minn. Stat. § 609.324 or 609.322.

Sections 2, 6, 7, and 10 are conforming amendments to section 5.

Section 9 directs the Sentencing Guidelines Commission to comprehensively review and consider modifying how the Sentencing Guidelines and Sex Offender Grid address sex trafficking crimes in Minn. Stat. § 609.322.

The bill would take effect August 1, 2020, and apply to crimes committed on or after that date.

Estimated Impact

In its fiscal note, MSGC staff estimated the bill’s impact would increase the need for prison beds beginning in fiscal year 2023, eventually requiring 18 prison beds in fiscal years 2038 and following. The explanation for each section of the bill follows and is displayed in Figure 1, below.

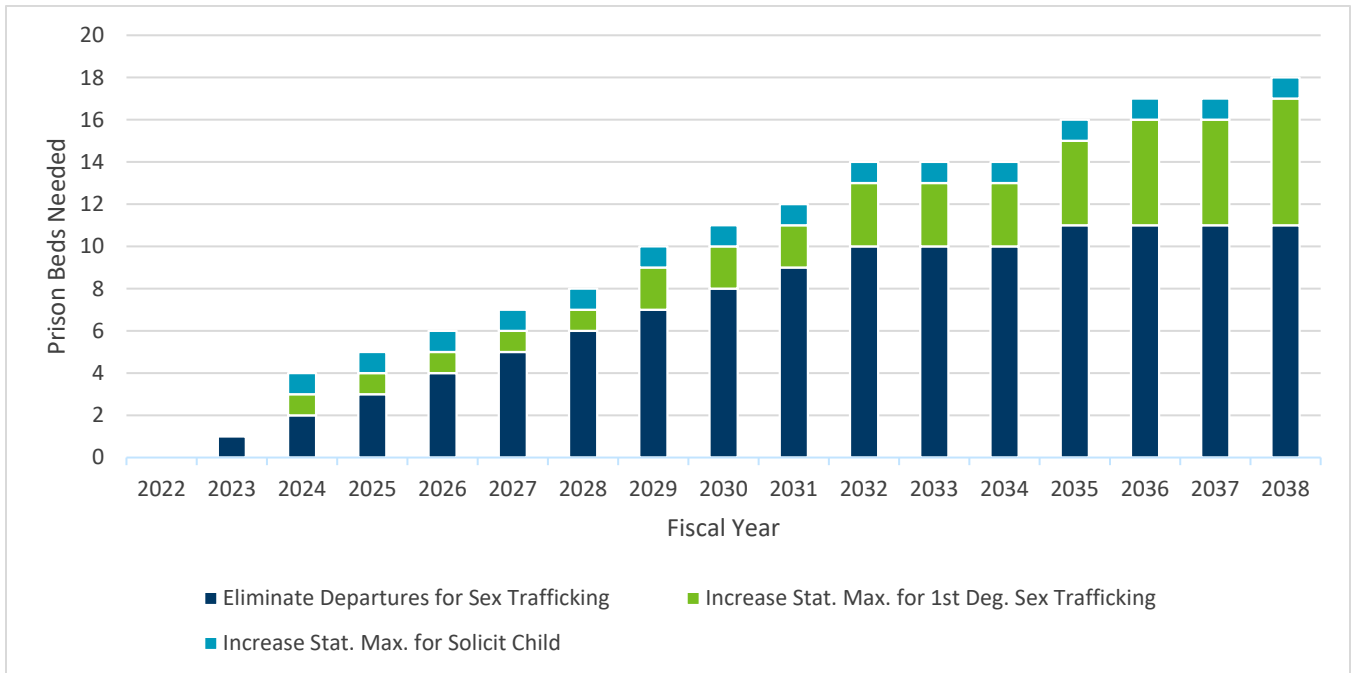
Section 1: It was estimated that eliminating mitigated departures for Sex Trafficking offenses with two prior violent offenses will result in the eventual need for 11 additional prison beds. The timing for the expected bed impact is displayed in Figure 1.

Sections 3 and 4: Although no changes to the severity-level rankings were assumed, it was estimated that increases to the statutory maximum for 1st Degree Sex Trafficking will result in the eventual need for 6 additional prison beds because some presumptive sentences would no longer be capped by the statutory maximum. The timing for the expected bed impact is displayed in Figure 1.

Section 8: Although no change to the severity-level ranking was assumed, it was estimated that four offenders a year will receive sentence increases of three months for Solicitation of Children to Engage in Sexual Conduct because some presumptive sentences would no longer be capped by the statutory maximum. This would result in the need for 1 additional prison bed. The impact may be greater if, in the future, some offenders with higher criminal history scores do not receive departures.

The total impact is projected to be 0 beds in FY2022, 1 bed in FY2023, and 18 beds in FY2038 and every year thereafter.

Figure 1. Estimated Prison Bed Increase by Fiscal Year



Current State Demographics

Table 1 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 2018); the adult prison population (as of July 1, 2018); and the general population, age 15 and older (on July 1, 2018, as estimated by the U.S. Census Bureau). Table 1 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 1. Minnesota’s 2018 General Population, Felony Population, and Prison Population, by Gender, Race and Ethnicity, and Judicial District

	General Population		Felony Population			Prison Population		
	U.S. Census Category	2018 Estimated Pop. Age 15 & Older		MSGC Category	Offenders Sentenced in 2018		2018 Adult Inmate Population	
		Number	Percent		Number	Percent	Number	Percent
	Male	2,240,025	49.5%	Male	14,566	79.7%	9,146	92.9%
	Female	2,284,777	50.5%	Female	3,717	20.3%	703	7.1%
Race & Ethnicity	White*	3,785,189	83.7%	White	10,343	56.6%	4,553	46.2%
	Black or African American*	291,296	6.4%	Black	4,880	26.7%	3,492	35.5%
	American Indian*	71,013	1.6%	American Indian	1,574	8.6%	960	9.7%
	Hispanic**	210,101	4.6%	Hispanic**	948	5.2%	565	5.7%
	Asian*	238,780	5.3%	Asian	533	2.9%	264	2.7%
	Native Hawaiian/ Other Pacific Islander*	5,163	0.1%	Other/ Unknown	6	0.3%	15	0.2%
Judicial District	First	636,267	14.1%	First	2,484	13.6%	863	8.8%
	Second	441,619	9.8%	Second	1,813	9.9%	1,197	12.2%
	Third	388,888	8.6%	Third	1,361	7.4%	711	7.2%
	Fourth	1,025,940	22.7%	Fourth	4,070	22.3%	2,606	26.5%
	Fifth	232,992	5.1%	Fifth	1,016	5.6%	433	4.4%
	Sixth	211,161	4.7%	Sixth	831	4.5%	545	5.5%
	Seventh	395,773	8.7%	Seventh	1,874	10.2%	1,097	11.1%
	Eighth	128,902	2.8%	Eighth	453	2.5%	286	2.9%
	Ninth	276,169	6.1%	Ninth	1,755	9.6%	1,000	10.2%
	Tenth	787,091	17.4%	Tenth	2,627	14.4%	1,004	10.2%
	Total	4,524,802	100.0%	Total	18,283	100.0%	9,849	100.0%

Source of July 1, 2018, population estimate: U.S. Census Bureau (August 2019).

* 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 (101.7%) because residents of more than one race are counted in more than one category.

** Table 1 lists all Hispanic offenders and residents as Hispanic, regardless of race.

*** The MSGC category of “Other/Unknown” is not a valid comparison group to the U.S. Census category of “Native Hawaiian/Other Pacific Islander.”

Source of July 1, 2018, Adult Inmate Population: Minn. Department of Corrections. Judicial district populations exclude 107 inmates whose governing sentences were for offenses committed in non-Minnesota jurisdictions.

Demographic Impact

Demographic Characteristics – New Prison Population

In its fiscal note, MSGC staff estimated the total impact to be 18 beds in FY 2038 and every year thereafter.

- With respect to the eleven-bed increase caused by elimination of mitigated departures for repeat violent offenders, one might assume that, in the future, the demographic characteristics of the occupants of those prison beds will be the same as the known demographic characteristics of the people who now receive mitigated departures.
- With respect to the seven-bed increase caused by increases to statutory maximums, one might assume that, in the future, the demographic characteristics of the occupants of those prison beds will be the same as the known demographic characteristics of the people whose presumptive durations are now capped by the shorter statutory maximums.

If those assumptions are 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%); Female (0%).
- **Race & Ethnicity:** White (8.5%); Black (91.5%); American Indian (0%); Hispanic (0%); Asian (0%).
- **Judicial District:** First (0%); Second (0%); Third (0%); Fourth (64.2%); Fifth (22.5%); Sixth (0%); Seventh (1.4%); Eighth (0%); Ninth (2.8%); and Tenth (9.1%).

Table 2, on page 5, shows the demographic change in the prison population that would result from the enactment of this bill, if the assumptions stated above are accurate.

Table 2. 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	2018 Adult Inmate Population					Number	Percent	Number	Percent	Percent-point change relative to other categories**	Estimated resulting rate per 100,000*†
	Number	Percent	Rate per 100,000†								
Male	9,146	92.9%	408	+17.8	100.0%	9,164	92.9%		409	+0.2%	
Female	703	7.1%	31			703	7.1%		31		
Race & Ethnicity	White	4,553	46.23%	120	+1.5	8.5%	4,555	46.16%	-0.1%	120	
	Black	3,492	35.5%	1,199	+16.3	91.5%	3,508	35.6%	+0.1%	1,204	+0.5%
	American Indian	960	9.7%	1,352			960	9.7%		1,352	
	Hispanic	565	5.7%	269			565	5.7%		269	
	Asian	264	2.7%	111			264	2.7%		111	
Judicial District	First	863	8.76%	136			863	8.75%		136	
	Second	1,197	12.15%	271			1,197	12.13%		271	
	Third	711	7.2%	183			711	7.2%		183	
	Fourth	2,606	26.46%	254	+11.4	64.2%	2,617	26.53%	+0.1%	255	+0.4%
	Fifth	433	4.4%	186	+4.0	22.5%	437	4.4%		188	+0.9%
	Sixth	545	5.5%	258			545	5.5%		258	
	Seventh	1,097	11.1%	277	+0.3	1.4%	1,097	11.1%		277	
	Eighth	286	2.9%	222			286	2.9%		222	
	Ninth	1,000	10.15%	362	+0.5	2.8%	1,001	10.14%		362	+0.1%
	Tenth	1,004	10.2%	128	+1.6	9.1%	1,006	10.2%		128	+0.2%
Total	9,849	100.0%	218	+17.8	100.0%	9,867	100.0%		218	+0.2%	

* This table's projections assume that future offenders' demographic characteristics will be similar to past offenders, as stated on page 4. 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" (2018 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 2018. Rates are per 100,000 Minnesota residents age 15 and older.

Estimated Population, Age 15 and Older

Figure 2. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Gender and Total

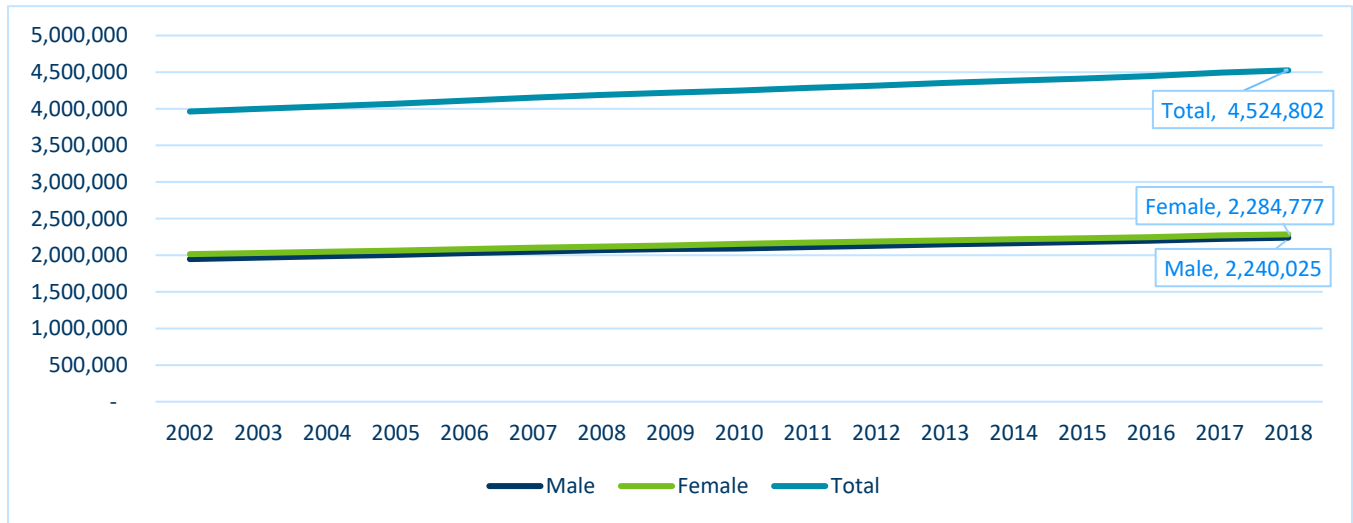


Figure 3. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Race and Ethnicity

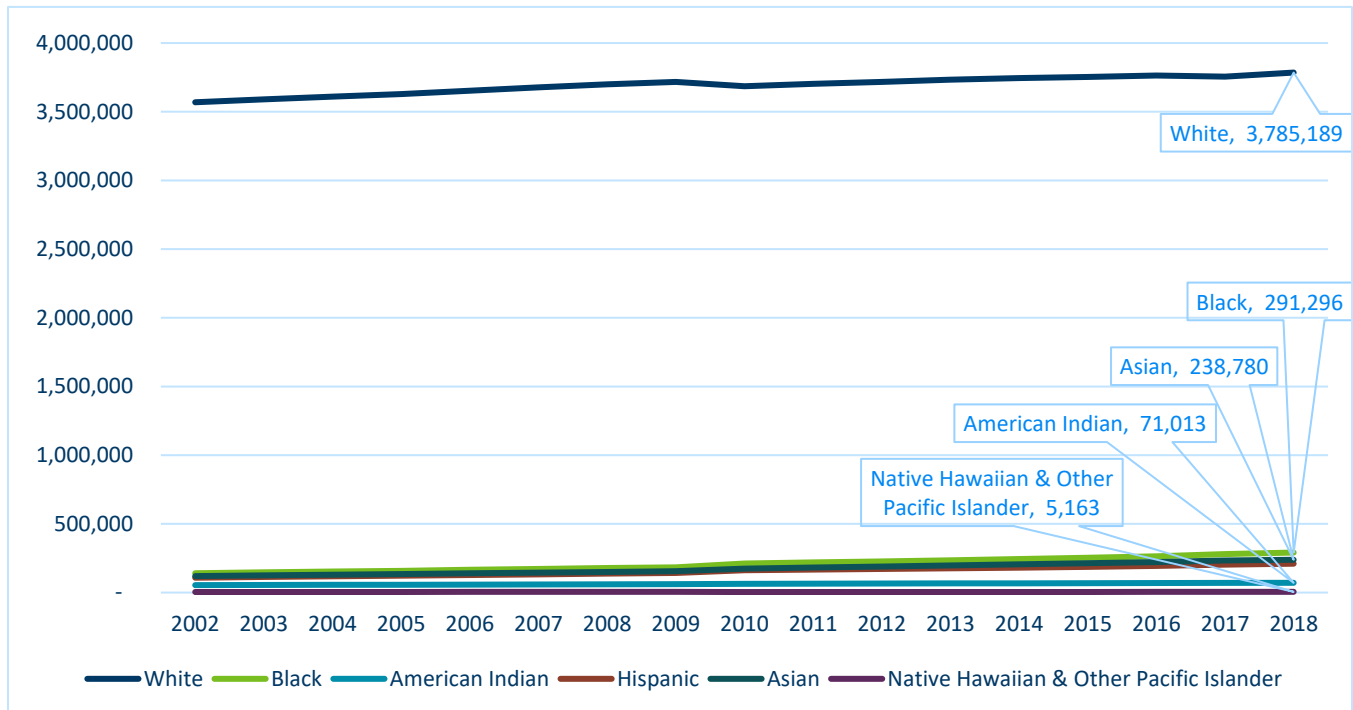
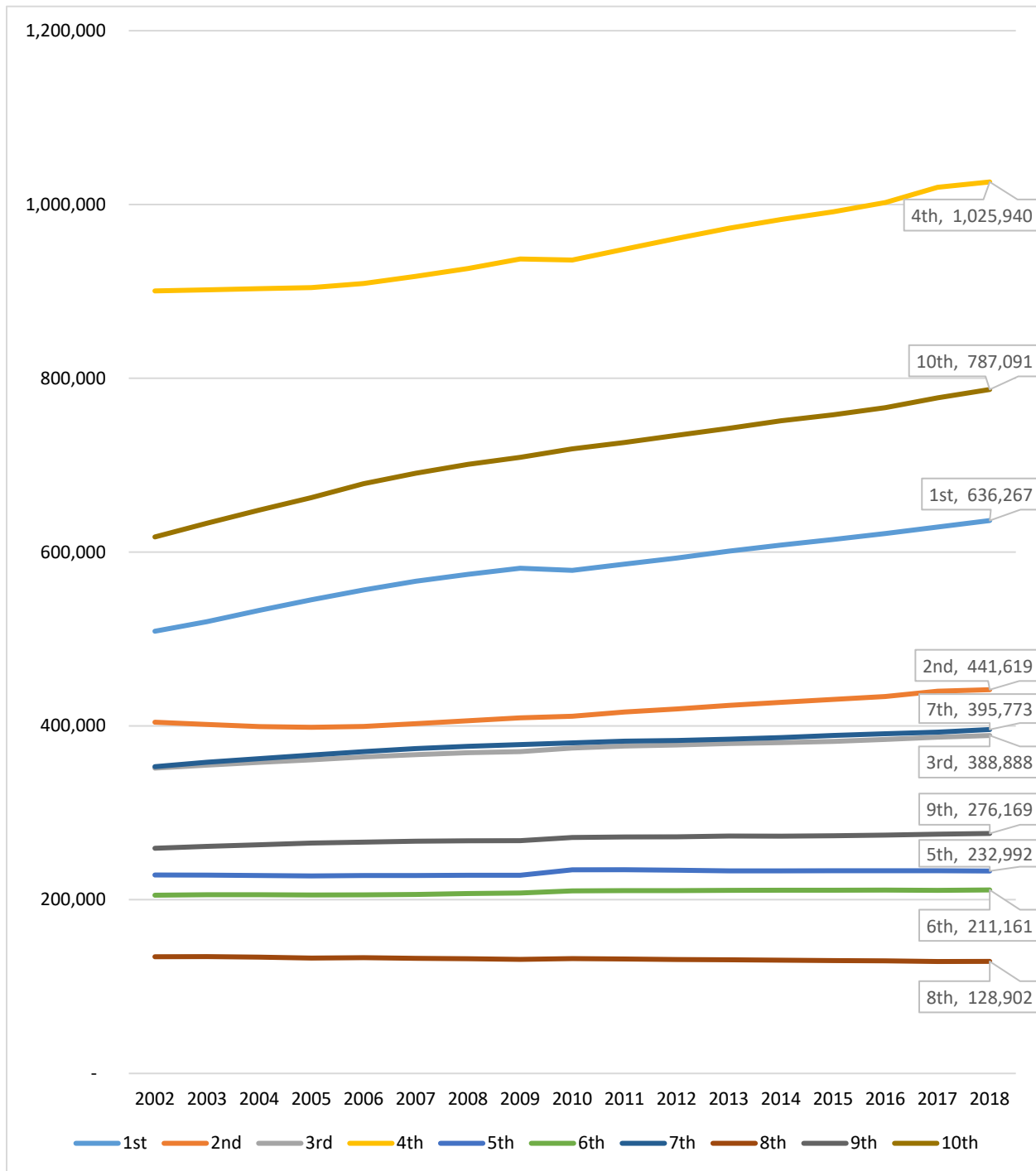


Figure 4. Minnesota Residents Age 15 and Older, Estimated 2002–18, by Judicial District



Notes for Figure 2 through Figure 4: 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 5. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Gender and Total

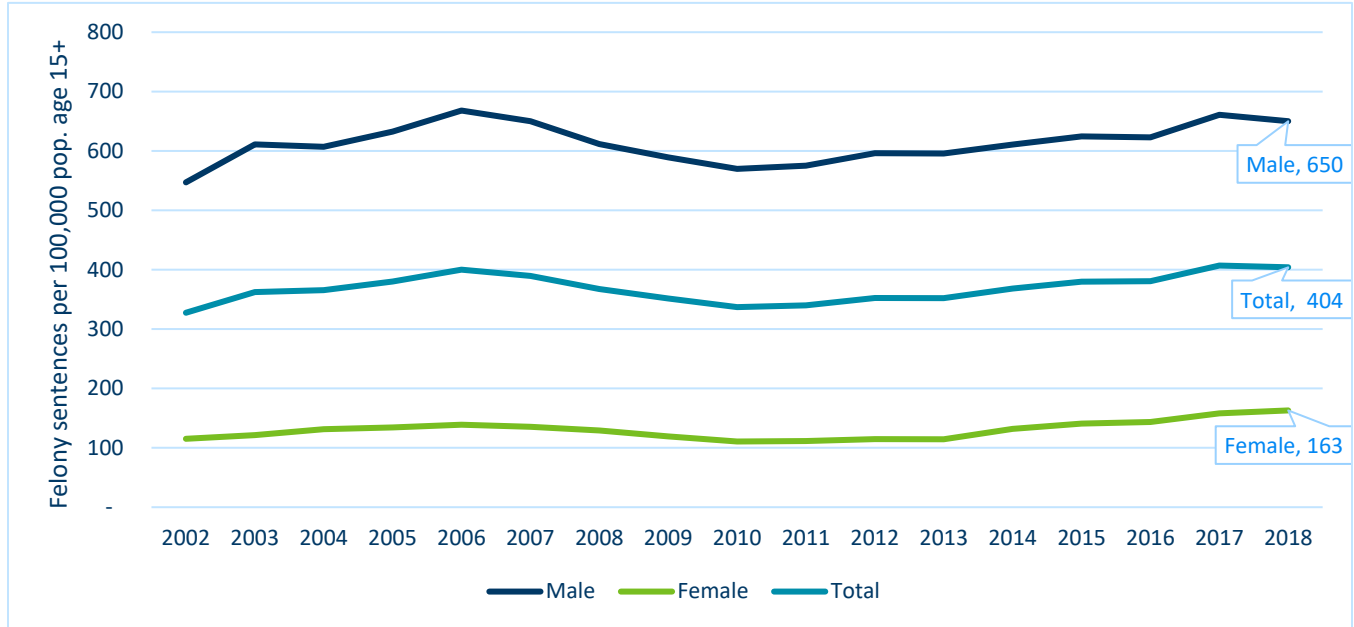


Figure 6. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Race and Ethnicity

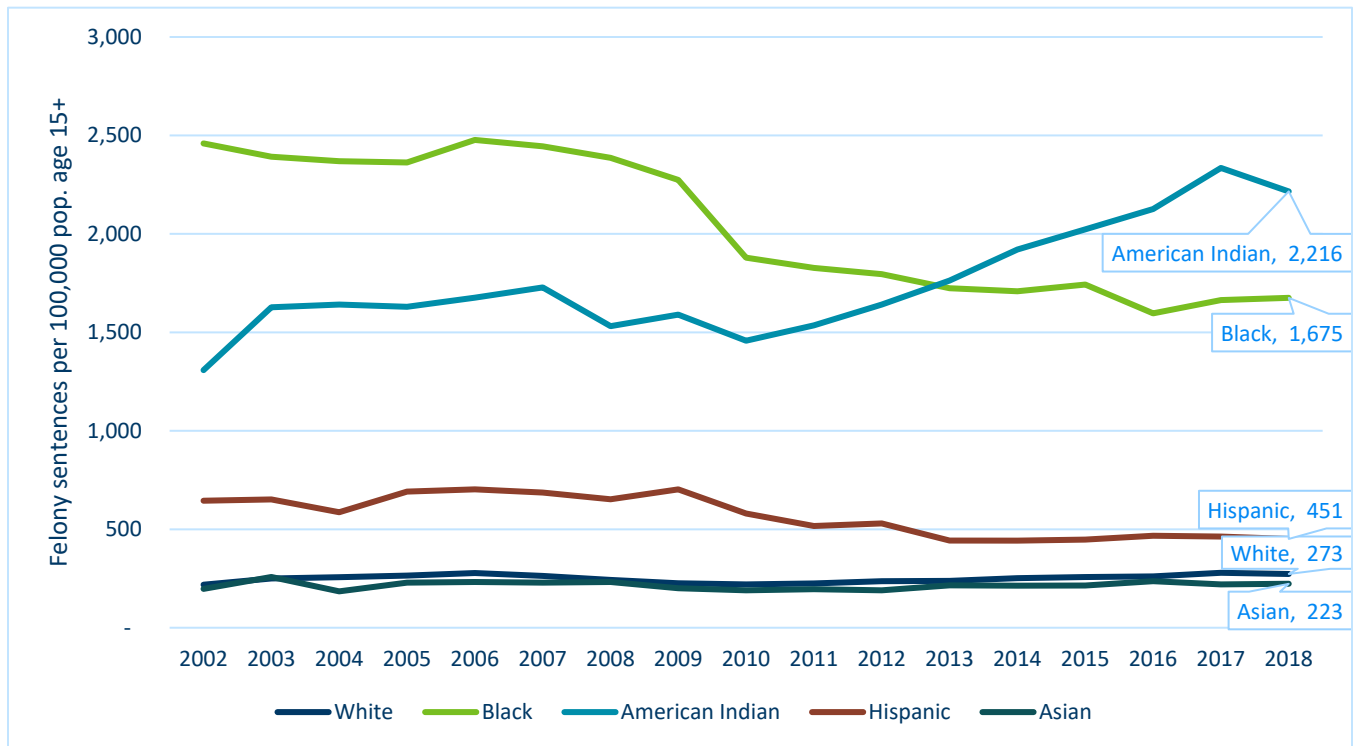
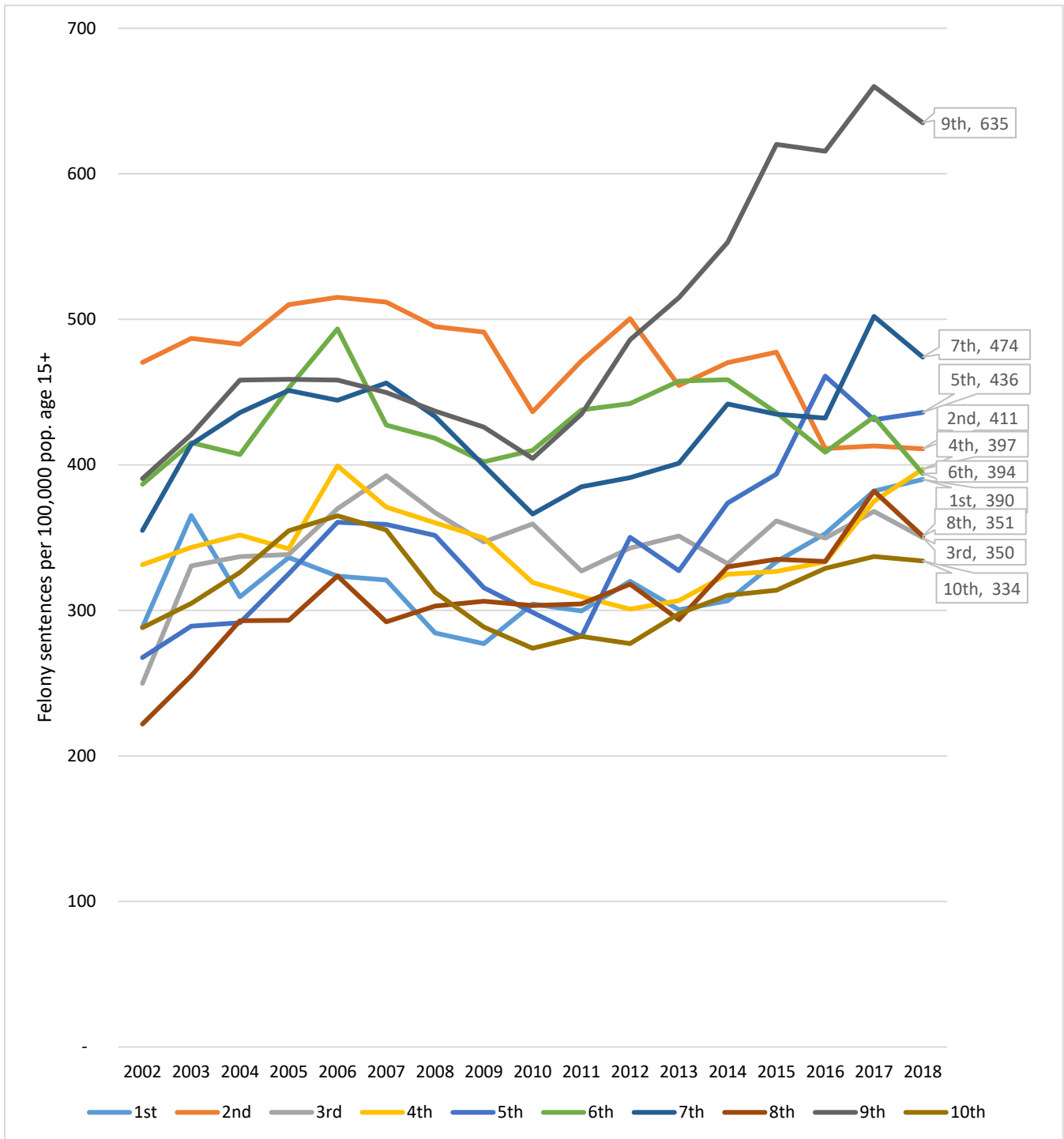


Figure 7. Felony Sentencing Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Judicial District



Notes for Figure 5 through Figure 7: 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 8. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Gender and Total

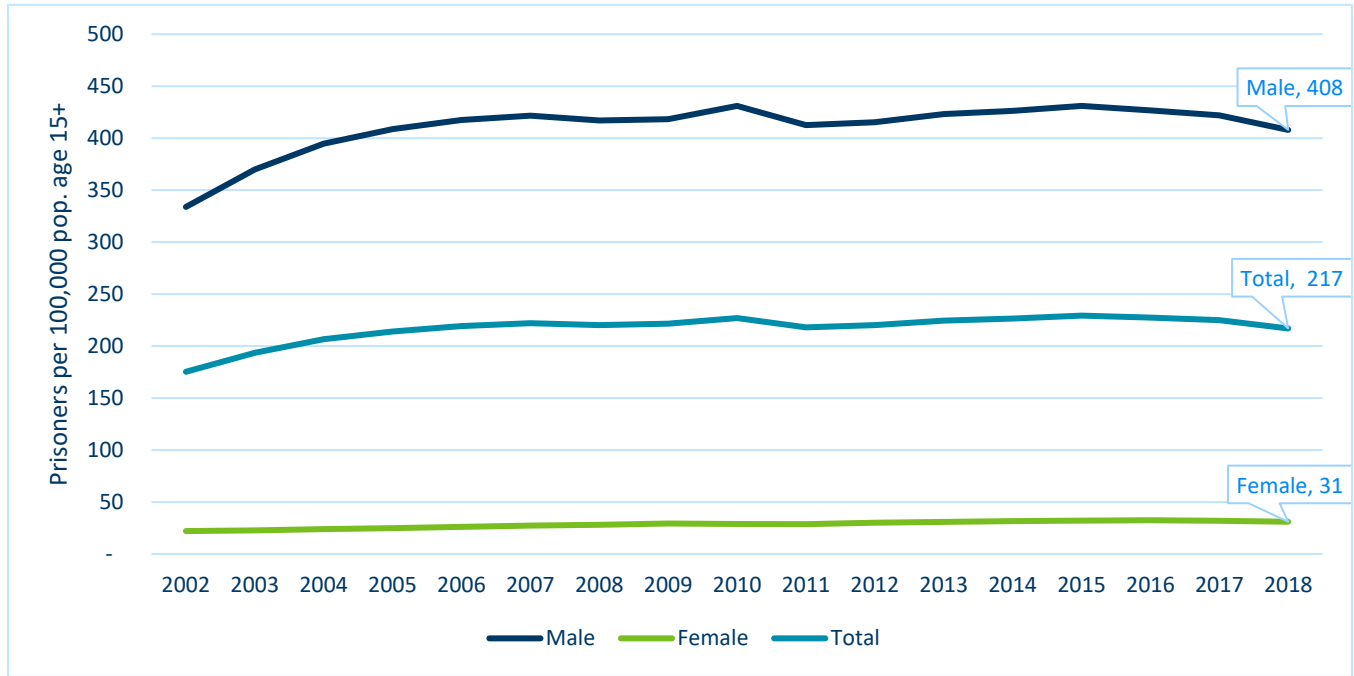


Figure 9. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Race and Ethnicity

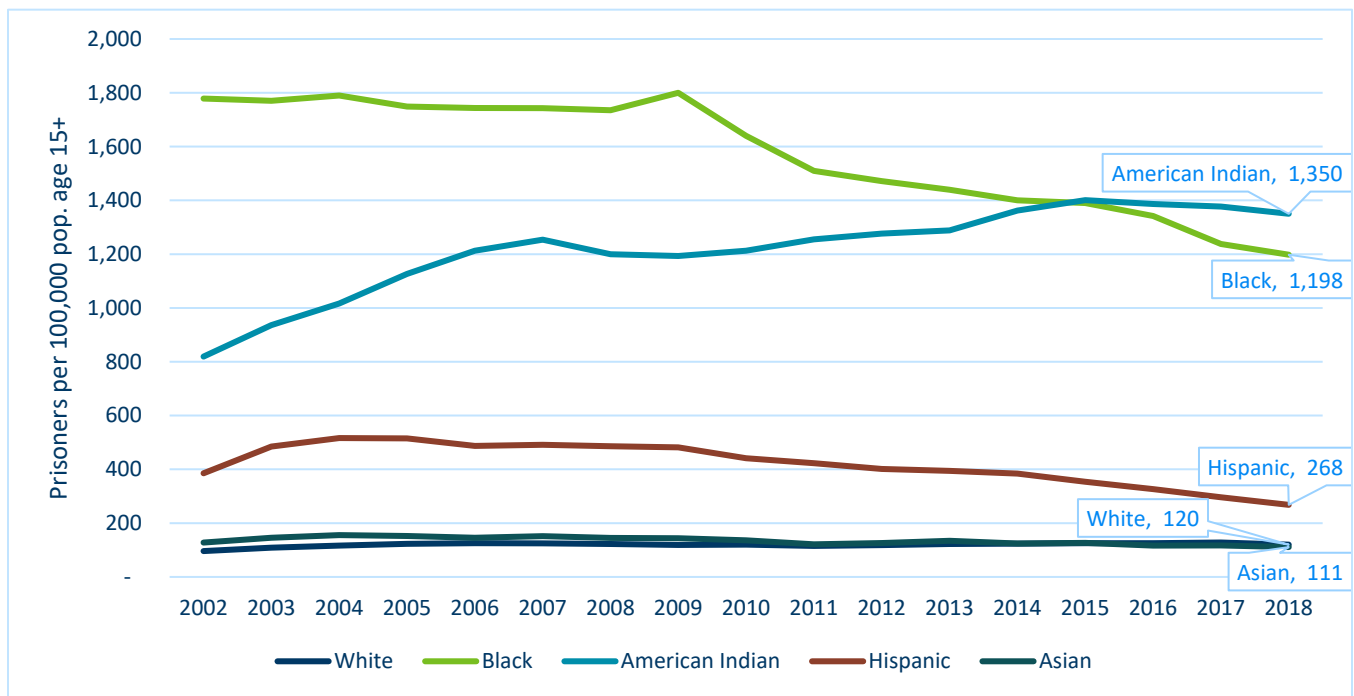
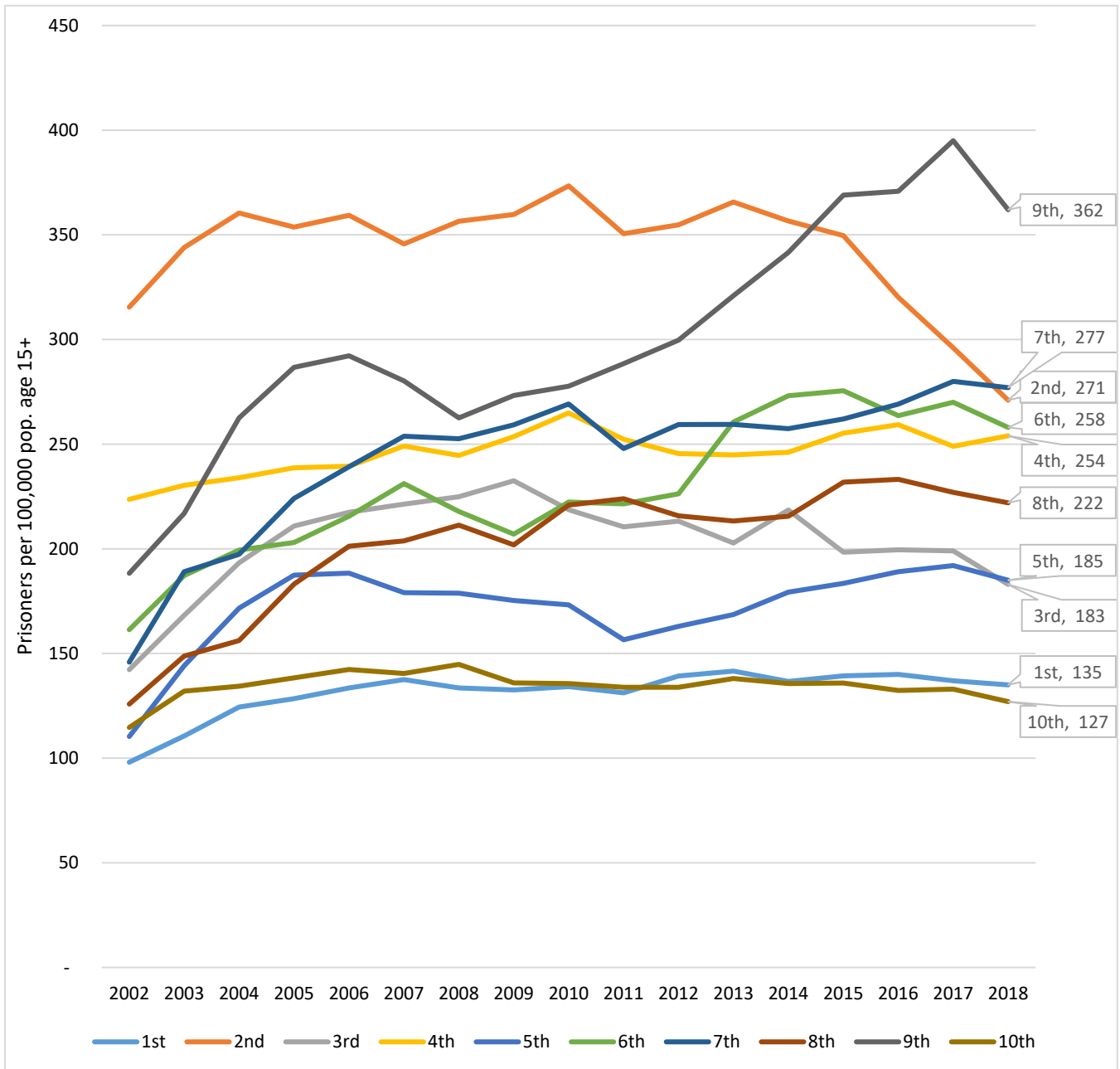


Figure 10. Imprisonment Rates per 100,000 Minnesota Residents Age 15 and Older, 2002–18, by Judicial District



Notes for Figure 8 through Figure 10: 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.